Preventing Interethnic Conflict and Promoting Human Rights through More Effective Legal, Political, and Aid Structures: Focus on Africa

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The prevalence of interethnic conflict and attendant human rights violations represent major threats to contemporary world order. The amelioration of these disruptive conditions should become a major concern of the United Nations and its member states. This paper recommends and briefly outlines three types of constitutive processes that should sharply reduce interethnic strife and associated human rights violations. These recommendations call for the creation, where feasible, of federations or cultural autonomous regional governments; a change in the Statute of the International Court of Justice so as to permit governments of federated units or autonomous regions standing before the Court; and the conditioning of international aid on the recipient states' human rights record.

This paper is based on two sets of assumptions: one humanistic, the other infrastructural. This writer assumes that people generally want to be able to make authoritative decisions over their own lives; enjoy some level of economic, physical and health security; have access to educational opportunities; and enjoy the respect of their fellows, the affection of their friends and families, and the spiritual benefits of their chosen religions. He also believes that just systems for distributing and earning these values promote human dignity and a more peaceful world order. These humanistic givens, with their emphasis on the universal needs of people, resonate with the international goals expressed in the Preamble to the U.N. Charter. The Preamble reaffirms faith in the fundamental human rights, dignity and worth of

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everyone, and calls on member states to employ the international machinery to promote the economic and social advancement of all people.

Here, infrastructure refers to the relationships among demography, food production, natural resources, medical resources, housing, technology, capital, and other factors that are essential for the realization of the human values listed above. This writer assumes that a secure infrastructural base promotes respect for human rights, while insufficient infrastructural conditions increase the probability of human rights violations. It is no coincidence that in many of the world's poorer countries, the following elements comprise the system of human rights violations:

1. Undeveloped economies, with limited resource bases and insufficient employment/income opportunities for large segments of the population resulting in wide-spread poverty.

2. High population growth rates further straining the natural environment and local resources, while intensifying competition for resources.

3. Ethnic diversity and/or regional factionalism promoting local/particularistic identifications, while hindering the development of a national identification.

4. Ethnic and/or class politics involving competition among leaders of different language, cultural, or regional populations for state positions of political and economic power with the spoils of victory going to supporters.

5. Lack of regime legitimacy as those large segments of the population not culturally and/or politically affiliated with the ruling elite and not sharing in the spoils refuse to recognize the regime as legitimate.

6. Resort to military/police force to maintain power by suppressing political opponents and disgruntled civilians.

7. Violation of economic, civil, and political rights by the regime in the name of "national security."

I. AFRICA'S INFRASTRUCTURE

With a population of 630 million in 1988, Africa is growing faster than any other region in the world. Its population has been increasing by 3.1% annually, while its food supply grows at only 1.1%. Large scale malnutrition, starvation, and heavy reliance on food imports are already common.

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The U.N.'s Food and Agricultural Organization predicts that by the dawn of the 21st century, 29 African states will be unable to feed their populations. In recent decades, climatic changes and attempts by Africa's growing population to find living space, food and fuel wood have been converting former croplands into deserts and rapidly eliminating the forests. Between 1850 and 1980, Africa lost 60% of its forest cover. Without trees and plants to hold the soil, absorb rainfall, and provide for transpiration back into the atmosphere, rainfall amounts decline. With less moisture, there will be fewer new plants and trees. Hence, a damaging cycle of depleting vegetation, expanding desert, and reduced rainfall, exacerbated by the increasing environmental demands of a rapidly growing population has already begun.

In addition to conditions of excessive population growth, environmental degradation and natural resource depletion, Sub-Saharan Africa's stunted economic development has been caused by a lack of capital and highly skilled personnel, ongoing civil strife, heavy external debt, colonial exploitation, and mismanagement by African governments. Domestically, these conditions lead to intensive competition among people for limited resources. Rival factions develop along, inter alia, political, class, ethnic, and regional lines. In their struggle for domination, human rights abuses become inevitable.

Governments attempt to achieve security from external threats by arming their militaries and forming alliances. Regimes commonly associate internal threats to their rule with external enemies, thereby justifying the use of armed force against domestic opponents. They react to real and perceived threats to internal security by building up their militaries and police forces. The arms imports of developing countries between 1975 and 1985 totaled 40% of the increase in their foreign debt in that period. In 1983, for example, Sub-Saharan African states spent $6.25 billion on their militaries and $2.22 billion on arms imports.

