



GLOBALISATION AND INTERNATIONAL RELATIONS: OPPORTUNITIES AND THREATS FOR SOUTH AFRICA

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Abstract: ‘Globalisation’ is a popular term used by governments, businesses, academics and a range of diverse nongovernmental organisations. While national governments for many years dictated the international political and economic scene, international organisations such as the World Bank, International Monetary Fund (IMF), World Trade Organisation (WTO), New Partnership for Africa’s Development (NEPAD) and the African Union have become now significant role players. The main issues are how to tackle the challenges of globalisation and international trade and how we can ensure domestic growth and development in South Africa. While the present South African Constitution is, indeed, an admirable document which protects individual human rights, the international consensus is moving in the direction of incorporating ethnic minority rights as part of the main corpus of human rights jurisprudence. The call of the African Renaissance has, therefore, found fertile ground. It has come at a time when the political environment has been conducive. The objective, however, cannot be realised solely on a trade-investment-based approach. A balanced approach with an emphasis on human rights is required.

Keywords: globalisation; international trade; international legal obligations; right-based approach; human rights; moral values and balanced approach..

“Give a man a fish and he’ll eat for a day, but teach a man to fish and he’ll eat for a lifetime.” (It is only half true; if the man does not have the tools to fish nor a place to fish, all the knowledge in the world as well as the individual agency to act will not produce the next day’s catch.)

INTRODUCTION

‘Globalisation’ is a popular term used by governments, businesses, academics and a

range of diverse nongovernmental organisations. It also, however, signifies a new paradigm within global politics, legal and economic relations. While national governments for many years dictated the international political and economic scene, international organisations such as the World Bank, International Monetary Fund (IMF) and World Trade Organisation (WTO, 1995, p.830) have now become significant role players. In this ‘global village’, national governments have lost some of their importance and perhaps their powers in favour

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of these major international organisations. Globalisation has become the defining process of the present age (Khorr, 2003, p.49).

Within the variety of federal systems found around the world, there is at least one common denominator: there is more than one level or sphere of government with constitutionally allocated powers and functions. In these systems, the changes in the global or international relations referred to above have an additional effect on particular countries. It causes provinces or states to re-evaluate their role, particularly their role in international relations. Global matters – for example, the creation of a free trade area – impacts both the national and federal levels of government, as well as the provincial level.

Globalisation offers new challenges and opportunities for all developing countries. South Africa needs to utilise the new opportunities offered by reintegration into the world economy, both in terms of trade and foreign direct investment. This paper will, therefore, attempt to explore a trade-investment approach that must be balanced with human rights in the present world in the light of globalisation.

HISTORICAL BACKGROUND

When historians try to track the origins of globalisation, they most often go back to the end of the Second World War. The world was changing, the world economy was slowly starting to boom after the devastation of the wars and the leaders of the world were thinking of ways to ensure that no Third World War would ever break out (Bertelmann-Scott et al., 2002, p.20).

When compared to the dispensation before 1994, the present South African

Constitution, especially the Bill of Human Rights, provides for a completely new arrangement regarding the conduct of foreign affairs. The previous emphasis on dominant executive, prerogative powers, with practically no role for the judiciary and limited parliamentary involvement, has been replaced by a new order. In general terms, the present approach reflects the supremacy of the Constitution and its emphasis on the rule of law, democracy, transparency, accountability, judicial review and separation of powers (Erasmus, 2000, p.15). The political transition in South Africa also gave birth to a new internal structure of government involving all nine provinces with constitutionally protected powers with respect to legislation and administration.

It is no longer possible to speak in the South African context of three spheres of government (national, provincial and local). There is also a fourth sphere of government – supranational governance institutions that set rules governing state conduct, both nationally and provincially. Portraying supranational governance as the fourth sphere of government not only reflects the actual distribution of power, but also emphasises the imperative of sound intergovernmental relations and cooperative government between all four spheres. Because international governance impacts on human rights, the important principle of cooperative government – the duty to consult (s 41(1)(b) Constitution) before decisions are effectively made – must be adhered to. This entails that in practice, the national government must, with regard to multilateral investment agreements, be reviewed to insure that the provisions are consistent with human rights obligations – i.e., the Universal Declaration of Human Rights and other conventions.

Apartheid and communism failed in the end, mostly because they did not take

economic realities into account. Here also, state sovereignty was not strong enough to allow a government to do what it felt was right (obviously, the fact that both systems were immoral is immaterial to this argument) (Scholtz, 2000, p.56).

