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Title
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Permalink
https://escholarship.org/uc/item/4wj34099

Journal
Ufahamu: A Journal of African Studies, 1(1)

ISSN
0041-5715

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Publication Date
1970

DOI
10.5070/F711016346

Peer reviewed

SPECULATIONS ON THE RELEVANCE OF INTERNATIONAL LAW

TO THE NEEDS OF BLACK SOUTHERN AFRICA

by Henry J. Richardson III

The liberation of some thirty million black people subjugated by
White Southern Africa (WSA) remains the overriding priority, and the
entire region, save for some sections of South Africa, is in dire need
of development for the welfare of its peoples. Many of the apparent
solutions to these imperatives lie either in the realm of currently
unavailable military force and strategy or are contingent upon outside
technical and economic resources allocated by rich but stingy govern-
ments on political grounds. In this context, it may be questioned
whether an international legal system bereft of organized coercion to
enforce its writ, and notoriously porous concerning questions of force
and violence, has any role at all to play in ameliorating the needs of
Black Southern Africa (BSA).

The question is indeed a valid one, but not because of the inability
of the international community to make its law heard against the mili-
tary thunder of both great and medium-sized states. All domestic legal
systems, almost by definition, become inadequate when *force majeure*
overwhelms the institutions of state authority. Nor in times of peace
does law enforcement depend upon strict deterrence for general public
obedience to the spirit of the law. Rather it depends on a respect
held by the majority of the populace for those known principles consti-
tuting the law, which is in turn buttressed by a loose consensus on the
primary moral attitudes underpinning that particular society. This
general internalized respect for law based on moral consensus manages
in times free from unusual stress to cover the society's activities
like a frayed three-quarter length blanket, leaving enough uncovered
in the way of violators to keep police, prosecutors, judges and prison
wardens busy, but usually not overwhelmed. The same is more or less
accurate for the international community. There is behavior that rolls
along regulated by principles of international law which are obeyed
almost as a matter of course, such as the law of diplomatic privileges
and immunities, the law of the high seas, the conventions and regulations
governing international aviation, and even much of the law of treaties.
But uncovered by the blanket is proportionately somewhat more behavior
than in a long-standing, reasonably stable domestic legal system, in-
cluding that which might be regulated by the law relating to the justi-
fied use of force by states under the U.N. Charter, the definitions of
self-defense and aggression, the law relating to the sovereignty of a
state over its own domestic resources, and the law concerning state
responsibility towards aliens and their property. So the question for
international law in Southern Africa concerns not its existence, but
its adequacy to meet those present and future problems in that region

that could possibly be met or ameliorated by a generally agreed body
of principles, processes, and implementing arrangements.

The conception of international law here borrows heavily from both
Professors Myres McDougal and Richard Falk: the process of authoritative
decision which in its outcomes results in a system of principles and
implementing arrangements founded on expectations in the international
community as to what is legally permissible and what is not. These
expectations, of course, are subject to multiple political, economic,
social and cultural factors, not the least of which are racial attitudes.
The latter seems clear enough, in relation to black people in both
Southern Africa and the United States, to advance the proposition that
there is an analogy between international law in the Southern African
context and civil rights law in the United States. Such an analogy
promises to be useful in illuminating the challenges confronting inter-
national law relative to Black Southern Africa. This analogy is rele-
vant because the similarities of context which it implies are increasingly
recognized and felt by many black people in both areas. Explicit con-
sciousness of similarities in their condition has existed between the
intelligentsia of black America and West Africa since the late 19th
century, and this has grown into a recognition of at least symbolic
unity due in large part to the Garveyite Movement, the ancestral slavery
origins, and the recognition of the common racial bond in Black American
and somewhat less in West African literature. Similar contacts with
Southern Africa were more rare, although the young preacher, John
Chilembwe, sponsored by the African Methodist Episcopal Church, returned
home to Nyasaland from the United States to lead and be killed in the
first nationalist uprising in that territory in 1910, an event now a
solid part of Malawi nationalist tradition. More recently, black Amer-
ican consciousness of racism in South Africa has been stirred by the
presence of South African refugee students attending American univer-
sities on U.S. Government fellowships, the anti-apartheid campaign in
the United Nations, and South African brutality such as in Sharpeville
and the Terrorist Trials. Also representatives of the African Nationa-
list Congress and other Southern African liberation movements have
appealed to the black community as well as to white liberal groups for aid.