In the process of strengthening their security forces, poorer countries become dependent on richer ones for weapons and other military aid. They also divert valuable human power as well as their country's scarce resources and limited capital to basically non-productive sectors, thereby further weakening their domestic economies. Third World military expenditures in constant prices increased six-fold from 1960 to 1983, unemployment eight-

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3 Id. at 35.
fold. Given these conditions, large segments of the civilian population are left without adequate resources to secure even life’s basic necessities. These people lose faith in the government, refuse to grant it legitimacy, and may even actively oppose it. Their deprivations become the underlying cause of threats to the regime. Ruling elites too frequently respond to these civilian challenges to their positions of power by employing the forces of armed suppression, thereby violating human rights in the name of national security. The above scenario is further complicated by the diverse ethnic compositions of most Third World countries.

II. ETHNIC PLURALITY AND MINORITY STATUS

In the twentieth century, ethnonationalism or politicized ethnicity represents a major legitimator and delegitimater of regimes. A government’s legitimacy rests, in significant degree, on its ability to convince the governed that it either shares, represents, or respects their ethnicity. Despite the ethno-nationalist rhetoric following World War I, most of the emerged states were not true “nation states.” Most incorporated multi-ethnic populations and subsequently experienced inter-ethnic conflict. Today many states are wrestling with two conflicting principles: 1) the right of nations to self-determination; and 2) the inviolability and political integrity of sovereign territory, regardless of how that territory may have been acquired or how culturally diverse its population may be. There are few, if any, states or political systems that do not feel the pressures of politicized ethnic assertion.

Ethnicity is not independent of socioeconomic structures, but neither is it simply epiphenomenal to them. Ethnic identity cuts across class boundaries. Daniel Bell writes that “ethnicity has become more salient [than class] because it can combine an interest with an effective tie.”

Rothschild has argued that the most emotionally intense type of political solidarity is currently anchored in ethnic, rather than in class or formal ideological affinities, although these are not necessarily mutually exclusive.

Currently, over 90% of today’s states contain at least one ethnic minority, and about 40% of the world’s states contain more than five sizable ethnic

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4 Id. at 4.
5 Daniel Bell, Ethnicity and Social Change, in ETHNICITY, 141, 169 (Nathan Glazer et al. eds., 1975).
populations. About half of the world’s states have recently experienced inter-ethnic strife, which has been more violent than class or doctrinal conflict. Most of the world’s 12 to 15 million refugees in the early 1980s fled their countries because of “ethnic, tribal or religious persecution” as dominant ethnic populations attempted to maintain their political and economic power at the expense of less dominant ones. Even though a prohibition on systematic racial, ethnic, or religious discrimination by any state against its own citizens has achieved the status of customary international law, such discrimination is unfortunately ubiquitous.

The vast majority of Sub-Saharan African states contain several to dozens of different linguistic populations. These states were created after World War II and decolonialization. European powers drew their boundaries with little regard for the political affiliations, or lack thereof, of encapsulated indigenous populations. Subsequently, many African leaders have relied on the support of fellow tribesmen or cultural affiliates to achieve and maintain positions of power. In return, these leaders have often favored their supporters with privileged access to the limited available resources. Such tribal or ethnic politics, which favors the few over the many, has not and cannot generate the generality of legitimacy necessary for regime stability and internal security.

Many progressive Africans believed that, despite a country’s tribal, ethnic, cultural, and regional diversity, the development of a shared national identity and state stability could be achieved if pre-state tribal, regional, or other particularistic affiliations were eliminated. Hence, many African leaders supported the state form and strong central governments. Consequently, of the over forty Sub-Saharan states, only about five allow opposition parties. The remainder are evenly divided between one party states and military

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8 Rothschild, supra note 6, at 120.
dictatorships. None of these states tolerates an independent judiciary. U.S. Deputy Assistant Secretary for Human Rights and Humanitarian Affairs, R.W. Farrand, recently noted that the one-party African systems usually do not allow freedom of the press, opposing political views, or religious expression. They also restrict freedom of peaceful association and assembly. Generally, military governments are even more repressive. Under their rule, violations of human rights are widespread. Throughout the world, military rule imperils the development of democratic political structures. In the Third World, about 50% of all states are militarily dominated; 90% of the people in those states do not enjoy full voting rights. Military governments are more than twice as likely as other Third World governments to frequently employ torture and other violent forms of repression against the populace. More than 50% have made frequent use of torture, brutality, disappearances, and political killings to eliminate political opponents and intimidate the population.

