Relevance of Acculturation to Human Rights Domestication: Revisiting Goodman and Jink’s Acculturation Theory

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ABSTRACT

Acculturation transfers cultures, therefore through acculturation, a favourable culture can be transferred to change and replace an unfavourable culture states to obtain. Building on this understanding of acculturation Goodman and Jinks claim that states can improve implementation of international human rights when states with unfavourable cultural practices interact with other states with favorable cultures and adopt the favourable cultural habits of those other states. This paper fully examines the relevance of Goodman and Jinks’ acculturation approach to the domestication of international human rights.

Keywords: international, human rights, acculturation domestic, legal systems.

INTRODUCTION

Professors Goodman and Jinks hold the position that through persuasion states accept international human rights laws, and through coercion they comply with international human rights laws, but through acculturation states conform to international human rights norms domestically. Of these three, Goodman and Jinks present acculturation as the process that best achieves change in state behavior in compliance with international human rights law. This paper examines the veracity of their claim.

ACCULTURATION

Acculturation has been approached at different times from the fields of psychology, anthropology and sociology. Records of acculturative tendencies date to ancient times. Plato first discussed the “psychology of intercultural adaptation” in 348BC. Less ancient evidence of acculturation include the generation of the modern day version of the English language through acculturative processes and the use of acculturative theories by early European settlers to predict the acculturation of Americans into one people.

1 Goodman & Jinks, supra note 4 at 655: Table 1 shows: The three mechanisms of social influence on States. The table indicates the results of the three mechanisms: result of persuasion is acceptance, result of coercion is compliance and result of acculturation is conformity.  
2 Goodman & Jinks, supra note 4, at p625-626.

1 Leonard Broom, Bernard J. Siegel, Evon Z. Vogt & James B. Watson, Acculturation: An explanation Formulaion 56 American Anthropologist 973, 973 No.6 Part1 (1954.) (Broom, Siegel, Vogt and Watson are four of the five participants at the 1953 social Science Research Council inter-university summer research seminar, devoted to acculturation. These four participants prepared this paper after the seminar. At p193, they discuss how “acculturation” increasingly attracts research from Anthropologists, Psychologists and Sociologists. Among these four participants/authors, Broom is an Anthropologist whilst the remaining three: Siegel, Vogt and Watson are Anthropologists. The 5th participant at the Seminar was Homer Barnett.)  
3 Floyd W. Rudmin, Critical History of the Acculturation psychology of Assimilation, Separation, Integration and Marginalization, Vol. 7 No. 1, Review of General Psychology 3, 9 - 11 (2003) (presenting a history of acculturation. Relevant portions are the following: According to Gadd (1973) Sumerian rulers of Mesopotamia established written codes of law in order to protect traditional cultural practices from acculturative changes and to establish fixed rules for commerce with foreigners, in 2370 BC. There is further evidence that in the Second Millennium BC the Egyptian empire switched from an acculturation policy of separation from the Nubians to assimilating them. Again, in approximately 1780 BC Hammurabi, the first Babylonian ruler sought the cultural integration of his Sumerian and Semitic Subjects. Plato identified the potential of acculturation to cause social disorder and argued for its avoidance. To that end, he
ORIGINAL CONCEPT OF ACCULTURATION

John Wesley Powell, an American ethnographer is credited with the first known use of the term “acculturation” in 1880. In that work, Powell applied the term “acculturation” in reference to the enormous change that had occurred in the mental life (language, religion, art and home) of the (Native) Indian from associating with the Europeans. In a subsequent report on ethnography in 1883, Powell explained acculturation to mean the “psychological changes induced by cross-cultural imitation” and in 1900, he acknowledged the bi-directional character of acculturation thus; “conquering tribes take the language of the conquered.”

From the original concept of acculturation, its cardinal features are: first, acculturative processes involve individuals, or groups with different cultures (Powell, 1880); second, the individuals or groups must have a first-hand and continuous cultural contact situation to result in acculturation (Teske and Nelson, 1974); third, the continuous cultural contact must give rise to a psychological change in the individuals or cultural group. Powell (1880 and 1883) and Berry (2005) ; and fourth, the psychological change in individuals or groups in the contact situation results in different types of acculturation such as assimilation, separation, integration, and marginalization because acculturation is implicitly bi-directional in character. Powell (1900).

RELEVANCE OF ACCULTURATION TO LAW

Law is defined as “a body of rules prescribing external conduct and considered justicable.” “Law can only exist in a society, and there can be no society without a system of law to regulate the relations of its members with one another.” In every legal system (national or municipal) laws regulate the conduct of the subjects of the law to ensure order. An aspect of acculturation, as defined by Redfield et al. (1936), is its resultant culture change in people. Consequently, through acculturation the conduct of subjects of the law may be changed. Acculturation is therefore a relevant tool for lawmakers in the design of legislation to achieve desirable social outcomes.

