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General Information

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Chair's Note

I would like to thank the students who have contributed to this second volume of *Global Africana Review*. Your work makes the journal possible, and thus many thanks and I wish you all the best in your future intellectual pursuits. Further, thank you very much to faculty members who mentored students whose work is included in this volume. Additionally, thanks to Rebekah Kati and Julie Renee Rudder of Davis Library at the University of North Carolina at Chapel Hill for their support. Finally, financial support from the College of Arts and Sciences made the publication of this journal possible, and as such, many thanks to the Dean's office.

Eunice N. Sahle, PhD, FAAS
Chair, Department of African, African American, and Diaspora Studies

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Emily C. Sheffield graduated from the University of North Carolina at Chapel Hill in May of 2017 with a B.S. in Biology, B.A. in African, African American, and Diaspora Studies, and minor in Chemistry. She currently serves as a Program Associate for BroadFutures, Inc., a nonprofit based out of Washington, D.C. that serves young adults with learning disabilities. She plans to pursue the field of medical anthropology or Africana studies and maintain her dedication to intersectional feminism.

Emily Venturi is a graduating UNC senior from Italy studying Political Science and Economics. Emily focuses her research interests on migration and human rights and works as a research assistant in European Union governance. She enjoys designing and teaching the UNC undergraduate seminar entitled "International Approaches to Criminal Justice." In the long term, she aspires to conduct a career at the intersection of law, human rights protection, and international relations.

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Introduction

Perry A. Hall
University of North Carolina at Chapel Hill

We are most pleased to present the second volume of *Global Africana Review* (GAR), our undergraduate research journal in which we showcase some of the best scholarship produced by students in our department. In addition to their academic acumen, the five articles in this issue demonstrate the multidisciplinary range of perspectives and the global focus of our department. In the first article, Emily C. Sheffield examines the work of three black woman scholars whose important contributions to the Négritude movement, and to the spread of black consciousness throughout the African Diaspora, have been overlooked by many scholars and minimized in relation to male scholars' involvement in this movement.

The next article by Anna McQuillin utilizes a case study of Madonna's adoptions from Malawi and Martha Nussbaum's capabilities approach to demonstrate the complexities faced by African states amid heightened global pressure to export the care of vulnerable children to international families through adoption. Next, Bryant Lee Chappell examines issues surrounding the enduring effects of the state of North Carolina's involuntary sterilization program from a framework of reproductive justice, and considers possibilities and limitations around attempts to seek justice for victims and their families. The following article, by Destinie Pittman, focuses on Mound Bayou, Mississippi, while tracing the changes in healthcare and civil rights activism over more than seven decades, before, during, and after Jim Crow.

In the last article, Emily Venturi looks at multiple approaches among African states in relation to the United Nations' adoption of the *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families* (ICMWR). Noting significant variation in ratification rates within the African continent, the author examines the ratification failures and the opportunities that the ICMWR poses for nation states and their interests, and for migration management within the African continent. Two book reviews provide the finishing touches for this 2018 volume of our journal. The first, by Anna McQuillan, reviews Hillary Matfess' *Women and the War on Boko Haram: Wives, Weapons, Witnesses* (Zed Books, 2017), which examines the role of women in Boko Haram and the communities it affects. The second review, by Alexander Peeples, looks at the work by historian Paul Bjerk entitled *Julius Nyerere* (Ohio University Press, 2017), which explores the life and the complex legacy of the Tanzanian leader.

It has been a great honor to read these articles and I extend many thanks to the students who contributed to this volume of the GAR.