The point is that the idea of state sovereignty remained legal fiction which never existed unfettered in practice. The balance of military power, economic laws and geopolitics always conspired to limit state sovereignty to an extent that differed widely according to any given historical situation.

SOUTH AFRICA AND GLOBALISATION

It is clear that free trade is an agent of globalisation. It also became clear that those active participants in the globalisation process reap great benefits, including increased economic output and activity (International Monetary Fund, 2005).

Three 'threats', if one may call it that, come to mind:

- 1 The first threat is the economic globalisation of the world and the question is whether modern governments still have the power to direct their own economies in the way they used to a decade and longer ago. Governments will find it ever harder to regulate financial transactions across borders and control the flow of information and – perhaps even more importantly, options – across traditional national barriers. Money is being transferred as we speak from accounts in some places to accounts in other places without governments knowing about it and without tariffs or taxes being paid. People are exchanging information and views and influencing others. Dictatorships and undemocratic

governments may try to limit this as, for instance, China and Singapore are doing by intimidating internet providers, but this may very easily be evaded simply by entering through providers in other countries. The internet is truly the face of globalisation in the 21st century: unregulated and unregulatable.

- 2 The second threat is a new phenomenon: the intervention of the international community in the form of bodies such as the United Nations (UN) or the North Atlantic Treaty Organisation (NATO) in places like Bosnia (1995) and Kosovo, as well as the internationalisation of the prosecution of those who commit crimes against humanity. Armed intervention is something new. Examples of such intervention may be found in Somalia (1993–1994), East Timor (1999) and Sierra Leone (2000). The fact that there was no intervention during the genocide in Rwanda in 1994 is generally considered an indictment of the international community. Strictly speaking, this in itself boils down to the right of the international community, through the UN, to impinge on state sovereignty when the state in question does not comply with international human rights conventions.
- 3 The third threat is that there is the development of international and regional bodies such as the UN and allied organisations like the New Partnership for Africa's Development (NEPAD), the Southern African Development Community (SADC), African Union, etc. Does the growing importance of these phenomena not limit governments' freedom to manoeuvre in almost every respect? These questions are of great importance to governments worldwide simply because they have to know what the limits of practicality will allow.

SOUTH AFRICAN ECONOMIC GROWTH IN CONTEXT

The abolition of apartheid enhanced opportunities for economic growth mainly by the re-incorporation of South Africa into the world economy. The political transition eliminated the need to sustain large net outflows on capital on the account of the balance of payment to repay foreign loans and even brought the possibility of renewed capital inflows.

Economic growth has improved modestly and the manufacturing capital stock again shows some growth. The challenge now is to improve growth at least to pre-stagnation levels. Despite these improvements, some areas of economic concern with reference to human rights remain:

- reducing poverty with a view towards providing infrastructure and social services
- bridging the education gap with emphasis on upgrading facilities and strengthening universities
- providing healthcare services, making drugs accessible, eradicating diseases and building capacity for primary care systems and HIV/AIDS intervention
- the relationship between openness and inequality; it is the policies of governments that determine whether inequality rises or falls (Maasdorp, 2001, p.507).

MECHANISMS FOR CONDUCTING INTERNATIONAL TRADE

The international trade dispensation comprises the multilateral structure of the WTO, several regional trading arrangements and bilateral agreements. The WTO is a rule-based legal structure responsible for implementing different trades. There are two basic objectives (Erasmus, 2000, p.16):

- 1 lay down rules and standards for furthering liberal trade under conditions of fairness and nondiscrimination
- 2 create structures to implement these rules and provide for the settlement of trade disputes between states.

All these objectives are achieved through legal agreements between states and the main instrument for doing so is public international law. Its main manifestation is treaties and international agreements. Owing to the sovereignty of states (there is no world government), legal obligations binding states *inter se* can in principle only come about through treaties or customary international law. International trade law is, for all practical purposes, to be found in international agreements.

The implementation of international obligations does not end once an agreement has been concluded. The real practical issues depend on the domestic implementation of these international agreements. National legislation now becomes important.

The nature of these international rules involves negative (e.g., not to increase tariffs) as well as positive (e.g., protect trademarks domestically) obligations for a state. Domestic legislation is, therefore, an important aspect in the broader picture of international legislation.

Corporations or individuals (both foreign and local) rely on domestic legal rules for conducting trade. Failure to adopt the necessary legislation will impact negatively on the potential to trade and may involve violations of international obligations, for example, antidumping measures.

South Africa also has an important regional and international role (the African Renaissance), which includes:

- addressing the neglect of intra-African trade
- the link to good governance in African states
- the link to peace keeping, peace making and refugee problems
- how to secure investments through investment protection agreements.