To understand the relevance of these interactions to international
law, another significant similarity must be noted. In Southern Africa,
the meaning of black-ruled states attaining legal independence and the
recognition of their sovereignty did not include freedom from the threat
of either domestic or trans-national white domination. In most of Africa
north of the Rovuma River, the legal expiration of British rule generally
left the new states with sufficient resources to assure their unquestioned
political dominance over the white settler and civil servant groups, as
for example in Kenya and Tanzania. In the economic sector, however, so
much of the investment capital, management and private economic policy-
making still rests in European and American hands in most independent
African countries as to be disquieting in the extreme.

In Southern Africa, however, the magnitude of the "white problem"
takes a quantum jump. The emergence into independence of the Black

Southern African states had no impact on the legal status and the political and military realities of Southern Rhodesia, Portuguese-controlled Mozambique and Angola, South Africa, and Southwest Africa. The military forces in the white redoubt are far superior to any available in Black Southern Africa, or for that matter, in all of Black Africa combined. The policies pursued in all of these territories rest on the twin assumptions of the inferiority of the African and the white psychological and economic need for him to remain in a subservient position - policies inherently antithetical to the assumptions at the heart of African independence. Further, domestic white power within each newly independent state was not as significantly diminished as was the case to the North. At independence, each of these states had a deficit of nationals sufficiently trained to take over governmental administration. The new governments, therefore, had little choice but to retain most of the British colonial civil servants in positions of influence in order to be able to run the country, an arrangement facilitated by post-independence British aid, secondment and development programs. In addition, the capital sectors of each of these national economies are dominated by foreign capital from Britain, Rhodesia, South Africa, and the U.S.. This means that in each country there is a substantial white expatriate group with heavy influence in governmental and economic affairs, but without legal responsibility or public accountability. These groups have substantial personal contacts with each other across state lines, and with the dominant whites in Southern Rhodesia and South Africa. "Islands of civilization in a black sea" is the prevailing attitude. This means that there is an effective white network of influence throughout Southern Africa often operating outside of governmental channels, against the opposition of which any black-controlled government has a difficult, if not impossible time of effectively imposing social or economic policies, even though Africans form the vast majority of the regional population.

In America, former black slaves have fought from one to another subservient position relative to the white American majority, under conditions by now notorious. Black America is sequestered in the interstices of white society, with its numbers concentrated in mid-town urban ghettos and southern farms and share-holdings. In 1970, white America dominates politically and economically, and it now uses the repressive instruments of state power increasingly openly against blacks and lately a variety of other dissident groups who actively protest their condition and defend their life styles.

If we look at the legal position of the black man in the law of the United States in light of his relative position in the American economy, and then look at the legal position of Black Southern Africa and African states generally in international law in light of their relative position in the international economy, a parallel emerges. For both groups there have been significant legal changes granting their peoples and organizations additional protective political rights and formal legal equality with their former legal masters. The law in both contexts has moved through its legislative processes (admittedly imperfect,

ill-defined, and yet to fully emerge in the international community) to proclaim a fundamental change in social policy towards black people. Yet in both contexts the monkey of white domination remains on the backs of those supposedly liberated. And in both instances, this domination is maintained primarily through heavy institutional influence on or control of economic instrumentalities, coupled with naked coercive force still applied with some restraint.

Relative to Southern Africa (and to Black Africa as a whole) the international legislative liberation began in 1945 with the provisions affirming the maintenance of human dignity in the Atlantic Charter which captured the hopes of colonized peoples around the world. These provisions were subsequently affirmed as principles in Part II of the U.N. Charter, the nearest equivalent to a general constitution in the international community. In 1948, the first resolution against South African apartheid was introduced in the U.N. General Assembly by India, the nearest though imperfect equivalent to an international legislature. The same year saw the appearance of the Universal Declaration of Human Rights as a General Assembly resolution which, while not legally binding on any state, has now become a statement of political rights so widely recognized that no state dare openly disavow it. The European Commission on Human Rights founded in 1950 provided hope that effective institutional arrangements might evolve on a wide international scale to protect such rights, and indeed the efficacity of those particular arrangements has expanded to include quasi-judicial determination of violations of such rights in Europe. Under the prodding of successively independent African states, the U.N. General Assembly passed scores of resolutions condemning apartheid, questioning the legitimacy of continuing South Africa's mandate over Southwest Africa, and in the process, spotlighting the abstentions and negative votes of the United States, Britain and France in conjunction with those of South Africa and Portugal.