Dr. Perry A. Hall
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The Unsung Mothers of Négritude: An Examination of the Efforts of Women Behind the Movement

Emily C. Sheffield
University of North Carolina at Chapel Hill Alumna (2017)

ABSTRACT

As a result of endemic racism and sexism, the contributions of people of color and women to historical movements remain largely underreported and overlooked despite extensive evidence of their involvement. This reality is particularly striking for women and non-binary individuals of color as individuals who exist at the intersection of these discriminations. In this paper, I examine three black woman scholars – Paulette Nardal, Jane Nardal, and Suzanne Césaire – whose contributions to the Négritude movement, and to the spread of the ideology of black consciousness throughout the African Diaspora, have been undermined by many scholars of Africana studies and overshadowed by the male scholars of their time.

Keywords: Négritude, black consciousness, African Diaspora, Africana studies, intersectionality

Black and female bodies have been consistently omitted from the script of history as a result of systemic racism and sexism. This is one of the many reasons behind the re-envisioning of Africana Studies as "a discipline that transgresses, transverses, and transcends the academic boundaries and intellectual borders, the color-lines and racial chasms, and the jingoism and gender injustice of traditional single phenomenon-focused disciplines" (Rabaka 2010, 5). This critical revision of the discipline allows for the inclusion and appreciation of scholars, regardless of demographic classifications that, inadvertently or otherwise, perpetuate destructive hierarchies such as patriarchy and white supremacy. Writing histories outside of the umbrella frameworks of Eurocentrism and androcentrism is thus absolutely vital. Although they are not necessarily incorrect, histories written within those frameworks are without a doubt incomplete.

It is with this argument in mind that one must examine the experiences of those individuals who exist directly at the intersection of racist and sexist historical records: black women. Particularly within academic fields such as the natural and social sciences, black women and their contributions to their respective fields have been undermined and overlooked, leaving scholars with histories that can be incontestably classified as incomplete. Through his scholarly research in African Studies, Reiland Rabaka has come to define Africana critical theory as an "anti-racist, anti-sexist, anti-capitalist, anti-colonialist, and sexual orientation-sensitive critical theory of contemporary society" (2010, 5). I will thus make use of this theoretical construct as a lens through which to examine the contributions of the women behind the Négritude movement, notably those of Paulette and Jane Nardal and Suzanne Césaire, the inclusion of which are imperative for establishing a more accurate history. Following a brief discussion of the movement and the three scholars to whom its development is most often attributed, I will analyze the contributions of each of these women to the movement and to the development of black

consciousness ideals by examining their primary literary compositions as well as those of scholars of black feminism and Négritude.

The Négritude movement was born in the 1930s out of a need for valuing blackness, and to promote African identity, values, and culture. The movement itself became a way for scholars from Africa and the Caribbean to reject the assimilationist politics of colonial oppressors and to establish the foundation of a collective black consciousness. Ideological frameworks like *black consciousness*, which were promoted by scholars such as W.E.B. Du Bois, emphasized the need for empowering and unifying African and African descended individuals to challenge the historical overshadowing of their experiences and intellect due to notions of white supremacy. The Négritude movement is attributed to three scholars critical to its development, who are often referred to as *les Trois Pères*, or the Three Fathers, of Négritude: Aimé Césaire, Léopold Sédar Senghor, and Léon-Gontran Damas. However, the purported history of this movement has been largely androcentric and comparably little research has been done about the women scholars who were their colleagues.

Primarily a literary movement, Négritude became equally important as a political and social ideology. Césaire, Senghor, and Damas were poets living and studying in Paris in the 1930s, and hailed from Martinique, Senegal, and French Guyana, respectively. All three had encountered stark racism and exclusion from their white peers during their time in France, which ultimately worked to define their racial identities in ways they had not previously experienced. This sparked their realization of the need to establish a collective black consciousness, as black bodies had been historically denied notions of humanity and needed to resist what Aimé Césaire termed "the politics of assimilation" (A. Césaire 1972, 88). Thus, Négritude was, overall, an intellectual resistance against the foundations of racism that occurred through the reassertion of black histories and intelligences and through the affirmation of blackness and black consciousness.

