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# THE INTERNATIONAL IMPLICATIONS OF THE LOS ANGELES RIOTS

HENRY J. RICHARDSON, III\*

## I. INTRODUCTION

By now much has been written, preached, propagandized, analyzed and moralized about the Los Angeles riots. We need not rehearse here either the facts of the trial and acquittal of the police officers who beat Rodney King, the subsequent fire and destruction or the resulting federal and state trials of the officers and riot participants. This Article will discuss the international reactions to the acquittals and the riot while exploring several crucial issues with implications for United States policy, international law and Afro-America in the world community. The Article will also explore comparative claims regarding causation for the riots and the responses of the Vatican and the southern tier of the world community to these claims. Some initial consideration will be given to recent United States policy trends in order to place the international community's response to Los Angeles in context. Finally, the author will offer some reflections on the patterns of reactions from overseas, the policy and international legal issues they raise, and the divergent expectations about, for example, American racism they may represent.

## II. BACKGROUND

The Los Angeles riots necessarily raise value considerations in the American and international communities concerning power, wealth, human rights, loyalty patterns, intellectual skills, patterns of knowledge, well being and control in these communities of decisions about assigning labels of "right" and "wrong."<sup>1</sup> Through these value considerations we can project in a provisional way the implications of future international reactions. This is particularly important regarding divergent expectations about race and the multi-cultural group and class dominance realities of the United States. International reactions to the Los Angeles riots arose not in a vacuum, but in the presence of pertinent principles - law goals and objectives already part of the constitutive structure of the world community and its tightly knit fabric of global interdependence.<sup>2</sup> The rising authority of international human rights

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\* Professor of Law, Temple University. I am greatly indebted to Kwame Anthony Gyan, L.L.M., Temple University, 1992, and Marcelle Benjamin, J.D., Temple University, 1993, for superb research assistance. All errors of course remain my own.

1. These value considerations are integral to the "New Haven school" jurisprudence of Myres McDougal, Harold Lasswell and Associates. *See, e.g.*, MYRES S. McDOUGAL ET AL., HUMAN RIGHTS AND WORLD PUBLIC ORDER 3-93 (1980).

2. Articles 1 & 2 of Chapter I, Purposes and Principles of the United Nations Charter set forth the pertinent principles and goals.

law has been driven by a global pattern of demands for representative government plus a recent consistent focus on the protection of personal rights against abuse, such as torture.<sup>3</sup> To this must be added a continuing focus on second-generation human rights found in Somalia and other disaster situations, e.g., the right to food.<sup>4</sup>

Since the demise of the Soviet Union and the rise of the other two legs of the "triad" (the European Economic Community and Japan) the "rules-of-the-game" evaluation of the current status of the United States as the sole great power has energetically begun. Whatever conclusions

The purposes of the United Nations are:

- (1) To maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace;
- (2) To develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace;
- (3) To achieve international co-operation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion; and
- (4) To be a center for harmonizing the actions of nations in the attainment of these common ends.

U.N. CHARTER art. 1.

Article 2. The Organization and its Members, in pursuit of the Purposes stated in Article 1, shall act in accordance with the following Principles.

- (1) The Organization is based on the principle of the sovereign equality of all its Members.
- (2) All Members, in order to ensure to all of them the rights, and benefits resulting from membership, shall fulfil in good faith the obligations assumed by them in accordance with the present Charter.
- (3) All Members shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered.
- (4) All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.
- (5) All Members shall give the United Nations every assistance in any action it takes in accordance with the present Charters and shall refrain from giving assistance to any state against which the United Nations is taking preventive of enforcement action.
- (6) The Organization shall ensure that states which are not Members of the United Nations act in accordance with these Principles so far as may be necessary for the maintenance of international peace and security.
- (7) Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter; but this principle shall not prejudice the application or enforcement measures under Chapter VII.

U.N. CHARTER art. 2.

3. See, e.g., *Filartiga v. Pena-Irala*, 630 F.2d 876 (2d Cir. 1980); see also U.N. DRAFT CONVENTION AGAINST TORTURE AND THEIR CRUEL INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT, G.A. Res. 39/46 Annex, 39 U.N. GSOR, Supp. (No. 51) 197, U.N. Doc. E/CN.4/1984/72, Annex (1984), reprinted in 23 I.L.M. 1027 (1984).

4. See Philip Alston, *The International Monetary Fund and the Right to Food*, 30 How. L.J. 473 (1987); Henry J. Richardson, *The International Human Rights Response*, 30 How. L.J. 233 (1987). See generally Symposium, *1986 World Food Day Food and Law Conference: The Legal Faces of the Hunger Problem*, 30 How. L.J. 193 (1987).

are drawn from this question throughout the international community will have both public order and constitutive implications with global effects.<sup>5</sup> This is particularly the case since the United Nations' enforcement action in the Gulf in early 1991 was accompanied by the proclamation—perhaps premature in the form stated, and clearly an unformed concept at the moment—by George Bush of a “new world order.”<sup>6</sup> What the President failed to include in the scope of the proclamation were questions of equitable and non-discriminatory treatment of Afro-Americans and our empowerment in America—long an international issue.<sup>7</sup> Also not included was the question of the political will to break the destructive cycle of America's inner cities and the relation of that cycle to Afro-America's youth and the future of both Afro-America and the country as a whole. Yet these questions are integral elements of any understanding of world order, new or old. American policy objectives concerning these questions, whether negative or positive, containment-driven or remedy-driven, coercion-driven or equity-driven, have their ready analogies regarding dozens of *favelas*, *bidonvilles*, *barrios*, districts and ghettos around the world. These questions likewise connect directly to those of welcome, empowerment and equity for recent immigrants to a national community. For instance, the maltreatment of immigrants is increasingly considered to be a new malicious form of racism on an international basis.<sup>8</sup>

One cannot be aware of the demographics of the Los Angeles area without realizing that it comprises interlocking frontiers among several crucial political, economic, racial and cultural goals and categories of human policymaking. Los Angeles features frontiers between the First and Third Worlds, development and underdevelopment, economic aspirations and institutionalized economic achievement, poverty and fantasies of material success, powerlessness and expected comfortable empowerment, Black, Hispanic and Asian persons and communities and white Anglos or other persons, immigrants and citizens.<sup>9</sup> But these demographics do not accurately describe the patterns of authority and empowerment governing these issues among those peoples. Power, especially economic power, and authority remain white-dominated in ways little touched by existing racial integration. The Los Angeles police department and its chief were notorious for harshly prejudicial treatment of citizens and non-citizens of color.<sup>10</sup> The control of jobs for persons

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5. Jacques Attali has written a provocative future projection of the international community, raising issues which will be further considered. See JACQUES ATTALI, *MILLENNIUM: WINNERS AND LOSERS IN THE COMING WORLD ORDER* (1991).

6. George Bush, Bush: 'Out of These Troubled Times . . . a New World Order,' Speech Before Joint Session Congress (Sept. 11, 1990), in *WASH. POST*, Sept. 12, 1990, at A34.

7. See *infra* notes 9-18 accompanying text.

8. *Germany Looks at Itself, and Winses*, *ECONOMIST*, Nov. 28-Dec. 4, 1992, at 55.

9. DAVID REIFF, *LOS ANGELES: CAPITAL OF THE THIRD WORLD* 31 (1991).

10. See Jane R. Fitch & Frederick M. Muir, *COUNCIL MAJORITY BACKS POLICE PANEL REFORM PACKAGE; COMMISSION: THEY SEEK FULL IMPLEMENTATION OF CHRISTOPHER REPORT, INCLUDING ITS CALL FOR A NEW CHIEF. FORMER CHIEF DAVIS ALSO URGES GATES TO STEP ASIDE*, *L.A. TIMES*, July 11, 1991 at A1.

of color never lay in their home neighborhoods and the situs of those jobs increasingly fled the same neighborhoods.<sup>11</sup> South Central Los Angeles offers little systemic hope of escape from poverty or from a constant struggle among its youth and their families for non-gang-related sources of personal dignity and respect.