This continuing hammering at the theme that discrimination within a state on the basis of color should be a basis of international condemnation produced hearings on conditions in South Africa by special subcommittees of the U.N., and the proposal of an increasing number of international multilateral treaties on human rights. Perhaps the most significant of these is the International Convention to Eliminate all Forms of Racial Discrimination, which was proposed in 1965 and came into force in 1968. It is significant that (1) this convention provides for institutional machinery to receive individual grievances and ultimately to publicize violations in states-party, and (2) that the U.S. felt constrained to adhere to it. The most important indication of a shift in great power attitude was the determination by the U.N. Security Council without a veto that white domination in Southern Rhodesia constituted a threat to international peace and security under Chapter VII of the U.N. Charter, and the consequent authorizing of economic sanctions. In the same year (1966), the International Court of Justice in handing down the Southwest Africa decision, came excruciatingly close to deciding that the cumulative legal effect of the foregoing international opposition to racial discrimination and apartheid had created a rule of custo-

mary international law against such activities in the domestic or inter-
national arenas. Its failure to do so has clearly damaged the prestige
of the Court. At the present time, the fight against apartheid and
for more effective legal protection of human rights continues with the
General Assembly's revocation of the South African mandate over South-
west Africa and the activities of non-governmental groups such as the
International Commission of Jurists. The recently proposed International
Covenant on Social and Economic Rights and the International Covenant
on Political and Social Rights are additional relevant pieces of inter-
national legislation. The former seems to be the first major multila-
teral treaty explicitly recognizing the intimate link between political
rights and economic opportunity and based on the tacit assumption that
both should be guaranteed within the framework of international law.

The point made by the foregoing incomplete recitation is that the
decentralized mechanisms which approximate a legislative process in the
international community have moved and said that racial discrimination
and especially apartheid are wrong and should be condemned under law
when perpetrated by any state government. Whether this principle yet
forms part of customary international law is still in dispute; an in-
creasing number of international legal scholars affirm that it does.
But it is clear that the proclaimed moral attitudes of the international
community condemn racial discrimination. The geographical cockpit of
this intense struggle has been Southern Africa as much as anywhere.

In the United States, the struggle of black people to free them-
selves from slavery and its remnants was until recently primarily con-
ceived as a succession of legislative and judicial goals to be attained.
The *Dred Scott* decision of the Supreme Court holding essentially that
the black man had no rights as a person but only status as chattel, was
reversed by the post civil war Civil Rights Acts of 1866 and the 13th,
14th, and 15th amendments to the Constitution which respectively out-
lawed slavery, granted the black man citizenship, due process and equal
protection of the law, and gave him the right to vote. These amendments
also abrogated the provision in Article I (2) of the same Constitution
declaring that one Negro was three-fifths of a white man. But after
Reconstruction, there followed a long period of legislative and judi-
cial evasion on the basis of reinstituted white control of the South
which effectively nullified these rights and returned the black man in
the South to peonage. The Black Codes of each southern and some northern
states and the Supreme Court's *Plessy* decision of 1896 promulgating the
doctrine of "separate but equal" reflected this complete subjugation.
Meanwhile, his brethren migrating north discovered that their general
destiny was in the urban ghetto, legal rights notwithstanding.

After World War I, the NAACP, founded in 1909, began to lay the
judicial foundation for further protecting the black man's body from
lynching and his access to education, voting, due process of law, and
equal housing. After a long series of gradually favorable decisions
by the Supreme Court during the late 1930's and 1940's, the Court held

in the milestone *Brown* decision in 1954 that segregated education was inherently unequal and must be abolished with all deliberate speed, thus overturning the separate but equal doctrine of *Plessy*. *Brown* produced another period of attempts by the South to nullify this progress, all of which were successively and laboriously overturned by the Supreme Court. Meanwhile in 1957, a first timid civil rights bill was passed by Congress establishing the U.S. Civil Rights Commission and giving very limited powers to the Justice Department to enforce voting rights. This had been preceded in 1955 by Martin Luther King's Montgomery Bus Boycott and a Supreme Court decision confirming its legality. In 1960, the era of black mass demonstrations began with the aim of wiping out racial discrimination in public places. Shortly thereafter, a campaign was begun in the South to register black voters under guerrilla warfare conditions by the Student Nonviolent Coordinating Committee on the partial basis of a 1962 Supreme Court decision ordering legislative reapportionment on the basis of population. In 1964, Congress passed the Public Accommodations Act outlawing racial discrimination in all public places participating in inter-state commerce. In 1965, the Voting Rights Bill was passed reaffirming the right of black people to vote under the 15th Amendment and giving the Justice Department increased powers to enforce those rights. This legislation was augmented by various Supreme Court decisions and a Constitutional amendment forbidding states to impose a poll tax as a voting qualification. In 1968, Congress passed legislation outlawing racial discrimination in all federally financed housing, but only under the tragic prodding of the assassination of Martin Luther King.

