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HUMAN RIGHTS AS CONFLICT RESOLUTION IN AFRICA IN THE NEW CENTURY

Philip C. Aka[†]

I. INTRODUCTION

Africa is a world region where conflict is rife. Many of the conflicts that took place in the globe in the second part of the last century occurred in the African continent.¹ As one germane study points out, “[e]ver since most of the region became independent in the 1960s there has been no point in time that a major war is not going on somewhere in Africa. No single country in the continent has collapsed entirely from violence . . . but then not one country has also totally escaped periods of militant or subversive strife.”² During the 1990s, twenty-four of fifty-three countries in Africa experienced sustained civil strife.³ Of forty-two peacekeeping missions in the world organized by the United Nations as of 2000, thirteen, or little less than one-third

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1. There is need to segregate duration as I do here because modern Africa did not become part of international relations until about the 1960s, in the latter half of the century, when many African countries received political independence.

2. Philip C. Aka, *The Military, Globalization, and Human Rights in Africa*, 18 N.Y.L. SCH. J. HUM. RTS. 361, 388 (2002).

3. Crawford Young, *Order and Disorder in Postcolonial Africa*, in *THE AFRICAN STAKES OF THE CONGO WAR* 13 (John F. Clark ed., 2002).

of the overall number, took place in Africa.⁴ In the aftermath of the terrorist attacks on the United States on September 11, 2001, the issue of violence has acquired new saliency in discussions on international affairs.⁵ However, long before those attacks, conflict management became established as an accepted approach for the understanding of African politics.⁶

Many of Africa's conflicts produced ruinous consequences for human rights. Three million Igbos were killed during the Nigerian civil war (the Biafran war) from 1967 to 1970.⁷ Since then, an

4. See PETER CALVOCORESSI, *WORLD POLITICS 1945-2000* app. at 845-46 (8th ed. 2001).

5. See, e.g., Richard Falk, *The Aftermath of 9/11 and the Search for Limits: In Defense of Just War Thinking*, in *THE NEW GLOBAL TERRORISM: CHARACTERISTICS, CAUSES, CONTROLS* 216 (Charles W. Kegley, Jr. ed., 2003); see, e.g., James Turner Johnson, *Just War Theory: Responding Morally to Global Terrorism*, in *id.* at 223; see, e.g., Loch K. Johnson, *Strategic Intelligence: The Weakest Link in the War against World Terrorism*, in *id.* at 239; see, e.g., Yutaka Arai-Takahashi, *Shifting Boundaries of the Right of Self-Defense—Appraising the Impact of the September 11 Attacks on Jus Ad Bellum*, 36 *INT'L LAW* 1081 (2002); see also *PERSPECTIVES ON TERRORISM: HOW 9/11 CHANGED U.S. POLITICS* (Allan J. Cigler ed., 2002).

6. The Brookings Institutions based in Washington, D.C. unveiled an entire series, Conflict Resolution in Africa Project, consisting of a multiplicity of publications, among them: *GOVERNANCE AS CONFLICT MANAGEMENT: POLITICS AND VIOLENCE IN WEST AFRICA* (I. William Zartman ed., 1996); *SOVEREIGNTY AS RESPONSIBILITY: CONFLICT MANAGEMENT IN AFRICA* (Francis M. Deng et al. eds., 1996); FRANCIS M. DENG, *WAR OF VISIONS: CONFLICT OF IDENTITIES IN THE SUDAN* (1995); TERRENCE LYONS & AHMED I. SAMATAR, *SOMALIA: STATE COLLAPSE, MULTILATERAL INTERVENTION, AND STRATEGIES FOR POLITICAL RECONSTRUCTION* (1995); THOMAS OHLSON & STEPHEN JOHN STEDMAN, *THE NEW IS NOT YET BORN: CONFLICT RESOLUTION IN SOUTHERN AFRICA* (1994); MARINA OTTAWAY, *SOUTH AFRICA: THE STRUGGLE FOR A NEW ORDER* (1993); *CONFLICT RESOLUTION IN AFRICA* (Francis M. Deng & I. William Zartman eds., 1991).

7. Philip C. Aka, *Nigeria Since May 1999: Understanding the Paradox of Civil Rule and Human Rights Violations under President Olusegun Obasanjo*, 4 *SAN DIEGO INT'L L.J.* 209, 221 (2003). The three million people killed represented a third of the Igbo population at the time. Herbert Ekwe-Ekwe, *Obasanjo's Obsession with Biafra versus Facts of History*, at <http://www.usafricaonline.com/ekweekwe.biafra.html> (last visited Nov. 7, 2003). For all the negative ramifications wars have for human rights, wars by themselves are not considered human rights violations. They become moments for human rights atrocities when fought outside the terms of the Geneva Convention, which stipulates provisions for the treatment of prisoners of war and civilian populations, among other conditions for the "humane" conduct of war. In contrast to these provisions, Nigerian federal troops incessantly and wantonly bombed unarmed civilian targets, including open busy markets, and deliberately used economic blockades and starvation as a weapon of war. This was the reason many assessed the war as genocide. Even the sheer magnitude of the number of Igbos killed (an estimated one third of the entire Igbo population) in and of itself would

estimated nine million additional Africans have died from the numerous ethnic and religious conflicts that have shaken the continent to its roots.⁸ This does not include countless hours of human liberties denied, millions of people dislocated or made refugees,⁹ or the hundreds of millions of dollars of hard-earned property destroyed¹⁰ in a region that houses the largest number of countries with the lowest per capita incomes in the world.¹¹ Human rights violations and outbreak of conflicts are two dilemmas in Africa that feed on each other. Human rights atrocities can lead to conflict; in turn, some past and current conflicts in the continent portend wide-ranging ramifications for human rights. For example, an immediate cause of the Biafran War was the pogrom in northern Nigeria of more than one hundred thousand innocent Igbos.¹² The conflict, in turn, led to massive violations of Igbo human rights.¹³ Numerous factors, other

have made the war genocide. As Professor Ekwe-Ekwe correctly stated, “[n]o Igbo family in the world escaped the immediate or long-term impact and consequences of this holocaust.” *Id.*

8. See Aka, *supra* note 7.

9. About 10 million out of an estimated 20-25 million internally displaced persons and about 6 million out of an estimated 17 million refugees in the world are Africans. About three million people became refugees or displaced as a result of the Biafran war alone. Aka, *supra* note 2, at 389. One occurrence that illustrates Africa’s dismal refugee situation is the fact that a multilateral treaty on refugees occupies a central place in the region’s human rights system. The treaty came into being as far back as 1969. See Convention Governing the Specific Aspects of Refugee Problems in Africa, Sept. 10, 1969, 1001 U.N.T.S. 45. In contrast, the premier instrument of the African human rights system, the African Charter on Human and Peoples’ Rights (ACHPR) entered into force only in 1986. See *infra* note 37 and accompanying text.

10. See, e.g., EGHOSA E. OSAGHAE, CRIPPLED GIANT: NIGERIA SINCE INDEPENDENCE 69 (1998); 2 A.H.M. KIRK-GREENE, CRISIS AND CONFLICT IN NIGERIA: A DOCUMENTARY SOURCEBOOK JULY 1967-JANUARY 1970 178-83 (1971) (detailing the enormous devastation of the Nigerian civil war); see also Francis M. Deng, *Self-Determination and National Identity Crisis: The Case of Sudan, in THE SELF-DETERMINATION OF PEOPLES: COMMUNITY, NATION, AND STATE IN AN INTERDEPENDENT WORLD* 253 (Wolfgang Danspeckgruber ed., 2002) (showing how the civil war in Sudan, which has raged intermittently for over four decades, has served to turn the potentially rich country into “now unquestionably one of the poorest countries in the world”).

11. See *infra* notes 76-81 and accompanying text.

12. OSAGHAE, *supra* note 10, at 63 (estimating 80-100,000 casualties, not counting “several thousands more wounded”).

13. See OHA-NA-EZE NDI-IGBO, THE VIOLATIONS OF HUMAN AND CIVIL RIGHTS OF NDI IGBO IN THE FEDERATION OF NIGERIA (1966-1999): A CALL FOR REPARATIONS AND APPROPRIATE RESTITUTION 86-87 (1999) (submitting a claim of over ₦86 trillion, the equivalent of over \$86 billion as damages for those violations). Oha-na-eze Ndi-Igbo

than wars, giving rise to conflicts in Africa include military coups and other acts of political instability, and dictatorial governments.¹⁴ African leaders devote enormous “energy, time, and resources . . . to meeting the exigencies of conflicts” that could have been more constructively used to promote the material well-being of their citizens.¹⁵ As former U.N. Secretary-General Boutros Boutros-Ghali poignantly couches, “[c]onflicts cast a dark shadow over the prospects for a united, secure and prosperous” continent that Africans “seek to create.”¹⁶

Although it is premature to say, there is little hope that the new century will be any less conflict-ridden. As I write these words, a bloody civil war involving eight countries – and, therefore, appropriately viewed by some as “Africa’s first World War” – rages in the Congo. The conflict has claimed more than two million lives,¹⁷ destroyed liberties, and resulted in millions of people losing their property and becoming dislocated or refugees. To change these tragic statistics and minimize energies that now go into managing disputes, African countries must reduce the levels of conflicts in their societies. One way to achieve that reduction is improved human rights protection. Improvement in the continent’s human rights record will have a salutary effect on its conflict resolution capacity in the new century.

