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The Symmetry of Rights and Duties:

Towards a Reconstruction of the Human Rights Paradigm

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Global interactions increasingly rely on law to govern them. Today, numerous rules dominate the interactions between states and non-state parties. International courts and dispute settlement mechanisms are in place to ensure compliance with commonly agreed norms.

International Law, however, is complex and often lacks universal acceptance. Worse, its influence is disproportionally strong on the poorest countries and countries in crisis. It is in situations of poverty and conflict where international law has the most impact - for better or worse. International legal structures can provide security, stability and access to economic support, but they can just as easily prevent timely and adequate assistance. Development and humanitarian actors must increasingly be aware of their potential as well as their pitfalls.

Good Governance is easily prescribed, but must become a mindset of all involved to make the system work. Less and least developed countries are often governed by constitutions that are complex and inaccessible for their citizens. Without acceptance by their subjects, they weaken and cease to safeguard the nation state against failure. Development assistance must provide more than just models and institutions to move these countries forward.

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Introduction

> *"Human rights are not a problem per se nor are the human rights corpus irredeemable. But we must realize that the current human rights represent just one tradition, that of Europe…It will remain incomplete and illegitimate in non-European societies unless it is reconstructed to create a truly multi-cultural mosaic."*[1]

Since its inception, the international human rights movement has been the subject of a great deal of controversy, particularly as a result of the colonial and Cold War context in which its norms were elaborated. One of its strongest and most persistent challenges to the human rights canon is the doctrine of cultural relativism, which disputes the notion of universality, thereby calling into question the legitimacy of the human rights discourse.[2] As suggested by the above quotation by the academic Makau wa Mutua, however, criticism does not necessarily imply the discrediting and destruction of the movement, but rather, it can serve to challenge its core assumptions in order to reconstruct human rights along more inclusive and egalitarian lines.

This essay responds to Mutua's call for a critical analysis of human rights discourse, and suggests a practical formula for its reformulation based on an examination of the legal cultures that have developed in a number of non-European and non-Western states. I will address the two major assumption contained in Mutua's statement: first, that the European origin of human rights does indeed undermine the discourse's claims to cross-cultural authenticity, and second, that it *can* and *should* be reconstructed in order to achieve universal legitimacy. Part I will analyze the first assumption through an examination of the context of the debate over the universality of human rights. It will first

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[1] Makua Mutua. "The Complexity of Universalism in Human Rights." Lecture delivered at *10th Annual Conference on "The Individual vs. the State,"* Central European University, Budapest, 14-16 June 2002. Available Online at www.ceu.hu/legal/indv_vs_state/Mutua_paper_2002.htm

[2] Michael Ignatieff. "The Attack on Human Rights" in *Foreign Affairs*. November/December 2001, especially pp. 102-3.

offer a brief overview of the origins of the contemporary human rights movement and the response of the cultural relativists to the historical development of international human rights norms. Second, it will evaluate both claims through an analysis of the Western influence on the elaboration of the Universal Declaration of Human Rights (UDHR),[3] concluding that non-Western voices were indeed inadequately represented.

Part II will build upon the second assumption that human rights should be reformed rather than discarded, and will begin the work of seeking appropriate grounds for the reconstruction of the human rights paradigm, arguing that human rights is merely one means to an ultimate end, that of human dignity. In this section, I will examine the debate over the existence of a pre-colonial conception of human rights in Africa in order to establish suitable definitions for, and distinctions between, human dignity and human rights. I will also address a challenge to the language of human dignity in the context of Islamic human rights that will illustrate the inadequacy of this discourse to independently guarantee the protection of human rights.

Part III will introduce the missing link between the "means" of human rights language and the "end" of human dignity: the concept of duties. I will begin by exploring variations on the notion of obligations, particularly focusing on the constitutions of several countries representing various continents, faiths, cultures, and histories. Three regional human rights instruments that address duties to varying degrees will also be examined. In the Conclusion, I will argue that in order for human rights to be reconstructed on a multi-cultural basis, and for the ultimate "end" of human dignity to be

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[3] Universal Declaration of Human Rights, adopted 10 December 1948, G.A. Res. 217A (III), UN Doc. A/810, at 71 (1948)

realized, the combination of the concepts of human rights and human duties must be institutionalized on the international legal level.

