

International Economic Rights

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Introduction

*In the economic policies of the government, one finds not only the explanation for its repressive crimes, but also a greater atrocity which punishes millions of human beings with carefully planned misery . . .*¹

With an increasing disparity of global wealth,² more and more peripheral groups question the substantiation of the current economic legal order. Recently, some critics have gone so far as to state that economic and social rights should be placed on an echelon equal to that of "basic" international human rights such as the freedom from racial discrimination, the freedom from slavery, and the prohibition against torture, as well as "liberal" rights such as the freedom to a fair trial and freedom of speech.³

This paper is an evaluation of economic rights, as they currently "exist," as they are currently fought for, and the conditions necessary to bring about their future existence. Economic rights have been commonly linked to social rights. But economic rights have similarly been allied with civil and political rights in recent years. Dubbed "second generation" rights,⁴ economic rights (and their brethren, social rights) currently play a subordinate role to the preservation (or achievement) to civil and political rights.⁵ But a small, yet strong movement has begun that seeks to incorporate economic rights in international legal discourse with the same attention that is paid to civil and political rights. I believe one necessary element in facilitating the growth and implementation of economic rights is the moderation of global market liberalism.

It is my contention that economic rights are essential to the maintenance of civil and political rights. Indeed, I feel that civil and political rights are ultimately fruitless without heeding the constraints laid out by economic rights conventions such as the International Covenant on Economic, Social, and Cultural Rights (ICESCR), and regional agreements such as the Organization of African Unity Charter (OAU), the Banjul Charter, and the Additional Protocol to the American Convention of Human Rights in the Area of Economic, Social, and Cultural Rights (to name a few). Since drafting such international agreements, economic rights have been minimally seen in international legal discourse. The failure to properly implement these rights comes in large part because of the maintenance of a global economic hegemony. But growing concern over the effects of centralized wealth have forced international organizations such as the World Bank, and regional conglomerations of states to begin rethinking the idea of providing basic material goods for citizens.

Accordingly, this paper is divided into two main parts. The first addresses the history, construction and nature of economic rights. Here, I will define my use of the concept of "economic rights." I will also briefly discuss the history of economic rights movements in recent times. This will include current covenants and agreements between nations, both global and regional. But I will also discuss here how progress in implementing economic rights has moved much more slowly it has for than their civil and political counterparts.

The second part of this paper discusses the conditions necessary to promote economic rights. Much of this section is a critique of unfettered capitalism, using primarily World-systems analysis. However, I do not intend for this to be an endorsement of Marxism. To establish the tenants of Marxism in an international sphere would greatly exceed the limits of this paper. Instead, my arguments will only echo Marxian critiques of capitalism. By using Marxian critiques of global capitalism, my intent is to unravel the manner in which unimpeded capitalism harms the advancement of economic rights. Marxism (or its progeny) is not a prerequisite for economic rights. But unfettered capitalism is certainly an impediment for their advancement. Economic rights presume a certain amount of economic development. Hence, my seemingly Marxian analysis is a

necessary tool with which to temper global market liberalization, and provide what I believe are the necessary preconditions to flourishing economic rights.

Prerequisites

I have incorporated certain basic assumptions into this paper. One is that the ability for people to govern themselves, i.e., democratically, is necessary for the protection of all human rights.⁶ As Professor Franck has argued, self-determination is the cornerstone of democracy.⁷ Conversely, Professor Franck makes the argument that democracy is the cornerstone to self-determination.⁸ The basic purpose of human rights and democracy demonstrate an innate connection between these two concepts. Human rights hope to protect individuals and subjected groups from governmental impositions. Democracy presumes that these individuals or groups have some say in that very government. Thus, democracy ideally presumes the ability to protect one's rights by the representative process.

Where the two fail to overlap is the subjugation of a minority group to the will of a tyrant majority. It is here that international covenants come into play to protect the rights of these minority members from a democratic minority.

Hence, to some degree, this democratic presumption also carries over into the global arena. If a domestic tyrannical majority supposedly violates the rights of a minority, it is the international community that will determine, democratically, if such state action is violative of human rights. But this ideal presumes that a global democracy is in place where the interests of an elite few do not take precedent over a majority opinion, unless that majority opinion reflects a bias that is hazardous to the preservation of fundamental human rights.⁹ In the end, even international democracy is prone to the very majoritarianism that domestic democracy is. But I assume that with a greater number of investigators, spread throughout different contexts, that a more equitable solution can be made.

A second assumption is that there is pure continuity between economic self-determination to social self-determination to the preservation of the "basic" human rights.

This assumption is important mainly because I would be foolish to believe that all three are transmutable. They are not. But part of my contention is that the three are, at least partially, causal to one another. Regardless of examples that may demonstrate when economic and social self-determination have not directly led to the recognition of civil and political rights, I believe that at some level, civil and political rights cannot be promoted if vast poverty leads to social and political disenfranchisement.

Both of these assumptions work off the basic premise that like civil and political rights, economic rights impose on the state the obligation to: (1) respect the enjoyment of economic rights, (2) protect the enjoyment of these rights from third parties, and (3) fulfill the implementation of these rights through appropriate legislative, administrative, budgetary, and judicial measures.¹⁰ And democratic involvement (and corresponding self-determination) is required for the realization of these rights. It is hard to imagine a condition where a state is properly responsive to the needs of its citizenry without some level of democratic structure. So although my assumption of democracy may be less an assumption than a presumption, it is still important to designate why democracy is a precondition to the realization of economic rights.

Part I - Economic Rights

Defining Economic Rights

Economic rights have existed for many years, predating the UN Charter.¹¹ In fact, some scholars have suggested that economic rights have had a place in the international arena longer than civil and political rights.¹² But, President Franklin D. Roosevelt first brought the idea of economic rights to the forefront of contemporary international legal discourse. He characterized economic rights as the "freedom from want": "[t]he right to a useful remunerative job. . . [t]he right to earn enough to provide adequate food and clothing and recreation. . . [t]he right of every family to a decent home. . . [t]he right to adequate medical care. . . [t]he right to adequate protection from the economic fears of old age, sickness, accident, and unemployment; [and] the right to a good education."¹³ The

ICESCR expanded these ideas to include economic self-determination,¹⁴ favorable working conditions,¹⁵ and the right to a trade union.¹⁶

Some contemporary scholars have focused on Article 11, paragraph 1 of the ICESCR to determine what is an essential economic right.¹⁷ This Article alone reads more narrowly than President Roosevelt's proposal: "The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing, and housing, and to the continuous improvement of living conditions."¹⁸ The reason for this focus is both pragmatic and ideological.