This article explores the relationship between human rights and conflict resolution in Africa. Specifically, it argues for improved human rights as a tool for effective management of conflicts in Africa and presents the model of and modalities for a human rights approach to conflict resolution in the continent in the new century that is built on democracy and consists of five other constituent elements. Part II. provides a definition of human rights. Part III. examines the history of human rights in Africa for the period through the end of the Cold War, and Part IV. examines the period since the end of that War.

is a body that calls itself “the apex organization of the entire Igbo people.” *Ndi Igbo* means “Igbo people” in the Igbo language.

14. See Aka, *supra* note 2, at 386-88, 405-14.

15. Francis M. Deng, *Reconciling Sovereignty with Responsibility: Basis for International Humanitarian Action*, in *AFRICA IN WORLD POLITICS: THE AFRICAN STATE SYSTEM IN FLUX* 353, 356 (John W. Harbeson & Donald Rothchild eds., 3d ed. 2000) (quoting Boutros Boutros-Ghali, Address before the Council of Ministers in Dakar, Senegal (1992)) [hereinafter *AFRICA IN WORLD POLITICS*].

16. *Id.*

17. See Paul Salopek, *Torrents of Civil War Pound Ravaged Congo Nation of Riches Impoverished by Legacy of Greed*, *CHI. TRIB.*, Dec. 10, 2000, at 1.

Part V. unveils the comprehensive human rights approach the article develops for improving human rights and minimizing conflicts in African societies in the new century.

II. DEFINING HUMAN RIGHTS

Human rights are freedoms or guarantees, such as life, liberty, security, and subsistence to which people as humans have rights.¹⁸ They are generally understood as claims against the state (the government) or society held equally by all persons simply because they are human beings.¹⁹ Although freedom is an idea common to all civilizations, human rights in the format as known today is a notion of recent vintage that dates back only to 1945 with the institution of the U.N. system.²⁰ Human rights "are usually taken to have a special reference to the ways in which states treat their own citizens,"²¹ but life, liberty, security, property and other freedoms to which people have human rights "may be denied by an extensive array of individuals and organizations."²²

18. JACK DONNELLY, *INTERNATIONAL HUMAN RIGHTS* 1 (2d ed. 1998).

19. *Id.*

20. See Aka, *supra* note 2, at 375-76. Although I date the development of the modern concept to 1945, I, by no means, take a rigid view of the process. I am aware that human rights scholars such as Professor Umozurike talk about a "progressive international of human rights" that dates back to the First World War. See U. OJI UMOZURIKE, *THE AFRICAN CHARTER ON HUMAN AND PEOPLES' RIGHTS* 11 (1997).

21. See DONNELLY, *supra* note 18, at 1; see also MARK R. AMSTUTZ, *INTERNATIONAL ETHICS: CONCEPTS, THEORIES, AND CASES IN GLOBAL POLITICS* 71 (1999). Human rights are "expressed fundamentally as claims of individuals against the state." *Id.*; see Jack Donnelly, *Unfinished Business*, 30 PS: POL. SCI. & POL. 530 (1998) ("Human rights . . . typically target the state of which one is a national."); see Louis Henkin, *The Universal Declaration and the U.S. Constitution*, 30 PS: POL. SCI. & POL. 512, 513 (1998) (emphasizing the national character of international human rights and maintaining that the Universal Declaration of Human Rights "calls on states to recognize the rights of their inhabitants under their national laws, and to take measures to realize human rights through national institutions within their own societies"). Conceptually speaking, *human rights* is simply the "form in which the international community, under Western influence, has chosen to express human dignity . . ." Virginia A. Leary, *The Effect of Western Perspectives on International Human Rights*, in *HUMAN RIGHTS IN AFRICA: CROSS-CULTURAL PERSPECTIVES* 15, 29-30 (Abdullahi A. An-Na'im & Francis M. Deng eds., 1990). Although a concept with a Western origin, human rights is also so evolutionary and dynamic that today it is recognized and accepted through the world as a universal term. *Id.*

22. DONNELLY, *supra* note 18, at 1; see, e.g., Paul Redmond, *Transnational Enterprise and Human Rights: Options for Standard Setting and Compliance*, 37 INT'L LAW. 69 (2003); see also Steven R. Ratner, *Corporations and Human Rights: A*

Governments have a "first responsibility" for securing these rights,²³ including creating necessary conditions for the effective enjoyment of all rights guaranteed for their citizens.²⁴ No genuine development takes place at the expense of human rights.²⁵ Rather, today the "true standard" of a society is measured by the extent to which its leaders observe human rights,²⁶ and the level of a country's development is measured "by the extent to which its citizens enjoy human rights in all their ramifications."²⁷ Eloquent arguments have been made for the reconstruction of the doctrine of sovereignty in a manner that tempers sovereignty with responsibility in matters

Theory of Legal Responsibility, 111 YALE L.J. 443 (2001); see also ANDREW CLAPHAM, *HUMAN RIGHTS IN THE PRIVATE SPHERE* (1993); see also Mary Robinson, *The Business Case for Human Rights*, at <http://www.unhcr.ch/hurricane/hurricane.nsf/0/e47d352dedc39697802566de0043b28e?OpenDocument> (last visited Nov. 7, 2003).

23. LARRY DIAMOND, *DEVELOPING DEMOCRACY TOWARD CONSOLIDATION* 4 (1999) (quoting the text of the Declaration and Program of Action adopted by participants at the conclusion of the Second World Conference of Human Rights held in Vienna in 1993); see also *Filártiga v. Peña-Irala*, 630 F.2d 876 (2d Cir. 1980) (holding that a government's torture of its own citizens, perpetrated under color of state authority, violated universally-accepted principles of international law). The International Court of Justice (or the World Court) has ruled that the principles and rules concerning basic human rights are binding on all states. See *Case Concerning the Barcelona Traction, Light and Power Company, Limited (Belgium v. Spain)* 1970 I.C.J. 3, 32, para. 34. The notion that governments exist to protect the human rights of their citizens is not a novel idea, but rather one that goes back in time. For example, the American Declaration of Independence states that governments became "instituted among Men" to secure the "inalienable Rights" of individuals, including "Life, Liberty and the Pursuit of Happiness." *THE DECLARATION OF INDEPENDENCE* para. 2 (U.S. 1776). According to the document, "wherever any form of Government becomes destructive of these Ends, it is the Right of the People to alter or to abolish it and to institute new Governments, laying its foundation on such Principles and organizing its Powers in such Form, as to them seem most likely to effect their Safety and Happiness." *Id.*

24. See *Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms*, G.A. Res. 53/144, U.N. GAOR, 53d Sess., U.N. Doc A/RES/53/144 (1999).

25. See, e.g., Juan J. Linz & Alfred Stepan, *Toward Consolidated Democracies*, in *CONSOLIDATING THE THIRD WAVE DEMOCRACIES: THEMES AND PERSPECTIVES* 14, 15 (Larry Diamond et al. eds., 1997) (insisting regimes should not be viewed as democracies if they fail to respect the rights of individuals and minorities, among other constitutional subversions, irrespective of how freely elected the regimes were or the substantiality of their majority).

26. UMOZURIKE, *supra* note 20, at 5.

27. *Id.* at 7.

relating to human rights and humanitarian assistance.²⁸ Some scholars have even gone further by interpreting the reconstructed doctrine to mean not only that “governments are answerable internationally *within their borders* for their citizens’ enjoyment of internationally defined human rights regimes,”²⁹ but also that “major states and international organizations” can become “*active partners* of governments in making basic human rights part of the working foundations of contemporary states.”³⁰

Three distinct categories of human rights identified in the literature are political-civil rights; social, economic, and cultural (or socioeconomic) rights; and solidarity (or group) rights.³¹ Political-civil rights are rights with which governments must *not* interfere. These rights include the right to life, personal liberty, privacy and family life, the right to freedom of thought, conscience and religion; freedom of expression and the press, peaceful assembly and association; and

28. See Deng, *supra* note 15, at 353-78; see generally DENG, SOVEREIGNTY AS RESPONSIBILITY, *supra* note 6. Deng argued that sovereignty has evolved in our time “to prescribe democratic representation” and “to justify outside intervention” when humanitarian crisis arises due to a failure to meet this standard. He maintains that a government should not claim sovereignty if it is not able to establish legitimacy by meeting minimal standards of good governance and responsibility for the security and general welfare of its citizens. Deng, *supra* note 15, at 357. Deng elaborates,

Sovereignty is not merely the right to be undisturbed from without, but the responsibility to perform the tasks expected of an effective government The obligation of the state to preserve life-sustaining standards for its citizens must be recognized as a necessary condition of sovereignty The state has the right to conduct its activities undisturbed from the outside when it acts as the original agent to meet the needs of its citizens If the obligation is not performed, the right to inviolability should be regarded as lost, first voluntarily as the state itself asks for help from its peers, and then involuntarily as it has help imposed on it in response to its own inactivity or incapacity and to the unassuaged needs of its own people.