In the particular area of human rights, “minority rights particularly language rights, …the criminalization of cultural practices such as female circumcision… immigration law and refugee rights” are some of the issues that engage acculturative theories. According to Rudmin (2003), even “to the extent that interethnic wars are acculturative reactions, war crimes arising from these kinds of conflicts represent one more area of acculturation research.” In sum, whether the issue relates to colonialism (Bartlett, 1923) or neo-colonialism (Berry, 2005), Immigration (Williams et al., 1918), language (Powell, 1880) or democratic acceptance of other people regardless of their culture, acculturative theories serve as relevant guiding principles for the design and enforcement of law towards ensuring order in society.

GOODMAN & JINKS’ ACCULTURATION

According to Goodman and Jinks, conventional accounts of how international norms influence state behavior are usually founded on the mechanisms of...
coercion (or material inducement) and persuasion. But whereas both mechanisms demonstrate conceptual coherence backed by empirical support and relevance, they do not fully account for the various ways by which states and institutions exert their influence on the behavior of other states. The authors therefore propose a third mechanism; Acculturation, as more fully accounting for how institutions and states, through a range of socialization processes, exert their influence on other states.

Goodman and Jinks’ acculturation approach states that when states identify with a reference group (institutions and other states), the reference group exerts pressure on them to assimilate (through a range of socialization processes) which induces behavioral change resulting in conformity to the rules (including international human rights treaties.)

The three mechanisms (persuasion, coercion (or material inducement) and acculturation) are essentially theories of social influence. Goodman and Jinks distinguish coercion and persuasion from Acculturation in that, whereas coercion results in state compliance with international law and persuasion results in state acceptance of international law, only acculturation results in state conformity to international human rights norms. To resolve the “central problem of human rights regimes socializing ‘bad actors’ to incorporate globally legitimated models of state behavior and getting ‘good actors’ to perform better,” Goodman and Jinks advocate the integration of all three mechanisms. The ‘integrated model,’ they explain, should account for the interactions of the mechanisms and the conditions under which one or more of them is most likely, either to effectuate change or to enhance the prospect of another mechanism doing so.

Coercion

Goodman and Jinks argue that coercion does not form or change states’ preferences or interest but changes their behavior by changing their ‘cost-benefit calculations.’ By assigning benefits/rewards for conformity and costs/punishments for non-conformity, states and institutions influence the behavior of other states by influencing their interests. International institutions have the additional capacity to “constrain strategic choices by stabilizing mutual expectations about state behavior.” From the foregoing, states change their behavior to comply with international law because they find it in their material interest so to do. They however do not change their preferences.

Persuasion

Persuasion involves the ‘inculcation of norms’ and rules through their active assessment. Processes implicit in persuasion are: “argument and deliberation…to change the minds of others;” assessment of the content of the message by actors and change of minds of actors through persuasion; “internalization of the new norms and rules of appropriate behavior;” and “redefinition of interests and identities” of actors to conform to the new norms and rules of appropriate behavior; out of “conscious conviction of the truth, validity or appropriateness” of those norms and rules of appropriate behavior. According to Goodman and Jinks’ the result of persuasion is acceptance of the international law.

Acculturation

Goodman and Jinks define acculturation as “the general processes by which actors adopt the beliefs and behavioral patterns of the surrounding culture.” The authors argue that through “identification with a reference group,” target actors undergo “pressure to assimilate.” The pressure to assimilate induces behavioral change through a change in the target actors’ incentive structure or mind and social environment, and results in conformity.

The target actors in Goodman and Jinks’ acculturation approach are States. According to Goodman and Jinks, “not only individual actors, but also organizations, including states, are influenced by their interactions with others.”

23 Goodman & Jinks, supra note 4, at 625.
24 Goodman & Jinks, supra note 4 at 630.
25 Goodman & Jinks, supra note 4, at 623 – 637: Theories of how actors form their preferences and how they change their preferences: Generally, an actor may prefer to do something or not do same as a result of persuasion or acculturation but not from coercion. Rationalists usually emphasize coercion whilst constructivists generally emphasize persuasion.
26 Goodman & Jinks, supra note 4, at 655: Table 1 shows the results of the three mechanisms of social influence on States.
27 Goodman & Jinks, supra note 4 at 702.
28 Goodman & Jinks, supra note 33, at 6 – 7, and Goodman & Jinks, supra note 4 at 700-702: Authors discuss the importance of each of the mechanisms of social influence for institutional design.
through acculturation.”\(^{37}\) That although states do not show signs of personhood (do not have needs, beliefs, preferences, and emotions) they have a socially construed “actorhood” with coherent interests, preferences and reputation which persons acting on behalf of the state and Government are caretakers of.\(^ {38}\) States conform to legitimated behaviors of the wider institutional environment under certain conditions, through mechanisms such as mimesis.\(^ {39}\) Goodman and Jinks claim that “patterns of formal state practice suggest that international-level institutions systematically influence state-level legal and policy choices.”\(^ {40}\)

In the area of international human rights laws Goodman and Jinks readily admit that acculturation is likely to result in structural inter-state isomorphism without corresponding change in state practice on the ground\(^ {41}\) which they term “Decoupling.”\(^ {42}\) Goodman and Jinks however project that the potential decoupling effect of their acculturation approach could actually “yield many regime design recommendations that defy conventional wisdom in international law”\(^ {43}\) and generate greater state compliance with international human rights law.