In such a context, crime, "disturbances," racial and other riots, looting and other even momentary public order breakdowns cannot escape evaluation along a range of comparative international questions. These significantly include judicious considerations of histories, parallels and trends in various colonial territories prior to the formal dissolution of the former European empires. For our purposes here, a convenient benchmark for such comparisons is the year 1955: the year of the Bandung Conference that gave the third world its first infusion of global self-consciousness.<sup>12</sup> The general history of colonial territories is one of dominating European minority groups with cultures influential on but separate from those of majority indigenous populations. Yet this minority controlled the legal, military, economic, administrative, transport and financial resources and systems in the territories.<sup>13</sup> Nevertheless, ideas about self determination, freedom, an equitable share of the territory's economic resources and control of their own lives for their own ends was long discussed by, made coherent in and increasingly served as the focus of committed organization among active groups of these indigenous peoples.<sup>14</sup>

From the purview of the colonial elite an accurate understanding of any breakdown in public order along the axis of "disturbance" to "crime" to "insurrection" to "revolution" was crucial to maintaining their rule. Although understanding the facts of such incidents and drafting the press-release-public-reactions to them were sometimes different for colony and metropolitan capital consumption, they were most often part of the domination of the majority by the ruling minority.<sup>15</sup> The most frequent colonial-elite response was to resolutely drain such incidents of all political content or pleas for economic empowerment. These responses asserted the criminality of the acts, their lack of local roots and their aberrational character and contrasted that to the allegedly known contentment of the "natives" with the *status quo* political arrangements, i.e., minimal local governmental positions under co-optive and watchful metropolitan eyes.

Wrapped in an envelope of racism, this response stemmed from various combinations of sheer ignorance of "native politics" and willful blindness to clear signs that self-determination, nationhood and ridding

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11. *Id.* at 64-78.

12. *See, e.g.*, 1 GUNNAR MYRDAL, *ASIAN DRAMA - AN INQUIRY INTO THE POVERTY OF NATIONS* 124, 210 (1968).

13. For example see, BASIL DAVIDSON, *THE BLACK MAN'S BURDEN—AFRICA AND THE CURSE OF THE NATION-STATE* 118-91 (1992).

14. *Id.* at 162-96.

15. *See id.* at 68-85. No colonial perception of changes towards independence in the colonies; no planning done, e.g. for handover at an upcoming independence.

the territory of foreign occupiers in the search for a better life were ideas of concrete and intensifying currency.<sup>16</sup> A further basis was the colonial elite's fear of being removed from comfortable lifestyles. Thus any substantial change in dignity, wealth and power relations between colonizers and the colonized was an anathema and demands for the same were beyond the pale of rationality. If such demands became too strident more suppressing military force was applied and the perpetrators' actions were further scrubbed of political, economic or racial meaning. This was done in substantial part through law and legal characterization by labeling, prosecuting, convicting, imprisoning, exiling and sometimes executing the violators as "criminals." Such persons were seen as wrongdoers who were detrimental to good society and their actions required a restoration of the *status quo* social fabric, certainly not a radical remaking or a replacement of it.

Los Angeles cannot escape the issues raised by this history, even though the outcomes will differ in important ways from colonial/liberation precedents. It is beyond this article to pronounce on the final resolution of such questions. But those decision makers with authority to shape, assess and enforce legal and community policy responses to the Los Angeles riots now face the validity of those issues.

### III. BRIEF REFLECTIONS ON PAST TRENDS

Notwithstanding other important contributing factors to the Los Angeles riots, race and the consequences of racism are critical for any understanding of what occurred. Racism against Afro-Americans in the United States has been an international question in varying postures since before the American Revolution.<sup>17</sup> While the United States prior to the Civil war struggled to retain the profits and benefits of the slave trade, the growing international illegality of slavery intensified the moral and legal questions regarding the personhood of, and equity towards, Afro-Americans.<sup>18</sup> The actions of dominant American white classes and decision-makers were measured not only by emerging global anti-slavery norms, themselves inconsistent in those historical circumstances, but equally by American ideals of liberty, equality and justice. These ideals in turn further influenced the rise of analogous international legal principles.<sup>19</sup>

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16. *Id.*

17. See generally JOHN H. FRANKLIN & ALFRED A. MOSS, JR., *FROM SLAVERY TO FREEDOM—A HISTORY OF NEGRO AMERICANS* (6th ed. 1988).

18. See generally A. LEON HIGGINBOTHAM, *IN THE MATTER OF COLOR, RACE, & THE AMERICAN LEGAL PROCESS: THE COLONIAL PERIOD* (1978).

19. For example, Article 1 of the Universal Declaration of Human Rights proclaims, "All human beings are born free and equal in dignity and rights." The Universal Declaration grants two categories of rights; civil and political rights, 1st generation rights; and economic, social and cultural rights, 2nd generation rights.

The first generation rights include the right to life, liberty and security of person; the right not to be subject to arbitrary arrest, detention or exile; right to presumption of innocence. See *THE UNIVERSAL DECLARATION OF HUMAN RIGHTS*, G.A. Res. 217 A (III), U.N. Doc. A/810, at 71 (1948).

A century later one outcome of this clash of expectations was the confirmed international and national criminality of slavery evidenced by the strong leadership of the United States in drafting into the United Nations Charter clear legal prohibitions against racism.<sup>20</sup> Despite the hope and advocacy of Afro-America, however, the United States subsequently moved to downgrade these provisions to no more than "moral principles," ensuring that they were not construed within federal law as *legal rights*.<sup>21</sup> Despite executive foreign policy pronouncements and some desegregation of American armed forces during World War II that had created a body of non-discrimination policy for overseas consumption, there was no federal civil rights law in the immediate postwar period.<sup>22</sup>

Nevertheless, one issue raised in both federal and state courts during this period was whether such policy pronouncements could be given some weight by United States' courts in considering claims by Afro-Americans, and other persons of color, of a right to be free of racial discrimination.<sup>23</sup> In other words, did United States propaganda intended as either boilerplate or for overseas consumption, though not dispositive *in se* on the existence of legal rights, have legal consequences that courts were bound to take notice of as "federal public policy?" In *Oyama v. California*<sup>24</sup> the Supreme Court said "yes" in strong dicta.<sup>25</sup> A

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20. The Purposes of the United Nations are:

To develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace.

U.N. CHARTER art. 1, ¶ 2.

With a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, the United Nations shall promote:

(a) higher standards of living, full employment, and conditions of economic and social progress and development;  
 (b) solutions of international economic, social, health, and related problems; and international cultural and educational co-operation; and  
 (c) universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.

U.N. CHARTER art. 55.

"All members pledge themselves to take joint and separate action in co-operation with the Organization for the achievement of the purposes set forth in Article 55." U.N. CHARTER art. 56.

21. President Harry S. Truman, United Nations Conference on International Organization, Address During Final Plenary Session (June 26, 1945), in 13 DEP'T ST. BULL. 3 (1945).

22. The first Civil Rights Act passed after World War II was not passed until 1957. Civil Rights Act of 1957, Pub. L. No. 85-315, 71 Stat. 634 (1958).

23. See generally RICHARD B. LILLICH & FRANK C. NEWMAN, INTERNATIONAL HUMAN RIGHTS: PROBLEMS OF LAW AND POLICY ch. 2 (1979).

24. 332 U.S. 633 (1948).

25. *Id.* at 649-50 (Black, J., concurring).

There are additional reasons now why that law stands as an obstacle to the free accomplishment of our policy in the international field. One of these reasons is that we have recently pledged ourselves to cooperate with the United Nations to "promote . . . universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language or religion."

few other courts followed, but the most either denied the right<sup>26</sup> or found (or invented) safe domestic constitutional grounds to grant it.<sup>27</sup> This points to the long-existing tension between the international legal rights of Afro-Americans and other minorities, plus international expectations opposing that particular form of racism and the generally more limited Afro-American rights stated in American law. It is also a necessary element for understanding the international reactions to the Los Angeles riots.