DENG, SOVEREIGNTY AS RESPONSIBILITY, *supra* note 6, at xviii; see also UMOZURIKE, *supra* note 20, at 7 (contending that concern for human rights does not negate the principle of non-interference in a country’s domestic affairs because “breaches of human rights, especially gross breaches, are taken out of domestic jurisdiction”).

29. John W. Harbeson & Donald Rothchild, *The African State and State System in Flux*, in AFRICA IN WORLD POLITICS, *supra* note 15, at 11.

30. *Id.*; see also Redmond, *supra* note 22, at 70 (maintaining that protecting human rights “is too important to be left to national governments exclusively but is a matter of joint, global responsibility”).

31. See Aka, *supra* note 2, at 371-75 (containing a more detailed discussion of these three categories of rights); see also Aka, *supra* note 7, at 212-15.

freedom of movement. In the U.S., many of these rights are denominated "civil liberties."³² Socioeconomic rights are material-based rights that require governmental preparation for the enjoyment of these rights. Without such preparation, the realization of these rights is made difficult or impossible. These rights include the right to education; right to work, including protection against unemployment; right to form and join trade unions; and right to social security, among other rights.³³ Solidarity, or group rights, are rights which the individual may enjoy as a member of a particular society. These collective rights include the equality of *peoples*, the right to existence and self-determination, the right to free disposal of natural wealth and resources, the right to development, the right to international peace and security, and the right to a clean environment.³⁴ The three categories of rights are denominated, respectively, first-generation, second-generation, and third-generation rights. Each of the generations complements and completes the others. Ranking them by generation does *not* imply that any category of rights is superior to or takes precedence over the others.³⁵

Finally, human rights include individual rights and collective rights. Political-civil rights and socioeconomic rights are individual rights that may also be enjoyed by groups; and solidarity rights, like the rights to peace, development, a clean environment, and the right to self-determination, are group rights that individuals may also enjoy. Accordingly, international human rights instruments, such as the Universal Declaration of Human Rights (UDHR)³⁶ and the African

32. See, e.g., LARRY BERMAN & BRUCE ALLEN MURPHY, *APPROACHING DEMOCRACY* 460-499 (2d ed. 1999).

33. Based on the definition here, guarantees denominated "civil rights" in the U.S., such as the right to equality under the Fourteenth Amendment to the U.S. Constitution would come under socioeconomic rights, but a right such as equality under the law is considered political-civil rights in the international human rights literature. See *Universal Declaration of Human Rights*, G.A. Res. 217 A (III), U.N. GAOR, 3d Sess., at art. 7, U.N. Doc. A/810 (1948) [hereinafter UDHR]. This occurrence illustrates the nature of the fine line that separates the various categories of human rights as well as the interconnectedness of the rights.

34. CHRIS MAINA PETER, *HUMAN RIGHTS IN AFRICA: A COMPARATIVE STUDY OF THE AFRICAN HUMAN AND PEOPLE'S RIGHTS CHARTER AND THE NEW TANZANIAN BILL OF RIGHTS* 59-69 (1990).

35. Aka, *supra* note 2, at 375 (noting the various generations of human rights "highlight the evolution and mutual interdependence of these rights rather than suggest that any category should have priority over the others").

36. See UDHR, *supra* note 33.

Charter on Human and Peoples' Rights (ACHPR)³⁷ recognize both individual and group rights.

III. HUMAN RIGHTS IN AFRICA UP TO THE END OF THE COLD WAR

Africa is a continent with a long history of human rights atrocities. Some of these atrocities, such as those that occurred during the post-independence era, were self-inflicted, but a number were atrocities brought upon the continent by outsiders. The trans-Atlantic slave trade uprooted tens of millions of able-bodied African men and women who were transported against their choice as slaves to the New World. Few singular human experiences stand out as congealed violations of individual and collective human rights the way the slave trade did.³⁸ One lingering legacy of the ignominious trade in humans is the ubiquitous spread of blacks today in parts of the world outside Africa, many of which are places where they are victims of discrimination, segregation or related maltreatments due to their skin color or previous condition of servitude.³⁹

Another moment of large-scale violation of African human rights occurred during the colonial period starting from 1884-85,⁴⁰ and ending with the independence of Namibia in 1990.⁴¹ Colonial rule was

37. African Charter on Human and Peoples' Rights, June 27, 1981, 21 I.L.M. 58 (entered into force Oct. 21, 1986) [hereinafter ACHPR].

38. See UMOZURIKE, *supra* note 20, at 16-17 (summarizing the sufferings of a slave from capture until arrival to the New World, assuming the slave gets there alive, and the massive destruction the slave trade wreaked on African life and society). There are some who would challenge the assertion that the slave trade was something imposed upon Africa by outsiders, arguing, for example, that Africans were partners in the trade. However, although *some* Africans were partners in the tragic trade, Africans were above all victims of the trade. Elikia M'Bokolo, *Who Was Responsible?*, in GLOBAL STUDIES: AFRICA 201-3 (F. Jeffress Ramsay ed., 7th ed. 1997). In short, the venture was a "one-sided relationship founded and maintained [by Europe] on the threat of force." *Id.* at 202.

39. See generally Ali A. Mazrui, *Global Africa: From Abolitionists to Reparationists*, 37 AFR. STUD. REV. 1-18 (1994); see generally ANDREW HACKER, *TWO NATIONS: BLACK AND WHITE, SEPARATE, HOSTILE, UNEQUAL* (1992) (focusing on the treatment of blacks in the U.S.).

40. This was the date of the Berlin conference at which the European powers divided Africa among themselves, incredibly, invoking human rights! See UMOZURIKE, *supra* note 20, at 20.

41. A legitimate question might be: What about South Africa whose taste of freedom came in 1994 after Namibia's? However, South Africa became independent in 1910, even though it continued to be ruled by a white minority government that excluded and segregated black South Africans who were, and still are, in the majority. What,

a frontal assault on every category of human rights. Repressive practices like forced labor, forced taxation, and the use of sedition laws as a weapon designed to stamp out opposition to foreign rule and impede the evolution of a free press marked its negation of political-civil rights.⁴² Colonial governance was also an attack on socioeconomic rights because foreign rule is inconsistent with any meaningful notion of economic development.⁴³ Lastly, colonial rule contradicted solidarity rights because foreign rule violated the rights of Africans to determine for themselves rather than have foreigners determine for them.⁴⁴ In the apt language of one analyst, "[t]he entire architecture of colonial rule, like that of military rule down the road in the continent, was built and maintained solely and completely on naked force designed to *crush* any and every 'native' resistance to external domination."⁴⁵

The nationalist leaders fought for and won political independence for their countries by invoking the vocabulary of human rights,⁴⁶ only to turn around, once gaining the opportunity to govern these new countries, to abuse the rights of their citizens, at times with impunity. In the guise of protecting their country's "hard-won" independence, these new leaders curtailed citizen political participation, broke every form of legitimate opposition to their rule, and turned the multiparty systems in place when their countries became independent into one-party dictatorships.⁴⁷ In countries where civilian "big men" did not hold sway, another equally oppressive brand of dictatorship prevailed, namely military rule.⁴⁸ "By the late 1960s, about two-fifths of African states had come under military rule and coups had effectively replaced elections as a method for changing government in the continent."⁴⁹ The disease of power concentration in few political hands that marked this period is evinced in the fact that only a few countries, such as Nigeria, had constitutions that provided for a

therefore, South Africa achieved in 1994 was majority rule, not political independence.

42. See Aka, *supra* note 2, at 380, 382.

43. See *id.* at 381.

44. See *id.*

45. *Id.* at 379 (emphasis added).

46. *Id.* at 395.

47. See, e.g., *id.* at 386-88.

48. Aka, *supra* note 2, at 405-14.

49. *Id.* at 406.

federal system of government.⁵⁰ A common feature characterizing these dictatorial rules was poor economic records. Unlike their counterparts in Asia that used authoritarianism to build the economy, African dictators produced slow or negative economic progress.⁵¹ They “canvassed the primacy of socioeconomic over civil-political rights, but achieved the dubious distinction of promoting neither category of rights.”⁵² Africa faced a crisis during the long night of authoritarianism, which was characterized by weak agricultural growth; a decline in industrial output; poor export production; disintegration of productive and infrastructure facilities; huge foreign debt; deteriorating social indicators and institutions, especially in education, public health and sanitation, housing, and portable water; environmental destruction; and economies that grew below the rate of population.⁵³

In retrospect, part of the failure of “development” that took place during the post-independence period in Africa flowed from the fact that African leaders were supposed to change the nature of the state from the colonial period but instead mounted power at independence without effecting that change. In many parts of the continent, the state “presented itself as an apparatus of violence,” experienced a contraction in its “social base,” and “relied for compliance on coercion rather than authority,”⁵⁴ comparable to the colonial government it replaced, among other negative features. Rather than use the power of the state to seek social transformation or development, African leaders preferred to use it to achieve political domination.⁵⁵ After

50. See Ali A. Mazrui, *The Bondage of Boundaries*, 150 *ECONOMIST YEARS* 28 (1993). I am grateful to Professor Opoku Agyeman of Montclair State University, New Jersey, for drawing my attention to this article.