Providing for a particular amount of material goods is costly. Many writers limit their focus on basic material goods and rights that promote a rudimentary degree of dignity and care for human life.¹⁹ But ideologically, there was a focus on Article 11 to avoid the appearance of supporting socialism in the midst of the Cold War.²⁰ Providing a certain amount of material goods coincided with certain welfare-like conditions present in capitalist, First World countries like the UK and US.²¹ But expanding this First World welfare model to include "the right to work," or the "right to adequate health care" rang suspiciously close to socialist paradigms, and was thus avoided for political reasons - the Cold War prevented the US and UK from adopting a Soviet-like model (a topic I will further address in the next section).²² Similarly, the ICESCR was thought to be a socialist manifest thinly veiled under traditional rights analysis.²³

Since the end of the Cold War and the demise of the Soviet Union (the former champion of economic rights)²⁴ the latent Western academic fear of socialism subsided and there has been an increase in the amount of academic literature promoting economic rights. But many of the proponents of economic rights have concentrated more on finding an avenue of economic rights' promotion in the United States instead of expanding the idea of "realistic" economic rights.²⁵

But a recent concern against such rights is that the United States, as the supreme economic world power, might be held accountable for the preservation of economic

rights world-wide. Such a demand is unlikely. Many nations pose no leverage against the United States to provide for other states' citizens. And the current social safety net in the US already attempts to satisfy many of the economic rights that call for basic material goods such as housing, clothing, food, and medicine - all goods that are needed for survival. Those that are not currently met in the United States face political barriers, but will not unduly burden Americans.

Unfettered capitalist expansion has fostered an amazing disparity between the wealthy (located mostly in North Atlantic countries) and the world's poor.²⁶ At least some this contemporary disparity is the result of controlling economic laws, such intellectual property laws, that generally benefit Western countries. But the promotion of economic ideologies -- such as increased development linked solely with greater liberalization of global economics -- has also played a significant role in maintaining this economic disparity. In addition to this, historical colonialism left many currently poor states prone to poverty and debt. The dependency of poor countries on wealthier ones has, in my opinion, retarded economic rights.

Ultimately, the limiting principles of unfettered capitalism have centered on welfare systems. Thus, no pure capitalist countries exist - purely laissez-faire capitalism has been restricted, to varying degrees, by the acceptance of some basic national welfare system.²⁷ But in a global arena, few of these welfare safeguards against economic expansion have been enacted with any force primarily because of funding issues (an issue frequently attached to positive rights). In other words, while a nation's citizenry is responsible to some degree to look after its own population, there is no such welfare responsibility transnationally.

It should be noted that I am not espousing what some scholars will more likely consider economic privileges²⁸, such as the "right" to participate in commercial activities, such as the freedom of contract.²⁹ Inequalities exist in all social orders, and it is foolish to presume a right to trade evenly in the global market. For this to happen, economically powerful countries would have to essentially voluntarily sacrifice market power to up-and-coming global players. The idea, while perhaps noble, is also naïve.

Instead, I am positing methods for realizing economic self-determination, and ultimately, economic self-reliance (although the means of achieving this go beyond the scope of my analysis). There are particular variables in the global economic order that restrict economic self-determination for countries, and thus its citizenry. But ultimately, economic self-determination, as many international covenants declare, is a fundamental right for peoples.

Self-Determination

Since it is likely a nation will not take economic responsibility for another's citizenry (except for the occasional charitable contribution), the preservation of a nation's citizenry stems from that citizenry's self-determination. It is my belief that economic self-determination should also be added as a facet of economic rights.³⁰ By controlling its own natural resources and being able to regulate and stabilize the flow of foreign capital,³¹ a nation is citizenry is benefited two-fold: (1) a state gains the power to effectively implement and preserve economic rights,³² and (2) that economic self-determination promotes social and cultural self-determination, which in turn lead to greater civil and political rights.³³

Self-determination is invariably tied with ideas of informed consent and democratic enablement. Assuming a democratic mechanism is in place, an informed citizenry will be able to determine legal outcomes that will benefit the overall citizenry. According to both the Limburg Principles³⁴ and the Maastricht Guidelines, a state is responsible for the implementation and protection of economic rights.³⁵ Furthermore, economic rights are violated if: (1) a state actively supports measures adopted by third parties that are inconsistent with economic rights,³⁶ (2) a state adopts legislation that is incompatible with pre-existing legal obligations to these rights (unless this is done for the benefit of the most vulnerable groups),³⁷ (3) a state fails to reform or repeal legislation that is inconsistent with the Covenant,³⁸ or (4) a state fails to regulate activities of individuals or groups so as to prevent them from violating economic rights.³⁹

If a state's citizenry determines its own socio-economic (and thus, political) destiny, there is little reason to believe that these requirements cannot be met. In addition, paragraph 13 of the Guidelines distinguishes between a state's inability to comply with its treaty obligations and its unwillingness to comply.⁴⁰ This clause appears to give states some latitude in the implementation of economic rights.

But the line drawn between inability and unwillingness is indeterminate. For example, a temporary closure of an educational institution due to a natural disaster would be an example of a state's inability to abide by its treaty obligations.⁴¹ But what about economic debts that force a state to ration its gross domestic product to the repayment of foreign aid loans, or the costs needed to liberalize markets to maintain competitiveness in the global arena? Do these instances provide an unwillingness of the state or an inability to oblige due to conditions that take precedence?

This becomes a question of economic self-determination. A country that is economically indebted will be far less likely to implement social welfare practices until its loans are paid off. But this indebtedness is a cyclic process - in order to pay off a debt, a country must find ways to increase its gross domestic product. One vital way of doing so is by attracting foreign investors. But doing so requires greater market liberalization. Market liberalization has a cost and the funds for this "redevelopment" come from foreign investors (such as the IMF and World Bank), thus increasing that country's indebtedness, and so on.

This process reduces a state's ability to represent the interests and wishes of its people (recall that I am assuming a democratic mechanism). Accordingly, part of implementing economic rights, as they have been defined by both regional and global agreements, stems from a state's self-determination. Only by curbing this cyclic indebtedness, most commonly associated with capitalist liberalism, can economic rights be implemented and obeyed, both by fostering self-determination and by creating an environment that is better suited to the preservation and compliance with economic rights obligations.

A Brief History of Economic Rights

The international emergence of economic rights can be traced back to the formation of the International Labour Organization (ILO) following World War I.⁴² The workers of this time called for more concrete workplace-related rights.⁴³ The ILO's focus was on regulating certain aspects of employer-employee relations rather than on larger macro-economic dimensions of economic and social policy.⁴⁴ But this focus held little force with increasing economic globalization. Only after the release of global colonies did economic rights begin emerging in the international arena as human rights.