Since the formation of the United Nations, the United States, as a matter of unadmitted executive policy, has labored to prevent United Nations consideration of any racial conflict arising within America.<sup>28</sup> For instance, periodically during the years of South African "grand apartheid" black (and other) members of the United States' United Nations delegations were ordered to aver both how well American race relations were being played out and how little concrete action was needed by the United Nations against South Africa.<sup>29</sup> The hypocrisy was notable, unforgettable and bitter for the Black persons involved. It also illustrated simultaneously the racist elements in United States foreign policy and the co-optive strategies of American racism.

In this connection, we must consider the rise of the United States as a great power since the end of World War II. Considerable international expectations were generated across the entire value spectrum by United States power globally projected during both the Cold War rivalry with the Soviet Union and in this still-young post-Cold War period. A pertinent slice of such expectations of a great power is that the maintenance of public order within the United States is presumed to be more effective, efficient and stable overall than is generally the case in developing countries. Its Constitution is the world's most long-lived; its governmental institutions are influential and much imitated; its legal system has exported thousands of lawyers to carry the message of constitutionalism, separation of powers and individual rights; and its economy is the world's richest. Equally, its corporations have helped spread consumerism around the world during the 20th century.<sup>30</sup> Thus it is expected that American streets will generally be safe (although the statistics of American crime, and its cowboy traditions are globally known); its governmental institutions and ministers will be stable under the Constitu-

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*Id.*

26. *See, e.g.*, *Sei Fujii v. State*, 242 P.2d 617 (Cal. 1952).

27. *See, e.g.*, *Lareau v. Manson*, 651 F.2d 96 (2d Cir. 1981).

28. From this author's knowledge, all Afro-American human rights petitions to the U.N. Human Rights Commission have been barred from that body's agenda. In 1978 there was consternation in the White House and executive branch when it was learned that an Afro-American member of a United Nations Human Rights Working Group had voted that a group of petitions from the United States presented sufficient claim of a national pattern of gross violations of the human rights of Afro-Americans through police brutality to qualify such claim being forwarded to the United Nations Sub-Commission for the prevention of Racial and Religious Discrimination. Immediate steps were taken to block such claim.

29. *See* J.C. MILLER, *THE BLACK PRESENCE IN FOREIGN AFFAIRS* (1978).

30. ATTALI, *supra* note 5, at 92-113.



tion; its political leaders will act lawfully without trying to seize military power; and the visible economy will actually determine the movement of prices, goods and services.

Certainly part of such expectations is that the United States cannot be a country where traveling foreign tourists must be warned by their home governments to be either vigilant or to stay away entirely because of riots in the streets. Nor would it be expected that such tourists would need to be warned of the ineffectiveness of the police and the absence of restraints on official racism. Yet, this is basically what happened in Los Angeles.

#### IV. THE REACTION TO THE RIOTS: ISSUES AND PROJECTIONS - FRANCE AND JAPAN

The reactions to the Los Angeles riots were emblematic of a globally-interdependent post-Cold War world community. They were also emblematic of the virtual disappearance of the insulation historically provided the United States by two large oceans, especially when its government wished to invoke it, and the additional insulation provided by the expectations of public order stability. Further, part of the dominance of the United States as a great power has included the capacity to control to its liking, the allocation of doctrine, decision-making and world community scrutiny under international law concerning the "proper" definition of "domestic jurisdiction" under Article 2(7) of the United Nations Charter.<sup>31</sup> Expectations that this dominance will continue have taken a beating. The United States has made stringent attempts to bar from official international scrutiny, especially deliberation by any United Nations organ, questions concerning racial justice and the enforcement of rights of Afro-Americans and other minorities.<sup>32</sup> Such attempts have been more noteworthy given the openness of the American press and public opinion to global view; racism in the lives of Afro-Americans has been globally perceived in fact for many years. The question arises whether one consequence of the Los Angeles riots will be successful official investigations of police brutality and other detailed actions sustaining racism through the United Nations Human Rights Commission, the General Assembly and other organs notwithstanding Washington's opposition.

The actual reactions to the riots have far reaching implications for international law and its meaning to Afro-America and otherwise. It can first be noted that the United States, relative to the Los Angeles riots,

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U.N. CHARTER art. 2, ¶ 7.

32. See *supra* notes 20-30 and accompanying text.

was treated like its State Department often treats developing countries, i.e., public warnings to Americans abroad against traveling to specific countries or particular parts therein because of "civil unrest," "hostile attitudes towards foreigners or Americans" or even "bodies lying in the streets." For example, there was an official expression of concern by the Japanese Foreign Ministry for the safety of Japanese tourists in Los Angeles.<sup>33</sup> There were similar expressions of concern by the Korean government.<sup>34</sup>

The Japanese response must be measured against previously expressed official Japanese racially defamatory attitudes toward Afro-Americans, which included alleging their detriment to the American economy.<sup>35</sup> In making this public expression of concern, the Japanese government determined that the Los Angeles riot situation was, for whatever reasons, not one which fell within the domestic jurisdiction of the United States. Thus, it was not barred from international scrutiny. Japan would have also necessarily determined (or assumed) that such official statements did not constitute an illegal intervention by Japan into the internal affairs of the United States. The Korean government apparently made identical determinations before doing even more far-reaching acts, namely, asking *domestic* American television to *regulate* (suppress) scenes of Black/Korean violence connected with the riots, supposedly for the safety of the Koreans involved.<sup>36</sup>

A second category of responses revolved around assigning causality for the riots. Some national leaders, such as President Mitterand of France, ascribed to Washington the responsibility and drew a cause-and-effect relationship between Reagan-Bush policies oppressing Afro-Americans and Los Angeles.<sup>37</sup> Other spokespersons warned that the same potential for insurrection or civil breakdown existed in European cities.<sup>38</sup> They pointed to the increasingly well known facts regarding racism in London against Africans and South Asian immigrants, and in several German cities against several classes of immigrants.<sup>39</sup> Not counting Paris' 20th century history of being a principal haven of a permanent expatriate/exile Afro-American community,<sup>40</sup> the ascription of causality by Mitterand is noteworthy for several reasons. Racism is currently closer to the political surface in France, particularly against North Africans, and, anti-semitism, driven in part by the fulminations of the French political right.<sup>41</sup> Mitterand, now weathering visible challenges to

33. *World Reacts with Shock and Criticism to Los Angeles Riots*, L.A. TIMES, May 2, 1992, at A8.

34. *Id.*

35. Hobart Rowen, *Thanks (?), Mr. Nakasone*, WASH. POST, Oct. 5, 1986, at F1.

36. *World Reacts with Shock and Criticism to Los Angeles Riots*, *supra* note 20.

37. *Id.* at A8.

38. Arthur Brice, *America Reacts: A Plea for Calm Aghast, the World Watches S. Korean President Urges Protection of Korean-Americans as U.S. Race Relations Are Examined Overseas in Light of Riots*, ATLANTA J. & CONSTITUTION, May 2, 1992, at A10.

39. *Id.*; see also *Germany Looks at Itself*, *supra* note 8, at 550.

40. For example, Chester Himes, James Baldwin and Memphis Slim.

41. Especially the fulminations of Jean-Marie LePen. See L'EFFET LE PEN: DOSSIER (Edwy Plenel & Alain Rollat eds., 1984. For further discussion of the French right see

his presidency, may have used such a statement to strengthen French opinion against the rightists, while revealing his own commitment to equity and attacking a convenient target. But it is abnormal diplomatic practice to draw such stark causal conclusions, particularly by direct pronouncement by the Head of State (as opposed to a more junior official) regarding a major ally. Normally, events such as the Los Angeles riots would be merely commented on by an Ambassador expressing regret for their occurrence, with perhaps obliquely-expressed hopes that matters will move in the just and equitable direction, of course under the wise guidance of the national capital. For whatever reasons, President Mitterand, a ranking intellectual and Resistance hero in his own right, felt that racism against Afro-America was not only a fit subject for international scrutiny, but that the causes of the riots were sufficiently clear to assign *policy* responsibility to the conservative Washington regime.