51. Aka, *supra* note 2, at 387. Scholars like the late Claude Ake questioned the hypothesis postulating positive relationship between authoritarianism and development. See CLAUDE AKE, *DEMOCRACY AND DEVELOPMENT IN AFRICA* 127 (1996) (contending that “[a] case for authoritarianism’s being positively correlated to development does not really arise, because democracy is part of the very meaning of political development”).

52. Aka, *supra* note 2, at 387-88.

53. Virginia DeLancey, *The Economies of Africa*, in *UNDERSTANDING CONTEMPORARY AFRICA* 91, 103-05 (April A. Gordon & Donald L. Gordon eds., 2d ed. 1996). Economic growth is *not*, as Professor DeLancey correctly pointed out, economic development. However, the goals of economic development can be difficult to achieve if economic growth is slow, especially when accompanied by rapid population growth, as is often the case in many African countries. *Id.* at 102-03.

54. AKE, *supra* note 51, at 3.

55. *Id.* at 42.

decades of corruption and governmental misrule, the chickens finally came home to roost: a study published in 1991 found that Africa was enduring an "economic catastrophe" that "dwarfs the Great Depression" and that as of 1990, Africans in most black African countries were much worse off than they were during the 1960s.⁵⁶

Various occurrences within and outside Africa conspired to reinforce the prevailing unsatisfactory conditions. From within Africa, this included the foundation of the Organization of African Unity (OAU) that tolerated human rights atrocities under the guise of doctrines such as respect for the "territorial integrity" of African artificial boundaries and non-interference in the domestic affairs of other countries.⁵⁷ Mouthng these doctrines, the OAU stood helplessly as a genocidal war claimed the lives of three million Igbos in Nigeria from 1967 to 1970.⁵⁸ As one perceptive study correctly points out, during this period, "[t]he rights of black Africans inside the borders of independent African states appear[ed] to be of little real concern to the OAU."⁵⁹ Abroad, developed countries provided moral comfort and financial support to African dictators, such as Mobutu Sese Seko, who committed human rights atrocities so long as these dictators remained in their camp in the ideological Cold War rivalry between the U.S. and the Soviet Union.⁶⁰

IV. HUMAN RIGHTS IN AFRICA SINCE THE END OF THE COLD WAR

In this section, the focus is on the first two categories of human rights: namely, political-civil rights and socioeconomic rights. Left out are solidarity rights, which are tied inextricably to political restructuring, especially the right to self-determination. Solidarity rights will return in Part V. in the discussion of restructuring and

56. See Philip C. Aka, *Leadership in African Development*, 14 J. THIRD WORLD STUD. 213, 224 (1997). The complexity of the continent and the numerosity of over fifty countries that comprise it guarantee that some countries, such as Botswana, Mauritius, and the Gambia, which managed to maintain democratic rule would do well, but these countries were so few and so small-sized to have any impact on the generally negative pattern of events.

57. See Aka, *supra* note 2, at 395.

58. See LEE C. BUCHHEIT, SECESSION: THE LEGITIMACY OF SELF-DETERMINATION 103-04 (1978).

59. RHODA E. HOWARD, HUMAN RIGHTS IN COMMONWEALTH AFRICA 5 (1986).

60. See Warren Christopher, *U.S.-Africa: A New Relationship*, 38 AFR. REP. 36 (1993) (admitting that American policies became "often determined not by how they affected Africa, but by what advantage they brought to Washington or Moscow"). Mr. Christopher was Secretary of State under President William J. Clinton until 1993.

collective or group rights. After decades of often conflict-ridden (mis)rule and numerous ruined economies, African societies moved into a new era of democratization and increased respect for human rights beginning in 1989. Although home-grown, the occurrence coincided with numerous changes in the international system: among them, the end of the Cold War, the demise of socialism in the Soviet Union and Eastern Europe, as well as the breakup of the Soviet Union and the wearing off of the global appeal of communism.⁶¹ From a human rights perspective, characteristic features of this new era for Africa included the independence of Namibia, achievement of majority rule in South Africa, and the evolution of a full system of human rights for Africa symbolized by the coming into force in October 1986 of the African Charter on Human and Peoples' Rights.⁶² Another important feature was the embrace of multi-partyism by a vast majority of African states.⁶³ By the end of 1994, thirty-eight of forty-seven countries in sub-Saharan Africa had held competitive multiparty elections, and the number of democracies in the region increased to eighteen from just three in 1988.⁶⁴ By 1995, over twenty African countries legalized political opposition.⁶⁵

Despite the wind of democratic change and the apparent banishment of authoritarian rule in Africa, there is still little substantive human rights progress registered. This amazing occurrence is due to the questionable democratic credentials of a number of the governments that came into office in the 1990s,⁶⁶ as well as to the fact that in many countries, "democracy" existed uncoupled with respect for human rights.⁶⁷ Not only is there a well-

61. See, e.g., JOHN A. WISEMAN, *THE NEW STRUGGLE FOR DEMOCRACY IN AFRICA* 1-14, 35-83 (1996).

62. See generally Aka, *supra* note 2, at 391-96.

63. See WISEMAN, *supra* note 61, at 15-34.

64. See Aka, *supra* note 2, at 391; see also WISEWAN, *supra* note 61, at 20-31.

65. *Id.*

66. See, e.g., MARINA OTTAWAY, *AFRICA'S NEW LEADERS: DEMOCRACY OR STATE RECONSTRUCTION?* (1999); see also Marina Ottaway, *From Political Opening to Democratization?*, in *DEMOCRACY IN AFRICA: THE HARD ROAD AHEAD* 1-14 (Marina Ottaway ed., 1997); see also Michael G. Schatzberg, *Highjacking Change: Zaire's "Transition" in Comparative Perspective*, in *id.* at 113-134; see also Christopher Clapham, *Democratization in Africa: Obstacles and Prospects*, 14 *THIRD WORLD Q.* 423, 434 (1993) (discussing the coopting of democratization as a device for retaining control in Côte d'Ivoire under President Houphouët-Boigny and Kenya under Daniel arap Moi).

67. See generally Aka, *supra* note 7; see also Akwasi Aidoo, *Africa: Democracy Without Human Rights?*, 15 *HUM. RTS. Q.* 703 (1993).

grounded feeling now that the movement toward democracy and human rights has stalled,⁶⁸ but democracy scholars, like Professor Clapham, view the prospects for continued democracy in the continent as "extremely uncertain."⁶⁹ "By 1997, the number of regimes denominated democracies in Africa decreased from the high watermark of 18 in 1994 to only 13."⁷⁰ These unsatisfactory outcomes cannot but call to mind Professor Donnelly's warning several years ago about the danger of overestimating the "human rights significance" of the ongoing democratization in the world, particularly that "we must not confuse decreased tolerance for old forms of repressive rule with support for, let alone institutionalization of, rights-protective regimes."⁷¹

The picture appears equally gloomy for socioeconomic rights. One of the most pressing issues since the 1980s that has affected African economies and societies is the Acquired Immunodeficiency Syndrome (AIDS) along with the virus, human immunodeficiency virus (HIV), that causes the condition. The pandemic exerts a heavy toll on African life expectancy,⁷² wreaks havoc on human development⁷³ and productivity⁷⁴ in the region, particularly in Sub-Saharan Africa, and is partly responsible for the increasing economic disparity between Africa and other world regions.⁷⁵

68. OTTAWAY, *supra* note 66, at 1-14; *see, e.g.*, WISEMAN, *supra* note 61, at 156-77 (dwelling on the uncertain future of democracy in Africa and, therefore, the grounds for cautious optimism regarding progress toward democracy in the continent).

69. Clapham, *supra* note 66, at 437.

70. Aka, *supra* note 2, at 391-92.

71. DONNELLY, *supra* note 18, at 157.

72. *See* UNITED NATIONS DEVELOPMENT PROGRAM, HUMAN DEVELOPMENT REPORT 1999 42 (1999), available at <http://hdr.undp.org/reports/global/1999/en/> (last visited Nov. 7, 2003) [hereinafter UNDP]. In 1999, the United Nations projected "[a] loss of 17 years in life expectancy for the nine countries in Africa with a HIV prevalence of 10 % or more . . . down to 47 years by 2010, back to the life expectancy of the 1960s." *Id.* These nine countries are Botswana, Kenya, Malawi, Mozambique, Namibia, Rwanda, South Africa, Zambia, and Zimbabwe. *Id.*

73. *See id.* at 128, 130.

74. *See* DeLancey, *supra* note 53, at 113-14. DeLancey includes a listing of negative impacts which include, but are not limited to: dramatic decrease in family income and alteration of the division of labor in families; negative effect on educational chances and other areas relating to quality of life for children; profound impact on the supply of labor and reduction in the size and productivity of the labor force; and a dramatic increase in the health care budget of many countries, emanating from increased hospital bills and the cost of education campaigns to prevent the pandemic.

75. *See* UNDP, *supra* note 72, at 128 (conveying that Sub-Saharan Africa has more than twice as far to go as Latin America and the Caribbean).