TWO LEVELS OF LEGAL OBLIGATIONS

International legal obligations involve both interstate and intrastate dimensions. The first consists of international agreements that come about through a process involving negotiations (by government obligations), the signing of a text, a process of ratification and finally, implementation.

Ratification requires consent by a state to be bound by the agreement, since states are not automatically bound by international agreements.

RIGHTS-BASED APPROACH REQUIRED FOR NEPAD

Most recently, it has been said that less government and more business is probably the most sensible way to resolve Africa's conflict (Games, 2002, p.46). There is yet another paradigm shift that argues that a business or trade-investment approach must be balanced with the human rights approach as the plight of marginalised (African) people is addressed. In uncertain terms, this is what is espoused in the NEPAD document.¹ Surprisingly, amongst the NEPAD initiatives, there is no mention of human rights. Nevertheless, when the notion of human rights is expressed through the components of civil, political, economic and cultural rights (G8 Summit Document, 2002, p.2),

the NEPAD initiatives do appear to be quite similar to those stated components. Still, the absence of a 'human rights initiative' leads to a conclusion that there will be great dependence on a trade-investment-based approach towards (NEPAD) programme implementation. A human rights approach to implementing NEPAD is needed as well.

THE HUMAN RIGHTS CHALLENGES FOR THE AFRICAN UNION

On 9 July 2002, the African Union was launched at an event that "marshalled a record attendance of 43 heads of state from across the continent" (Heyns and Viljoen, 2001, p.66). It replaces the Organisation of African Unity (OAU), which was founded in 1963 to address the issue of decolonisation. Although the OAU united firmly against apartheid in South Africa, it was often criticised for failing to take a stand against the continent's homegrown despots. Over the years, it turned a blind eye to human rights abuses by the likes of Uganda's Idi Amin, Zaire's Moboto Sese Seko and the Central African Republic's Jean-Bedel Bokassa.

The great challenge is to ensure that the African Union becomes a tool to deliver real change for ordinary Africans. Integrating human rights with the activities of the AU is what is requested and the clear challenge to African governments is to show that the AU can make a difference in the realisation of peoples' and human rights in Africa.

A National State such as South Africa with so many advantages in its legal system can still fall short of the standards of international human rights law. The African Union will have to embrace a system that will assist it to meet its pressing objectives. International human rights law will have to go a long way towards providing that

assistance and at all levels of the human rights needs of the continent.

GLOBALISATION AND HUMAN RIGHTS

The limitation of state sovereignty does not equal the end of the legal fiction of state sovereignty. Governments will find it more difficult to deviate from the international consensus on matters such as the economy and human rights. In other words, globalisation does not mean:

“that the state has lost, or is likely to lose, the means of functioning as a separate entity in the world. Nor does it mean that manoeuvrings amongst state will cease to be the chief component of geopolitics... they show no sign of creating any alternative to the state as the basis unit of international affairs. The boundaries between states may be blurrier than they used to be, but they are still there.” (The Economist, 1999)

There is a belief that NEPAD's initiatives will create even greater obstacles to ensure that human rights are accessible to all Africans. Globalisation can be considered the economic-business environment in which NEPAD will be implemented; the argument is that globalisation has done as much harm than good. Thus, how can NEPAD be optimally implemented in an environment that has not been conducive to human rights?

There are those who think globalisation is good for the world economy. Resistance from the international human rights community and special interest groups indicates that there are those who think otherwise. Thus, with regard to globalisation, the challenge will be the incorporation of the principles of human rights and democracy.

At best, globalisation can be described as market forces that disregard national borders. Globalisation is further characterised by multinational companies exerting corporate power; international financial institutions provide the lifeblood of corporate activities, i.e., capital. As corporations strive to maximise profits for shareholders, it appears that multinational companies show blatant disregard for human rights, if not turn blindly away from human rights abuses. Not one company should be singled out; all are guilty in some way or another. To make globalisation work for people and not merely for profit, governments have to play a decisive role. Nevertheless, if there is one industry where human rights are secondary, it is the oil industry. Case in point: Shell Nigeria exploits the oilfields of Ogoniland, pollutes the environment and destroys the habitat. Recall when Shell stood idle while Ken Saro-Wiwa was summarily tried and executed. Undoubtedly, their response would have been: “But what could we have done?” Nevertheless, oil continues to be pumped and it is business as usual.