The ratification of the United Nations Charter (Charter) brought forth the first international reference to the preservation of economic rights, although they were not labeled as such.⁴⁵ In order to maintain friendly relations between states based on self-determination, the Charter called for "higher standards of living," conditions of economic progress and development, and "solutions to international economic . . . problems."⁴⁶ Much of this concept was in response to increasing decolonization, thus maintaining cooperation between newborn nations and former colonizers.⁴⁷

Three years later, the United Nations adopted the Universal Declaration of Human Rights (UDHR).⁴⁸ The UDHR demonstrated the continuing growth of civil, political, social and economic rights of the time.⁴⁹ Much of the ambiguous language in the Charter had now been specified in the UDHR. The UDHR now included the "free choice of employment, to just and favorable conditions of work and to protection against unemployment."⁵⁰ The vagueness of a "higher standard of living" was replaced now with the rights to just remuneration (supplanted, if necessary, by means of social protection),⁵¹ the right to rest and leisure,⁵² and the right to

a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing, and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age, or other lack of livelihood in circumstances beyond his control.⁵³

But the language of the UDHR still expressed an ideal, more than an enactable plan. The United Nations needed to design mechanisms that would secure the enforcement of the ideals set forth in the UDHR.⁵⁴ As a result the International Covenant on Civil and

Political Rights (ICCPR) and the ICESCR were born. While the ICCPR addressed civil and political self-determination, specifically heralding mechanisms to ensure the civil and political sanctity of people, the ICESCR addressed the economic, social and cultural self-determination of peoples. The generalities of the Charter that had led to greater specificity in the UDHR had now been even more specifically codified in these two instruments.

But in creating more explicit mechanisms, two documents emerged instead of a single instrument.⁵⁵ The reasons for drafting two treaties instead of a single, unified treaty are two-fold: (1) each type of treaty contained categories that differed in nature, origin, and significance,⁵⁶ as well as (2) the political impracticality of ratifying these disparate treaties as one.⁵⁷

Whereas civil and political rights are negative rights, and thus create a state obligation of inaction or non-interference against the right-holder, economic rights are positive rights in that they require action instead of inaction.⁵⁸ In effect, they require the government to provide certain benefits to the right-holders in question.⁵⁹ In truth, the hierarchy established between "first generation rights" (civil and political rights) and "second generation rights" (social and economic rights) may be seen as an ideological conflict between "First World" and "Second World."⁶⁰ Western states asserted that civil and political rights took priority over economic rights because they were the foundation of liberty and democracy in the "free world."⁶¹ The Soviet states promoted social and economic rights as the basis for socialist society.⁶²

The United States government position on economic rights is that they are goals to be reached, easily distinguishable from "real," enforceable civil or political rights.⁶³ And such rights would not be given the immediate attention deemed inherent to civil and even political rights.⁶⁴ Ronald Reagan's Secretary of State, Alexander Haig, openly approved a memorandum rejecting economic rights as true "rights."⁶⁵ This memo was later found to have had a significant impact on future government policies toward economic rights,⁶⁶ even though much of this effect was based on an ideological abhorrence of socialism.

The conflicts that forced this separation into two documents also prevented these documents from coming into existence until nearly twenty years after the UDHR was adopted.⁶⁷ These instruments did not enter force until ten years after that in 1976.⁶⁸ The ideological conflicts that surrounded the First and Second worlds forced peripheral nations to begin enacting regional agreements. These agreements embodied the specificity of the ICCPR and ICESCR, but contextualized the language to reflect regional concerns and ideals, rather than simply acquiesce to the demands set forth by outside nations.⁶⁹

For example, the European Social Charter precisely enumerated the work-related rights of citizens of signatories.⁷⁰ The Organization of African Unity (OAU), through the Banjul Charter, focused primarily on the self-reliance of African countries amongst themselves in an attempt to separate themselves from their former colonizers.⁷¹ And although it has not yet been entered into force, the Additional Protocol to the American Convention of Human Rights in the Area of Economic, Social, and Cultural Rights (better known as the "Protocol of San Salvador") established the rights to work, to have access to trade unions and social security, and the right to health.⁷²

What each of these regional agreements demonstrated was that from the original abstract ideas in the UDHR, regional states began extracting ideological elements for use in smaller scales. For example, as Africa had been ravaged by colonialism, the signatories of the Banjul Charter sought to develop their own independence away from their former colonizers, focusing first only on states, and later on groups and individuals.⁷³ Different types of extractions occurred among many of the American states and European states as well.

But advancement, implementation, and protection of economic rights have steadily fallen behind civil and political rights. The Committee on Economic, Social, and Cultural Rights has gone so far as to say that

The international community as a whole continue to tolerate all too often breaches of economic, social, and cultural rights which, if they occurred in relation to civil and

political rights, would provoke expressions of horror and outrage and would lead to concerted calls for immediate remedial action. In effect, despite the rhetoric, violations of civil and political rights continue to be treated as though they were far more serious, and more patently intolerable, than massive and direct denials of economic, social, and cultural rights.⁷⁴

Aside from ideological positioning, several "legal" arguments have been posited that justify the disparate treatment of these two sets of rights. One such argument is that human rights derive from natural law that supports civil and political rights, but not economic rights.⁷⁵ But this argument overlooks documents that support modern conceptions of economic rights that were timely to many of the writings that inspired contemporary civil and political rights, such as Thomas Paine's The Rights of Man.⁷⁶

Another reason for the inequality between civil and political rights and economic rights⁷⁷ is that the former are universal rights while the latter affect only a specific class of people.⁷⁸ But the same criticism may be directed at civil and political rights. In many cases, only those situated among a particular class are afforded certain rights such as the right to vote or the right to a fair trial.⁷⁹

A final argument is less legal than it is economic and political. This contention asserts that unlike civil and political rights, economic rights, because they are positive rights, are subject to the availability of appropriate resources before they can be implemented effectively. This assertion is both half-true and misleading. Although the endowment of certain basic material goods has a cost, other aspects of economic rights are negative. For example, the right to participate in a trade union does not oblige a state to take any action.⁸⁰ Rather like negative rights, the right to participate in a union calls for the inaction of the state.

But where some truth lies in this assertion is also where it is misleading. Although basic material goods have a cost, the cost is negligible compared to the amount that poor states are forced to ration for the repayment of foreign debts, or the amounts they set aside for

market liberalization. One must first address the drains on economies before a suitable environment can be created for the re-perpetuation of economic rights on a global level.

The Effects of Economic Rights on Civil and Political Rights

Not only are economic rights and civil and political rights directly related, they are causally linked. With economic hegemony comes a violation of what most consider basic human rights - physical and political violations that deprive groups of their equality as humans among other citizens. It is no coincidence that the world's poor tend to also be discernible by their race, religion, or even gender. And it is discrimination against these categories of people that tend to alarm most people.⁸¹ But by establishing certain basic economic rights, groups at the bottom of socio-economic hierarchies are at least partially shielded from economic exploitation.