Recent studies of African economies in the post-authoritarian period paint a roundly negative picture of these economies with negative ramifications for socioeconomic and other human rights. In a piece designed to explore whether African economies may be on the verge of a takeoff, Professor Bräutigam concludes rather “for now African countries will need years of rebuilding simply to reach the point where they were in 1970,” adding that “[a]n economic miracle of the [Asian] ‘tiger’ variety still seems a long way off.”⁷⁶ It is a conclusion Professor Callaghy appears to share, although he focuses on another aspect of the same general problem. In his view, the renaissance projected for Africa in the 1990s by international financial institutions and others was something based on “a narrow bed of sand” and premature.⁷⁷ He predicts that “simultaneous marginalization and dependence are likely to continue, and will probably increase, for most countries.”⁷⁸ He concludes, in the very language that forms the theme of his article, “Africa is even more caught between a rock and a hard place in regard to the world political economy, and all actors will have to work very hard to alter that fact.”⁷⁹ Professor Clapham observes that there has been a substantial shift in recent decades from agricultural products to minerals as the major constituent of exports in Africa. He is, however, quick to note that the overall dependence on primary export trade has scarcely been affected.⁸⁰ He points out the “profound” implications of this dependence for Africa, among them, a

76. Deborah Bräutigam, *Economic Takeoff in Africa*, in GLOBAL STUDIES: AFRICA 180, 184 (F. Jeffress Ramsay ed., 8th ed. 1999).

77. Thomas M. Callaghy, *Africa and the World Political Economy: More Caught Between a Rock and a Hard Place*, in AFRICA IN WORLD POLITICS, *supra* note 15, at 59-61. Zeroing in on this theme of renaissance, Professor Nicolas van de Walle has explained that the optimism about any renaissance arose from the significance given the end of civil wars in the continent, specifically the notion that with the end of long-standing conflicts in the Horn of Africa and southern Africa, “the continent might be entering a period of political stability.” Nicolas Van de Walle, *Africa and the World Economy: Continued Marginalization or Re-engagement?*, in AFRICA IN WORLD POLITICS, *supra* note 15, at 278. Stated differently, the renaissance projected was based on the notion that “[o]vercoming the reputation of being a bad ‘neighborhood’ was viewed as important to attracting private capital back to Africa . . .” *Id.* However, the renaissance became premature because of the outbreak of new conflicts in Africa, among them the civil war in the two Congos, and a border war between Ethiopia and Eritrea. *Id.*

78. Callaghy, *supra* note 77, at 78.

79. *Id.* at 80.

80. Clapham, *supra* note 66, at 427.

deterioration in the region's already unfavorable terms of trade and for economic management.⁸¹

Not every report on Africa's current economic health is pointedly negative in tone. For example, two scholars jointly insist "[t]he future of Africa is not yet written . . . contemporary developments do provide new bases for hope."⁸² These contemporary developments suggest progress toward sustainable development and include the move toward democracy and human rights in the continent and the transition to majority rule in South Africa.⁸³ However, apartheid left a legacy of unfavorable disparities for blacks in all facets of life, with far-reaching implications for human rights that the majority government in South Africa struggles to overcome,⁸⁴ and, the democratization movement appears to have run its course in many countries in the continent.⁸⁵ Revealingly, the authors branded their optimism as "tempered."⁸⁶

A recurrent issue today in many proposals for economic change in Africa is integration of the continent's small economies.⁸⁷ Unfortunately, there is little progress registered. An important recent study on regionalism among developing countries reported little activities on the ground in the region, concluding "African integration is further in the future than Latin American or Asian."⁸⁸ A useful compendious four-volume study by a distinguished team of economists focusing on Sub-Saharan (or Black) Africa reached similar conclusions regarding regional integration and trade liberalization in the region.⁸⁹ The study finds "the keen interest in regional economic

81. *Id.*

82. Richard Stryker & Stephen N. Ndegwa, *The African Development Crisis, in AFRICA* 375, 392 (Phyllis M. Martin & Patrick O'Meara eds., 3d ed. 1995).

83. *Id.*

84. *See Aka, supra* note 2, at 390.

85. *See supra* notes 66-70 and accompanying text.

86. Stryker & Ndegwa, *supra* note 82, at 392.

87. PROSPECTS FOR RECOVERY AND SUSTAINABLE DEVELOPMENT IN AFRICA at xii, 320-21 (Aguibou Y. Yansane ed., 1996); *see, e.g., DeLancey, supra* note 53, at 119; *see also Mazrui, supra* note 50, at 29.

88. SHEILA PAGE, REGIONALISM AMONG DEVELOPING COUNTRIES 59 (2000). Page only commented on the following regional organizations: the Southern African Development Community (SADC), the African Economic Community (AEC), the Economic Community of West African States (ECOWAS), and the Economic Communities of Western and Central African States (ECCAS). *See id.* at 59, 260.

89. *See generally*, REGIONAL INTEGRATION AND TRADE LIBERALIZATION IN SUBSAHARAN AFRICA, VOLUME 1: FRAMEWORK, ISSUES, AND METHODOLOGICAL PERSPECTIVES (Ademola Oyejide et al. eds., 1997) [hereinafter REGIONAL INTEGRATION AND TRADE

integration” in the region “has not been matched by results,”⁹⁰ specifically that regional integration has largely failed in the region.⁹¹ It explains that “[i]ntra-regional trade remains low and economic diversification and development have not materialized.”⁹² Grandiose integration schemes make little sense if there is poor commitment to those schemes.⁹³ The study recommends as a pointer to a better future, which is interesting for a work of regionalism in Black Africa, sound and credible policies at the national levels to drive integration schemes, which policies, however, unfortunately, do not exist in many African countries.⁹⁴ In the area of trade liberalization,⁹⁵ the study finds that although Black Africa has made “continuing episodic process toward a more rational trade policy,” progress is “faltering.”⁹⁶ The study also finds the region still has ways to go in creating the initial conditions of high human capital and better income disparity that were “so important in producing a successful Asian-style

LIBERALIZATION IN SUBSAHARAN AFRICA, VOLUME 1]; REGIONAL INTEGRATION AND TRADE LIBERALIZATION IN SUBSAHARAN AFRICA, VOLUME 2: COUNTRY CASE-STUDIES (Ademola Oyejide et al. eds., 1999) [hereinafter REGIONAL INTEGRATION AND TRADE LIBERALIZATION IN SUBSAHARAN AFRICA, VOLUME 2]; REGIONAL INTEGRATION AND TRADE LIBERALIZATION IN SUBSAHARAN AFRICA, VOLUME 3: REGIONAL CASE-STUDIES (Ademola Oyejide et al. eds., 1999); REGIONAL INTEGRATION AND TRADE LIBERALIZATION IN SUBSAHARAN AFRICA, VOLUME 4: SYNTHESIS AND REVIEW (Ademola Oyejide et al. eds., 1999) [hereinafter REGIONAL INTEGRATION AND TRADE LIBERALIZATION IN SUBSAHARAN AFRICA, VOLUME 4].

90. Colin McCarthy, *Regional Integration in SubSaharan Africa: Past, Present and Future*, in REGIONAL INTEGRATION AND TRADE LIBERALIZATION IN SUBSAHARAN AFRICA, VOLUME 4, *supra* note 89, at 12.

91. *Id.* at 43. According to one contribution, most of the regional organizations in Africa are yet to achieve their objectives, and future prospects for meeting those objectives are not good. See William Lyakurwa et al., *Regional Integration in SubSaharan Africa: A Review of Experiences and Issues*, in REGIONAL INTEGRATION AND TRADE LIBERALIZATION IN SUBSAHARAN AFRICA, VOLUME 1, *supra* note 89, at 180-91.

92. McCarthy, *supra* note 90, at 43.

93. *Id.*

94. See William Lyakurwa et al., *Regional Integration in SubSaharan Africa: A Review of Experiences and Issues*, in REGIONAL INTEGRATION AND TRADE LIBERALIZATION IN SUBSAHARAN AFRICA, VOLUME 1, *supra* note 89, at 177-91.

95. See Paul Collier et al., *Evaluating Trade Liberalization: A Methodological Framework*, in *id.* at 306 (defining liberalization as “programmes [sic] targeted at more open policies”).

96. Séamus O’Cléireacáin, *SubSaharan Africa’s Trade Liberalization Experience*, in REGIONAL INTEGRATION AND TRADE LIBERALIZATION IN SUBSAHARAN AFRICA, VOLUME 4, *supra* note 89, at 70.

interventionist export-oriented growth exchange."⁹⁷ It points out that trade liberalization is only one component in adjustment and over the past years, African economies have found it more difficult to adjust than have economies elsewhere.⁹⁸ More importantly, on the whole, "employment levels have not been significantly affected by trade liberalization measures."⁹⁹

This section concludes the present picture of political-civil rights and socioeconomic rights in Africa on a note of two observations. The first is that, assuming African economies experienced a takeoff, there is still the problem of a growing gap between the few rich and the many poor,¹⁰⁰ a situation that does not bode well for the enjoyment of socioeconomic and other human rights. Second, it should be noted that changes in the economic context tie necessarily to changes in the political front, reinforcing our argument about the interconnectedness among the various categories of human rights and their complementarity. To elaborate, Professor Bräutigam stated that any projected economic take-off for Africa, if and when it comes, will be dependent on African governments being able to finally provide basic infrastructure such as political stability, education, public health, and the rule of law.¹⁰¹ It is a position with which Professor Young appears to agree. As Young points out, Botswana and Mauritius, the two continuously democratic countries in Africa, also held the record for the most impressive economic development achievement.¹⁰²

V. MODEL OF AND MODALITIES FOR A HUMAN RIGHTS APPROACH TO CONFLICT RESOLUTION IN AFRICA IN THE NEW CENTURY

Six strategies presented here for promoting human rights and minimizing conflicts in Africa in the new century are (1) democracy, (2) human rights education, (3) economic progress, (4) political restructuring, (5) attention to collective (or group) rights, and (6) necessity for external help. Following are explanations of the

97. *Id.* at 69.