There should be no unfair attribution to President Olusegun Obasanjo and the present administration. Notably, Obasanjo is one of the architects or elites driving the NEPAD programme. At the 35th Ordinary Summit of the OAU held in Algiers, Algeria, in July 1999, he concluded that the “tragedy is that all of us here are witnessing how Africa is being bypassed and its marginalisation turning into de-linkage” (Annan, 1998). Nevertheless, the question remains: With all its marketable resources (oil fields), how has trade and investment improved the quality of life and human rights of Nigerians? The answer and responses are rhetorical, if not debatable. Whatever the response, globalisation, trade and investment now serve as a backdrop for the power struggle between Obasanjo and the Nigerian parliament.

Even after the death of General Abacha, Nigeria remains an African country rooted in controversy and transition.

What can be said of the role of international financiers? Globalisation is reflected in the volatility of capital markets and developing countries such as Nigeria and South Africa and they suffer from the effect of ailing western economies recovering from the aftermath of 11 September.

Structural adjustment programmes and massive Third World debt cripples capital markets and destabilises whole economies. South Africa has to take a multifaceted approach, but the absence of a 'human rights initiative' leads to a conclusion that there will be great dependence on a trade-investment-based approach. An environment not conducive to human rights is nurtured. Consequently, what has been seen? Citizens in countries such as Argentina, Venezuela and Indonesia (Asian crisis) take to the streets in protest. If anything, globalisation has been a destabilising force that has placed human rights at the bottom of the agenda. Clearly, globalisation (humanising the concept) must win the affection of the international community or it can be expected that resistance will continue to grow.

The moral values that are crying out for renewal in Africa can be summed up in the principles of human rights, democracy and good governance. These are important in themselves because they enable African people everywhere to realise the values of ubuntu. This is the moral principle that promotes social responsibility and solidarity, the duty of care, the virtues of sensitivity, selflessness and devotion to duty and the vision of a society founded on justice and equality. Annan (1998), the former secretary general of the UN, stated emphatically that:

"Respect for human rights and the rule of law are necessary components to any effort to make peace durable. They are cornerstones of good governance. By signalling its commitment to building a society in which all can live freely, a government can demonstrate its commitment to building a society in which all can live freely."

The Renaissance should provide self-confidence and enthusiasm, as opposed to disillusioned attitudes. The Renaissance is a rallying call for Africa to stop feeding on all sordid beliefs that have been methodically dished out to her by Westerners. The Renaissance also implies responsibility and leadership driven by Africans. It is about Africans being masters of their destiny in the so-called global village. It is Africa for the African by the African (Makgoba, 1998, p.85).

CHALLENGES TO AFRICA: AGENDA FOR ACTION

The major hallmarks of globalisation are the liberalisation of trade policies and the expansion of international merchandise trade (Asante, 2001, p.476). Although the specific policy requirements of individual countries in meeting the challenges of globalisation will differ, it is possible to identify a number of key areas which policy should address in most Sub-Saharan African countries. The so-called African development 'tragedy' is reflected in persistent poverty, low growth and high inequality. In this regard, the following policy responses have been identified:

- promote trade and investment
- explore new opportunities in trade
- bring the information age to Africa

- invest in people
- adopt selective integration
- improve governance.

An African Renaissance is unfolding before our eyes. Most countries, throughout most of their years of independence, have been ruled by autocratic leaders – autocratic because, whether enlightened or not, they stood above the law. Today, the rule of law asserts itself. The sharp rise in political participation opens the way for greater public accountability and pressure from civil society for better management of public resources. Today's African leaders are more focused on proper economic management than many of their predecessors and they have the maturity to address the weaknesses of previous policies.

WHERE IS SOUTH AFRICA HEADING?

Where does all this leave South Africa and particularly, where are poor and marginalised South Africans heading? Any meaningful poverty alleviation programme has to recognise both the centrality of individual freedom and the social influences that impact on the extent and reach of individual freedom.

One of the most important challenges that the South African government faced after the 1994 election was to address poverty and inequality. Post-apartheid South Africa faced a dual challenge:

- 1 Externally, to re-integrate itself into the fast globalising economy and catch up with industrial countries.
- 2 Internally, for the poor and marginalised to be integrated into the economic mainstream and catch up to the living standards of the wealthier parts.

In the present world, no country can remain isolated indefinitely any more. Even China, which has been long isolated, is inexorably being drawn into the globalisation process and even political hermit states such as North Korea and Myanmar will not be able to escape the beast in the long run. South Africa, therefore, has to account for itself how the new world order in the form of globalisation will affect it. However, in practice, the constraints on sovereign states' behaviour, which have always existed, have increased to the extent that state sovereignty has indeed been eroded. In the long run – the wishes of political parties or lobbies notwithstanding – South Africa's internal policies will have to be adjusted to the international consensus.