International economic law is structured around classical economics - the liberalization of global markets.⁸² This capitalist method results in "residual income" for capital owners, because the costs of labor are a static percentage of the market share (wage rates).⁸³ Capitalist entrepreneurs are then able to use this residual income for reinvestment. This cycle continues to grow. Participation in this cycle is predicated on being able to enter the first stage - accumulating minimal residual income. It is only when these doors are opened that disenfranchised people can begin improving their lives.

This economic argument thematically centers on ideas of self-determination. Ultimately, economic self-determination comes with the ability to dictate some choice between options. As today's economic order currently stands, many states have little or no economic choice. And without the proper resources, states are unable to positively provide for basic material goods. As Henry Shue has suggested, economic rights are an essential precursor to the enjoyment of civil and political rights.⁸⁴ Lofty political liberties such as the freedom of expression are meaningless to a person who is starving or homeless.⁸⁵

But considering the disparity of global wealth, the significant debt owed by one set of states to another set, and the perpetuation of that debt through liberalizing mechanisms,

economic self-determination is impossible. Certain positive rights will have a cost. But the resources for these costs are drained out of developing countries particularly because of global market liberalization and debt perpetuation. The dependency of poor states on wealthy states preserves an environment where economic rights are impractical.

Part II - Setting the Stage

World-Systems Analysis

Although World-systems analysis is an especially Marxian view of global economics, it is a useful tool in deconstructing global market hegemony.⁸⁶ Only by first unraveling particular patterns of centralized wealth, can we begin to consider environmental conditions that are necessary for the implementation of economic rights. Again, if poor nations are continually left poor, they will have no means through which basic material goods can be provided to citizens. As I have stated above, only by attacking this cycle of poverty can poor states begin securing some resources that can provide for basic shelter, food, clothing and medicines.

World-systems literature was derived from dependency literature in the 1960s and 1970s.⁸⁷ Its most noted spokesman, Immanuel Wallerstein, contended that economic backwardness or underdevelopment of peasant communities was a direct product of historical global capitalism.⁸⁸ From this global capitalism came an economic stratification -- capitalist colonial countries at the top and poor communities at the bottom.⁸⁹ The hierarchy is determined by which side was affected (the colonialists) and which side was effected (the colonized).⁹⁰

Among the basic assumptions of a world-system perspective are: (1) a social scientist should study social wholes, and this whole is a "world-system;"⁹¹ (2) the world-system is integrated economically;⁹² (3) this internationally structured inequality is rooted in centuries of colonial and postcolonial capitalism;⁹³ and (4) developments in colonizing countries affect peasant communities, but not vice versa.⁹⁴ This theory is more an analysis of causation than one of blame. It is an examination of economic inequalities as a direct result of historical capitalism during colonial times which did not end with colonialism.

Generally, world-systems theories have been applied to the relationship between nations - core (i.e., colonizing countries), semi-peripheral (i.e., countries whose economic base is both autonomous and dependent on the core nations), and peripheral nations (i.e., developing or third world nations) - whose disparity of wealth is linked through capitalist hierarchies.⁹⁵

My focus on this aspect of World-systems analysis stems from its incorporation of historical colonialism, and its latter-day effects of contemporary poor countries (i.e., former colonies). Modern global emphasis on human rights began with the demise of colonization. Thus, there is an inextricable link between the formulation of postcolonial relationships between states, and economic links between these states that originated in historical colonialism. In this light, World-systems analysis becomes an effective diagnostic tool for deconstruction the current economic relationships between poor and rich states in the context of historical colonialism.

A. Unraveling Global Capitalism

Spatial limits in this paper prevent a thorough exploration of global capitalism. Indeed, that topic is an entire discourse in itself. Instead, I will use some of the major themes of World-Systems analysis will be used to explore the contemporary patterns of capitalism. It is important to note here that World Systems analysis of centralized global wealth is not a particularly unique method of analysis. It is one form of critique among many, with qualities and insights that can be attributed to many earlier capitalist critiques. This model will then be compared with historical colonialism, identifying both similarities and disjunctions.

The liberalization of global economics has, for some theorists, decayed the political strength of nations. This is significant because the duty to implement and uphold economic rights is on the state. Thomas Cooper, former president of Columbia College, went so far as to say that free trade has made the nation a 'grammatical invention,' created only to save paraphrases, a nonentity, which has no actual existence save in the heads of politicians."⁹⁶ Certainly, Thomas Cooper's words are exaggerated, but there is truth in the

gradual reduction of national potency in liberalization of global capitalism. Indeed, the impact of global capitalism on state authority can be seen on many levels.⁹⁷ One egregious example can be seen on the effect of labor that comes with the increased mobility of capital in global capitalism:

Today the most intense competition in the globally integrated market is not between gargantuan oligopolistic transnational corporations. It is between governments that find themselves competing with one another for investors by offering the cheapest and most compliant labor; the weakest environmental, health, and safety standards; the lowest taxes; and the most fully developed infrastructure. Often governments must borrow to finance the social and physical infrastructure needed to attract private investors. Having pushed almost the entire social and environmental costs of production onto the community, many firms are able to turn a handsome profit. Having bargained away their tax base and accepted low wages for their labor, many communities reap relatively few benefits from the foreign investment, however, and are left with no evident way to repay the loans contracted on the firms' behalf.⁹⁸

This comment is poignant on many levels. One consequence of global capitalism is to redirect limited funds toward market liberalization instead of securing resources for basic economic rights. Another is that global capitalism inherently hinders economic self-determination. In order to survive in global capitalism, poor countries must make as many strides as possible to repay previous loans. The primary method of doing so is by liberalizing markets. To do so however, requires more money. This money is provided as loans, and thus the cycle continues. Essentially, this perpetuates the economic dependence of peripheral countries to core wealthy nations.