In 1964, the Federal Government discovered poverty in the cities, and was soon made uncomfortably aware that the majority of the urban poor were black. The Poverty Act of 1964 created the Office of Economic Opportunity which has publicly studied "the poor" to an excruciating extent, but has not appreciably relieved black poverty. The revealed enormity of the problem coupled with rising black consciousness and Viet-generated social discontent squarely raised the question of the budgetary and resource priorities of the United States' white majority. That question remains unanswered today - ie., whether the effective and authoritative decision makers in the political, social and economic processes will devote sufficient resources to effectively eradicate this complex of problems which is impossible without eradicating racial discrimination. Meanwhile, the country is in crisis as now black Americans have realized that though their legislative goals have been won, they are relatively, in terms of their personal welfare and opportunities in an ever-rich economy, no better off than before, and in some cases worse off. Their attempts to go to the heart of the matter by questioning local and national priorities in allocating resources have brought little substantive response, a backlash psychology among the white majority and general refusal to effectively implement existing programs, and the increasing use of the coercive instruments of the State to subdue them and their allies.

Thus, in both the American and international arenas, the legislative process or its equivalent has responded to protest by rectifying inequality in the law by reasserting the validity of agreed human and political rights. However, the net result has been that black people in both contexts (and many other people also) are now flatly faced with their own awareness that political rights mean little without access to and influence on those institutions controlling wealth and other values needed to give such rights content - eg. to provide economic opportunity. They face the further awareness that those holding effective power over the necessary resources - white people in America, the rich Western countries in the world - will generally transfer them only under their own nationalistic and self-serving conditions. The primary need of all Africa, especially of Southern Africa, is to develop for the benefit of its peoples. This process requires large infusions of economic and technical resources, most of which is controlled on an incremental basis by rich countries or by international institutions dominated by the same. Investment as a source of capital is similarly controlled by large corporations closely allied with rich governments, and their predominance in the economies of many African countries has already been mentioned. Some of these same corporations in America control much of the private investment capital needed to develop Black America.

This was the stark situation presented by UNCTAD I and II in 1964 and 1968 where 75 developing nations documented conclusively the fact that their development was impossible as a group in the context of present world economic conditions, allocations, and institutional arrangements, and proposed modified marketing arrangements, institutions, and aid principles and practices. The primary response of the United States was to deliver an ominous warning about the undesirable consequences of trying to coerce it and the other rich nations by using voting majorities in international institutions, coupled with little substantive consideration of the problems presented.

A second analogy between the American and Southern African contexts is relevant here. In both situations full-scale open sustained violence by black people against those who dominate or hinder their development is somewhat unlikely and would probably be counter-productive against overwhelming white-controlled military forces. However, the possibility exists, and a situation of sporadic guerrilla warfare has developed in both contexts in response to white violence by both authoritative and non-authoritative means. In America, the activities of the Panthers, Black Nationalists, SNCC, etc. are at the same time vocalizing and acting out the inner feelings of many black Americans who for many reasons do not presently wish to take such action themselves, but who may give other support. In Southern Africa, the activities of freedom fighters against the coordinated military forces of South Africa, Southern Rhodesia and Portugal are reflecting the deepest sentiments of the majority of black Southern Africans (*vide* the strength of the nationalist opposition within Malawi and Lesotho and the very enthusiastic reception given to Kaunda when he preached revolution in Botswana in 1967), at the

same time when the black governments of these countries feel compelled
for their own preservation to resist overt activities against South
Africa and Portugal and choose to accept aid or trade from them. Al-
though the situations in both of these contexts may rise and ebb over
the short run, the intensity of injustice to black people and resent-
ment of the same against continued prejudice on all levels is such that
some kind of violent social upheaval or continuing corrosive violence
are distinct possibilities.