Furthermore, military governments usually devote inordinate amounts of their state budgets to military expenditures. Their extravagant weapons purchases have created huge public debts for future generations. Pursuing military power while neglecting social needs has increased the number of Africans suffering from ill-health, chronic hunger, and illiteracy.

In his report on human rights to a sub-committee of the House of Representatives, U.S. Deputy Assistant Secretary for African Affairs, K.L. Brown, could name only three Sub-Saharan African states (Botswana, Mauritius, and Gambia) that are functioning multiparty parliamentary democracies with excellent human rights records. He noted that civil war or ethnic strife reigned in Burundi, Ethiopia, Mozambique, Somalia, The Sudan, and South Africa, and created masses of refugees, widespread human rights abuses, and large-scale loss of life.

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14 *Id.* at 5.
15 *Id.* at 7.
17 *Id.*
III. ALTERNATIVES TO THE CLASSIC NATION-STATE FORM

In many cases of repressive majority-minority relations, the classic unitary "nation-state" has proved to be a dangerous fiction. Attempts by state governments to force diverse cultural populations into the majority ethnic mold have frequently led to human rights abuses. As one commentator has noted, "[p]ost-independence efforts to eliminate tribal identities may have contributed significantly to Africa's catastrophic problems." Historically, diverse ethnic populations with a tradition of mutual animosity have not found common citizenship in a single state a sufficient basis for social harmony. On the contrary, the state form has simply become the new arena for interethnic political and economic battles.

In those cases where peoples of different ethnicities are intermingled within the same territory, a culturally pluralistic, single state may be necessary. However, in cases of intrastate, interethnic strife involving cultural populations who are numerically dominant in different regions of the country, at least two structural alternatives to the pluralistic state are possible. One structural solution involves restructuring the state with autonomous, ethnic cantons that form a confederation on the Swiss model. Another possibility is the creation of autonomous cultural regions on the Italian model. Both the Swiss cantons and the Italian system of decentralization have integrated culturally diverse populations into a single modern state while simultaneously observing human rights and ethnic minority status.

Federations differ from unitary states in that the political units comprising a federation retain limited sovereignty and exclusive competence within specified governmental realms. A federation's central government provides the unifying force, while the separate regional governments provide for cultural diversity. The federation's central government generally has exclusive competence in the areas of foreign relations, defense, constitutional courts, national transportation, postal and other communication services. Unless clearly provided for in its constitution, a federation's various units may not have the right of self-determination. For example, the Constitutional Court of Yugoslavia on January 14, 1991, annulled Slovenia's July 1990

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19 Clay, supra note 11, at 2.
sovereignty declaration on the grounds that it was unconstitutional. 20 Slovenia refused to recognize the court's competence, however, and stood by its December 1990 declaration of independence. 21 War between the Serbian-dominated federal army and Slovenia ensued.

By contrast, Czech government officials recognized as legitimate the declaration of sovereignty issued by the parliament of the Slovak Republic on July 17, 1992. In their meeting on August 26, 1992, Czech Premier Vaclav Klaus and Slovak Premier Vladimir Meciar amicably agreed that the Czechoslovak Federation would be dissolved as of January 1, 1993. 22

In the case of a state with one or more autonomous units, the central government delegates some degree of executive and legislative governmental powers to a local body. The local government is not, however, independent of the central legislature which can override many, but not all, local decisions. Italy, for example, has five special autonomous regions with extensive local powers defined by the constitution: Trentino-Alto Adige (containing the German-speaking people of the South Tyrol), Fruili-Venezia Giulia (containing Slovene and Friulian speakers), Val d’Aosta (containing French speakers), as well as the islands of Sardinia and Sicily. Each of these regions has unique, "non-Italian" cultural, linguistic, and historical characteristics that have justified extensive delegations of powers from Rome to the regional authorities to permit decision-making on local educational, economic, cultural, and budgetary issues.