**CRITIQUE OF GOODMAN AND JINKS’ ACCULTURATION**

Goodman and Jinks’ acculturation approach is critiqued in this paper for three main reasons; its extension of acculturation to states (organizations),\(^ {44}\) its classification of “assimilation” as “acculturation” and the time it allows for the processes to occur. From the original concept, acculturation is limited to natural persons and generates reactions that are bi-directional over a long period of time. For Goodman and Jinks, the actors are states and institutions (organizations); the direction of acculturation is uni-directional and the response should be immediate obedience of the international human rights law. This raises applicability issues such as; whether or not acculturation generates the same reactions in States as it does in humans (individuals or groups) and whether or not acculturation “requires identification” with a reference group in order to occur.\(^ {45}\)

The overall conclusion of this critique is that; first, Goodman and Jinks’ application of acculturation to states is inconsistent with the original concept of acculturation which, limits acculturation to humans. Second, their direction of “acculturation” shows a process of “assimilation” instead of acculturation. And third, the time they offer states to obey laws generated by this process is not long enough to classify the outcome as acculturation.

**Goodman and Jinks’ Definition of Acculturation**

The original concept of acculturation is presented in three important formulations: the 1936 and 1954 formulations by the Social Science Research Committees and Berry’s (2005) formulation.\(^ {46}\) These formulations will constitute the basis for examining Goodman and Jinks’ definition of acculturation. The 1936 Committee; Redfield et al., defined Acculturation as “comprehending those phenomena which result when groups of individuals having different cultures come into continuous first-hand contact, with subsequent changes in the original culture patterns of either or both groups.”\(^ {47}\) The 1953 Committee; Broom et al., defined acculturation as “culture change that is initiated by the conjunction of two or more autonomous cultural systems.”\(^ {48}\) More

\(^{37}\) Goodman & Jinks, supra note 48 (according to Goodman and Jinks there is substantial empirical evidence to this effect.)

\(^{38}\) Goodman & Jinks, supra note 33, at 38 – 52 (discussing the fact the State is actually influenced through the individuals acting on behalf of it.)

\(^{39}\) Goodman & Jinks, supra note 33, at 38 – 52: States as organizations within institutions, experience social and cognitive pressure to comply with internationalizations. States comply by adopting the organizational structures and formal policies of the institution generating structural isomorphism with other States within institutional environments.

\(^{40}\) Goodman & Jinks, supra, note 33, at 40.

\(^{41}\) Goodman & Jinks, supra note 33, at 38 – 52: States as organizations within institutions, experience social and cognitive pressure to comply with internationalizations. States comply by adopting the organizational structures and formal policies of the institution generating structural isomorphism with other States within institutional environments.

\(^{42}\) Goodman & Jinks, supra note 33, at 40.

\(^{43}\) Goodman & Jinks, supra note 4, at 650 – 653.

\(^{44}\) Goodman & Jinks, supra note 4, at 638 – 655.

\(^{45}\) Goodman & Jinks, supra note 4, at 656; see also Goodman & Jinks, supra note 33, at 748.

\(^{46}\) Goodman & Jinks, supra note 4, at p627.

\(^{47}\) Teikè & Nelson, supra note 22 at 359-360 (arguing that acculturation does not require identification with a reference group)

\(^{48}\) Berry, supra note 24, at 701; Berry explains the place of the two definitions thus: The 1936 and 1954 formulations are the two most widely quoted definitions of acculturation. “In the first formulation acculturation is seen as one aspect of the broader concept of culture change (that which results from intercultural contact) and is considered to generate change in “either or both groups”, that is, acculturation takes place in the settled or dominant group as well as in the non-dominant group. Acculturation is distinguished from assimilation which is viewed as a “phenomenon” that is, there are a number of alternative courses and goals to the process of acculturation. In the second definition, assimilation are extra features are “technological” and delayed (internal adjustments presumably of both a cultural and psychological character take place.) Importantly, acculturation can be “reactive,” that is, by rejection the cultural influence from the dominant group and changing back towards a more “traditional” way of life, rather than inevitably towards greater similarity with the dominant culture.”