A consequence of this is that markets become ideologically superior to states. From this, "non-state mechanisms develop and, private rather than public international rules prevail. A new international business class tends to identify itself with the global aims of its transnational companies rather than with the political objectives of its particular countries."⁹⁹ The significance of this ideological redirection is that states are responsible for the implementation and preservation of economic rights as well as civil and political

rights. As Professor Louis Henkin has observed, the character of rights between the ICESCR and ICCPR differ in subtle ways.¹⁰⁰ The ICCPR was drafted in terms of individual's rights: e.g., "Every human being has the inherent right to life"; 'No one shall be held in slavery'; 'All persons shall be equal before the courts and tribunals.'¹⁰¹ But the ICESCR speaks only to states, not to the individual: "The States Parties to the present Covenant recognize the right to work"; 'The State Parties . . . undertake to ensure . . . the right of everyone to form trade unions'; 'The States Parties . . . recognize the right of everyone to education.'¹⁰²

Thus, if the status of the state is reduced through global economic expansion, the very mechanism for implementing economic rights is similarly reduced. Superficially, both the ICCPR and ICESCR are "human" rights and are equally universal. But the economic contexts that surround each instrument differ greatly. Because the ICCPR is a negative-rights instrument, it is more immune from proximate economic effects. But the ICESCR is based largely on positive rights. In essence, some of the very mechanisms to which the ICCPR and other negative rights are immune, greatly alter the environmental conditions which sustain ICESCR implementation.

B. Funding Problems of Economic Rights

One critique of economic rights is that with a right to basic material goods comes the duty of a group to provide for these basic goods. To whom does this duty belong? One could make the argument that former colonial powers (and the United States) are responsible for current global poverty, and thus they should be responsible for providing for these basic material goods. This perspective, although extreme, does have its merits.

It is quite feasible to draw a line of causation from most current economic powers to the poverty in many peripheral nations. Indeed, as World-Systems analysis has pointed out, current disparities of wealth are based largely upon economic expansion, which is based largely on historical capitalism and colonialism. But the likelihood that any colonial power will remedy past colonial wrongs with remunerative wealth is marginal at best.

Another more realistic option is that the duty would belong to the particular government where such rights are needed. This model seems feasible in relatively wealthy countries such as the United States and most of Europe, but countries such as Haiti are likely to protest such demands on their resources namely because of the undue burden such rights would place.

Remembering that global market liberalization often requires a nation to remain competitive by opening itself to foreign investment through devaluing labor, lowering taxes, and redirecting national wealth away from social welfare programs, the critique against economic rights is inherently predicated on competitiveness in the global economy. In other words, a nation such as Haiti is incapable of preserving economic rights when it must redirect its scarce resources to liberalizing the market. A country would be more able to provide for basic material goods if its debt to wealthy states did not drain its few resources. Short of debt-forgiveness, or a global Marxist revolution, it is hard to imagine any real overhaul of the current economic order.

Frederick List and Protectionism

Frederick List, a German economist, urged for national protectionist measures to remedy the growing economic disparity among global economic participants more than one and a half centuries ago. Criticizing Adam Smith's notions that free trade inherently fostered international peace, List stated instead that

under existing conditions of the world, the result of general [i.e., global] free trade would not be a universal republic, but on the contrary, a universal subjection of the less advanced nations to the supremacy of the predominant manufacturing, commercial, and naval power.¹⁰³

Smith's ideas of "cosmopolitan" (i.e., free trade) economics were falsely predicated on the assumption there was a universal peace that free trade requires. Free trade for List, would benefit only merchants rather than advantage an entire nation.¹⁰⁴ In a more contemporary context, List's writing can be seen as the adherence to a capitalist ethos beyond the national boundaries discussed by Professor Schachter. In so doing, nations are

essentially picked apart either by transnational financiers or through competition between other poor countries. In either context, poor countries are prevented from any significant level of self-determination, and they are not able to supply basic material goods.

The inherent subjugation of poorer countries in global capitalism could be remedied only by artificially enabling a country to establish a national economics, unified against the dissecting ideologies of global capitalism.¹⁰⁵ Thus, if a poor country gradually excluded

foreign manufactured articles from our [meaning a poor country's] markets, a surplus would be occasioned in foreign nations, of workmen, talents, and capital, which must seek employment abroad; and secondly, by the premium which our system of protection would offer to the immigration into our country of workmen, talents, and capital, that excess of productive power would be induced to find employment with us, instead of emigrating to distant parts of the world and to colonies.¹⁰⁶

I am not asserting that global economic organizations such as the World Bank or International Monetary Fund would permit the enactment of such domestic protectionist legislation. For now, the economic hold that the Bretton Woods Institutions (BWI's)¹⁰⁷ have on many states limits states' abilities to act so unilaterally. But the recent call for revision in IMF and World Bank policies, combined with international agreements that call for a halt to the appropriation of resources of another state, begin to give poor countries some room to begin enacting domestic legislation that meets the needs of each particular state, rather than meets the wants of foreign investors.

A. The Call for Change in the Bretton Woods Institutions

Although the charters of the BWI,s prevent the institutions from considering political factors in their economic decision-making,¹⁰⁸ each group lends money through conditionality - where certain factors must be met to ensure a safer setting for investment. In the past, conditionality has meant liberalizing markets for foreign investment.¹⁰⁹ BWI considerations of poverty and other development issues were treated "peripherally," at best.¹¹⁰ The idea was that development would lead to economic growth that would raise standards of living for all citizens. Hence, "wealth would trickle down to the poorest

segments of societies in developing countries."¹¹¹ But in so doing, the welfare safety net of these countries was reduced, leading to a substantial loss of basic material goods for a state's poor.

Although the World Bank has opened its doors to advice from non-governmental organizations, the Bank still does not have any real accountability to anyone outside of its investors.¹¹² And only recently have proposals emerged for the reform of the IMF including proposals for reducing the IMF's powers of conditionality.¹¹³ Ultimately, action must be taken to continue the regulation of these unchecked institutions so that states can begin to accumulate the resources necessary for economic rights.

B. Legislation Calling for the Security of Natural Resources

A second method is to reduce peripheral dependency by enacting domestic legislation that empowers nations with the right to self-determination, such as the right to ownership of its own resources. Combined with recent international instruments that have called for similar ownership rights, the expropriation of resources that defined historical colonialism can begin to be slowed down. Although economic expropriation has taken on a new shape (it is now less nationalistic), the effects on developing countries is the same - continued dependence on wealthy states.

Take for example the neem tree in India. A US chemicals company obtained a patent for a natural pesticide extracted by generations of Indian farmers from the seed of the neem tree.¹¹⁴ Patents did not protect the traditional methods, however, so the chemical company only had to extract the pesticide and claim it as its own.¹¹⁵ Since having a patent on something entitles one to control its use by others, the Indian farmers must now pay a royalty for its use to the chemical company.¹¹⁶ Since this incident, India has enacted legislation that states that all resources on Indian soil belong to India.¹¹⁷ India's action was a domestic codification of UN wishes. In the General Assembly's Resolution on Permanent Sovereignty over Natural Resources,¹¹⁸ eighty-seven states voted in favor of peoples' and nations' rights to permanent sovereignty over their natural wealth and resources.¹¹⁹ This measure also stated that foreign investors must conform to domestic

restrictions on the exportation of such resources.¹²⁰ By combining domestic measures to reinforce the applicability of instruments such as the above General Assembly Resolution, states begin to set up protective measures without unilaterally having to enact domestic legislation that immediately places them in credit jeopardy.