98. *Id.*

99. Ademola Oyejide et. al., *Introduction and Overview, in REGIONAL INTEGRATION AND TRADE LIBERALIZATION IN SUBSAHARAN AFRICA, VOLUME 2, supra* note 89, at 28.

100. *See* Aka, *supra* note 7, at 262-63 (focusing on Nigeria); *see generally* DEVELOPMENT AND UNDERDEVELOPMENT: THE POLITICAL ECONOMY OF INEQUALITY (Mitchell A. Seligson & John T. Passe-Smith eds., 1998) (taking a global perspective).

101. Bräutigam, *supra* note 76, at 184.

102. *See* Crawford Young, *Africa: An Interim Balance Sheet, in AFRICA: DILEMMAS OF DEVELOPMENT AND CHANGE* 341, 354 (Peter Lewis ed., 1998).

strategies in the order presented. The measures of each illustrate, rather than exhaust, all the possibilities.

A. *Democracy*

The first strategy that can be used in Africa in the new century to promote human rights and minimize conflicts is democracy. Democracy is defined colloquially as government of the people for the people by the people, or government based on the consent of the governed.¹⁰³ It is a system of government "in which the coercive powers of the government are effectively constrained by the constitution."¹⁰⁴ A set of conditions any democracy must satisfy includes: meaningful and extensive competition among individuals and organized groups for governmental offices through regular, free and fair elections; a highly inclusive level of political participation in the selection of leaders and policies; entrenchment of basic fundamental guarantees like free speech and free press; leader accountability to the electorate; and existence of multiple channels beyond parties, legislatures, and elections, for the representation of citizen interests.¹⁰⁵ Although important, elections, competition, inclusiveness, and other pluralistic features are not the only constituent features of a democracy; rather, *quality* is also a key ingredient in the definition of any democracy. In theory as in practice, democracy is a dynamic notion that entails progressive and widespread application of democratic principles that proceed apace until "democracy becomes routinized and deeply internalized in social, institutional, and even psychological life, as well as in political calculations for achieving success."¹⁰⁶

There are several senses in which democracy may serve to promote human rights and contribute to conflict management. First and foremost, democracy is the context for any promotion of human rights. However, there is no guarantee that democracy will result in

103. See BERMAN & MURPHY, *supra* note 32, at 4 (depicting democracy, among other things, as "rule by the ruled").

104. JOHN MUKUM MBAKU, INSTITUTIONS AND REFORM IN AFRICA: THE PUBLIC CHOICE PERSPECTIVE 189 (1997).

105. See DIAMOND, *supra* note 23, at 7-17.

106. Linz & Stepan, *supra* note 25, at 16. All democracies are works in progress rather than final destination. See also BERMAN & MURPHY, *supra* note 32, at 3 (crediting Vaclav Havel, former Czechoslovakia president, to the effect that even democratic veterans like the U.S. do nothing but merely approach democracy). The authors built the entire theme of this popular text on American government on this famous notion.

respect for human rights, since a supposedly democratic government can exist uncoupled with any respect for human rights.¹⁰⁷ Any talk about human rights without democracy is meaningless. Human rights atrocities are rampant during periods of military and other types of dictatorship in Africa.¹⁰⁸ Democracy, on the other hand, can spell “the absence of the pressures of illegitimacy and unaccountable rule that sets the ground for the use of force” and abuse of human rights.¹⁰⁹ As Larry Diamond correctly observes, “[t]here is no better way of developing the values, skills, and commitments of democratic citizenship,” including respect for human rights, “than through direct experience with democracy, no matter how imperfect it may be.”¹¹⁰ Democracy also holds the only chance for control over the military. This is because “[b]y definition, democracy cannot be consolidated until the military becomes firmly subordinated to civilian control and solidly committed to the democratic constitutional order.”¹¹¹ Second, democracy is the basis or foundation for any other strategy or strategies for human rights progress. Talk of the other measures for human rights improvement without democracy is less sensible. Third, human rights, particularly those relating to political-civil rights, are viewed as intrinsic to the definition of democracy.¹¹² Finally, democracy is also, in its own right, a tool for institutionalization of conflict management. “Its qualities of inclusiveness, pluralism, and its sensitivity to uniqueness or diversity, along with the bargaining, coalition building, and political learning it spawns, make democracy” a good tool for conflict management, particularly in an ethnic setting such as Nigeria.¹¹³

One intriguing element about democracy in Africa during the post-Cold War era is that although the continent still apparently produces little of this commodity, the need and necessity for democracy has also at the same time become more imperative. Any effective system of government in Africa today must be *more* democratic than in the past. As Professor Clapham explains, this is because with the emergence of a new world order, political

107. See *supra* note 67 and accompanying text.

108. See Aka, *supra* note 2, at 386-88, 408-414.

109. *Id.* at 431-32.

110. DIAMOND, *supra* note 23, at 3.

111. Diamond, Introduction: In Search of Consolidation, in CONSOLIDATING THE THIRD WAVE, *supra* note 25, at xxviii.

112. See, e.g., DIAMOND, *supra* note 23, at 7-17.

113. See Philip C. Aka, *Nigeria: The Need for an Effective Policy of Ethnic Reconciliation in the New Century*, 14 TEMP. INT'L & COMP. L.J. 327, 351 (2000).

conventions such as maintenance of artificial state boundaries, popular acquiescence, and external backing, used in the past to maintain non-democratic governments, have eroded to the point of no return.¹¹⁴ Professor Clapham notes correctly the old African state, based on the hierarchies of rule inherited from European colonialism, is on its way out, and any state structure succeeding this dying formation must today rely more on popular support than in the past.¹¹⁵ The choice open for African governments today, he believes is between acquisition of popular legitimacy or collapse into anarchy.¹¹⁶ If “the mighty Soviet Union breaks up into fifteen different fragments, there is no way in which an artificial African state can hold together unless most of its people want it to.”¹¹⁷

B. Human Rights Education

Another employable strategy that can be coupled with democracy to improve human rights and minimize conflicts in Africa in the new century is education. Education nurtures “a culture of respect and demand for the appreciation and internalization of the values of human right . . .”¹¹⁸ Human rights education embodies the “dual perspective of education *as* a human right [or the right to education], and education *about* human rights.”¹¹⁹ As the UDHR states, education is “directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms.”¹²⁰ Human rights education is much more than just information provision; rather, it “constitute[s] a comprehensive life-long process by which people . . . learn respect for the dignity of others and the means and methods of ensuring that respect in all societies.”¹²¹ Education in human rights should inform citizens of their rights; “lead to an understanding of, and sympathy for, the concepts of democracy, justice, equality, freedom, solidarity, peace, dignity, and rights and responsibilities; and build their awareness

114. Clapham, *supra* note 66, at 437.

115. *Id.*

116. *Id.* at 437-38.

117. *Id.*

118. UMOZURIKE, *supra* note 20, at 8.

119. Douglas Ray & Norma Bernstein Tarrow, *Human Rights and Education: Overview*, in HUMAN RIGHTS AND EDUCATION 3 (Norma Berstein Tarrow ed., 1987).

120. UDHR, *supra* note 33, art. 26.

121. Aka, *supra* note 2, at 435 (quoting *The U.N. Decade for Human Rights Education*, U.N. GAOR, 49th Sess., Agenda Item 100(b), at 2, U.N. Doc. A/RES/49/184 (1995)).

that oppressive laws and inappropriate traditions may be reformed," among other acts of enlightenment.¹²²

While there is no uniform or universal content to that education, the common core should include "familiarity with the main international documents on human rights; people, movements, and key events in the historical struggle for human rights; the main categories of human rights, along with duties or obligations; and attention to various forms of injustice, inequality, and incidents of discrimination, including racism and sexism."¹²³ As the U.N. Commission on Human Rights states, the key is that "knowledge of human rights, both in its theoretical dimension and in its practical application . . . be established as a priority in educational policies."¹²⁴ Part of this education for soldiers is that they must accept civilian control and subject themselves to such control and use whatever coercive power they may have to protect their people, neither against them nor to seize governmental control for themselves.¹²⁵

C. *Economic Progress*

A third strategy, coupled with democracy and human rights education, needed to promote human rights and reduce conflicts in Africa in the new century is a certain level of material prosperity or economic development. Violations can occur where, as in Nigeria from 1999 to 2003, no such economic progress occurs.¹²⁶ Material prosperity can engender popular commitment to democracy, without which any talk about human rights is not sensible. As one recent study of Nigeria finds, Africans are outcome-oriented in their support of democracy.¹²⁷ From a more direct standpoint, socioeconomic rights, pursued and achievable through economic development, are an integral part of human rights. Lack of progress in economic

122. *Id.*

123. *Id.*

124. *Id.*

125. *See id.* at 435-36.