In light of all the above, lawmakers and the holders of effective
power are faced with the very real question of whether they will become
effectively responsive to the needs of these two groups of black citizens
of these respective communities. That is, whether after having affirmed
and granted certain needed political rights and protection for them in
domestic legislation and international treaties, procedures will now be
legislated or otherwise approved in law for conferring real economic
and other benefits so these rights can be effectively implemented and
enjoyed on a day-to-day basis. Or, alternatively whether law and law-
makers in both contexts will not effectively respond, thereby raising
the probability of (1) increasing the level of unauthorized violence
and disruption of minimum order, (2) confirming the moral bankruptcy of
the community through the constant violation by its effective decision-
makers of its own publicly expressed governing assumptions and moral
postulates, and (3) accelerating a modification of those assumptions and
postulates towards some kind of fascism with apartheid objectives.

Thus, we have facing international law, as the decentralized system
of regulation and normative guidance serving the international community,
a profound challenge to legislate (or quasi-legislate) and implement the
economic confirmation of those human rights already recognized as among
its highest principles. This must be done on a global scale, because
the substance-matter of the challenge - racial discrimination, economic
deprivation, the weakness of being poor - is world-wide. If we once
again focus on Southern Africa, several regional challenges can be iden-
tified to which a revised system of international law must effectively
relate. The imperatives of this region cannot be neatly categorized
into "legal", "political", "economic", "social", and "moral" problems;
they interlock into all these nomenclatures and into each other across
a very broad spectrum of behavior. But certain tasks can be identified.

The first such task of international law is for its decision-makers
and institutions to continue the search for effective strategies to
dismember the system of apartheid in South and Southwest Africa, and
closely related, to dismember the colonialist and racist regimes of
Portugal-in-Africa and Rhodesia. Economic sanctions under Chapter VII
of the UN Charter have been partly effective, but have lacked staying
power. At the least, a more effective reporting and policing system is
needed to patrol for sanction violators. Also the scope of sanctions
needs to be effectively extended into the area of international credit
financing, and into the area of exempting the object of the sanctions

from world-wide economic policies nominally having little apparent con-
nection with that state, e.g. exempting South Africa from all benefits
under the recent decision of the International Monetary Fund to support
the price of gold at $35 per ounce.

Pending the completion of the first task, the second task is to
confirm the general legality of the Southern African liberation move-
ments (not necessarily of all liberation movements) as organizations
with overwhelming popular encouragement in the region battling for the
two principles in the world community that have been clearly condemned,
ie., apartheid and colonialism. Doubtless some standard of proof would
have to be established to fix the aims and strategies of these movements,
and also to show that change towards a public order of human dignity in
this region will arrive via no other route. The meeting of such a bur-
den of proof would possibly encourage states to aid these movements
overtly instead of through the covert channels now employed (except by
Zambia and Tanzania) and for governments to openly deal with them on
some basis short of diplomatic recognition as a method of denying legi-
timacy to WSA.

A doctrinal solution to this problem has traditionally been sought
in the context of Articles 2 (4) and 51 of the U.N. Charter with their
prohibitions on the use of force in the international community except
for "self-defense" against "aggression". And as may be expected, much
awaits the appearance of widely accepted definitions of the two key
concepts above. Western governments have generally sought to expand
"aggression" to cover all guerrilla activities crossing or influencing
events across international boundaries, thus justifying an expanded con-
cept of "self-defense" to include any and all measures necessary to
stamp out the guerrilla movement in both its country of origin and its
country of impact. This is one legacy of America in Vietnam. On the
other hand, a formulation produced by the OAU focusses on liberation
movements as "self-defense" against racism and colonialism which consti-
tute "permanent aggression" and therefore justify any amount of force
needed for their eradication. There are contradictions in both formula-
tions. However, it seems likely that this second task will have to be
accomplished within the general framework of Articles 2 (4) and 51,
because these standards have now become so widely accepted that all states
feel compelled to justify each use of force as self-defense against a
putative aggressor.

Similar to the above is the third task of legitimizing under inter-
national law the internal resistance movement to apartheid in South
Africa (and Rhodesia and Portugal) without compelling other nations to
legally enter into a state of war against the South African government.
The call here is for increased jurisdiction of the international commu-
nity over a domestic government's internal policies when there is a con-
flict with a universally acclaimed principle. Presently, international
jurisdiction obtains principally under a finding by the Security Council
of a threat to international peace and security. A revised concept of

internationalization might initially commence with obligatory twice-yearly widely publicized declarations by all states against apartheid and specifically in favor of the liberation movements or African disen-gagement from South Africa, or their facing the sanction of an equally publicized presumption in law that the state refusing to make such a declaration thereby actively supports apartheid, with appropriate publi-city. A concomitant of this internationalization would be the granting of authority to the United Nations to openly solicit funds and other support for those liberation movements in the name of the international community. And exception from the requirement of such public declara-tion might be made for those states on the periphery of South Africa in danger of swift economic or military reprisal.