With time, more legislation can be enacted progressively that places a greater amount of that state's wealth under its own control. From this, a state may be more likely to implement economic rights for its citizenry.

Conclusion

In this paper, I have neglected to explore the possible means of forcing the implementation of economic rights. I have posited at least some of the conditions that I feel are necessary for economic rights to flourish. To properly implement economic rights, basic changes must be made to the international economic order. States cannot provide for and protect basic material goods without having available resources.

But I have assumed that states are democratic and will rationally oblige by their economic rights obligations if proper funds become available. In effect, the thrust of my paper has been creating conditions where a state is not unable to provide for economic rights. But I have not addressed the conditions necessary to force a state to observe its economic rights obligations when it is able, but unwilling.

Recently, the global calling for an international criminal court has suggested uniformity in the repercussions of crimes against humanity. Other civil and political crimes are sure to follow. This central authority for civil and political justiciability does not currently effect economic rights. One feature that has periodically separated civil and political rights from social and economic rights has been this issue of justiciability.¹²¹

But it is my belief that justiciability is a hollow excuse for impeding the spread of economic rights. First, justiciability only becomes an issue in countries that do not have some level of democratic mechanisms for the incorporation of economic rights. Second, and more importantly, only recently has a centralized judicial authority been conceived

for violations of dire civil and political rights. Prior to that, enforcement mechanisms were based on global and/or domestic political pressure.

Until economic rights achieve the status of crimes against humanity in that a central judicial authority is constructed, political pressure will have to be the main method of forcing states to oblige by their treaty obligations. And as Professor Philip Alston has argued, it is vital to internalize economic rights in the ideologies of powerful nations such as the United States.¹²² Once powerful nations begin adopting economic rights with vigor proportional to civil and political rights, other states are certain to follow. But the struggle for Western acceptance of economic rights must come first from forced revisions in the global economic order. Only when a new paradigm has been established will powerful countries begin accepting economic rights, shunning outdated ideological fears of socialism.

¹Rudolph Walsh, *Open Letter to the Argentinean Junta, reprinted in Richard Falk, Comparative Protection of Human Rights in Capitalist and Socialist Third World Countries*, 1 UNIVERSAL HUM. RTS. 3 (1979).

² Since 1986, economic (and social) conditions have declined at dramatic rates for 1.6 billion people. *Maastricht Guidelines on Violations of Economic, Social, and Cultural Rights*, MAASTRICHT, January 22-26, 1997 (visited December 3, 1998) http://www1.umn.edu/humanrts/instree/Maastrichtguidelines_.html (a group of 30 experts in the field of economic rights convened in Maastricht on the 10th Anniversary of the Limburg Principles to evaluate contemporary impediments to economic rights). Furthermore, "the gap between rich and poor has doubled in the last three decades, with the poorest fifth of the world's population receiving 1.4% of the global income and the richest fifth 85%." *Id.*

³For the purposes of this paper, I will refer to the following as "basic" human rights, a.k.a., "civil" rights: freedom from slavery; freedom from arbitrary arrest, prosecution, and deprivation of property; freedom from torture; and freedom from discrimination based on sex, race, color, language and religion. Although not exhaustive, this list

contains "basic" human rights because they are generally regarded globally as inalienable on the individual. They are protections for the individual against a tyrannical state, and thus, they are generally held to be inviolable by most states. *See e.g., Universal Declaration of Human Rights*, G.A. Res. 217 A(III), U.N. Doc. A/810 at 71 (1948). Also, "liberal" rights, a.k.a., "political" rights, such as the freedom from arbitrary arrest, the right to a fair trial, and the freedom of speech are those that protect the political liberties of individuals against government intrusion. Barbara Stark, *Economic Rights in the United States and International Human Rights Law: Toward an 'Entirely New Strategy,'* 44 HASTINGS L.J. 79, 119 (1992) (addressing the applicability of the International Covenant on Economic, Social, and Economic Rights to domestic state law).

⁴ MATTHEW C.R. CRAVEN, THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL, AND CULTURAL RIGHTS: A PERSPECTIVE ON ITS DEVELOPMENT 8 (1995).

⁵See e.g., Abram (USA), E/CN.4/Sub.2/1992/SR.24, at 6, paras. 19-21.

⁶This assumption has been effectively articulated by Professor Thomas Franck, *The Emerging Right to Democratic Governance*, 86 A.J.I.L. 46, (1992). Professor Franck has claimed that not only is democracy a growing trend in international affairs, but that it is essential to preserving the peace, including the preservation of human rights. *Id.* at 79. But cf., Professor Oloka-Onyanga has suggested that one primary reason for the failure of effective implementation of economic rights in Africa has been the maintenance of centralized power, often through one-party governments. J. Oloka-Onyango, *Beyond the Rhetoric: Reinvigorating the Struggle for Economic and Social Rights in Africa*, 26 Cal. W. Int'l L.J. 1, 41 (1995).

⁷Franck, *supra* note 6, at 52.

⁸*Id.* ("Democracy's] deep-rootedness continues to confer important elements of legitimacy on self-determination.").

⁹In effect, I presume a global model similar to the American democratic system in theory: that democratic rule does not become a majoritarian tyranny by the preservation of certain inalienable rights (constitutional rights in the U.S.).

¹⁰ Maastricht Guidelines, *supra* note 2.

¹¹LUCIE LAMARCHE, PERSPECTIVES OCCIDENTALES DU DROIT

INTERNATIONAL DES DROITS ECONOMIQUES DE LA PERSONNE 35 (1995).

¹²*Id.*

¹³Eleventh Annual Message to Congress (Jan. 11, 1944), in 3 THE STATE OF THE UNION MESSAGES OF THE PRESIDENTS, 1790-1966, 2875, 2881 (Fred L. Israel ed., 1966).

¹⁴ICESCR, Jan. 3, 1976, 993 U.N.T.S. 3. See also G.A. Res. 2200, UN GAOR, 21st Sess., Supp. No. 16, at 49, UN Doc. A/6316 (1976) (UN Resolution adopting the Covenant).

¹⁵*Id.* at Art. 7.

¹⁶*Id.* at Art. 8.

¹⁷See, e.g., Stark, *supra* note 3.