I. The Context of the Debate

A. The Origins of the Human Rights Movement and the Cultural Relativist Reaction

The origins of the contemporary human rights movement can be traced to the 17th and 18th century natural law philosophers – most notably John Locke – of Europe's so-called Age of Enlightenment. Although the depth of the moral and philosophical legacy of Locke and his contemporaries is beyond the scope of this essay, natural law's emphasis on the individual has arguably provided much of the groundwork for the modern human rights movement and its conception of rights as claims against the state.[4] Although it was temporarily overshadowed by positivism in the late nineteenth and early twentieth centuries, natural law was revitalized in response to the horrors of World War II and the Nazi Holocaust.[5] The centrality of the individual in human rights language was strongly influenced by the moral considerations prompted by the scope of these atrocities, which in the minds of the UDHR's framers represented the dangers inherent in the submission of the individual to the collective, in this case, the nation-state.[6]

The doctrine of cultural relativism with respect to international human rights law can trace its origins to anthropological ideas about culture and philosophical ideas about truth; when taken together, they suggest that specific cultural contexts create different sets of rights for people within these contexts, disputing the claim that there is any

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[4] Makau wa Mutua. "The Banjul Charter and the African Cultural Fingerprint: An Evaluation of the Language of Duties." 35 Virginia Journal of International Law 339 (1994-1995) at p. 342. [hereinafter Mutua, "African Cultural Fingerprint"]
[5] Issa G. Shivji. *The Concept of Human Rights in Africa*. (London 1989), pp. 16-18.
[6] Ignatieff, *supra* note 2, at p. 107.

objective standard of rights for all people at all times.[7] The concept of individualism has been strongly criticized as alien to non-Western traditions, rendering rights based on this model illegitimate in those societies; it has also been disparaged, particularly by Asian states, as contributing to the disintegration of Western family and communitarian values.[8]

B. The Universal Declaration of Human Rights

In order to evaluate the competing claims outlined above, it is necessary to examine the substance of the human rights discourse in question, which can be found in its purest form in the UDHR. Prior to this document's articulation, the United Nations Educational, Scientific, and Cultural Organization (UNESCO) invited a number of prominent philosophers representing different cultural traditions to form a committee to study and discuss global conceptions of human rights.[9] Nevertheless, the actual text is primarily reflective of Western thought, as evidenced by the prioritization of civil and political rights; only 6 out of 30 articles relate to economic, social, and cultural rights.[10]

Although it has been argued that the contributions of Charles Malik of Lebanon and P.C. Chang of China represented the inclusion of non-European values into the document, both men were educated at Western universities and were forthright in admitting their Western philosophical biases.[11] Consequently, the UDHR does indeed represent the tradition of Europe. Although the de-colonization process of the 1960s and

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[7] Fernando R. Tesón. "International Human Rights and Cultural Relativism." 25 Virginia Journal of International Law 869 (1984-85) at pp.886-8. Tesón differentiates between three types of relativism: "descriptive, "which is closest to anthropology and asserts that different societies have different moral values; "metaethical," which disputes the existence of moral truth; and "normative," which asserts that people from different cultures should do different things based on their having different rights.

[8] Ignatieff, *supra* note 2 at pp. 105, 108.

[9] Mary Ann Glendon. "The Forgotten Crucible: The Latin American Influence on the Universal Human Rights Idea." 16 Harvard Human Rights Journal 27 (2003), at p.30, footnote 19. Glendon notes that part of this process included surveying leading thinkers; among them, Gandhi suggested framing a bill of duties.

[10] Virginia A. Leary. "The Effect of Western Perspectives on International Human Rights" in *Human Rights in Africa: Cross-Cultural Perspectives*, An-Na`im and Francis Deng, eds. (Washington, DC 1990) [hereinafter *Cross-Cultural Perspectives*], p. 21-4. Specifically, see UDHR, *supra* note 3, Articles 22-27.

[11] Ibid, p. 20

1970s that rapidly expanded the membership of the United Nations had the result of widening the definition of human rights to include a greater emphasis on economic, social, and cultural rights, the non-Western contribution to the discourse remains incomplete.[12] It is therefore necessary to examine other means of establishing a more multi-cultural basis for the human rights discourse.