In his interview with René Depestre, included in *Discourse on Colonialism*, Césaire discussed three areas of inspiration that influenced his personal doctrine for the movement: the Harlem Renaissance in the United States and its associated literary artists, such as Langston Hughes and Claude McKay; the Surrealism school of poetry; and finally, his interactions with African scholars in Paris, most notably Léopold Sédar Senghor (A. Césaire 1972, 81–94). The Harlem Renaissance, a cultural movement that took place in the 1920s, in Harlem, New York, was born out of a similar need for a reaffirmation of humanity following colonialism, slavery, and continued marginalization of black bodies in the United States and around the world. Given this relatively parallel political circumstance, the literary artists involved with this movement largely impacted those involved in developing the Négritude ideology. Though he claimed that he "was not directly influenced by any American Negroes," Césaire felt that the scholars associated with the Harlem Renaissance helped to establish a foundation for the collective black consciousness that resulted from the promotion of the ideals of Négritude and the process of disalienation from European cultural and intellectual influence (A. Césaire 1972, 87). Arguably, these processes were direct results of scholars' realizations of the depth of solidarity that existed among black individuals throughout the diaspora.

Césaire first introduced the term Négritude in his book-length poem published in 1939, entitled *Cahier d'un retour au pays natal* (*Notebook of a Return to the Native Land*). Césaire also established a journal through the Association des étudiants Martiniquais en France (Association of Martinican Students in France) entitled *L'Étudiant Noir,* or *The Black Student*, in 1935. A Pan-African publication that served to encourage transdisciplinary dialogue among black students, the journal contained poems and articles by various black scholars studying in the

area. Among these scholars were Césaire, Damas, and Senghor, as well as one sole woman contributor, also hailing from Martinique: Paulette Nardal (Nardal and Sharpley-Whiting 2009, 4).

Paulette Nardal and her sister, Jane, were two scholars who were critical to the development of the Négritude doctrine and to the spread of its ideology. They were among the larger group of academics studying in Paris that included *les trois pères*. One of the most notable contributions that Paulette and Jane made to the movement was their holding of the Clamart Salon, along with their sister Andrée, which is ultimately how the Nardal sisters became connected with Césaire, Senghor, and Damas. The sisters founded the salon, an alternative meeting space for scholars dedicated to issues of racial equality, after noting their exclusion from other intellectual circles in the city (McGee 2012, 123). The literary salon was held in their apartment in the Clamart suburb of Paris, where scholars of all disciplines would meet to discuss larger issues impacting those on the African continent and within the diaspora. *Les trois pères* were often in attendance and could be found in conversation about issues of racial identity, race consciousness, and colonialism with other French, African, Antillean, and US scholars. It has been suggested that the sisters' development of the salon was one of the reasons why Paulette Nardal was the only woman invited to contribute to *L'Etudiant Noir*, although this is still uncertain (Nardal and Sharpley-Whiting 2009, 4). Moreover, Paulette Nardal's creation of the Clamart Salon was arguably one of the most critical foundations of the Négritude movement, given that it was where Aimé Césaire first began engaging in discussions with Léopold Sédar Senghor, and given the latter scholar's influence on Césaire's development of the concept of Négritude. Indeed, had this intellectual space not existed, it cannot be known whether these scholars would have been able to construct and spread the doctrine, forever altering the scope of African diasporic history.