\(^{49}\) Broom et al., supra note 29, at p149 – 152. In 1936, due to the varying points of view from which the subject of acculturation was being approached, the Social Science Research Council constituted a Committee comprising Redfield, Linton and Herskovits to analyze work already done on the problem, study the implications of the term “Acculturation” and explore new leads for further investigation. In their report, Redfield et al., emphasized that acculturation may occur a) where elements of culture are forced upon a people or are received voluntarily by them b) where there is no social or political inequality between groups or c) where there is inequality between groups as a result of which (i) there may be political dominance by one group without recognition of its social dominance by the subject group or (ii) there is both political and social dominance by one group or (iii) there is recognition of social superiority of one group by the other without the exercise of political dominance by the former. That the result of acculturation is threefold acceptance (involving a take over of greater portion of another culture or loss of most of the older cultural heritage) or adaptation (involving a combination of both the original and foreign traits to produce a smoothly functional cultural whole) or reaction (where contra-acclerative movements arise because of oppression or the unforeseen results of the acceptance of foreign traits, maintaining their psychological force.)

\(^{50}\) Broom et al., Acculturation: An Exploration Formulation: The Social Science Research Council Summer Seminar on Acculturation, 1953, American Anthropologist, Vol. 56 (Dec. 1954) 974; This formulation was generated by four of the five participants at the 1953 Seminar and their paper was published in 1954. They explained that acculturative change may result from “direct cultural transmission; may be derived from noncultural causes, such as ecological or demographic modifications induced by an impinging culture; may be delayed, as with internal adjustments following upon the acceptance of alien traits or patterns; or may be a reactive adaptation of traditional modes of life.” They further explained that the dynamics of acculturation are visible in the form of selective adaptations of value systems, the processes of integration and differentiation, the generation of developmental sequences, and the operation of role determinants and personality factors.”
recently, Berry (2005) has defined acculturation “as the dual process of cultural and psychological change that takes place as a result of contact between two or more cultural groups and their individual members.” 49 Goodman and Jinks (2004) define acculturation as the “general process by which actors adopt the beliefs and behavioral patterns of the surrounding culture.”50 They apply acculturation to States compliance with international human rights laws. Substituting “States” as the actors (as Goodman and Jinks do) and applying “States” to the original concept of acculturation, it would mean that States must have an intercultural contact to which they react, and then, for Goodman and Jinks, that reaction must be to adopt the beliefs and behavioral patterns of the surrounding culture. The following critique of Goodman and Jinks’ definition of acculturation will be at three levels: the actors, the nature of their contact and the surrounding cultures. 

First; the actors. From the original use of the word “acculturation” by Powell (1883) in describing the changes in the mental life of the [Native] Indians occasioned by contact with the European settlers41 to Berry’s (2005) definition of acculturation; the subjects of acculturation literature have been individuals, families or societies.52 The two social science research council committees on acculturation: Redfield et al. (1936) and Broom et al. (1954) also emphasize group contact53 with Broom et al., (1954) especially identifying the resultant effect of individual contact as societal acculturation.54 They emphasize individuals, families and societies, because the degree of psychological change, which forms an integral part of the acculturation process,55 is measurable in humans rather than in entities like states. Goodman and Jinks could respond to the critique of the limitation of acculturation to humans by saying that the “non-personhood” of states does not exempt them from acculturative pressure. That States, like humans, identify with reference groups (international-level institutions) that systematically influence States.

Goodman and Jinks would however concede that it is the human persons acting in behalf of the state (“relevant actors within states such as government officials acting as caretakers of the state’s interests, preferences, and reputation”) that experience cognitive and social pressure from the international-level institutions in virtue of their connection to the state and they are the ones who respond to these pressures in behalf of the state, by influencing national level legal and policy outcomes to emulate institutionally standardized models of structural organizations.56

From Goodman and Jinks’ acculturation approach therefore, it is the government officials within the State (humans) representing the interest of the State who will undergo acculturation. Even by this explanation alone, Goodman and Jinks’ acculturation approach clearly confirms that acculturation takes place in humans as indicated in the original concept of acculturation and not in entities such as states as Goodman and Jinks would have us believe.

Second; the nature of the contact. Rudmin (2003) defines the nature of the contact that results in acculturation as an “intercultural” one.57 From Berry’s (2005) definition; acculturation involves “two or more cultural groups and their individual members,” 58 and from the 1936 definition of the Social Science Research Council; Redfield et al., the contact must be a “continuous first-hand contact with subsequent changes in the original culture patterns of either or both groups”59 (emphasis is mine.) Cardinal elements of acculturation contact are therefore: a) an inter-cultural contact situation b) the contact situation involves two or more cultural groups and c) the contact situation must be first-hand and continuous between the cultural groups. These elements appear consistently throughout the literature on acculturation. (Teske and Nelson, 1974.) 60 Goodman and Jinks’ acculturation approach is built on the presumption that States will have a degree of inter-State contact or contact with international institutions (regional and global) that is sufficient to change beliefs and behavior at the State-level. 61 Applying the identified elements of the original acculturation contact to Goodman and Jinks’ acculturation approach, this paper finds Goodman and Jinks’ definition of acculturation flawed at the following levels.