Obviously, if any government refuses to toe the line, so to speak, it may and can still do so. Zimbabwe has done so since the beginning of 2000. South Africa is also a member of several international bodies such as the UN, the Non-Aligned Movement and the Commonwealth, none of which qualify as regional bodies. We are a member of three regional institutions: NEPAD, SADC and the Customs Union.

In spite of colonel Muammar Gaddafi's visions of a United States of Africa, this is undoubtedly a long way off, if ever. Africa is – and will remain for a long time – too disparate and undeveloped for such a vision to be realised in any meaningful way. What about SADC and the Customs Union? At the SADC summit in Windhoek in August 2000, a free trading area was agreed upon which could help integrate the Southern African economies which, in turn, could eventually provide a building block for an EU-like process in this part of the world. But this could only happen provided that two prerequisites are met:

- 1 The economies of the region will have to be developed much further than they are now. South Africa, the most developed, has a GDP three times that of the SADC member states put together. Even a free trade area – let alone any further integration – will require a much more even spread of development; otherwise, the relatively strong South African economy severely could damage the rest of the region.
- 2 Political stability will have to be established. Violence threatens the stability of Zambia, Zimbabwe and Namibia.

The time for a formal limitation of state sovereignty in South Africa and most parts of the world, apart from the constraints of practicality, is clearly still far off. The globalisation of the world will be a major constraint, but the state generally has little to fear from regional and international bodies.

'Globalisation' is a very uneven process, with an unequal distribution of benefits and losses. This imbalance leads to polarisation between the few countries and groups that gain and the many countries and groups in society that lose out or are marginalised. Globalisation thus affects different categories of countries differently (Khor, 2003, p.53).

CONCLUSION

To make globalisation work for people and not merely for profit, governments have to play a decisive role. The emphasis may be on rolling back the state from economic activities, but not from the responsibility of governance, both at the national and international levels. Though our understanding of sovereignty has undoubtedly changed dramatically in the past years, states and governments (at least for now) remain the only legal entities internationally.

It is up to governments to provide an enabling environment for citizens to capture global opportunities in trade and capital flows by negotiating favourable provisions in multilateral agreements. It is also for governments to put in place national and international measures to shield people from the excesses of globalisation in the form of global financial volatility. Additionally, it is for governments to recognise their responsibility to help their citizens adapt to the dramatic changes in the labour market. Governments must insure that the primacy of human rights is upheld and reflected in all international trade-investment agreements.

The international law of human rights provide Africa with the unique opportunity to participate as an equal player on the world stage. It can start anew by accepting the universality of human rights and then apply it to its African context in the same way as the European Union does.

To build this new workforce, South Africa has to take a multifaceted approach. In the long term, it is obviously imperative to upgrade the formal schooling system. International research has shown the importance of education for labour force participation, employment and earnings. Government policies have already shifted substantially towards poverty alleviation. Yet the greatest need of the poor is to be drawn into the mainstream economy. This can only take place if a proper educational foundation is laid. Making adult education more accessible (outcome-based education), improving on-the-job training and developing community structures to assist education beyond the classroom are aspects of life-long education which can arguably be approached within shorter time frames and with more immediate results.

The Skills Development Act has the potential to contribute significantly to address South Africa's skill shortage and allow the current economically active generation to participate in the economic mainstream.

What is called for with the implementation of NEPAD is a balanced approach to economic development and self-sustainability. Essentially, this employs a trade-investment-based approach along with a human rights approach. Only writing into the NEPAD (policy) document will not be enough. Many international financial transactions (loans, debt rescheduling, country risk insurance guarantees) involve the IMF, World Bank and other financial intermediaries. A recommendation is that all the transactions and agreements associated with NEPAD should include clauses detailing human rights requirements and standards. Indeed, trade and investment agreements should include discussions on the impact of human rights and how, from a programme's or project's inception, human rights can be enhanced (UNHCR, 1998).

The denial of human rights and adequate protection for minorities in the NEPAD (policy) document should be regarded not only as a moral or ideological concern, but also as conflict prevention and a precondition for sustainable development. It should be accorded greater prominence as a tool of analysis.

Our first task, therefore, is to transform our society consistent with this vision of balancing human rights. Our second task is to join hands with all other like-minded forces on our continent, convinced that the peoples of Africa share a common destiny and that people of goodwill throughout the world will join us in the sustained offensive which must result in the new century going down in history as the African century.

"Yesterday is a foreign country – tomorrow belongs to us!"

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NOTE

- ¹ NEPAD document, <http://www.gov.za/issues/nepad.htm>.