Part II. Human Dignity as the "End"

The cultural relativist interpretation of individual rights as deriving exclusively from Western liberal thought, thus rendering them inauthentic to and illegitimate in non-Western societies, establishes a false dichotomy that oversimplifies the inherently complex and dynamic nature of all political philosophy. In Africa, for example, a number of pre-colonial societies possessed legal norms such as the principle of the presumption of innocence as well as a marked preoccupation with the right to life that could only be abrogated in the case of manslaughter and murder, and only after lengthy judicial proceedings.[13] Nevertheless, although these societies protected the interests and well-being of individuals, they often did so within the framework of the individual's place in society; furthermore, the same societies also possessed traditions and norms that violated human rights, including discrimination against women.[14] Clearly, the cross-cultural validity of human rights values based on individual rights is not as clear-cut as either the universalists or the relativists purport it to be. Accordingly, it is necessary to further examine the debate over the existence of human rights in pre-colonial Africa in order to clarify the distinction between human rights and human dignity.

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[12] Ziyad Motala. "Human Rights in Africa: A Cultural, Ideological, and Legal Examination." 12 Hastings International and Comparative Law Review 373 (1988-1989) pp 378-9.
[13] Mutua, "African Cultural Fingerprint," supra note 4, at pp. 350-1
[14] Ibid, pp.353-4

A. Human Rights versus Human Dignity: The African Debate

Perhaps the core of the issue lies in the definition of human rights themselves. Rhoda E. Howard argues that human rights are a Western product, and that those scholars who have sought to justify the existence of human rights in pre-colonial cultures outside the West are confusing human rights, which she defines as claims against the state, with human dignity.[15] Elsewhere, she argues that these claims can also be directed against society, which she understands to include not only one's community, but also one's family.[16] Because "the physical and psychic security of group membership" is the basis for the African model of justice, a claim against this group would threaten the dignity of both the community as well as of the individual whose identity is defined within it.[17] Jack Donnelly, a colleague of Howard's, is more blunt when he asserts, "recognition of human rights simply was not the way of traditional Africa."[18]

Mutua, on the other hand, argues that human rights develop from the principles of morality that exist in all cultures of the world, along with "norms and processes that protect the dignity and worth of human beings in both their individual and collective personalities."[19] Arguing against the singular European origins of human rights, he asserts that human rights traditionally existed in Africa in a dialectic of rights and duties, but he is careful not to overstate the uniqueness of the African human rights model in order to avoid undermining the universality of the discourse as a whole.[20]

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[15] Rhoda E. Howard. *Human Rights in Commonwealth Africa*. (Totowa, NJ 1986), p. 17
[16] Rhoda E. Howard. "Dignity, Community, and Human Rights" in Abdullahi An-Na`im, ed. *Human Rights in Cross-Cultural Perspectives: A Quest for Consensus* (1992), pp. 82-3
[17] Rhoda E. Howard. "Group versus Individual Identity in the African Debate on Human Rights" in *Cross-Cultural Perspectives*, *supra* note 10 pp. 165-66.
[18] Jack Donnelly. "Human Rights and Human Dignity: An Analytic Critique of Non-Western Conceptions of Human Rights." 76 American Political Science Review 303 (No.2, June 1982) at p. 308.
[19] Mutua, "African Cultural Fingerprint" *supra* note 4 at pp. 345-6, footnote 18.
[20] Ibid, pp. 356-360.

Howard and Donnelly's claims are essentialist insofar as they collapse differences within African societies – they do not, for example, seem to devote any attention to how religious differences among African societies affect conceptions of dignity – and Howard in particular ignores the aspects of fraternity and limited individualism which typified the Continental European model of Enlightenment philosophy as opposed to the more individual-centered Anglo-American conceptions.[21] Mutua, however, devotes insignificant attention to the evolution of African legal norms through the process of colonialism and the post-colonial era as evidence of the mutability of legal cultures. Furthermore, he overstates the case for the existence of African pre-colonial *human rights* as such, as well as their capacity for rediscovery and contemporary implementation. This is perhaps a consequence of his stated desire to use a revitalized human rights corpus as a basis for the greater socio-political reconstruction of the African state system and his unwillingness to present African human rights as too unique, as stated above.[22] As a result, he fails to recognize that uniqueness does not necessarily mean incompatibility with other discourses, thus diminishing the possibility that African conceptions of justice could inform human rights.

The intense polarization of the Africa debate illustrates the limited basis that human rights can offer for the protection of human dignity worldwide, but is also evidence that while both sides continue to disagree over the "means," they share a common "end." Before proceeding to suggest a mutually acceptable "means," however, it is necessary to address an objection to the discourse of human dignity that will only serve to highlight the importance of a reconstructed paradigm of rights and duties.

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[21] Glendon, *supra* note 9, at p. 32

[22] Mutua, African Cultural Fingerprint, *supra* note 4, at p. 343.