Of these five, the Trentino-Alto Adige Region, with its German-speaking province of Brixen (Bolzano), is of special interest. The region, which had been part of Austria-Hungary, was acquired by Italy after World War I, as a condition of Italy's participation in the war against the Central Powers. Subsequent attempts by the Fascist government of Benito Mussolini to Italianize the German-speaking population there created local resentment and international concern over possible human rights violations. After World War II, Austria took an active interest in the fate of the South Tyrolese--a people with close cultural and historic ties to the Austrian Tyrolese living in and around Innsbruck. After Austria registered formal complaints with the

21 For a discussion of these events and their international reaction, see generally Marc Weller, The International Response to the Dissolution of the Socialist Federal Republic of Yugoslavia, 86 Am. J. Int'l L. 569 (1992) (discussing the events surrounding the declaration of independence by Slovenia and the international reaction to them).
United Nations, Italy began negotiating in earnest with both Austrian and South Tyrolean representatives. In 1969 the parties agreed on a 'Package' of 137 points as well as an 'Operational Calendar' that would grant cultural autonomy to the South Tyrolean. The Package, which would become Italy's new Autonomy Statute, granted the Province of Bolzano primary and secondary legislative competence in a wide range of areas, including education, culture, transport, communications, tourism, housing, finance, and employment.23

As between Italy and its South Tyrolean citizens, the agreement became a series of state laws, one of which granted the provincial governments concerned standing to contest state laws and to bring conflicts of powers arising out of administrative measures of the State before the constitutional court.24 As between Italy and Austria, the agreement was an international treaty, registered with the United Nations Secretary General. In the event of a disagreement or an alleged failure on the part of the Italian government to abide by the Operational Calendar, Austria had standing to bring a complaint before the International Court of Justice.25 In essence, Austria became the international guarantor of the autonomy plan and the international protector of the South Tyrolean. Hence, in their efforts to secure and preserve their cultural autonomy, the South Tyrolean had recourse both to the Italian constitutional court and, through Austria, to the International Court of Justice. As a consequence of repeated South Tyrolean demands, sporadic acts of terrorism by small South Tyrolean radical groups, Italy's good intentions and Austria's international pressure, the Italian government finally completed the implementation of the Package in 1992 to the satisfaction of all parties.26

Consequently, the Italian-Austrian-South Tyrolean arrangement proved to be an effective, albeit uncommon method for an ethnic minority to protect its human rights and achieve a form of self-determination. However, the

23 For a discussion and complete list of the 137 points, see Antony E. Alcock, The History of the South Tyrol Question 433-54 (1970).
24 See id. at 440 (addressing point 62 of the Package).
25 Id. at 468.
vast majority of ethnic minorities\textsuperscript{27} do not have kindred nation-states next door that are willing to interfere in the internal affairs of their sovereign neighbors at the risk of jeopardizing their own national interests. A more general international mechanism is needed to protect cultural minority rights. Although the words "all peoples have the right to self-determination" appear in the texts of major international covenants, international law has yet to unequivocally support the self-determination claims of subjected national populations beyond the context of classical colonialism.\textsuperscript{28}

In all three of the arrangements described above, the following minimal measures must be taken in order to reduce significantly and hopefully eliminate the causes of minority oppression and state instability.\textsuperscript{29}