Firstly, states qua states cannot have an intercultural contact with institutions under acculturation. At best this is a form of socialization as described by Johnston (2001) but not acculturation. In such a case, before states adopt and internalize the international norm from the institution, the source of the norm

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49 Berry, supra note 24, at 699
50 Goodman & Jinks, supra note 4, at 626.
51 Powell, supra note 18, at 45-46.
52 Berry, supra note 16 at 699
53 Redfield et al., supra note 21, at 150
54 Broom et al., supra note 7 at 974-975. Broom, Siegel, Vogt and Watson are four of the five participants at the 1953 Social Science Research Council inter-university summer research seminar, devoted to acculturation. The paper was prepared subsequent to the seminar.
55 Berry, supra note 16 at 699. Acculturation results in cultural and psychological changes.
56 Goodman & Jinks, supra note 33, at 40-41.
57 Rudmin, supra note 16.
58 Berry, supra note 24, at 698.
59 Redfield et al., supra note 29, at 149-152.
60 Teske & Nelson, supra note 22, at 352-353: “one of the principal conditions for [acculturation] to transpire is a contact situation that is, at least two cultural groups must come into continuous first-hand contact. This thesis is consistent throughout the literature (cf. Redfield et al., 1936:149, Herskovits 1958:11, Linton 1940:501, Giffen and Raemy 1940:371.)
61 Goodman & Jinks, supra note 33, at 40.
must be credible and must be one that the state can identify with. Secondly, it is unclear how intercultural contact will occur between two sovereign and independent states. It is not in contention that intercultural contact can be made between individual citizens from different states (this may, for instance, occur through migration) or between groups from within states or groups between states. But the individual or group’s intercultural contact cannot be classified as a states’ intercultural contact if the state is the actor. At best a state’s intercultural contact may be referring to intercultural contact by groups within the State. For instance when the Europeans first settled in America, they had an intercultural contact with the native Indians. The first full psychological study of acculturation presented by Williams Thomas and Znaniecki’s in 1918, was on the intercultural contact, which Polish immigrants in Chicago had with Americans. These intercultural contacts do not involve the state as an entity undergoing intercultural contact with another State; but individuals or groups undergoing intercultural contact.

Goodman and Jinks acknowledge this by observing that it is individuals that are socialized through acculturation but distill the socio-psychological processes involved in individual acculturation and identify similar patterns in organizational contact. Goodman and Jinks particularly emphasize the microprocess of identification with a reference group. From this social environment (reference group), actors absorb normative social influence through varying degrees of cognitive and social pressure. The pressure impels actors to adopt the socially legitimated or appropriate attitudes and behaviours, thereby inducing conformity to the beliefs and behavioural patterns of surrounding cultures. These microprocesses occur in both individuals and organizations such as States.

The issue is whether or not identification with an international-level institution constitutes intercultural contact between the international level institutions and the sovereign State or between the sovereign States. Goodman and Jinks would likely respond to this critique in the affirmative demonstrating from the resultant patterns of state-level legal and policy choices that state identification with a reference global or regional level institution is a social context in which intercultural contact occurs.

This explanation would however be inadequate because it would be premised on the flawed presumption that each State has a homogenous culture and within the social context of the reference group. States represent particularly defined cultures. For instance it would be fallacious to talk of a Ghanaian culture or the culture of any one African state. Within most African states there are different cultural (ethnic) groupings. These groupings can have intercultural contact. However the state cannot have an intercultural contact with another State on behalf of all the varied individual cultures. For instance, the culture of the Ewe ethnic group in Ghana is distinct from any other group in Ghana but very similar to that of the Ewe ethnic group in Togo. History has it that both tribes comprised one community in Togo but the Ewe people in present day Ghana managed to escape the bondage of the then chief in Togo (Notsie) and settled in Ghana. Their separation was concretized at the independence of Ghana through a plebiscite. However to date, some Ewes in Ghana return “home” to Togo for festivals and funerals and some Ewes in Togo enter Ghana to perform burial rites for their kinsmen who die and cannot be sent “home” for burial. These intercultural contacts are definitely not undertaken in the name of the states of Ghana or Togo.