B. The Human Dignity Discourse as Incomplete

Ann Elizabeth Mayer raises an important objection to the human dignity discourse in the context of Cairo Declaration on Human Rights in Islam, which was released by Organization of the Islamic Conference in 1990.[23] In analyzing the translation of principles of human dignity into law, she distinguishes between legal guarantees of equality of *dignity* between men and women, rather than equality of *rights*; the Cairo Declaration offers the former, with no mention of the latter.[24] In light of Howard's definition of human dignity as something earned by "an adult who adheres to his or her society's values, customs, and norms" and "who accepts normative cultural constraints on his or her behavior" and "not a claim that an individual asserts against a society," the recognition of equality of dignity on its own eliminates or at least severely weakens the legal basis for an individual to contest actual violations.[25] Therefore, without a legal "means" to transform moral theory into normative practice, an individual cannot adequately ensure the protection of his or her dignity, particularly when the community of which he or she is a member is responsible for the violations in question.

Part III. Human Duties as the Missing Part of the Formula

Given the importance of human dignity as a cross-cultural value and the need to translate this ideational common denominator into a legal norm, it is necessary to explore a tangible "means" to the "end" of human dignity that will both widen the cross-cultural legitimacy of human rights – another "means" which has already been shown to be

[23] An English translation [only the Arabic is authentic] can be found at U.N. GAOR, World Conf. on Hum. Rts., 4th Sess., Agenda Item 5, U.N. Doc. A/CONF.157/PC/62/Add.18 (1993)

[24] Ann Elizabeth Mayer. "Universal Versus Islamic Human Rights: A Clash Of Cultures Or A Clash With A Construct?" 15 Michigan Journal of International Law 307 (Winter 1994), at pp. 330-2, referring to the Cairo Declaration, *supra* note 23, Article 6.

[25] Howard, "Dignity, Community, and Human Rights" *supra* note 16 at 83, quoted in Mayer, *supra* note 24.

incomplete – and improve its ability to protect human dignity. Accordingly, I will first investigate a range of conceptions of duties through an examination of a cross-section of national constitutions. It must be noted that some scholars have argued convincingly that because the constitutions of many states in the Developing World were modeled after those of their respective former colonizers, or in some cases, drafted directly by them, it cannot be assumed that rights provisions contained therein are culturally authentic.[26]

While I do not dispute this conclusion on an anthropological or historical basis, it is nevertheless my contention that within the legal context, culture must be differentiated from *national* culture. Over time, certain cultural values both indigenous and foreign have become enshrined in the national cultures as legal norms, through deliberate political choice as well as through a *de facto* process of assimilation that reflects the mutable nature of cultures themselves.[27] When included in constitutions, these norms become *de jure* representations of that state's supreme temporal law, and are therefore an important basis for evaluating its legal culture. Such norms have in many cases been solidified by their inclusion in regional human rights documents; accordingly, I will also examine three such documents. This approach is consistent with the interpretation of duties as a "means"; as has been demonstrated above in Mayer's objection to the dignity discourse, unless values are translated into law, they are unable to serve the ultimate purpose of achieving the "end" of human dignity.

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[26] Ziyad Motala, *supra* note 12 at p. 378

[27] This view of culture as an ever-evolving hybrid was put forth by Adolf Bastian and represents the Berlin School of Anthropology. Adam Kuper. *Culture: The Anthropologists' Account* (1999),excerpted in Henry J. Steiner and Philip Alston, eds. *International Human Rights in Context: Law, Politics, Morals*. (Oxford and New York, Second Edition, 2000), pp. 376-381, at p. 379.

A. Duty Provisions in National Constitutions

Although by no means representing an exhaustive or definitive survey, the following examples illustrate a common commitment to duties that exists in states from across a wide variety of geographical, religious, historical and cultural contexts. Of these, the African context arguably possesses the best-established academic discourse on the importance of duties.[28] Not all African constitutions reflect the concept of duties to the same degree, however. The South African Constitution, for example, perhaps reflective of the dialectical nature of the European and African sources of identity, contains little mention of duties, with the exception of an obligation of non-discrimination imposed on individuals in its Bill of Rights.[29] Similarly, the Senegalese Constitution, which, in its Preamble recognizes the rights defined by the UDHR as well as by France's 1789 Declaration on the Rights of Man, limits its discussion of duties to that of parents to raise their children.[30]