\begin{itemize}
\item Two concepts of importance to this discussion are "minority" and "ethnic community." According to the Special Rapporteur, for purposes of the International Covenant on Civil and Political Rights, "minority" may be taken to refer to:
\begin{itemize}
\item A group numerically inferior to the rest of the population of a State, in a non-dominant position, whose members—being nationals of the State—possess ethnic, religious or linguistic characteristics differing from those of the rest of the population and show, if only implicitly, a sense of solidarity, directed towards preserving their culture, traditions, religion or language.
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\item Study on the Rights of Persons Belonging to Ethnic, Religious and Linguistic Minorities, U.N. Doc. E/CN.4/Sub.2/384/Rev.1 (1979) at 96. Based on a U.N. study of discrimination against indigenous populations, "ethnic communities" may be taken to refer to:
\begin{itemize}
\item Indigenous communities, peoples or nations are those which having a historical continuity with pre-invasion and pre-colonial societies that developed on their territories, consider themselves distinct from other sectors of the societies now prevailing in those territories, or parts of them. They form at present non-dominant sectors of society and are determined to preserve, develop and transmit to future generations their ancestral territories, and their ethnic identity, as the basis of their continued existence as peoples, in accordance with their own cultural patterns, social institutions and legal systems . . . .
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\textsuperscript{29} For a slightly different version of a minority recognition proposal, see Hurst Hannum, The Limits of Sovereignty and Majority Rule: Minorities, Indigenous Peoples, and the Rights to Autonomy, in NEW DIRECTIONS IN HUMAN RIGHTS 18-22 (E.L. Lutz, et al. eds. 1989) (proposing (1) an end to violations of widely accepted individual rights; (2) an effective means for minority participation in the larger society; (3) the retention of attributes which make the minority culture unique; (4) minority groups must in turn accept that the majority
(1) The state must establish an independent judiciary.
(2) The state must incorporate the various U.N. human rights conventions into its domestic law.
(3) The state constitution must place a duty on the state to guarantee all citizens legal equality and non-discrimination, while also granting injured citizens standing in court to initiate claims when these guarantees have been broken.
(4) The state constitution must guarantee minority cultural rights, including the rights to speak, teach, and write their own language; to practice their own religion; and to practice other aspects of their cultures to the extent that such practice does not infringe on the rights of others.
(5) Government and military officials as well as the powerful elite must be responsive to judicial decisions.
(6) Minority populations must be permitted some effective means of participating in the political process. This may involve the institution of weighted, rather than strictly numerical voting, however the particular mechanisms chosen should vary somewhat with each state's special conditions.
(7) Minority populations must be permitted some effective means of participating in the economic process. In the case of underclass minorities, special programs such as land redistribution, vocational and special education, housing, and cooperative formation may be necessary.

In those states whose culturally diverse populations are so intermingled that no federal or regional arrangements are possible, some degree of majority culture privilege is probably unavoidable. In exchange for the above guarantees and special programs, minority populations must accept the inevitable fact that the majority population and culture will be predominant at the national/state level. For example, in states where numerous minorities and languages exist, the selection of a single, official national language may be necessary for the practical purposes of facilitating national and international communication.

The political stability of culturally pluralistic states and respect for the rights of cultural minorities organized into federated or regional autonomous units would be greatly enhanced by the creation of a universal judicial forum culture and values will prevail at the state and national levels; and (5) the state societies should recognize that sovereignty itself is meaningless—it is relevant only insofar as it contributes to the development of societal consensus and responds to the needs of its inhabitants.)
to which such parties could turn to settle disputes peacefully. The best candidate for such a forum is the International Court of Justice.

IV. THE PRESENT ROLES OF THE INTERNATIONAL COURT OF JUSTICE

One of the United Nations’ most important organs for the peaceful settlement of disputes is the International Court of Justice (ICJ). "Third party adjudication in international disputes is not only the civilized way to settle those disputes, but is also more economical and less traumatic than the other means to that end."30 Unfortunately, at present, Article 2(7) of the United Nations Charter (prohibiting U.N. interference in intra-state matters) and Article 34(1) of the Statute of the International Court of Justice (limiting standing in contentious cases to state parties) effectively preclude the U.N. and the ICJ from playing a continuously active and positive role in the peaceful resolution of intra-state disputes between major ethnic populations, such as the Kurds and Arabs of Iraq, the Greeks and Turks on Cyprus, the Serbs and Croats of Yugoslavia, Basques and Spanish of Spain, and so on.31

Article 36(2) of the Court’s Statute permits any U.N. member state to declare unilaterally at any time that it recognizes “as compulsory ipso facto and without special agreement, in relation to any other state accepting the same obligation, the jurisdiction of the court in all legal disputes concerning: a) the interpretation of a treaty; b) any question of international law; c) the existence of any fact which, if established, would constitute a breach of an international obligation; d) the nature or extent of the reparation to be made for the breach of an international obligation.”

Two or more States may agree by treaty to refer certain issues to the Court in the event that they themselves are unable to resolve such issues. States that are not members of the U.N. may become parties to the Statute of the Court on an equal footing with U.N. member states. Switzerland, Liechtenstein and San Marino have done so.