Secondly, according to Redfield et al.,’s 1936 definition, even in group-acculturation actors must be in continuous first-hand contact to acculturate. Accordingly, in applying group-acculturation to Goodman and Jinks’ actors (states), states have to be in continuous first-hand contact to acculturate. This
raises issues of proximity. It is impossible to assume that the source-of-influence state and the Target-of-influence state would always be in close proximity to each other to facilitate acculturation. Goodman and Jinks’ sources of influence are states and institutions and their target of influence are states. Inferably, in Goodman and Jinks’ state – to – state acculturation, if the source-of-influence state, for instance, the United States, possesses the desirable beliefs or behavioral pattern which the target-of-influence state Afghanistan needs to adopt, for instance, democratic governance, both states must have continuous first-hand contact with each other to acculturate. Geographically, this is impossible. This emphasizes the point that acculturation, even group-acculturation, is not to be extended to cover states or inter-state contact but intra-state contact. Even if the source of influence were a regional-level institution (membership of which is usually restricted to states within a geographical area) such as the Organization of American States, state-members must remain in continuous first-hand contact with the regional organization to acculturate. This means, membership of the Organization must be maintained and all State-members must be committed to agreements and sub-unit institutions created towards the attainment of this goal. Thus to acculturate state-members of the American Convention on Human Rights to abolish the death penalty member-states must remain committed to the American Convention. In practice, States do not remain members of organizations perpetually. For instance Trinidad and Tobago withdrew its ratification of the American Convention due to pressure on member-states to abolish the death penalty thereby severing pressure from the reference group (the American Convention) to “acculturate” – abolish the death penalty. Additionally, states sign agreements with reservations, understandings and declarations to ensure that their assent to the international agreement does not change national interest and goals. Therefore the state’s continuous membership of the international institutions does not necessarily change its interests. This obviously shows that acculturation is limited to intra-state individual or group contact not inter-state or state-institution contact as Goodman and Jinks stretch it to cover.

The third level at which Goodman and Jinks’ definition of acculturation is critiqued is the “surrounding culture.” By the use of this term in their definition, Goodman and Jinks suggest “international institutions or states.” These form the reference group of the state target of influence. The issue arising here is whether or not the internationally legitimated behaviour is already found in one state which is to be adopted by the other states in the reference group, or, members of the reference group generate the legitimate behaviour together and conform to same. The original concept of acculturation is not supposed to generate internationally accepted behaviour. There is no guarantee that the surrounding culture is an internationally accepted culture.

Perhaps the decoupling of organizational change from internal practice is a reaction to the projection of the values and standards of particular members of the international-level institutions over others as the legitimated behavior to which members of the reference group must conform. International level norms usually reflect western values and processes. According to Goldsmith and Posner, “the ICCPR and related treaties … inform the world of a ‘code of conduct’ that powerful democracies deem important to establish… In this sense modern human rights treaties operate in much the same way as the Standard of civilization did in the nineteenth century.” Again, the international structures for norm percolation described by Professor Harold Koh in his transnational legal process, implicitly reflect Western processes and standards. For instance, the Montesquieuan standard of three separate branches of State power; an Executive, a Legislature and a Judiciary and the limitation of the executive head’s term of office, is today a given international standard (mutatis mutandis). This is however a western standard, foreign to many indigenous African cultures where the ethnic group leader wielded the executive, legislative and judicial powers and remained in power for his lifetime.

Further, the constitutional principle of separation of powers had been practiced by some powerful democracies for centuries when, at independence, African countries were “suddenly” required to

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*Goodman & Jinks, supra note 4, at 702. “Substantial empirical evidence suggest three distinct mechanisms whereby States and institutions might influence the behavior of other States; coercion, persuasion and acculturation.”

* LOUIS HENKIN et al., HUMAN RIGHTS 397 (2d ed. Foundation Press, 2009). Trindad and Tobago withdrew from the American Convention on Human Rights in May, 1998. Note that Trinidad and Tobago withdrew from both the American Convention and the International Covenant on Civil and Political Rights (ICCPR)’s First Optional Protocol in May, 1998. “It immediately rescinded to the Optional Protocol with a reservation that precluded the Human Rights Committee from reviewing complaints from capital defendants. The Committee later found the reservation invalid. In response, Trinidad and Tobago denounced the Optional Protocol again in March 2000.”

* Murphy, supra note 8, at 83 – 88 (author discusses ‘Reserving to Treaties’ and makes particular references to some of the reservations of the United States. Generally, the United States ratifies international human rights agreements with Reservations, Understanding and Declarations to ensure that the country’s commitment is consistent with its Constitutional provisions.)

* Goodman & Jinks, supra note 4, at 702.

* GOLDSMITH JACK & POSNER ERIC, THE LIMITS OF INTERNATIONAL LAW, 128 (Oxford University Press, 2005.)

implement them.\textsuperscript{80} Bearing in mind the fact that most African states, have been independent for just above fifty years and were hitherto mostly conversant with ethnic group leadership, the decoupling effect of this form of acculturation is seen in the emergence of “undemocratic” African states adhering to rule of law standards in their Constitutions but governed by “dictators” and leaders who serve near life-time terms. According to Franklin and Baum, “a self-sustaining democracy cannot be imposed simply by overlaying an institutional structure similar to that which exists in a mature democracy.”\textsuperscript{81} Indigenous Africans, often confronted by multiple normative orders and authorities, owe multiple allegiances to their traditional ethnic leaders whose authority is affirmed by tradition and culture and the political heads whose offices are created through western standards. From the foregoing, International institutions do not project general organizational structures but rather project structures of particularly powerful states, which target states are required to conform to.