The Constitution of Nigeria, on the other hand, contains the clearest delineation of individual obligations of the African countries surveyed, listing six duties incumbent on citizens, including making positive contributions to the community and respecting "the dignity of other citizens and the rights and legitimate interests of others."[31] The Egyptian Constitution also contains numerous references to the duties of the state as well as of its citizens, beginning with a popular vow to "exert every effort to realize…Peace…Union…

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[28] Mutua, "African Cultural Fingerprint," *supra* note 4 at pp. 359-64.
[29] *Constitution of the Republic of South Africa*, Article 9(4). Available online at: www.polity.org.za/html/govdocs/constitution/saconst02.html?rebookmark=1. It is interesting to note that Article 39(3) implicitly recognizes the validity of customary law as long as it does not contradict the Bill.
[30] *La Constitution Du Senegal.*
Article 15. The Preamble, however, also asserts the importance of affirming what it calls "*la personnalité africaine*" in resolving that the Republic will work towards achieving African unity.
[31] *Constitution of the Federal Republic of Nigeria, 1999*. Article 24. The duties to which I refer are 24(d) and (c), respectively. www.nigeria-law.org/ConstitutionOfTheFederalRepublicOfNigeria.htm.

Development… [and] Freedom."[32] In addition to general provisions including the duty to work and to combat illiteracy, the third section of the constitution, entitled "Public Freedoms, Rights and Duties" include the duties of national defense, protecting national unity, and participation in public life.[33] Two interesting examples of the intersection of rights and duties can be found in Article 3, which declares, "Sovereignty is for the people alone…[they] shall exercise and protect this sovereignty" and in Article 40, which is a non-discrimination clause providing for "equal public rights and duties." This conception of a linkage between rights and duties might also be reflective of an Islamic influence;[34] unlike the Nigerian Constitution, which explicitly prohibits the designation of a state religion,[35] the Egyptian Constitution declares Islam to be the state religion.[36]

The Asian discourse on human rights has been shaped by the so-called "Asian-values" discourse, which stresses the importance of communitarian and familial obligations.[37] Although it emerged from East Asia, other Asian states outside of this sub-region have prioritized similar values; central to India's traditional conception of rights, for example, is the duty of individuals to take "preventive measures" to preserve them.[38] Articles 12-35 of the Indian Constitution relate to Fundamental Rights, while Article 51A is devoted to ten Fundamental Duties, several of which, in an example of the symmetry of rights and duties, represent positive obligations to defend specific rights granted to the

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[32] *The Amendment Issue of the Constitution of the Arab Republic of Egypt*, May 22, 1980. www.sis.gov.eg/egyptinf/politics/parlment/html/constit.htm [hereinafter Egyptian Constitution]
[33] Ibid, Articles 13, 21, 58, 60, and 62, respectively.
[34] See generally Mayer, *supra* note 23 She examines two other Arab Muslim states, highlighting provisions relating to "rights and duties" in the Basic Law of Saudi Arabia (pp. 353-6, 361) and in the Constitution of Kuwait (p.403, n.170)
[35] *Constitution of the Federal Republic of Nigeria,* 1999, *supra* note 27, Article 10
[36] Egyptian Constitution, *supra* note 28, Article 2.
[37] See Charles Taylor. "Conditions for an Unforced Consensus on Human Rights," in Joanne R. Bauer and Daniel A. Bell, eds. *The East Asian Challenge for Human Rights*. (New York, 1999)
[38] Prakash Shah. "International Human Rights: A Perspective from India." 21 Fordham International Law Journal (1997-1998), p. 33.

people in previous articles.[39] In East Asia proper, Chapter III of the Japanese Constitution is entitled "Rights and Duties of the People;" in addition to specifying obligations such as the duty to work, this chapter declares that the rights its delineates "shall be maintained by the constant endeavor of the people"[40]

In Latin America, colonial, geographic, and historical factors have resulted in the development of a distinctive political philosophy inspired both by Anglo-American and Continental European models, yielding a less individualistic conception of human rights that recognizes the complementary relationship of rights and duties with a special emphasis on the family.[41] The Constitution of Brazil, for example, contains a section entitled "Individual and Collective Rights and Duties," and lists duties including the preservation of the environment and public security.[42] The type of duties that are most emphasized, however, are those relating to the family, with specific obligations upon parents as well as upon children within the nuclear family; perhaps the most striking example is Article 227, which declares it the

> "duty of the family, of society, and of the State to ensure children and adolescents… the right to life, health, food, education, leisure, professional training, culture, dignity, respect, freedom, and family and community life…."[43]

Similarly, Mexico's Constitution establishes the importance of the family, referring to "appreciation of the dignity of the individual and the integrity of the family" as one of the goals of education, the provision of which is incumbent upon parents for their children.[44]

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[39] *Constitution of India*, http://indiacode.nic.in/coiweb/coifiles/part.htm. See for example: Article 29 on Protection of Interests of Minorities and Article 51A (e) on the duty to "promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities."