I emphasize this because of the freedom Mitterand apparently felt in moving from the particulars of Los Angeles to the more general objectives and consequences of federal policies. Perhaps he had in mind cuts in those categories of aid to cities that most benefit poor Afro-Americans,<sup>42</sup> the establishing of public images of mean-spiritedness, encouragement of racial stereotypes<sup>43</sup> and the fostering of racially co-optive strategies.<sup>44</sup> Such freedom is generally lacking in the American news and intellectual media, in part because it is blocked by the concept of an "issue" needing to rest on nothing more substantive than an opposing public contention, irrespective of the content, plausibility or truth of the contention. To the media it is the existence of the contention that governs, not the accuracy of the depiction. Over time this can lead to a silent assumption in American public discourse that no plausible broad generalities exist. Such an assumption can especially arise concerning the appraisal of important national policies, particularly concerning the presence and causal responsibility for the existence of racism and actions with racist consequences. In this respect, if Mitterand's observations were taken seriously enough to be incorporated into the national public discourse<sup>45</sup> they would have at least momentarily raised the tone of such discourse about race in America, whether he was right (as this author believes, in the main) or wrong.

From the 1920's through recent years many Europeans, including the French, often had stark, direct and harsh images of how the United

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MAXIM SILVERMAN, *DECONSTRUCTING THE NATION: EMIGRATION, RACISM AND CITIZENSHIP IN MODERN FRANCE* (1992).

42. For example, cuts in food stamps, and arguing in support of the tax exempt status of Bob Jones University. See *A COMMON DESTINY - BLACKS AND AMERICAN SOCIETY* ch. 6 (Gerald D. Jaynes & Robin M. Williams, Jr. eds. 1989).

43. For example, the use of Willie Horton during the 1988 Presidential campaign.

44. For example, the Clarence Thomas confirmation hearings.

45. Not only does there appear to be no evidence that his observations were taken seriously, but in apparent reaction to the least suspicion of administration responsibilities, the Bush administration assigned the blame for Los Angeles to the 1960's programs of the war on poverty presumably fostered by Democrats. See Ann Devroy, *White House Blames Liberal Programs for Unrest; 'Great Society' Initiatives Started in 1960s are at Root of Many Problems, Fitzwater Says*, WASH. POST, May 5, 1992, at A8.

States treated Black people. The directness of those images, from personal experience, was sometimes a jolt even to Afro-Americans traveling or living in Europe at the time. A generalized pattern of national racism was freely drawn, including for example, the confirmations of lynchings and chaingangs in the South and race riots and widely-deprived political and economic rights in the North. The jolt was not that such conclusions were false—they were, upon reflection, often more true than not. Rather the jolt came because they were pulled together and drawn on that scale *and national official responsibility assigned*, rather than being moderated in the soup of myriads of softening issues such as private discretion versus official action.

One can argue that those conclusions rested in part on the comparative absence of racism in Europe, confirmed by both expatriate Afro-American literature and exiles voting with their feet (even though some, after suitable recuperation, did return to the United States).<sup>46</sup> It might also be observed that contributing to such conclusions were French academic tendencies to view racism in a psychological framework, with some focus on blacks' reaction to oppression and exclusion and the structures contained in culture that support racism.<sup>47</sup> The sharpness of views about American life had its points of accuracy and points of omis-

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46. See *supra* note 40 and accompanying text. The references to racism in this Article are to the racism of color, the racism that is directed toward peoples of African heritage. Clearly, the comparative (to the United States) strains—both historically and in the 20th century—of anti-semitism in France, Nazi Germany and elsewhere in Europe. A discussion of anti-semitism as racism is beyond the scope of this article. However, *cf. infra* note 47.

47. JACQUES LACAN, *THE FOUR FUNDAMENTAL CONCEPTS OF PSYCHO-ANALYSIS* (Norton Paper 1981). Lacan rejects an explanation rooted in history to account for the rise of Nazism and the holocaust. He instead would find a psychoanalytic explanation in (1) the difficulty of even confronting ("turning a courageous gaze toward the phenomenon") the subject, and (2) such difficulty being rooted in the reluctance to move beyond "the fascination of the sacrifice in itself" that Nazism and the holocaust represent and the attempt to ascribe our own desires in this regard to the presence of an Other whom Lacan calls "the dark God." *Id.* at 274-75.

Similarly, Henri Lefebvre finds an explanation for the "Hitlerian mystique" in "the rejection of everyday life - of work, of happiness - a mass phenomenon, a malady of the decaying middle classes, a collective neurosis (where in France it was merely an individual phenomenon) . . ." See Henri Lefebvre, *Critique of Everyday Life* 130-31, 242, 245 (Moore trans., 1992). He finds the struggle for the meaning of Auschwitz to rest on the efforts of its survivors "to go back in time, back to . . . the suffering which killed their feelings and their power to remember, in order to recapture the things the 'objective' reports have been unable to grasp." *Id.* at 242. Lefebvre, in arguing that the meaning of everyday life is found in the dialectic between reason and absurdity, concludes by then extracting, from a host of other possible meanings, including that of Hitler's sadism, a "dominant, essential meaning" for those concentration camps: "if racism represents the most extreme form of capitalism, the concentration camp is the most extreme and paroxysmal form of a modern housing estate, or of an industrial town." *Id.* at 245.

Further, in a rich interpretation of Derrida, Geoffrey Bennington cites Derrida as showing a synthesis between Freud and Moses in their both being lawgivers and both needing the other to be fully understood. Bennington finds these perceptions applicable to the work of Martin Bernal in the United States as Bernal argues against "the systematic repression of the Afroasiatic and more especially Egyptian roots of Ancient Greece." He finds an identity between Bernal's work and Bernal's uncertainty as to whether he may be "an academic outsider," and links that uncertainty to the creative substance of Bernal's work. See *Mosaic Fragment: if Derrida were an Egyptian . . .*, in DERRIDA: A CRITICAL READER, 97-119, 114-15 (David Wood, ed., 1992).

sion and distortion (e.g., Capone gangsterism in Chicago). These views were perhaps somewhat moderated over the years when the news of the successes of the civil rights movement and the consequent federal legislation was digested in French public attitudes. However, again from personal experience, such digestion occurred in the early 1960's in the context of racism against Algerians by large sections of conservative French people concerning the Algerian war.

It is in this context that President Mitterand offered his conclusions of the causal responsibility of national American policy for the racism at the heart of the civil breakdown in Los Angeles. In so doing, he directly connected Los Angeles to the question of whether there is a general national American condition of widespread oppression of Afro-Americans (and implicitly other peoples of color) by whites and the white-dominated official establishment. It is a valuable, bracing and invigorating question with an obvious answer to most Afro-Americans. Unfortunately, its reception in American public discourse would feature massive resources deployed to attack the validity of the question to escape answering it on its own terms. In fact, the Bush Administration's substantive response was to blame Los Angeles on the Democrats' social programs of the 1960's!<sup>48</sup> Mitterand's action represents a valuable public policy opportunity for the United States created from the ashes of Los Angeles; it is rapidly being lost.