Goodman and Jinks are likely to respond to this critique by saying that “acculturation mechanism is neutral – under different conditions, it may yield normatively attractive, unattractive or ambiguous results.”\textsuperscript{82} However, it is very rare to find any international norm founded on indigenous African values. This consistent de-legitimation of the values of one group in favor of those of others within a reference group undermines the neutrality of the norms generated and further identifies the process, as not being acculturation. As has been explained above, a constant feature of acculturation is that it is not uni-directional. Therefore if the role of one group is to be constantly receiving norms that conform to the culture of another group, then the process is assimilation and not acculturation.

**Goodman and Jinks’ direction of Acculturation**

Goodman and Jinks’ processes and features describe “assimilation” and not “acculturation.” This comes to light when the direction of their acculturation approach is examined on the basis of the original concept of acculturation. Goodman and Jinks’ acculturation approach is uni-directional and fails to account for the bi-directional character of acculturation. From the original concept, the bi-directional character of acculturation guarantees that acculturative processes do not always move from the dominant group to the minority group but also moves in the opposite direction.\textsuperscript{83} This means, the reaction of the actors in acculturation (both source of influence and target of influence) could lead to both the passing on of beliefs and behaviours, and the non-passing on (not necessarily retention) of beliefs and behaviours.

Goodman and Jinks however dwell only on ‘assimilation’ as the reaction that states will necessarily have as a result of contact with the reference group.\textsuperscript{84} From Goodman and Jinks’ acculturation approach, states or institutions pass on their beliefs and behaviors to other states through the intercultural contact.\textsuperscript{85} The target of influence which is under pressure to “assimilate,” adopts the beliefs and behavioral patterns of the surrounding culture (reference group.) Assimilation is uni-directional.

The process only expects the target of influence to receive from the source of influence without a reverse process occurring.

According to Goodman and Jinks “the touchstone of [acculturation] is that identification with a reference group generates varying degrees of cognitive and social pressures to conform.”\textsuperscript{86} Inferably identification with a reference group is a necessary prerequisite for Goodman and Jinks’ acculturation to yield the expected reactions. Where identification with a reference group is a necessary prerequisite, the process is not ‘acculturation’ but ‘assimilation.’\textsuperscript{87} Assimilation requires both a positive orientation and identification with the out-group by the assimilating individual or group, and then acceptance of the individual or group by the out-group.\textsuperscript{88}

From the original concept, acculturation does not require identification with a reference group or acceptance by the reference group. In Powell’s 1880 example, the Native Indians did not need to identify themselves with the European settlers to be acculturated. Reaction to assimilation necessarily comprises both internal change and external change.

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\textsuperscript{80} EDWARD McWHINNEY, CONSTITUTIONAL - MAKING: PRINCIPLES, PROCESS, PRACTICE (1981): “What is clear, in retrospect, is that some of the immediate, post-decolonization “receptions” of constitutional institutions in newly independent Third World countries from the “parent” European imperial powers... were not particularly useful or scientific exercises in the sociology of law. Entailed upon too hurriedly... they sought to implant the institutions of essentially stable, politically bland, post-industrial societies in new countries that too often had not yet conquered basic problems such as mass education...”

\textsuperscript{81} POLITICAL CULTURE AND CONSTITUTIONALISM: A COMPARATIVE APPROACH (Daniel P. Franklin & Michael J. Baum eds., 1994)

\textsuperscript{82} Goodman & Jinks, supra note 33, at 76

\textsuperscript{83} Teske & Nelson, supra note 22: “rather than a unidirectional perspective, the literature reveals consistent justification for viewing acculturation as a two-way or reciprocal process.” Teske & Nelson cite the following authors to buttress their point: Redfield et al., acculturation results in “subsequent changes in the culture patterns of either or both groups” (1936:149) ‘writers such as Linton (1940), Segal et al (1953), Bajurgard (1949) and Ohrenwend and Smith (1963) implicitly treat acculturation as a two - way or reciprocal process.’

\textsuperscript{84} Goodman & Jinks, supra note 4, at 638: [Acculturation] mechanism induces behavioral changes through pressure to assimilate.

\textsuperscript{85} Goodman & Jinks, supra note 4, at 638 – 642.

\textsuperscript{86} Goodman & Jinks, supra note 4 at 626. See also Goodman & Jinks, supra note 48 at 726

\textsuperscript{87} Teske & Nelson, supra note 22 at 381

\textsuperscript{88} Teske & Nelson, supra note 22 at 381.
resulting in change in value of the target of influence alone. Acculturative reactions on the other hand include “marginalization,” “integration” and “separation.”