126. *See Aka, supra* note 7, at 268.

127. *See Philip C. Aka, Education, Economic Development, and Return to Democratic Politics in Nigeria*, 18 J. THIRD WORLD STUD. 21, 22 (2001) (disclosing that agitation in Nigeria for democratic rule "has something to do with the belief most Nigerians held that the only government [that is] . . . able to improve their lot is a democratically-elected one"); *see also* Robert J. Mundt & Oladimeji Aborisade, *Politics in Nigeria*, in COMPARATIVE POLITICS TODAY: A WORLD VIEW 680, 727 (Gabriel A. Almond et al. eds., 7th ed. 2000) (conveying that the attraction of democracy for Nigerians is "its association with prosperity").

development means a reduction in these rights with possible negative spillover effect into political-civil rights and solidarity rights. Experimentation with democratic government must produce material benefits for ordinary people in Africa. Africans have every right to be cynical about unproven "dividends of democracy" of the kind leaders, like President Olusegun Obasanjo of Nigeria emptily mouth; since independence in the 1960s, they have waited hopelessly for changes in their lives that have never happened. There has to be a limit to ordinary people's capacity for long-suffering and patience. Appeals to the masses for patience and continued sacrifice are unwarranted and less likely to be heeded if citizens believe that their contributions to democracy are not leading to any improvement in their economic circumstances.

D. Political Restructuring

A fourth strategy necessary for improving human rights and reducing conflicts in Africa in the new century is political restructuring. As the post-1999 Nigerian government shows, human rights atrocities can still occur even under a nominally democratic setting when due attention is not paid to political restructuring.¹²⁸ For Africa, in the post-Cold War era and in the new century, the ultimate and most pressing issue of political restructuring is the correction of the region's colonially-bequeathed artificial boundaries drawn arbitrarily by Europe – notably Britain, France, and Germany – in 1885 at the Berlin Conference, without regard to historical or ethnic-nationality considerations. Rather than coinciding with pre-existing ethnic-nationality groups, African boundaries frequently either divided ethnic groups and peoples between countries or lumped together very different ethnic groups and peoples within the same country.¹²⁹ No single event other than the slave trade has had a more lingering effect on African life than the Berlin Conference.¹³⁰ What African leaders should have done to correct this problem, upon their countries' independence, would have been to alter the boundaries to coincide with existing ethnic groups.¹³¹ However, save for a few exceptional cases, such as Somalia, where adjustment of colonial boundaries took place, these leaders left the inherited artificial

128. See Aka, *supra* note 7, at 269-73.

129. Clapham, *supra* note 66, at 424.

130. Makau wa Mutua, *Redrawing the Map Along African Lines*, THE BOSTON GLOBE, Sept. 22, 1994, at 17.

131. *Id.*

boundaries intact.¹³² The OAU and the international community also supported this orientation,¹³³ fearing that any likely boundary changes will open up a Pandora's box of ethnic troubles. Ironically, however, more than a few of the wars fought in Africa, including the Biafran war, are traceable directly or indirectly to these very artificial boundaries.¹³⁴ For maintaining these inherited boundaries, African countries, since independence, have paid a heavy price by way of internal divisions and ethnic conflicts that no amount of domestic "nation-building" has been able to overcome.¹³⁵ Political restructuring in Africa is not something limited to the ultimate solution of correcting inherited artificial borders; it can also legitimately consist of more mid-range techniques, such as power devolution, power-sharing, cleaner or less corrupt governments, and intermittent automatic review of national constitutions, say every ten years, that can then be the prelude to border correction.

Scholars who have written about the African state all agree that it does not provide a good framework for accomplishing the work of national "development." Professor Clapham calls it "grotesque."¹³⁶ Professor Mazrui refers to it as bondage of boundaries.¹³⁷ Mutua analogized it to a jail and, alternately, as a terrorist organization masquerading as a state, unable to inspire loyalty, which resorts to massive human rights violations to hold power.¹³⁸ The goal in repudiating the permanence of Africa's present borders and redrawing the map of the continent is "to construct viable states" in place of the present mostly unviable countries.¹³⁹ Mutua foresees little developmental future for the continent if it maintains its present unviable borders.¹⁴⁰

132. *Id.*

133. See *supra* notes 57-60 and accompanying text.

134. See, e.g., JOHN J. STREMLAU, *THE INTERNATIONAL POLITICS OF THE NIGERIAN CIVIL WAR 1967-1970* 273 (1977) (reporting the Tanzanian position that pointed to British imperialism as "[t]he original villains responsible for the Nigerian crisis . . ."); see also Deng, *supra* note 10, at 255-56 (showing how British colonial policy in Sudan sowed the seed for the civil war that has raged intermittently in the country for over forty years).

135. Clapham, *supra* note 66, at 424.

136. *Id.*

137. Mazrui, *supra* note 50, at 28-30.

138. See Mutua, *supra* note 130.

139. *Id.*

140. *Id.*

Accordingly, Mutua proposes fourteen states, based on common history, demography, ethnic similarities and alliances, cultural homogeneity, and economic viability, in place of the current fifty or so countries.¹⁴¹ For some of these scholars, it is not a matter of whether these borders would be redrawn, but when. Thus, for example, Professor Mazrui subtitles his article "Why Africa's Maps Will be Redrawn" and talks about political conventions once considered taboos and sacred cows, which in the past helped to preserve the inherited borders, but since the 1990s have been undergoing breakage.¹⁴² These conventions include (1) enthusiasm for the unitary state, (2) preference for a one-party state, and, of course, (3) integrity of colonial boundaries.¹⁴³ They are now being displaced by direct opposites, such as preference for federal systems, and an option for a multi-party system, and related governmental features, which Mazrui appropriately termed "great modifier[s] of boundaries"¹⁴⁴

Mutua's proposal is the most specific of all the formulations. The problem with Mutua's proposal arises from the fact that it accomplishes a redrawing of boundaries that entails solely a combination of countries to form bigger states. Only two of the over fifty countries in the continent, Algeria and Angola, will remain intact the way they are today. The others will have their borders reorganized into twelve republics. In other words, except for Algeria and Angola, Mutua adopts a solution that essentially involves combination of the present countries; no part of his proposal includes separating different or incompatible ethnic-nationalities or peoples now lumped together within countries. A comprehensive solution would have to address both aspects of the problem, rather than be limited mostly, as this one is, to creating larger or bigger countries.

Nothing betrays the weakness of the Mutua plan more than the way his handling of Nigeria did. Nigeria is the wholesale creation of British colonialism.¹⁴⁵ The country also has the worst of two worlds when it comes to artificial borders. In creating the country, Britain

141. See *id.* (noting the identity and composition of the new states).

142. See Mazrui, *supra* note 50, at 28-30.

143. See Mutua, *supra* note 130.

144. Mazrui, *supra* note 50, at 29.

145. Philip C. Aka, *The "Dividend of Democracy": Analyzing U.S. Support for Nigerian Democratization*, B.C. THIRD WORLD L.J. 225, 228 (2002); see also OSAGHAE, *supra* note 10, at 1-30; see also Larry Diamond, *Nigeria: The Uncivic Society and the Descent into Praetorianism*, in *POLITICS IN DEVELOPING COUNTRIES: COMPARING EXPERIENCES WITH DEMOCRACY* 417, 419-64 (Larry Diamond et al. eds., 2d ed. 1995).

both divided ethnic-nationality groups¹⁴⁶ and put incompatible groups together. In his proposal, Mutua combined the country with eight other countries – namely, Benin, Cameroon, Côte d'Ivoire, Equatorial Guinea, Gabon, Ghana, São Tomé and Príncipe, and Togo – to form a new state called “Ghana.” With a population of about 130 million people, this country is by far the most populous country in Africa and one of the most populous countries in the world. Additionally, it is a country housing three of the largest ethnic groups in Africa, Hausa-Fulanis, Igbos, and Yorubas, who have a history before and since independence of uneasy and often explosive co-existence.¹⁴⁷ Each of the triumvirate had a history of separate and independent existence that goes back thousands of years before Britain forcibly lumped them together in 1914. Each of the three also has a population that runs into tens of millions, surpassing the population of many African countries. Finally, the three ethnic-nationality groups collectively make up an estimated two-thirds of Nigeria's population.¹⁴⁸

Although leaving the country as it is would still conceivably not be a useful solution, it is amazing that Mutua left Algeria and Angola intact while combining an exceedingly diverse and complicated country like Nigeria with nine other countries. Rather than leaving Nigeria as it is or combining it with other countries, a more realistic solution in “redrawing the map along African lines,” to use Mutua's words, would have been to constitute each of its major ethnic nationality groups into a separate country. Each of the new countries could then expand its borders to include relatives in neighboring areas outside present-day Nigeria. Such expansion would apply to Hausa-Fulanis, who could expand to incorporate their kith and kin in the present-day Republic of Niger, and Yorubas, who could grow to incorporate their kith and kin in the present-day Republic of Benin and possibly farther into the Yoruba-speaking portion of Togo.¹⁴⁹ To talk of merging this very populous country needing division into smaller entities, with nine other countries, as Mutua proposes, would be carrying complexity beyond manageable proportions, given the current state of technology and other features of many African societies.¹⁵⁰