But Mitterand's, and the more general historical French, conclusions also represent a strongly implied conclusion of legitimacy and morality, and thus of international law. The determination that Afro-Americans have internationally perceptible human rights permits outside scrutiny for protection of those rights. That protection implies at least drawing conclusions of legally-cognizable wrongdoing and assigning public responsibility to the United States government and other elites as the violators.<sup>49</sup> This is important because Afro-America is a completely encapsulated group within the only remaining great power, with the presumed competence to regulate its own internal affairs as an incidence of its great power status. Absent perhaps Holocaust-like genocide, or organized racial slavery, traditional international law tends to screen from international view the treatment by the United States government (and theoretically, any government) of its constituent peoples. Minorities are assigned only such international standing as the national government consents to allow them<sup>50</sup>. Mitterand's statement is thus yet another harbinger of the continuing erosion of the traditional Westphalian model of international law. It is a harbinger of evolution toward some future model where constituent peoples have international rights against maltreatment by their national governments, rights that foreign actors have some obligation to help protect and enforce.

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48. See *supra* note 45.

49. Cf. AMNESTY INTERNATIONAL REPORT—A COMPREHENSIVE REPORT ON HUMAN RIGHTS VIOLATIONS AROUND THE WORLD 268-71 (1992).

50. See generally James Crawford, *The Rights of Peoples: 'Peoples' or 'Governments'?*, in THE RIGHTS OF PEOPLES at 60-61 (James Crawford ed., 1988).

## V. COMPARATIVE CLAIMS AND CAUSALITY - SOUTH KOREA

The President of South Korea expressed his country's concern on somewhat different grounds than President Mitterand. He officially conveyed his concern to the United States government for (1) attacks by Afro-Americans on Korean citizens and immigrants; (2) the inability of the Los Angeles police to protect Koreans in those circumstances; (3) the assertion of a legal duty of the United States to protect the South Korean Consulate from attack, and implied fault for its inability to do so; and (4) the lack of effective state remedies for Koreans harmed or damaged in these circumstances.<sup>51</sup>

Those claims by the Korean government raise two questions of possible United States responsibility under international law. The first is whether the United States might be liable for a denial of justice to Korea or its citizens or kinfolk. The second is whether the United States might be liable through some other breach under the doctrine of state responsibility. Both of these delicts can only be made out by a close examination of the facts surrounding any lack of protection in the riot regarding any or all Koreans. A charge of denial of justice would generally be founded on either the lack or the inadequacy of judicial or other remedies at law to compensate the victims, provided their harm was of a sort perceptible under international law.<sup>52</sup> Otherwise a violation of United States' obligations towards Korea could be based on the lack or inadequacy of police protection available to Koreans either in reasonable anticipation of the riot or during its course.<sup>53</sup>

The United States thus faces potential liability under international law from at least two directions. It faces possible liability to Korea and is also potentially liable to the majority of residents of South Central Los Angeles, and to Rodney King, for continuing violations of a list of their international human rights. The latter include rights to due process, to be treated fairly during an arrest and to be free of state-administered arbitrary physical abuse.<sup>54</sup> Residents of the barrios and ghettos of Los Angeles can well argue that their rights to equal protection, to work, to an education, to adequate food and health care, to adequate housing, to essential social services and other rights under both international customary and treaty law were, and are, violated on a continuing basis.<sup>55</sup> However, the application and enforcement of United States liability and the benefits of these rights to their holders may present different issues.

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51. *World Reacts with Shock and Criticism to Los Angeles Riots*, *supra* note 33, at A8.

52. See IAN BROWNLIE, *PRINCIPLES OF PUBLIC INTERNATIONAL LAW* (4th ed. 1990); D. P. O'CONNELL, 2 *INTERNATIONAL LAW*, 1025-29 (1965).

53. O'CONNELL, *supra* note 52, at 1028.

54. These and other first generation rights have passed into customary law and can therefore be argued as binding on the United States. They are codified in the CONVENTION AGAINST TORTURE AND OTHER CRUEL INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT, *supra* note 3.

55. G.A. Res. 2200, U.N. GAOR, 21st Sess., Supp. No. 16, at 52, U.N. Doc. A/6316 (1967), reprinted in 6 *I.L.M.* 368 (1967); *International Covenant on Economic, Social and Cultural Rights*, G.A. Res. 2200, U.N. GAOR, 21st Sess., Supp. No. 16, at 49, U.N. Doc. A/6316 (1967), reprinted in 6 *I.L.M.* 360 (1967).

The President of South Korea stopped short of a full invocation of United States' liability under doctrines of state responsibility regarding harm to South Korean persons or property during the riots.<sup>56</sup> In so doing he practiced what was, relative to his country's interests, probably wise diplomacy. Additionally he at least implicitly accepted the premise that under international law the riots (as they produced harm to South Koreans) were beyond the immediate control of any reasonable action by Washington (or pertinent local California government). He also implicitly accepted the premise that during the riots, the police in Los Angeles at crucial moments were overwhelmed rather than derelict in their duties. Thus, South Korea did not invoke Mitterand's internal policy causal responsibility between Washington and aggrieved American citizens. Rather, South Korea laid the basis for the legal responsibility of the United States as a nation vis-a-vis Korea and other states whose nationals in Los Angeles were harmed during the riots. The latter is the more traditional claim under both diplomatic practice and international law.<sup>57</sup> But again, that claim is one which historically has been made against events and public order breakdowns in non-industrialized developing countries by the United States or European governments.

In President Bush's speech of May 1, 1992, his first after the riot, there was no reference to any international concerns, consequences or expectations about the events in Los Angeles.<sup>58</sup> However, at about the same time, a British newspaper article directly linked Los Angeles to an American "conspiracy of silence" on race, and the use of "codewords" about Afro-Americans,<sup>59</sup> concepts not touched by the great majority of American media. The article coupled a discussion of the notion of a "conspiracy of silence" with an open judgment that the remedies suggested by President Bush for Los Angeles were "characteristically useless."<sup>60</sup> Similar vocabulary is not often used by the American press about any president. The article closed with a discussion of the ingrained nature of racism in American politics. The latter is to be contrasted with President Bush's limited acknowledgment in the same speech that some racial discrimination just might exist in the United States.<sup>61</sup> The British article, like President Mitterand, was inclined to assess the entire American process and to draw conclusions of general applicability, specifically on matters of race. The article went further, however, to analyze part of America's causal responsibility for Los Angeles as being fostered by a national silence in public discourse (read, among white elites) about any meaningful discussion about racism.

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56. *World Reacts with Shock and Criticism to Los Angeles Riots*, *supra* note 33, at A8.

57. O'CONNELL, *supra* note 52, at 1024-41.

58. *Text of Bush Speech on the Los Angeles Riots*, Reuters, May 1, 1992, available in LEXIS, Nexis Library, WIRES file.

59. *USA: Andrew Stephens America - Bush Plays The Prince of Wails - Reaction to Los Angeles Riots*, THE LONDON OBSERVER, May 10, 1992, at 13.

60. *Id.*

61. *Id.*

## VI. THE VATICAN

The Vatican also responded to the Los Angeles riots. Pope John Paul II issued a statement wherein he called for civil harmony, and for sympathy and prayers for those hurt during the disturbances.<sup>62</sup> However, within the past several years, the Pope through papal letters and encyclicals has apparently sought to bring pervasive global economic, social and political problems and allocations of resources under the scrutiny of moral criteria. This has included the defining of injustice and assigning blame to particular states.<sup>63</sup>

In light of this demonstrated asserted competence to analyze and exercise moral authority, the Pope's response to Los Angeles is intensely interesting when compared with that of President Mitterand. By calling only for civil harmony, the Pope gave authority to United States political officials to resolve the situation under current American law and policy. He provided neither moral criteria for doing so nor for any normative assessment of United States law and policy. Unlike that of Mitterand, the statement comprised a *de facto* refusal to look into the details of the riots or their policy context. It also refused to identify and raise questions about domination and exploitation of peoples of color as a contributing factor, or to assess any questions of injustice raised by such details and patterns. One must ask whether such reticence stemmed from simply the low priority assigned by the Vatican to Los Angeles, a fearful respect for the possible retaliatory power of the United States or a subtle conclusion that more central discipline by national governments is needed to confront social problems irrespective of issues of domination and exploitation. The conclusion that, in response to Los Angeles, President Mitterand exercised greater moral international leadership than did the Pope is difficult to escape.