¹⁸ ICESCR, *supra* note 14. Among the countries that did not ratify the ICESCR are: China, Cuba, Ghana, Indonesia, Kuwait, Liberia, Malaysia, Mozambique, Myanmar, Pakistan, Saudi Arabia, Singapore, South Africa, Thailand, Turkey, and the United States. Many of these countries are led by an elitist regime that seemingly fear the latent egalitarian implications in economic and social rights. Other countries, such as the United States, fear the socialist subtext associated with such rights. And other countries are concerned about the continued compromise to national sovereignty that might come with such rights. But few, if any, of these arguments seem to properly justify denying these rights, particularly, when taken in the context of increasing exploitation inherent in many capitalist paradigms.

¹⁹Although seemingly socialist, President Roosevelt's primary motive for implementing his "Four Freedoms" - of which "freedom from want" was one, was in response to Britain's dissolving empire. He wanted to open up the barriers between countries primarily for the liberalization of global markets, a "traditional US goal." M. Glen Johnson, *The Contributions of Eleanor and Franklin Roosevelt to the Development of International Protection for Human Rights*, 9 HUM. RTS. QUARTERLY 19, 21 (1987).

²⁰Stark, *supra* note 3, at 84.

²¹See generally JÜRGEN HABERMAS, THE THEORY OF COMMUNICATIVE ACTION (T. McCarthy, trans. 1984) (addressing the alienating effects of bureaucratization on individuals and their connections to their surrounding community).

²²Philip Alston, *US Ratification of the Covenant on Economic, Social, and Cultural Rights: The Need for and Entirely New Strategy*, 84 A.J.I.L. 365, 366 (1990). In fact, Alston claims that Americans tend to think of the ICESCR "less as an international treaty seeking to promote the satisfaction of basic material needs than as a 'Covenant on Uneconomic, Socialist and Collective Rights.'" *Id.*

²³Stark, *supra* note 3, at 81.

²⁴Donna Arzt, *Law Students' Attitudes about Economic Rights in the Post Cold War World*, 19 SYRACUSE J. INT'L L. & COM. 39, 39 (1993)

²⁵See Alston, *supra* note 22; cf. Stark, *supra* note 3.

²⁶*Maastricht Guidelines*, *supra* note 2.

²⁷HABERMAS, *supra* note 21, at 349.

²⁸J.W. Singer, *The Legal Rights Debate in Analytical Jurisprudence from Bentham to Hohfeld*, 1982 WISC. L. REV. 975, 986-9 (1982) (analyzing Hohfeld's conceptual distinction between rights and privileges).

²⁹An American example of where such a right has backfired against economic rights can be found in *Lochner v. New York*, 198 U.S. 45 (1905), where the U.S. Supreme Court accorded constitutional protection to the freedom of contract of employers and employees, resulting in a judicial invalidation of progressive regulatory legislation aimed at protecting workers.

³⁰Of course, the need for self-determination is explicitly stated in Article 1 to the ICESCR. But little has been done to codify this concept with the specificity that the ICESCR has done with other rights. As long as the concept of self-determination is left abstract, I believe powerful states will continue to abuse poor states because there will be few, if any, codified consequences.

³¹See generally, Declaration of Permanent Sovereignty over Natural Resources, G.A. Res. 1080 (XVII), 17 U.N. GAOR Supp./No. 17/ at 15, U.N. Doc. A/5217 (1962).

³²See *Maastricht Guidelines*, *supra* note 2, at Article III.

³³Certainly, the irony of giving a group of people self-determination is not lost on me. But ultimately, groups must be released from the grip of a colonizing country before they can determine their own fate, economic or otherwise.

³⁴*The Limburg Principles on the Implementation of the International Covenant on*

Economic, Social, and Cultural Rights, U.N. Doc. E/CN.4/1987/17, Annex (1987), reprinted in Symposium, *The Implementation of the International Covenant of Economic, Social, and Cultural Rights*, 9 HUM. RTS. Q. 121 (1987).

³⁵*Maastricht Guidelines*, *supra* note 2 at Para. 6-7.

³⁶See *id* at para. 14(c).

³⁷See *id.* at para. 14(d).

³⁸See *id.* at para. 15(b).

³⁹See *id.* at para. 15(d).

⁴⁰See *id.* at para. 13.

⁴¹See *id.*

⁴²See LAMARCHE, *supra* note 11, at 35.

⁴³See *id.*

⁴⁴See Colleen Shepard, *A Review of Lucie Lamarche, Perspectives Occidentales du Droit International des Droits Economiques de la Personne*, 41 MCGILL L.J. 907 (1996).

⁴⁵See generally U.N. CHARTER art. 55.

⁴⁶*Id.*

⁴⁷LOUIS HENKIN, *THE INTERNATIONAL BILL OF RIGHTS: THE COVENANT ON CIVIL AND POLITICAL RIGHTS* 11 (Louis Henkin ed. 1981) (the split came mostly from pressure by Western nations).

⁴⁸BASIC DOCUMENT SUPPLEMENT TO INTERNATIONAL LAW: CASES AND MATERIALS 23 (Louis Henkin, Richard Crawford Pugh, Oscar Schachter, & Hans Smit eds., 3d ed. 1993).

⁴⁹CRAVEN, *supra* note 4, at 6-7.

⁵⁰UDHR, *supra* note 2, at art. 23, para. 1.

⁵¹*Id.* at para, 2-3.

⁵²*Id.* at art. 24.

⁵³*Id.* at art. 25, para. 1.

⁵⁴See Torkel Opsahl, *Instruments of Implementation of Human Rights*, 10 HUM. RTS. L.J. 13 (1989).

⁵⁵HENKIN, *supra* note 47, at 11.

⁵⁶CRAVEN, *supra* note 4, at 7.

⁵⁷*Id.* at 9.

⁵⁸Patrick Macklem, *Aboriginal Rights and State Obligations*, 35 ALBERTA L. REV. 97, 100 (1997).

⁵⁹*Id.*

⁶⁰CRAVEN, *supra* note 4, at 9-11.

⁶¹*Id.* at 9.

⁶²*Id.*

⁶³Stark, *supra* note 3, at 81.

⁶⁴Eleanor Roosevelt made a speech before the UN General Assembly stating a policy espoused more by the State Department than by Roosevelt. This policy holds true even today. Johnson, *supra* note 19.

⁶⁵Altson, *supra* note 22, at 372.

⁶⁶*See id.*

⁶⁷Oloka-Onyango, *supra* note 6, at 10.

⁶⁸*See id.*

⁶⁹*See id.*

⁷⁰*European Social Charter, reprinted in BASIC DOCUMENT SUPPLEMENT, supra* note 48, at 248.

⁷¹Oloka-Onyanga, *supra* note 6, at 43.

⁷²HENKIN, *supra* note 47, at 304.

⁷³Oloka-Onyango, *supra* note 6, at 41.

⁷⁴*Statement to the World Conference*, UN Doc. E/1993/22/, at 83, para. 5.