Three tasks of the ICJ are: 1) to decide disputes between States in accordance with the provisions of its statutes; 2) to perform extra-judicial activities, including nominating neutral arbitrators or members of conciliation commissions, at the Parties’ request; and 3) to provide judicial guidance and

31 U.N. Charter, art. 2, para. 7.
support for the work of other United Nations organs and for the autonomous specialized agencies (e.g., International Labor Organization, Food and Agricultural Organization, U.N. Educational, Scientific and Cultural Organization, International Monetary Fund, International Finance Corporation). Many constitutions of the specialized agencies contain a provision stating that disputes between members arising out of the application or interpretations of their constitutions may be referred to the Court. Article 96(2) of the Charter empowers the General Assembly to authorize the specialized agencies to request advisory opinions on legal questions arising within the scope of their activities.32

Article 51 of the Statute provides that judgments of the Court in contentious cases are final and without appeal.33 Such judgments are binding only on the parties to the case. U.N. Charter Article 94 obligates each member of the U.N. to comply with the decision of the ICJ in any case to which it is a party.34 In a case of non-compliance by a party, the other party has recourse to the Security Council, which may make recommendations or decide on measures it might take to enforce the judgment.35 To date, the Security Council has not undertaken such enforcement action, because States generally comply with the Court’s decisions.36

Pursuant to Article 96, the General Assembly and the Security Council may request the International Court of Justice to give an advisory opinion on any legal question.37 With the authorization of the General Assembly, other U.N. organs and specialized agencies may also request advisory opinions of the Court on legal questions arising within the scope of their activities.38 Such decisions are binding only to the extent that the organ requesting the opinion decides that it will be bound.

32 U.N. Charter art. 96, para. 2; see Rosenne, supra note 29, at 35-40.
33 U.N. Charter art. 60. Article 61 provides an exception to this final judgment rule, allowing a party to apply for revision of the judgment upon discovery of a “decisive factor” unknown to both the challenging party and the Court. Id. art. 61.
34 U.N. Charter art. 94, para. 1 (“Each member of the U.N. undertakes to comply with the decision of the ICJ in any case to which it is a party”).
35 U.N. Charter art. 94, para. 2 (“If any party to a case fails to perform the obligations incumbent upon it under a judgment rendered by the Court, the other party may have recourse to the Security Council, which may, . . . make recommendations or decide upon measures to be taken to give effect to the judgment”).
36 Rosenne, supra note 29, at 41-45.
37 U.N. Charter art. 96, para. 1.
38 Id. art 96, para. 2.
V. RECOMMENDED CHANGES IN THE ICJ STATUTE

It is time to consider the inclusion of quasi-states within the Court's jurisdiction. As defined here, "quasi-states" are either ethnic republics within a federal system (e.g., the former Yugoslavia) or autonomous, ethnic regions within pluralistic states whose distinct political, legal and ethnic status has been officially recognized by a central government (e.g., the Trentino-Alto Adige Region of Italy). Such inclusion would be especially useful in those cases where the central government and the representatives of the ethnic autonomous region have entered into a governance agreement that delineates the two parties' realms of authority, rights, duties and obligations. The U.N. could encourage such parties to add provisions to such agreements that obligate the parties to resort to the ICJ for an advisory opinion whenever they cannot agree on the interpretation of their agreement, for arbitration whenever they cannot agree on the proper outcome of a dispute, and for a hearing on the merits (contentious litigation) whenever they cannot satisfactorily settle a contested claim. In this way, the Court would gain jurisdiction by the consent of both the central government and the government of the ethnic, autonomous region.

Because states historically have been adverse to granting their cultural minorities sufficient international legal personality to enjoy standing before world bodies, Article 2(7) of the U.N. Charter declares that "[n]othing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter."

The time is ripe for change. Western European states now permit their citizens to have standing before the European Court of Human Rights to raise claims against their own governments. The European governments apparently believe that this arrangement will promote their long term interests of legitimacy and social stability. With the rising tide of politicized ethnicity around the world, other governments would find it in their interests to extend autonomy offers to their rebellious regional minorities and to assure such minorities of their sincerity by providing for ICJ jurisdiction to deal with any future disputes over the interpretation of autonomy terms and the adjudication of claims.

Achieving standing for such "quasi-states" would require an amendment to Article 34 of the Court's Statute. Any U.N. member state or the Court itself may propose such an amendment. Article 70 of the Statute empowers
the Court to propose amendments to the Statute through written communications to the Secretary-General. To be successful, a motion must receive a favorable vote of two-thirds of the members of the General Assembly and ratification in accordance with their respective constitutional processes by two-thirds of the Members of the U.N., including approval by all the permanent members of the Security Council.