VII. REACTION FROM THE SOUTHERN TIER<sup>64</sup>

## A. Iraq

In light of Iraq's defeat by a United States-led coalition operating under United Nations authority in 1991, and its subsequent testing of the limits under both international law and practical competence of Security Council enforcement options under Chapter VII of the United Nations Charter, Baghdad's response to Los Angeles deserves some exploration. Iraq's strategy was to characterize Los Angeles as a massive violation of international human rights by the United States which threatened international peace and security. In this regard it sought an emergency meeting of the United Nations Security Council. Acting

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62. *Pope, Saddened by L.A. Riots, Urges Halt*, Reuters, May 1, 1992, available in LEXIS, Nexis Library, WIRES file.

63. *See, e.g.*, CENTESIMUS ANNUS, Chapter 4, May 2, 1991, reprinted in 21 ORIGINS, May 16, 1991, at 1.

64. The Southern Tier refers to the fact that the majority of developing countries lie in the Southern Hemispheres of the global community. *See, e.g.*, BARBARA WARD, THE RICH NATIONS AND THE POOR NATIONS 40 (1962); *see also* ATTALI, *supra* note 5, at 12-17.



through an informal but known consensus among the five Permanent Members plus others, the Council refused to call such a meeting.<sup>65</sup> The consensus was so sweeping that the President of the Council did not feel obliged, in response to inquiries, to state reasons for the Council's refusal to meet.<sup>66</sup> Thus whether the decision rested on a belief that under these circumstances Los Angeles lay too deeply within the domestic jurisdiction of the United States to be within the competence of the Council, that Los Angeles produced insufficiently concrete international consequences to attract the Council's jurisdiction or was insufficient in some other way that cannot be ascertained. In any case, the width and strength of the informal Council consensus obviated any Council vote to even decide against such an emergency meeting.<sup>67</sup>

The Bush administration cannot have been displeased about one immediate *de facto* consequence of this effective bar to Security Council consideration: it upheld the previously-noted United States unstated policy objective of shielding racial discrimination involving Black Americans and Black America by official or private agencies from official United Nations scrutiny and action.<sup>68</sup> Mobilizing the power to bar such questions from the agenda of key international organizations is one of the signatures of a "superpower."

But in light of other parallels with "third world" countries to the emerging global posture of the United States, one wonders how long this superpower perquisite can remain effective. Furthermore, conditions of massive human despair and deprivation with clear and substantial human rights violations exist not only in Los Angeles but in many cities around the world. It would indeed be desirable policy for the national governments of those cities to be the continuing subject of official international scrutiny in the United Nations, the International Monetary Fund and other organizations that promise effective leverage and law-making authority to remedy such human deprivation.

It must be noted that it was easier for the United States to protect its exclusionary interests in the Security Council simply because Iraq was the adversary. Iraq was a current wrongdoer under international law, particularly under Security Council resolutions enacted under Chapter VII of the United Nations Charter.<sup>69</sup> Further, regarding the aftermath

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65. Anthony Goodman, *U.N. Spurns Iraqi Bid for Meeting on L.A. Riots*, Reuters, May 5, 1992, available in LEXIS, Nexis Library, WIRES file.

66. *Id.*

67. *Id.*

68. See *supra* text accompanying footnotes 20 to 30.

69. U.N. S.C. Res. 664, 35th Sess., 2937th mtg., (Aug. 18, 1990) (requires Iraq to permit third country nationals to depart from Iraq and Kuwait and to rescind orders requiring closure of diplomatic and consular missions in Kuwait); U.N. S.C. Res. 665, 35th Sess., 2938th mtg., (Aug. 25, 1990) (endorses naval blockade of Iraq and Kuwait); U.N. S.C. Res. 666, 35th Sess., 2939th mtg., (Sep. 13, 1990) (asks Secretary General to obtain information regarding humanitarian needs created by sanctions); U.N. S.C. Res. 667, 35th Sess., 2940th mtg., (Sep. 16, 1990) (condemns aggressive acts by Iraq against diplomatic premises and personnel in Kuwait; demands release of foreign nationals); U.N. S.C. Res. 674, 35th Sess., 2951st mtg., (Oct. 29, 1990) (deals with hostage protection); U.N. S.C. Res. 677, 35th Sess., 2962d mtg., (Nov. 28, 1990) (condemns Iraq for attempting to

of its military defeat, Iraq was waging an open campaign counterattacking the United States, the United Nations and the imposition of United Nations' sanctions through the Security Council.<sup>70</sup> In its request for a Security Council meeting, Iraq arguably did not sufficiently connect Los Angeles, as a United States violation of international human rights, to a particular threat such violation posed to international peace and security. The United Nations Charter only provides for Security Council action when such threat exists.<sup>71</sup> Moreover, Iraq obviously did not come to the table with clean hands in light of its documented and often egregious human rights violations against the Kurds in the northern part of its territory and the Sh'ites in the south.<sup>72</sup> Another factor was the increased influence enjoyed by the United States in the Security Council since the demise of the Soviet Union and the success of Desert Storm built around United States military resources and leadership.

On the other hand, deprivations of Afro-Americans, as grounds for legal claims against the United States by Iraq and others previously would not have been remotely credible. Now, however, such claims are based on a wellspring of international expectations that Afro-Americans do have internationally-protectable rights that are appropriate subjects of international scrutiny.<sup>73</sup> As such these rights should be protected as against the United States government and even against private discriminatory action.<sup>74</sup> These expectations are widespread notwithstanding Iraq's invocation for propaganda use. In this connection, it is interesting that Iraq inverted the conventional wisdom that over time the foreign policy of a state generally mirrors that state's domestic policy. Baghdad asserted that America's *aggressive foreign policy caused* the Los Angeles riots.<sup>75</sup> That assertion was clearly made for propaganda purposes. But its availability, even for those purposes, is yet another indication of the rapidly intensifying global interdependence of the international community and the dissolution of traditional distinctions

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change demographic composition of Kuwait and to destroy civil sector); U.N. S.C. Res. 678, 35th Sess., 2963rd mtg., (Nov. 29, 1990) (sets out allied coalition terms for lifting economic sanctions).

70. For example, the Iraqi government purposely slowed down nuclear inspections which U.N. officials were attempting to conduct in Iraq following the end of the war.

71. See Article 39 of the U.N. Charter, which states:

The Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security.

U.N. CHARTER art. 39.

72. *AFTER THE WAR; Unrest in Iraq Reported to Have Spread From Basra to Three Other Cities*, N.Y. TIMES, Mar. 5, 1991, at A1.

73. See YUSSUF KLY, *INTERNATIONAL LAW AND THE BLACK MINORITY IN THE U.S.* (1985); Henry Richardson, *The Gulf Crisis and African-American Interests Under International Law*, 87 AM. J. INT'L L. —, at n.3 (forthcoming 1993); see also, the International Convention on the Elimination of all Forms of Racial Discrimination, Jan. 19, 1966, art. 2, 4, 5, 660 U.N.T.S. 195, reprinted in, 5 I.L.M. 352 (1966).

74. International Convention on the Elimination of all Forms of Racial Discrimination, Jan. 19, 1966, art. 2,4,5, 660 U.N.T.S. 195, reprinted in, 5 I.L.M. 352 (1966).