Thus the target of influence’s reaction may not necessarily involve a change in its values or acceptance of the values of the reference group. This goes to discredit the foundational claim of Goodman and Jinks that acculturation explains how macro-level phenomena (such as international human rights treaties) cause other macro-level phenomena (such as changes in state policy). At best, the “patterns of formal state practice” observed by Goodman and Jinks are the result of assimilation and not acculturation. That said, a potential Goodman and Jinks’ response would have to be considered. The authors are likely to defend their characterization of the mechanism as ‘acculturation’ by maintaining that the decoupling effect of state adoption of organizational structures that are disconnected from internal demands and implementation, signals acculturation. That, had the process been assimilation, the s, having undergone internal and external changes, should demonstrate structural isomorphism with corresponding changes in their local practice, because the local values of the state would have been aligned to those of the reference group. This paper’s counter-response is that first of all, from the original concept, acculturation does not apply to states. Even if, for the sake of argument, acculturation is applied to states, acculturation will not necessarily generate structural isomorphism because, as has been previously explained, acculturation may yield reactions such as rejection or integration. state members in a reference group, are at liberty to reject the values of the reference group. Where rejection occurs, a group would refuse to accept the values of the other group and therefore, structural isomorphism and its attendant effect of decoupling of state organizational change from internal practice, will not occur. s may also integrate the values of the reference group without letting go their original values. For example in Ghana, marriage laws reflect integration policy; Persons seeking to be married under the ordinance marriage would be performed (reflecting the foreign culture.)

Once identification with a reference group is a prerequisite to acculturation, the process is no longer acculturation, because acculturation should occur even without identification with, or membership of, the reference group whereas identification with a reference group is a prerequisite for assimilation to occur. At best assimilation could be classified as a type of “acculturation” but not acculturation properly so called.

**Goodman and Jinks’ duration of acculturation**

For acculturation to occur, individuals or groups must remain in first-hand contact over a long period. As pointed out by Berry (2005) in acculturation, “cultural and psychological changes come about through a long-term process, sometimes taking years, sometimes generations, and sometimes centuries” (emphasis is mine.)

The duration that Goodman and Jinks allow for their “inter-State” or “State-Institution” acculturation is short. From their work, they expect quasi – immediate State conformity to the international human rights laws. Thus, as the international human rights laws are constantly being churned out, State-members of human rights institutions need to be constantly amending their public and private practices to accept and conform to the requirements of the law.

First, acculturation is just a word and the word describes what culture contact sometimes does and therefore there is no guarantee that it will have particular outcomes.

Second, Acculturation takes a period of time to occur that is not measurable whilst statutes presume immediate obedience. Even if acculturation took place it would take an uncertain amount of time and legislation presumes a certain amount of time. Third, what appears in Constitutions in Africa and everywhere represents aspirations rather than an immediate expectation. Rushing states into immediate compliance may be possible through coercion (material inducement) but for the conduct of state to conform to international human rights law through acculturation, the necessary cultural and psychological change requires a long period of time.

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90 Rudmin, supra note 19 [mentions that Berry et al., (1989) identified assimilation, integration, separation and marginalization as types of acculturation.]

91 Goodman & Jinks, supra note 33, at 40: “we claim that patterns of formal state practice suggest that international-level institutions systematically influence state-level legal and policy choices. In effect, macro-level phenomena (such as international human rights treaties) cause other macro-level phenomena (such as changes in state policy.)

92 Goodman & Jinks, supra note 33, at 41:44: “in organizational sociology, theories of acculturation predict that socialization processes will press organizations toward increasing isomorphism – that is structural similarity across organizations... Rather than correlating with local tasks, the structural attributes and goals of an organization will correlate with contemporaneous attributes and goals of other organizations...”


94 Tucke & Nelsen, supra note 22, at 362.

95 Rudmin, supra note 19: Rudmin cites Berry et al., (2001)

96 Berry, supra note 24, at 699
Conclusion
Persuasion and coercion were for a long time credited for generating state compliance with international law, however, Professors Goodman and Jinks have proposed acculturation as bearing the potential to resolve the central problem of compliance with human rights regimes by influencing state behavior.\textsuperscript{96}

From the original concept, “acculturation” is limited to operate in humans as individuals, groups or society but Goodman and Jinks have applied acculturation to states, particularly in the area of compliance with international human right norms with the aim of achieving state conformity.
To the extent that Goodman and Jinks’ acculturation approach seeks to identify social forces influencing states, which can be harnessed for promoting rule of law values, their approach is relevant. However, since, as admitted by Goodman and Jinks, states cannot achieve complete internalization of international human rights law through acculturation, this approach should be applied cautiously.

\textsuperscript{96} Goodman & Jinks, supra note 4, at 702.