146. These divided ethnic nationality groups include Hausa-Fulanis, Tivs, and Yorubas.

147. See Aka, *supra* note 7, at 220-21.

148. See Aka, *supra* note 145, at 228.

149. See Mazrui, *supra* note 50, at 29.

150. See Mutua, *supra* note 130, at 17.

Briefly, the weakness in the Mutua plan derives from its author's erroneous sense of the size of the states that will replace Africa's current small and unviable countries. The plan limits size to landmass, whereas size should have been seen as both a function of landmass as well as of the number of people resident within a territory. Nigeria ranks below many African countries in landmass, including Algeria, Angola, Chad, Democratic Republic of Congo (formerly Zaïre), Libya, Niger, and Sudan. This understanding of size is the only conceivable explanation why Mutua would leave Algeria and Angola intact, as they are unattached to any other country. However, Nigeria is an exceedingly populous country. Also, although not the largest country in Africa, with a land area two times the size of California,¹⁵¹ the country is equally quite large in geographic landmass. Few would disagree with Mutua's suggestion that the task of restructuring the inherited boundaries be turned over to a continental organization, or failing that the task form the basis for the continued existence of the OAU; from its formation, the organization avowedly embraced the elimination of all vestiges of foreign rule on African soil as a sole mission and its reason for being arguably came to an end with the achievement of majority rule in South Africa.¹⁵² This is a reasonable suggestion with which few people will find points of disagreement.

E. Attention to Collective (or Group) Rights.

Fifth, to promote human rights and reduce conflicts in Africa in the new century, attention needs to be paid to both individual and group rights and due recognition given to the relationship between the two rights. Group rights need attention in the continent because, as one scholar stated and the experiences of many groups in Africa eloquently bear out, abusive state policies put groups at risk in the continent.¹⁵³ Proper attention to human rights in the continent requires that the two rights go together. The salience of ethnicity in African politics guarantees that the influence of group identities in

151. *Nigeria*, in GLOBAL STUDIES: AFRICA, *supra* note 76, at 52.

152. See Mutua, *supra* note 130. The OAU has since been replaced by a new organization known as the African Union. See Rachael L. Swarns, *African Leaders Drop Old Group for One that Has Power*, N.Y. TIMES, July 9, 2002, at A3.

153. Rhoda E. Howard, *Group Versus Individual Identity in the African Debate on Human Rights*, in HUMAN RIGHTS IN AFRICA: CROSS-CULTURAL PERSPECTIVES, *supra* note 21, at 159, 168.

African societies will remain strong for a long time to come.¹⁵⁴ No strategy for human rights promotion in the continent will succeed that does not pay strong attention to group rights. In the words of one germane study, “[p]romoting increased access to state power for all groups is a human rights issue in [Africa]. Accomplishing this purpose can also minimize opportunities for conflict that could result in human rights violations.”¹⁵⁵

F. Necessity for External Help

Lastly, Africa needs external material assistance to grow human rights and reduce conflicts in the new century. Help is necessary for political-civil rights – namely support for democracy¹⁵⁶ – but also equally in socioeconomic rights. Two very pressing economic problems with ramifications for all aspects of citizens’ lives that the continent faces are (1) HIV and AIDS; and, (2) the debt crisis or what some people appropriately call the “debt overhang.” These two problems combine to form a double jeopardy that spells economic catastrophe for many African countries. Western assistance toward the growth of human rights is not a novel idea; as some Western specialists on Africa advise, major states and international organizations can become “active *partners* of governments in making basic human rights part of the working foundations of contemporary states.”¹⁵⁷

Under President Olusegun Obasanjo, Nigeria has made debt forgiveness an issue of domestic and foreign policy.¹⁵⁸ Yet Nigeria is better off compared to many African countries. The country has oil and its debt burden, per capital, although still high,¹⁵⁹ is lower than that of many African countries.¹⁶⁰

154. See NAOMI CHAZAN ET AL., *POLITICS AND SOCIETY IN CONTEMPORARY AFRICA* 108-18 (3d ed. 1999).

155. Aka, *supra* note 7, at 274.

156. See, e.g., Aka, *supra* note 145, at 225-79; see also Larry Diamond, *Promoting Democracy in Africa: U.S. and International Policies in Transition*, in *AFRICA IN WORLD POLITICS: POST-COLD WAR CHALLENGES* 250 (John W. Harbeson & Donald Rothchild eds., 2d ed. 1995); see also John W. Harbeson, *Externally Assisted Democratization: Theoretical Issues and African Realities*, in *AFRICA IN WORLD POLITICS*, *supra* note 15, at 235-62.

157. *AFRICA IN WORLD POLITICS*, *supra* note 15, at 11.

158. See Aka, *supra* note 145, at 260.

159. *Id.* (noting that for a population estimated at over 120 million, the country has a foreign debt of about \$37 billion).

160. See CHAZAN, *supra* note 154, at 331-33 (covering the period up to the mid-1980s).

HIV/AIDS is a global health and security crisis. Over 140 nations in the world now report confirmed cases of AIDS,¹⁶¹ and the U.N. has declared the fight against the pandemic a global responsibility.¹⁶² However, HIV/AIDS is a pandemic that afflicts Africa, particularly Sub-Saharan Africa, disproportionately. The region makes up only about twelve percent of the world's population but has about five times the world's outbreak of HIV and AIDS.¹⁶³ "Africa has more HIV and AIDS than the rest of the world put together."¹⁶⁴ Seventy-seven percent of the estimated three million deaths in the world from AIDS in 2001 took place in Africa.¹⁶⁵ Of the 40 million people in the world living with HIV/AIDS as of December 2001, 28.1 million were in Black Africa.¹⁶⁶ Finally, twelve of the estimated thirteen million orphans in the world who have lost their mothers or both parents to AIDS are in Sub-Saharan Africa.¹⁶⁷ African countries need help combating AIDS because "[i]f [they] are left to confront the . . . pandemic with the small level of outside support they have received to date, few are likely to succeed and the spread of instability will heighten global insecurity."¹⁶⁸

In addition to forgiving the foreign debt of Black African countries, especially those like Uganda and Zimbabwe where more than ten percent of the population has AIDS, developed countries should contribute generously to the U.N. AIDS fund. This is an issue on which the U.S. can show leadership. Help to Africa in the fight against HIV and AIDS is in U.S. national interest, not only because of the severe impact the pandemic has on blacks and other minority populations within the United States, but also because in an era of globalization, national and international security are sometimes

161. Philip C. Aka, The United States Response to the International Campaign Against AIDS in Africa, Address at the Chicago State University Model U.N. Conference (March 18, 2002).

162. Salih Booker & William Minter, *AIDS in Africa: Is the World Concerned Enough?*, in GREAT DECISIONS 2002 71, 77 (Jan. 2002), available at <http://www.africaaction.org/action/aids2002.pdf> (No state is an island when it comes to AIDS, and there are no national fire walls.).

163. See Aka, *supra* note 161.

164. See *id.*

165. Booker & Minter, *supra* note 162, at 71.

166. *Id.*

167. *Id.*

168. *Id.*

better preserved using economic levers, in the manner of disaster assistance, not via military techniques or means.¹⁶⁹

To increase the chances for a lasting global peace in the post-Cold War era, the developmental problems of African and other developing countries must be tackled "with the intensity, creativity, and sacrifice that marked the confrontation of the Cold War."¹⁷⁰ Major powers need to be concerned about the impact of the global system on weak states least able to resist it, especially the materially poor, artificial states of Africa.¹⁷¹ The U.S. and other major powers worry that assistance to African countries would be wasted through official corruption rather than used for the problem the money was given. This is not an idle concern given the vastness of official corruption in these and other developing societies.¹⁷² However, it is so easy to exaggerate the level of governmental corruption in many of these extremely poor countries. Rather than be a reason for complete stoppage of assistance, donor countries could put necessary checks in place, including imposition of certain necessary conditions, to ensure that any aid provided is used for the purposes meant.

VI. CONCLUSION

The important question in the aftermath of the Cold War and into the new century is what to do to reduce the levels of conflicts in Africa to enable African governments to devote more of their time to creating wealth than to managing conflicts. The answer is human rights. A comprehensive human rights model based on democracy as a political system and integrating human rights education, economic progress, political restructuring, attention to collective or group rights, and necessity for external help, as constituent elements has been proposed. There is no suggestion here that bettering the continent's human rights record will be the panacea for its conflict resolution dilemma. However, taking human rights seriously will produce significant reduction in the continent's currently high level of conflict while helping to create the peace and goodwill necessary to

169. See Kurt C. Campbell & Thomas G. Weiss, *The Third World in the Wake of Eastern Europe*, 14 WASH. Q. 96, 98, 104, 106 (1991).

170. *Id.* at 91.

171. CHRISTOPHER CLAPHAM, *AFRICA AND THE INTERNATIONAL SYSTEM: THE POLITICS OF STATE SURVIVAL* 4 (1996).

172. See, e.g., *CORRUPTION AND THE CRISIS OF INSTITUTIONAL REFORMS IN AFRICA* (John Mukum Mbaku ed., 1998).

tackle and surmount the problem of artificial structures arising from European colonialism.