Once such an amendment is passed, any State and internal autonomous government wishing to have the option of utilizing the ICJ to settle their future disputes need only add a choice of forum clause to their agreement that declares their mutual recognition of ICJ jurisdiction and then register that agreement with the U.N. Secretariat in accordance with U.N. Charter Article 102.

Although the changes advocated above will not eliminate all intrastate and interethnic strife, they will offer states and their ethnically-distinct federated or autonomous regional units a currently unavailable option: the opportunity to turn to a neutral, third-party judicial tribunal for a fair hearing and, possibly, a peaceful resolution to their disputes. This option not only offers troubled multi-ethnic states the talents of outstanding legal minds to address their problems, it also, through the enforcement clause of U.N. Charter Article 94(2), potentially involves the attention of the Security Council to ensure that the Court’s judgments are honored.

While the ICJ can potentially help contesting parties resolve their existing conflicts, wealthier members of the world community can, through their aid programs, address the antecedent infrastructural and political conditions that initiate interethnic conflicts.

VI. THE ROLE OF DONOR STATES AND AGENCIES

The economic aid so badly needed by less developed countries can become an important leverage for human rights improvements. The major donor countries (U.S., Canada, the western European states, Japan, Australia, New Zealand, and the Scandinavian countries), the United Nations and its various agencies, and non-government organizations (NGOs) must take more responsible leadership roles in promoting human rights, environmental ecology, military/arms reductions, population control, and economic development. All of these factors are interrelated.

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39 Id. art. 70.
40 U.N. Charter art. 108.
The world's store of natural resources is finite, and their grossly uneven distribution and use results in starvation, poverty, civil unrest, suppression, and war. Therefore, the major arms producing countries of the world must immediately negotiate arms limitations treaties and cease funneling valuable world resources to the destructive ends of weapons stockpiles and employment. They must terminate or sharply curtail military aid and arms sales to poor countries not in clear danger of a foreign threat. Military assistance and arms sales to states that use their military and police forces to suppress political opponents and curb human rights must be ceased completely.

All the donor countries must ratify the major U.N. human rights conventions. Although the former Soviet Union had ratified the Political and Civil Rights, the Economic, Social and Cultural Rights, and the anti-Torture conventions, the U.S. has signed, but has not ratified them. The foreign policies of these states as well as the policies and practices of NGOs, U.N. organizations and U.N.-affiliated organizations, such as the World Bank and the International Monetary Fund, should conform to the principles of the U.N. Charter and its human rights conventions. Unfortunately, according to interpretations of World Bank and IMF agreements, only economic considerations shall be applied to their activities. Legally, all the various U.N. organizations (ILO, WHO, UNESCO, FAO, etc.) and affiliated organizations, such as the World Bank and the IMF, are obligated to adhere to the U.N. Charter and its various declarations and conventions. Hence, they should all be promoting human rights in their various activities.

With respect to development projects, ecological, technological, demographic and human rights considerations should be regarded as intertwined and mutually interdependent. Because the objectives of development aid are to improve the human condition in receiving countries, a focus on human rights promotion within the context of development is not only appropriate, but essential. Focusing exclusively on economic factors often results in funding projects that are ecologically and humanly detrimental.

For example, environmentalists and human rights advocates have been especially critical of some rural projects funded by the World Bank. They claim large-scale cattle projects in Latin America have accelerated deforestation, displaced small-scale farmers, and contributed to a further concentration

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41 For a list of the states which have signed or ratified the major U.N. human rights conventions, see AMNESTY INTERNATIONAL REPORT 1992.

of land ownership. In Africa, the World Bank focused on supporting tobacco projects between 1974 and 1982, because governments favored the export earnings that cash crop produced. Unfortunately, tobacco production had adverse effects on health, ecology and human rights. Because tobacco was grown on lands that formerly had produced food, local food supplies decreased and human diets worsened. Tobacco production also depleted soil fertility, and contributed to regional deforestation and desertification. The ecological and economic collapse in Africa evinces the need for the international development banks to reevaluate their models of development. The wide diffusion of capital-intensive, export-oriented Green Revolution agricultural systems has caused large-scale ecological deterioration in developing countries. These systems contribute to the dissolution of small-farmer agriculture, a decrease in per-capita food production, and the concentration of land in the hands of a few.