75. *Iraq asks Security Council to Meet on Los Angeles Riots*, XINHUA GENERAL NEWS SERVICE, May 5, 1992, available in LEXIS, Nexis Library.

between domestic and foreign policymaking in *any* state. Further, this idea is not a new one regarding the relationship of peoples of color to the United States. It recalls the claim by Afro-Americans in World War I that United States imperialism in the Spanish-American War, the Philippines and other American outreaches in Haiti and Europe helped produce the "scientization" of American racism by importing, codifying and justifying racist ideas and support from colonial experiences and alliances abroad.<sup>76</sup>

## B. Libya

Libya, another consistent and public third world opponent of the United States, also issued a public statement on Los Angeles, though somewhat different in content than those from Iraq. Libya analogized the actions of Afro-Americans in the riots to the Palestinian liberation struggle against Israel and characterized them as the "black intifada."<sup>77</sup> This translates into the claim under international law that Afro-America comprises a "people," as do the Palestinians. That status serves as the basis for international legal rights of self determination and protection from official national reprisal for actions connected to their struggle for liberation.<sup>78</sup> Note that Libya also made this claim with less than clean hands regarding its mixed record of aiding liberation movements and supporting groups whose aims and activities can only be called terrorist. Also recall that in the recent past it has been the subject of military reprisals by the United States. Thus Khaddafi's objectives here were undoubtedly propagandistic.

This understood, we note that Libya's characterization of Afro-America as a people under international law with a right of self determination strikes a resonant chord in Afro-American history. Some of its leaders and their followers have made identical claims through the present day.<sup>79</sup> Simultaneously, such a characterization would be taken by numbers of Afro-Americans as expressing a greater degree of alienation from dominant American society than is comfortable, and they would not push Afro-American identity so far in that direction.<sup>80</sup> This division

76. Francis M. Beal & Ty dePass, *African-American Opposition to War - Past and Present*, CROSSROADS, Feb. 19, 1991, at 5-6.

77. *World Reacts with Shock and Criticism to Los Angeles Riots*, *supra* note 33, at A8.

78. G.A. Res. 1514, U.N. GAOR, 15th Sess., Supp. 2, at 188, U.N. Doc. A/4494 (1960) (contains the Declaration on Granting of Independence to Colonial Countries and Peoples which encompasses the principle of self-determination through the free and genuine expression of the will of the people as a territory).

79. *See generally*, MALCOLM X SPEAKS (George Breitman, ed., 1965); E. U. ESSIEN-UDOM, *BLACK NATIONALISM, A SEARCH FOR IDENTITY IN AMERICA* (1962); PAUL ROBESON, *HERE I STAND* (1958). The current resurgence of admiration for Malcolm X in the Black community can be safely taken as some evidence of admiration for his ideas in this regard. *See also* MALCOLM X: SPEECHES AT HARVARD 161-82, (Archie Epps ed., 1968); MALCOLM X: THE LAST SPEECHES 111-81, (Bruce Perry ed., 1989).

80. Afro-American peoplehood implies that black Americans may in their authentic decisions about their own political destiny, where necessary, depart from or at least severely question basic principles of United States' foreign policy and domestic policy. Where U.S. policy principles diverge from Afro-America's sense of its own welfare, there have long been competing views in the black community around such questions. An im-

of interpretation in the Afro-American international tradition is an integral part of Black History.<sup>81</sup>

Neither the Libyan nor the Iraqi reactions to Los Angeles, nor that from European commentators, can be *solely* understood through the notion that America must be held under international expectations to the obligation of living up to its own principles and ideals. Under another body of expectations, the justice involved, constitutionally and otherwise, in the economic, political and cultural representation of the peoples of each country vis-a-vis its central government must be assessed by the international community for the continuation of that government's authority. There has also appeared in international law a right to representative government,<sup>82</sup> which right, like any other, may be invoked by any international actor in a position to do so for a range of purposes, desirable or otherwise. Clearly this new right claims part of its legal provenance from American ideals and constitutionalism as they have spread globally. This right is now being invoked by peoples beyond Eastern Europe and the Soviet Union.<sup>83</sup> It places a burden on those who would deny its application to encapsulated peoples within established states, such as Afro-Americans and other peoples of color within the United States. They must explain why it remains supremely important that such expectations continue to be barred by territorial borders as a matter of law, notwithstanding an intensifying global interdependence that percolates through all national states across the full value spectrum of human aims and resources. In response to Los Angeles, one Spanish commentator crystallized at least part of this burden by stating that Los Angeles is a frank recognition of a *global* trend where "white minorities are getting richer and masses of dark and yellow skin peoples every day are worse off, poorer and pushed toward despair."<sup>84</sup>

### C. Africa

It was left to African commentators to explicitly hold America up to the obligation to obey its own ideals of justice, and to strongly characterize Los Angeles as having violated that obligation. This was the view in Cameroon.<sup>85</sup> It was also the view in Benin,<sup>86</sup> but in a wider context of

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portant competing viewpoint is that Afro-American liberation will occur through their supporting U.S. foreign and military policy and even the broad outline of domestic policy in order to perfect claims for the maximum enforcement of their civil rights under the United States Constitution.

Personal decisions by individual Afro-Americans in the American political process bear on their comfort-level regarding both challenges and loyalties to either of these interpretations. See Richardson, *supra* note 73.

81. *Id.*

82. Thomas M. Franck, *The Emerging Right to Democratic Governance*, 86 AM. J. INT'L L. 46 (1992).

83. *Military Resists Political Change in Togo*, CHRISTIAN SCI. MONITOR, Mar. 26, 1992, at 4; *Pope Urges Leader to Uphold Rights*, N.Y. TIMES, Aug. 11, 1985, § 1, at 13.

84. *World Reacts with Shock and Criticism to Los Angeles Riots*, *supra* note 33, at A8.

85. Tshenko Lopala, *Injustice Américaine*, JEUNE AFRIQUE, May 28-June 3, 1992, at 61.

86. Nassirou Malam Issa, *Los Angeles: Et si la Victime Avait Ete un Blanc. . . ?*, JEUNE AFRIQUE, May 28 - June 3, 1992, at 61.

criticizing the United States for doing so by adopting inconsistent standards for judging and punishing Libya and Iraq while refusing to act against Israel for violating Resolution 242.<sup>87</sup> The Benin reaction further found these inconsistencies all of a piece with the racism in the Los Angeles acquittals.<sup>88</sup> This reaction represents the assertion of a further obligation on the United States, and perhaps on other, or perhaps only on other *major* states as well: that domestic and foreign policy must be conducted with consistency under principles of justice.

Such an obligation would be particularly applied to the United States for holding itself out (especially during the last two Presidential administrations) to be the global repository of standards of democracy and justice. Throughout most of the 20th century, this American claim has been one strategy through which it projected influence and postures of moral grace around the world, particularly regarding the character of national governments in countries where identified United States interests came to the fore. During the Cold War, the Soviet Union was the convenient foil for this strategy. Now that foil has disappeared, and it remains to be seen whether the United States as the sole purported great power may successfully project the same claims as keeper of the standards of justice, when the international community is now free to more closely examine their content free from comparative Cold War baggage. The new international legal right to representative government may well be defined by the democracy of the international community and not the democracy of the United States.

But just as the black slaves, cooks, maids and handymen have always had special insights about the politics of the "big house" of the plantation owner, one may expect African peoples and peoples of African descent to have special insights into and relationships to American claims about projecting global standards of justice, particularly as those standards are applied to themselves. Thus a Nigerian commentator noted starkly that Los Angeles demonstrates that decades of civil rights activity by the black community in the United States have yielded little fruit.<sup>89</sup>

A second Nigerian commentator put Los Angeles within a spectrum of legal events in the United States from the Noriega trial through the Mike Tyson trial and the Clarence Thomas hearings. He concluded that "American justice is being replaced by legal gymnastics."<sup>90</sup> He also noted that the United States used to be the model and refuge of those escaping injustice, but the treatment of Rodney King was just another example in a global phenomenon of denying the humanity of black men.<sup>91</sup> The appearance of European racism, he continued, represents not a new phenomenon but merely a lowering of barriers to enable the

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87. S.C. Res. 242, U.N. SCOR, 1382d mtg., at 42, U.N. Doc. S/8289 (1967) (sets out principles for a peaceful settlement of the Arab-Israeli conflict).