A fourth task is also related to the waiting period before apartheid and colonialism in the area are dismembered. To the extent that South Africa remains white-controlled and therefore more or less hostile, actively or potentially, to the surrounding black states, the doctrine of national self-determination must be strengthened on the basis of community expectations that these states will be actively supported short of war, especially by economic means, against all attempts by South Africa to exert pressures and controls over their destinies. The interactions between South Africa and these states, e.g. the terms of the recently renegotiated customs union, must become legally relevant. Not only must the doctrine of self-determination connote the right to be left free from military interference, but also the right to receive a proportionate share of certain needed resources to meet an identified threat to that nation's exercise of its self-determination. A beginning point might be the following rationale. It is accepted as one of the "rules of the game" of international life that in a defined region the most powerful state of that region can exercise certain kinds of influ-ence over the smaller states without effective protest by the general international community, so long as the dominating state does nothing too outrageous. The outstanding examples, of course, are the United States in Latin America and the Soviet Union in Eastern Europe, and these "rules of the game" have mostly evolved from an understanding between the great powers not to overtly interfere into each other's spheres of influence. For a regional state possessing substantial mili-tary and economic resources, the exertion of this kind of influence is almost taken for granted when confined to economic strategies; in other words, these states acquire a tacit right to act in this manner with low visibility, and no doctrine of international law is considered violated under those conditions. Southern Africa is rapidly evolving as such a region with the Republic as the dominating power, and this evolution seems destined to continue so long as the Cape is under white rule. Consistent both with the doctrine of national self-determination and the first task of developing more effective sanctions would be a legal prin-ciple obligating the international community to supply massive doses of aid to the Black Southern African states specifically to enable them to disengage to the extent possible from South Africa, on the grounds that

(1) their self-determination is overtly threatened; and (2) South Africa is an international outlaw - she has consistently violated a universally agreed principle of moral and legal behavior - and as such no longer has the tacit right given to other dominating regional states to exercise substantial non-military influence in that region. Again, several burdens of proof would have to be defined, but this is not an insuperable difficulty. Another possibility would be to expand the legal consequences of economic coercion, especially by powerful against weak states, so that treaties concluded under those circumstances become legally voidable at the free discretion of the weak state, with economic aid from international sources guaranteed to offset reprisals.

A final task for international law would be to evolve doctrines designed to (1) increase the volume of aid needed for the development of the Black Southern African states; and (2) related to the maintenance of national self-determination, to evolve doctrines prescribing that the ultimate disposition of that aid for development rests with the black state, and that the latter should be free from overwhelming bilateral and even multilateral pressures to modify development priorities according to outside conceptions, and especially free from the threat of the withdrawal of such aid. Relative to (1), an immediate priority is to evolve a principle of obligatory aid in international law, ie., a tax on the rich countries for the benefit of development in the poor countries with equitable allocating arrangements. With respect to (2), aid-mediating mechanisms on the international level are needed, similar to the investment mediating mechanisms provided by the World Bank's Convention on the Settlement of Investment Disputes, to provide accurate fact-finding and to resolve disputes of final authority over the disposition of aid. This task is relevant to all developing countries, not only the BSA states.

The relevance of international law to all of these needs depends not only on available resources and external community attitudes, but also on the timing of the invocation of international legal principles relative to the evolving political and economic situation in Southern Africa. A doctrine of national self-determination must be claimed by those nations who would benefit before its validity can be upheld by international machinery; closer economic dependence on South Africa by the Black Southern African states could work to forestall such claims. Again, if local initiative is taken, the unity of black states and black peoples in that region could result in new regional institutions capable of drawing substantial international support for the purposes of development and/or disengagement, especially in view of the ascendance of the regional concept in bilateral aid.

In the last analysis, Southern Africa as a region will be subjected to some kind of transnational regulation of varying effectiveness, whether a Pax South Africana or some other. If the revolution against colonialism and apartheid is successful, regulation will be needed to institu-

tionalize its validity and build a new regional public order on the basis of those principles fought and died for by black people, and to allocate scarce resources for the greatest benefit. If the revolution is unsuccessful, at least in the near future, then whatever regulation system enveloping the region must be manipulated by all means possible to secure the maximum benefit for black people. In either case, the system of regulation has been and will be international law, by whatever name it is called.

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