A number of countries have already made formal policy statements about the importance of international human rights. The U.S. Department of State officially proclaims that "[t]he cause of human rights forms the core of American foreign policy; it is central to America's conception of itself." The foreign aid/human rights policies of such countries as Denmark, Sweden, Norway, Finland, and the Netherlands are probably even more explicit and committed than those of the U.S. However, even these states are only now in the process of operationalizing their human rights/developmental assistance policies.

In order to promote human rights and world stability within the context of economic assistance by states, NGOs, international donors and multilateral financial institutions, I make the following recommendations:

(1) The various U.N. conventions on human rights should become the cornerstone of every donor's policy and objectives.

(2) Each donor should inform every potential or actual recipient of aid that human rights considerations, as stated in the U.N. conventions, shall

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45 See id. at 703.
46 Id. at 739-40.
play a critical role in the selection of projects for funding and in the subsequent evaluation of projects.

(3) Donors should require that states requesting long-term aid incorporate the U.N. human rights conventions into their domestic law as a prerequisite for such aid. Furthermore, donors should require that the legislative powers of recipient states not pass laws which conflict with or undermine the principles of the U.N. human rights conventions.

(4) Donors should require governments requesting aid for their domestic industries to guarantee that these industries will operate in compliance with the standards of the International Labor Organization.

(5) Donors should favor agricultural projects that are ecologically sound, increase per capita food production, contribute to improved local diets, promote employment of people (i.e., labor intensive rather than capital intensive), and do not promote the concentration of land ownership.

(6) As part of any aid agreement, donors should have the right to curtail, temporarily stop, redirect or permanently cease any aid in cases where the recipient disregards or violates its human rights obligations. State parties to the International Covenant on Economic, Social and Cultural Rights have committed themselves to achieve full realization of the covenant rights to the extent of available resources. Here, the human rights process (i.e., progress towards realization) and demonstrated commitment are important.

In order to adequately deal with the human rights element of foreign assistance, donor states and agencies may have to add personnel and departments charged with: 1) educating both donor agency and recipient country personnel in human rights law, procedures, and goals; 2) assisting in the design of development projects with human rights components; 3) supervising projects so as to achieve human rights goals; 4) evaluating projects on the basis of human rights criteria; 5) investigating and reporting on human rights performance to the competent decision-makers (e.g., organization boards, state congresses or parliaments); 6) and recommending project continuation, alteration, temporary cessation, or termination on the basis of human rights achievements or abuses.49

Any donor or aid recipient that complains that the implementation of the above suggestions would constitute a violation of state sovereignty or an unwarranted interference with a state’s domestic affairs should be informed that human rights are a matter of international concern to be nurtured both

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49 These recommendations have been positively influenced by the ideas presented in Rehof and Gulman, id.
domestically and internationally. Because the great majority of U.N. members have signed the key U.N. human rights conventions, the substantive, procedural and processual human rights elements of these conventions have become modern universal values undiminished by differences in the cultural traditions of various countries.

VII. CONCLUSION

The present author bases the analysis presented above on the following hypothesis: Respect for human rights is essential for international peace, regime stability and legitimacy as well as for long-term economic development. People, regardless of their cultural, ethnic, regional or class affiliations, will recognize as legitimate and support those regimes they regard as guardians and promoters of their rights to physical, economic, political, and intellectual security. Conversely, they will deny legitimacy and support to regimes which violate these rights. They may even actively oppose such regimes. In reaction to challenges to their power, ruling elites often resort to military and/or police force to suppress opposition. The social and material costs of suppression usually involve additional human rights violations and further strain on already weakened economies.

To promote the causes of interethnic peace and human rights, this writer offers three recommendations that address the interrelated political, legal, and infrastructural dimensions of the problem. These recommendations include: 1) the creation, where feasible, of federations or culturally autonomous regional governments with competencies for local governance, education, and cultural affairs; 2) a change in the statute of the ICJ so as to permit governments of federated units or autonomous regions standing before the ICJ to resolve disputes with their central government; and 3) the conditioning of international aid on the recipient state's human rights record, and the channeling of such aid into developmental programs that alleviate the infrastructural and social causes of interethnic strife and human rights abuses.

The 1990s witnessed the end of the cold war and beginning of great expectations for a new world order. This writer advocates that respect for human rights and cultural diversity are essential for the new world order because they promote the kinds of sustained economic growth and political stability that comprise the bases for international peace.