88. Issa, *supra* note 86, at 61.

89. Obie Chukwumba, *March of Fury*, AFRICAN CONCORD, May 11, 1992, at 42.

90. Obi Lewis, *The Blind Jurors of L.A.*, AFRICAN CONCORD, May 18, 1992, at 54.

91. *Id.*

world to see the underlying truth.<sup>92</sup> The comment then ended with an approximation—though wider in reference—of the Iraq claim before the United Nations Security Council: “the injustice being dispensed through racial prejudice is dangerous for world peace.”<sup>93</sup> One thread of linkage and commonality may be noted: W.E.B. DuBois’ prediction that the global problem of the 20th century will be the color line, provides at least part—a necessary part—of understanding the intellectual and policy structure of international reactions to Los Angeles.<sup>94</sup>

#### VIII. PROJECTION OF TRENDS INTO THE FUTURE

We have seen that international reactions to Los Angeles ranged from ascribing direct policy causality to Washington for the riots to more ambiguous calls for undefined civil harmony on some unspecified foundation of American power, wealth and other value and legal arrangements. They include attempted enforcement of the American obligation to follow its own principles of justice and a designation of Los Angeles as part of a global phenomenon of racism threatening world peace. It should also be recalled that Los Angeles and its progeny are happening during a decade of resurgent conservative political aggression, *inter alia*, pushing business and financial ideology, supporting language usage, legal protection, social privileges and respectability and the devolution of social responsibility from government to corporate decisionmakers under the guise of “individual responsibility.”<sup>95</sup> This has occurred not only in the United States but throughout much of the international community under heavy Euro-influence, including the decisionmaking of key international financial institutions such as the World Bank and the International Monetary Fund.<sup>96</sup> The impact can be registered, for example, in a clear decade-long trend of many developing countries, under international inducement or economic coercion, revising their investment codes to make them more hospitable to incoming multinational corporations as a primary development strategy.<sup>97</sup> When this is added to similar trends in Britain, Japan and Ger-

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92. *Id.*

93. *Id.*

94. See II THE SEVENTH SON: THE THOUGHTS AND WRITINGS OF W.E.B. DUBOIS 72 (J. Leslor ed., 1971).

95. The insertion of the “bottom line” and “sole responsibility” for the problems of the third world countries’ concepts are examples. No “bottom line” as a wide analytical concept translates into business and commercial terms which cause damage to many third world countries. The “sole responsibility” concept places the blame for the distress of the third world countries on their own governments. This concept is inaccurate but borrows the American ideals of the frontier individual and translates it into an international system in order to give Western developed countries more leverage in aid negotiations and debt relief negotiations.

96. ANTHONY SAMPSON, THE MONEY LENDERS 126-32 (1981).

97. See, e.g., *Algeria Taking Steps to Attract Foreign Money*, AM. BANKER-BOND BUYER, Sept. 23, 1991, at 3; Jeff Hawkins, *Cameroon Puts Out Welcome Mat for Foreign Investment with New Code*, U.S. GOV'T PRINTING OFFICE, March 11, 1991, available in LEXIS, Nexis Library, MAGS file; David Housego, *India May Ease Investment Laws*, FIN. TIMES, June 26, 1991, at 4; Greg Hutchison, *Philippines Moves to Attract Foreign Investors*, FIN. TIMES, April 26, 1991, at 36; Kelly S. Nelson, *Resume Normal Relations with Vietnam*, THE CHRISTIAN SCI. MONITOR,

many and to the rise of notions of free enterprise economies as the sole route and condition for protecting basic human rights, the responsibility of corporate-oriented public policy and its decisionmakers for Los Angeles becomes more apparent. Shrill assertions of individual criminal or other personal responsibility as *sole* explanations for destruction of property, rebellion against existing authority and loss of life acquire more than a taint of fraud.

Thus the question arises of how to understand the Los Angeles riots in the context of the mighty struggle by international capitalism. This struggle is not only to externalize the profits and expansive arrangements of international capital through international legal and national policy systems, but also to internalize within the human mind its privileges through a push to, *inter alia*, modify the moral imperatives pertinent to peoples of color. Such peoples are thus to be made the ungrateful aggressors against a beneficent national and international system, which in its beneficence can assume no responsibility for their systemic or individual oppression. The "kind and gentle" system seeks to enforce false premises by not only attempting to subvert notions of justice, but through equal subversion of usages of language and regulation of standards of legitimate reasoning and knowledge.

The question for Afro-Americans and other peoples of color encapsulated in the United States may be the nature of the signal Los Angeles sends about, in the formulation of Jacques Attali,<sup>98</sup> America's role in the emerging Japanese-America-European Economic Community triad: whether these globally influential core societies will emerge as equal partners or even viable economies without resolving fundamental questions of racism and sexism towards their encapsulated peoples, injustice towards outsiders and other systemic oppression in each of their communities. This question cannot be separated from the relationship in the international community of these core states to their peripheries: Latin America for the United States, Africa for Europe and South Asia for Japan. The question is whether Attali's depressing Hobbesian vision of this relationship as nasty, brutish in its exploitation (except for favored and nomadic elites in periphery countries), and without much hope that the peoples of the periphery can equitably share, or be allowed to share in global development and resources equal to those of the core states, will accurately explain the transition to the 21st century.

But the periphery is not merely something "foreign, out there." Global interdependence brings periphery demands, resources, imperatives and moral and legal expectations into the triad, not least the United States. Los Angeles, notwithstanding its territorial location, is the periphery. Its demand for a massive reallocation of economic opportunities, infrastructure, respect for peoples of color, new approaches

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May 14, 1992, at 18; see also Paul Peters, *Investment Risk and Trust: The Role of International Law*, reprinted in *INTERNATIONAL LAW AND DEVELOPMENT* 131-54 (Paul De Waart et al. eds., 1988).

98. See ATTALI, *supra* note 5, ch. 3.

to knowledge and reasoning and supporting rights and legal principles, comprise a demand from the periphery only slightly removed.<sup>99</sup> If the American response to Los Angeles decisively moves towards such reallocations and perceives that America has become a truly plural society, whether its elites so wish it or not, then a beacon might be lit in Attali's sea of gloom for justice in triad policies towards the peripheries.

The more immediate issue concerns the international legal system's current struggle to accommodate the push of international capital,<sup>100</sup> and still address with justice the political, economic, developmental, equitable and environmental needs of *all* peoples in the international community. Can law play a role in relieving Attali's pessimism about the slim chances for the equitable development of peoples in the periphery states? The issue, regarding law and the constitutive structure of the international community in the emergence of any new world order, may revolve in part around the current wave of proposed revisions of the United Nations Charter and reforms of the United Nations system. These proposals tend towards more stable funding and provision of military forces available for peacekeeping, enlargement of the Security Council to add more Permanent Members, reform of the Secretariat for economy and efficiency, a United Nations Development Security Council to address with higher priority international development needs and re-examination of the authority of the Secretary-General.<sup>101</sup>

Will such reforms, to the extent they are authoritatively enacted into law, create or help create rights and obligations to serve in relieving the plight of inner city residents in Los Angeles, London, Rio de Janeiro, Lagos or Mexico City, to name but a few? Will new foundations be laid for enforcing the full range of these peoples' international human rights as against their national governments, for attracting jobs and investment into those communities, for providing better safeguards against racist and other discriminatory law enforcement and national governmental resource allocation? Or will Charter reforms be blocked from such "domestic" application by the fearful Westphalian response of governments still reluctant to attain the competence to fairly represent *all* the peoples within their territorial boundaries? So far, there is little reason to believe that international corporate culture is equipped to realize how profoundly it must change to avoid a perpetual series of wars and attacks, of which Los Angeles was only one.

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99. See, e.g., DAVID RIEFF, *supra* note 7, at 31.

100. See Walter Russell Mead, *Bushism, Found A Second-Term Agenda Hidden In Trade Agreements*, HARPER'S, Sept. 1992, at 37 (presents a recent projection of trade related issues).

101. Paul Lewis, *U.N. Set to Debate Peacemaking Role*, N.Y. TIMES, Sept. 6, 1992 (Int'l), at 7.



