The 48 countries of sub-Saharan Africa are at a crossroads. In their past are decades of colonization, dictatorship, oppression, and often-misspent foreign aid. In their future is an opportunity to create a union of independent democratic countries that can attract foreign investment and bring about economic development. Standing between the past and the future, says A. Peter Mutharika, professor of law, is the issue of human rights.

“T o me, economic development is an issue of human rights. If people are deprived of basic means, such as the ability to buy food, shelter, or clothing, that is a denial of their human rights,” he says.

Shortly after Mutharika received his doctorate from Yale University in 1969, he began teaching law in several African countries, including Tanzania, Uganda, and Ethiopia. He noticed that many countries were beginning to undergo a transformation, especially in poverty and deprivation.

“I began to see that human rights, economic development, and democratization were interconnected. They are all basically about people. Human rights relate to the rights of people. Democratization is about the rights of people to some kind of self-governance. Economic development is about the rights of people to basic needs,” he says.

When he first began to research human rights in small, developing countries, such as Malawi, Zambia, and Zimbabwe, he found that “first-generation human rights,” the most basic of political rights, needed to be addressed. As many of these countries began to become more developed, so too did the challenges of human rights.

“In the beginning, developing countries were dealing with basic rights. In the years since then, they have moved to the second-generation human rights, which are mostly economic and social rights,” Mutharika says. “We are moving now to a third generation of rights, such as the right to health and affordable drugs for diseases like HIV/AIDS, and beyond to fourth-generation rights, such as the right to democratic governance and the right to truth about past human rights violations.”

In the 1980s Mutharika became a member of a United Nations panel of experts considering the new international economic order. One of the panel’s major considerations was determining whether developing countries—especially those that had been colonized or exploited in some way—were due legal or moral rights.

“If you have a right, that means someone has an obligation. I considered whether Western countries had a legal or moral obligation to assist the developing countries. These were areas that were very murky, very dicey, and very, very interesting,” he says.

Mutharika wrote his study for the new international economic order based on theories that underpin the welfare program in the United States. He presented his argument on two grounds: need and equality of opportunity. He believes, however, that he would now base such a study on the issues of reconciliation, reconstruction, and reparations—the newest generation of human rights.
“Rights and obligations change as society changes. Back in the 1980s, we weren’t talking about, or even thinking about, reconciliation, reconstruction, and reparations. But these are the next front for human rights,” he says.

Mutharika believes the Western countries that had colonies in Africa, Asia, and the Caribbean have a legal obligation to assist the countries they exploited, whether by removing natural resources, taking cultural treasures, or other means.

He is involved in preparing a paper that examines another side of the reparations issue through his study of select African countries, including Congo and Malawi, that had brutal dictatorships, followed by democratization. “I’m looking at what kind of reparations can be made. There may not be enough resources in these countries, and the new governments may not have the means to pay compensation to people who were brutalized. But the principle can be accepted,” he says.

Mutharika’s books include The Regulation of Statelessness Under International and National Law, The Alien Under American Law, and The International Law of Development. He is now working on a book that he hopes will become a blueprint for reconstruction of the sub-Saharan African countries. Titled Foreign Investment Security in Sub-Saharan Africa, An Agenda for the 21st Century, the book examines the economic, legal, and social structure of these 48 countries and proposes ways to attract foreign investment.

“I am proposing many changes in education, infrastructure, health and the AIDS issue, democratization, corruption, reconciliation, etc. so that foreign investment can take place. These are changes that need to be made before investors will bring their private capital to these African countries. Then these countries can participate in the international economic system without relying on foreign aid,” he says.

Mutharika intends his book for audiences in Africa and in the developed nations. He hopes individuals who are involved in government, policymaking, and private enterprise in Africa will begin implementing his recommendations. And he hopes developed nations will view his proposals as a step forward in the development and reconstruction of African countries.

“This book isn’t being written just to be in the library. It will provide specific proposals that countries and agencies inside and outside of Africa can use. I want the proposals to have immediate, practical use,” he says.

If Mutharika sounds like an activist, that is his intent. Whether drafting his book, playing a leading role in the conceptualization and structuring of Malawi’s democratic constitution in the 1990s, leading the International Third World Legal Studies Association, or serving as general counsel of the Malawi Action Committee (a human rights organization during the struggles for democratization), Mutharika has always been a participant in change. “I see myself as a scholar and a human rights activist,” he says. “I don’t believe scholarship should be limited to library searches and article writing. I want to personally contribute to solutions of some of the current issues that the world faces.”

Kelly Battley, a third-year law student at Washington University and a research assistant to Mutharika, has witnessed firsthand the two sides of this scholar-activist. “Although the topic of the book has traditionally been approached from a legal perspective, he has divided the book in half to also have a social perspective. It doesn’t have a defined audience in the sense of just the legal community or just the African governments themselves. It is something that policymakers on both ends of the issues can use,” she says.

Mutharika plans to remain involved in the issues of reconciliation, reconstruction, and reparations, in part through his book and in part through the Centre for Research on Democracy and Development in Southern Africa (CREDDESA), where he serves as a trustee. “These issues are going to be the frontier of human rights in the new millennium. As someone who has been committed to issues that uplift people and improve their lives, I certainly see myself involved in this next generation of human rights issues.”

Peter Mutharika