⁷⁵Kenneth Minogue, *The History of the Idea of Human Rights*, THE HUMAN RIGHTS READER 4,13-14 (Walter Laquer and Barry Rubin, eds. 1989).

⁷⁶Thomas Paine refers to the right to employment and the right to social assistance as among the rights of man. *Id.* See also Louis Henkin, *Economic-Social Rights as 'Rights': A United States Perspective*, 2 HUM. RTS. L.J. 223.

⁷⁷Although the UN now generally considers economic and social rights to be indivisible from civil and political rights, little action has been taken to set the stage for the proliferation of economic rights. See *Proclamation of Tehran*, 33 U.N. GAOR, Resns., Supp. (No. 45), at 150 (1977).

⁷⁸Maurice Cranston, *Human Rights Real and Supposed*, POLITICAL THEORY AND THE RIGHTS OF MAN 51 (D.D. Raphael ed. 1967).

⁷⁹CRAVEN, *supra* note 4, at 14-15.

⁸⁰Indeed, the right to participate in trade unions is as much a civil and political right as an economic one, particularly under the freedom of association.

⁸¹I am not inferring that the deprivation of basic material goods necessarily results in discrimination based on race, religion, ethnicity, or gender (although all these types of discrimination are related). Instead, I am suggesting an overlap between poverty and groups that are subjugated according to these criteria. In other words, there is some hegemonic link between wealth and power that also coincides, at least in part, with incorporation or disenfranchisement based on other, inalienable characteristics. *Teheran Proclamation*, *supra* note 77.

⁸²Enrique R. Carrasco & M. Ayhan Kose, *Income Distribution and the Bretton Woods Institutions: Promoting an Enabling Environment for Social Development*, 6 TRANSNAT'L L. & CONTP. PROBS. 1, 23 (1996).

⁸³*Id.* at 24, n. 127.

⁸⁴HENRY SHUE, BASIC RIGHTS: SUBSISTENCE, AFFLUENCE, AND U.S. FOREIGN POLICY 24-5 (1980) ("No one can fully, if at all, enjoy any right that is supposedly protected by society if he or she lacks the essentials for a reasonably healthy life.").

⁸⁵CRAVEN, *supra* note 4, at 12.

⁸⁶World-systems analysis is an extensive and well-conceived analytical tool. My brief synopsis and appropriation does not do justice to the depth and variation to which scholars have justified and employed this Marxian method of analysis. For a more thorough exploration of World-systems analysis, *see generally* CHRISTOPHER CHASE-DUNN, WORLD-SYSTEMS; IMMANUEL WALLERSTIEN, THE CAPITALIST WORLD ECONOMY (1979) (Hereinafter Wallerstein 1); Stuart Hall, *The Local and the Global: Globalization and Ethnicity*, CULTURE, GLOBALIZATION, AND THE WORLD-SYSTEM CONTEMPORARY CONDITIONS FOR THE REPRESENTATION OF IDENTITY (Anthony King ed., 1991) (describing the problematic relation in terms of representation of increasing global economic production

and localized racial, ethnic, religious and gender identities).

⁸⁷ Wallerstein 1, *supra* note 86, at 2. The distinction between Wallerstein's World-systems analysis and earlier dependency theory is fairly extensive and my reading of World-systems analysis does not adequately represent the departure between the two schools. But the primary feature of Wallerstein's work dealt with a particular economic logic of hegemonic power. Unlike contending dependency theories that were consistent with neomercantilism and liberal notions of hegemony, Wallerstein went beyond the political aspect of the world-system. He focused on secular trends of economic growth (called "A phases") and recession (called "B phases") as the driving force of hegemonic rise and decline. Immanuel Wallerstein, *The Three Instances of Hegemony in the History of the Capitalist World-Economy*, reprinted in HISTORICAL CAPITALISM WITH CAPITALIST CIVILIZATION, 42 (1995) (hereinafter, Wallerstein 3).

⁸⁹ See generally Wallerstein 2, *supra* note 87.

⁹⁰ Wallerstein 3, *supra* note 88, at 43.

⁹¹ William Roseberry, *Peasants and the World*, ECONOMIC ANTHROPOLOGY, 108-126, at 110, (Stuart Plattner, ed. 1989).

⁹² *Id.*

⁹³ *Id.* at 111.

⁹⁴ *Id.*

⁹⁵ *Id.*

⁹⁶ Frederick List, *Political and Cosmopolitical Economy*, THE THEORETICAL EVOLUTION OF INTERNATIONAL POLITICAL ECONOMY 48, 50 (George Crane & Abla Amawi, eds., 1997) (quoting Thomas Cooper).

⁹⁷ Oscar Schachter, *The Decline of the Nation-State and its Implications*, 36 COLUM. J. TRANSNAT'L L. 7, 9 (1997) (among other means, exploring the three general ways in which capitalism has reduced the political potency of the state: (1) the mobility of capital, (2) effects of direct foreign investment and mutual funds, and (3) ideological superiority of the market over the state).

⁹⁸ David Korten, *Sustainable Development: A Review Essay*, 9 WORLD POL'Y J. 157, 173 (1992).

⁹⁹ Schachter, *supra* note 97, at 10.

¹⁰⁰HENKIN, *supra* note 47, at 10.

¹⁰¹*Id.*

¹⁰²*Id.*

¹⁰³List, *supra* note 96, at 51.

¹⁰⁴DONALD RUTHERFORD ROUTLEDGE, *DICTIONARY OF ECONOMICS* 270 (1995).

¹⁰⁵List, *supra* note 96, at 54.

¹⁰⁶*Id.*

¹⁰⁷The World Bank and International Monetary Fund.

¹⁰⁸Daniel Bradlow, *The World Bank, the IMF, and Human Rights*, 6 *TRANSNAT'L L. & CONTP. PRBS.* 47, 54 (1996).

¹⁰⁹Carrasco & Kose, *supra* note 82, at 6-7, 30-31.

¹¹⁰*Id.* at 7-8.

¹¹¹*Id.*

¹¹²Ibrahim Shihata, *The Role of Law in Business Development*, 20 *FORDHAM INT'L L.J.* 1577, 1586-87 (1997).

¹¹³See Carrasco & Kose, *supra* note 82, at 41-43.

¹¹⁴Paul Salopek, *The Global Gene Search* (second of two parts), *CHICAGO TRIBUNE*, April 28, 1997 at 1.

¹¹⁵*Id.*

¹¹⁶*Id.*

¹¹⁷*Id.*

¹¹⁸U.N. GAOR, Res. 1803 17th Assembly (1962).

¹¹⁹*Id.* at para. 1.

¹²⁰*Id.* at para. 2-3.

¹²¹Alston, *supra* note 22, at 370.

¹²²*Id.* at 366.