[40] *The Constitution of Japan*, Article 27 and 12, respectively. Available online at: www.solon.org/Constitutions/Japan/English/english-Constitution.html

[41] Glendon, *supra* note 8 at pp. 32-34.

[42] *Constitution of Brazil*, Article 225(0) and Article 144, respectively. Available online at: http://star.hsrc.ac.za/constitutions/constbrapre.html and www.oefre.unibe.ch/law/icl/br00000_.html

[43] Ibid, Article 227.

Clearly, the concept of obligation in general, and the intersection of rights and duties in particular, is a common feature to a number of legal cultures throughout the world. This is not to suggest that the concept of duties is alien to European legal culture, however. References to duties of citizens exist in the constitutions of Italy, Poland, Portugal, and Spain,[45] and indeed, the Universal Declaration of Human Rights itself includes a provision on the duty of the individual to the community.[46]

B. Duty Provisions in Regional Instruments

Although as agreements between states, regional instruments do not inherently or directly relate to the behavior of individuals, the following three documents have, to varying degrees, included provisions relating to the duties of individuals. Unlike the other two instruments, the 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols does not contain a specific section relating to duties, and the only obligations mentioned are those of citizens to respect certain standards in the implementation of freedom of expression and of the equal right and responsibility of parents to raise and provide for their children.[47] Article 32 of the American Convention on Human Rights, on the other hand, clearly states in a section on Personal Responsibility that individuals have obligations to family, community, and humanity.[48] By far the most explicit of the three documents, however, is the African Charter on Human and Peoples' Rights; the African experts who gathered in 1979 to

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[44] *Constitución Política de los Estados Unidos Mexicanos*, Articles 3c and 31(a), respectively. www.solon.org-Constitutions-Mexico-Spanish-constitution-mex.pdf. The translation of the quotation is my own.
[45] Steiner and Alston, *supra* note 23 at pp. 348-350.
[46] UDHR, *supra* note 3, Article 29(1)
[47] European Convention for the Protection of Human Rights and Fundamental Freedoms, signed 4 Nov. 1950, 213 UNTS 221, ETS 5, Article 10(2) and Protocol No. 7, adopted 22 Nov. 1984, ETS 117, reprinted in 24 ILM 435 (1985), Article 5(1).
[48] American Convention on Human Rights, signed 22 Nov. 1969, OASTS 36, O.A.S. Off. Rec. OEA/Ser.L/V/11.23,doc.21,rev.6 (1979), reprinted in 9 ILM 673 (1970), Article 32 (1).

begin the process of drafting the Charter deliberately sought to base the document on indigenous legal traditions,[49] and the Preamble recognizes this tradition, as well as the notion that "the enjoyment of rights and freedoms also implies the performance of duties;" eleven of which are delineated in Chapter II of the Charter.[50]

Conclusion

As was demonstrated in the context of the African debate, the existence of authentic human rights traditions in the world's myriad cultures remains uncertain and difficult to prove. What do seem to exist cross-culturally, however, are conceptions of human dignity. These notions are meaningless, however, unless translated into law. Rights have become the *de jure* "means" for protecting human dignity, but in many parts of the world, they lack *de facto* legitimacy; for duties, the opposite is true. Aside from their cultural attachments and liabilities, both rights and duties by themselves are incomplete; the former, because they fail to empower individuals to take positive steps to promote human dignity, and the latter, because it cannot truly negotiate those claims by individuals against a community of which they are a part and to which they have duties. In order to better protect the human dignity of individuals and groups, the dominant language of rights must be complemented with the language of duties, both to correct the weaknesses inherent in each discourse as well as to increase the normative strength and practical legitimacy of both.

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[49] Richard Gittelman. "The Banjul Charter on Human and Peoples' Rights: A Legal Analysis" in Claude E. Welch, Jr. and Ronald I. Meltzer, eds. *Human Rights and Development in Africa*. (Albany 1984) p. 152.
[50] Charter on Human and Peoples' Rights, adopted 27 June 1981, O.A.U.Doc.CAB/LEG/67/3 Rev. 5, reprinted in 21 ILM 58 (1982), Preamble and Articles 27-29.

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