T. Denean Sharpley-Whiting, one of the leading researchers on the Nardal sisters and other women involved in the Négritude movement, has asserted that "the ideas laid out in *L'Etudiant Noir* – the very ideas that have been identified as 'sketch[ing] the contours of the matrix of the movement: the claiming, affirmation, and illustration of the Negro identity' [Ngal 1994, 3] – had been taken up three years earlier by [Paulette] Nardal," referencing a journal she had founded years prior in 1931, entitled *La Revue du Monde Noir* (*Review of the Black World*) (Nardal and Sharpley-Whiting 2009, 4). Prior to it being dismantled due to financial constraints in 1932, relatively soon after its debut, this bilingual (French and English) journal had addressed a vast number of issues affecting the diaspora, including, but not limited to, the politics of black consciousness. Among other female scholars who contributed literary pieces to the journal were Roberte Horth, from French Guiana; Marie Magdeleine Carbet (Magd Raney), from Martinique; and Clara Shepard and Margaret Rose Martin, both from the United States (Sourieau 2001, 331). The Nardal sisters have received little credit for the development of the movement in terms of their convening of the Clamart Salon, leading to the primary interactions between Césaire, Senghor, and Damas. Even more importantly, their literary works, including those regarding themes of black consciousness, are often overlooked – an indication of just one of the problems with the purported history of Négritude philosophy being largely androcentric. In a paper on African literature, renowned Guadeloupean author Maryse Condé wrote of the "great pity that the major roles of Jane and Paulette Nardal in the globalization of black culture are unduly forgotten in literary history," in reference to the publication of *La Revue du Monde Noir* and other intellectual advances, because "Paulette Nardal became the most important intermediary between the Harlem Renaissance writers and the francophone university students who were to become the core of the Négritude movement" (Condé 1998a, 2).

The sisters' other intellectual advances, to which Condé alludes in her (1998a) work, were made mostly during the time that Jane and Paulette Nardal spent studying at the Sorbonne in Paris. Jane, in particular, spent a great deal of time in communication with Alain Locke, another significant contributor to the Harlem Renaissance who was teaching at Howard University at the time, and she proposed the idea of a project to translate his work, *The New Negro* (1925), into French. Although Jane was studying classic literature and French at the university, Paulette had received a degree in English and offered to translate. Despite the later discontinuation of the project, the Nardal sisters had established an important line of communication between the scholars of the Harlem Renaissance and those who would continue to lay the foundations for the Négritude movement across the Atlantic (Condé 1998a, 2). Thus, the Nardal sisters, in spite of their lack of recognition in the history of the development and spread of the Négritude ideology, were intellectual conduits between literary artists throughout the African diaspora.

The exchange and development of ideology among scholars of different national backgrounds was a topic of great importance for Jane Nardal in particular. She was one of the founders of *La Dépêche Africaine*, the newspaper produced by the *Comité de defense des intérêts de la race noire* (Committee to Defend the Interests of the Black Race), under the direction of Maurice Satineau, a scholar from Guadeloupe (Sharpley-Whiting 2000, 10). Through many articles composed for the newspaper, which ran from 1928 to 1932 before being shut down by French colonial authorities for its radical politics, Nardal advocated for what can be termed *black internationalism*. In her article by the same name included in *La Dépêche Africaine,* Nardal declared the need for the development of "some interest, some originality, some pride in being Negro, to turn oneself towards Africa, the cradle of the Negro, to remember a common origin" (J. Nardal 1928, in Sharpley-Whiting 2000, 8). She further argued that the inclusion of the prefix "Afro-" for individuals of African descent located throughout the diaspora, using terms such as Afro-American and Afro-Latin, provides a strong linguistic reinforcement for that solidarity and asserts a pride in black identity and shared experience. Jane and Paulette Nardal both embodied this ideal of black internationalism, proposing the great importance of recognizing the shared experiences of enslavement, forced migration, unending exploitation, white-imposed racialization, and an overall connection to Africa (Nardal and Sharpley-Whiting 2009, 2).

Similarly, Jane Nardal's ideology of black internationalism and positive globalization encompassed the idea of "look[ing] towards the transnationalization of black culture as a solution" for problems evident in nations of Africa and in the diaspora during the period following World War I (Condé 1998a, 2). In her examination of the work of the Nardal sisters, Maryse Condé posited that Négritude and Pan-Africanism were derivations of a larger idea of globalization, given that the goal of each ideology was to find a common experience and establish solidarity among those who shared it (Condé 1998a, 2). It should be clarified that these views emphasized the need for a *positive* globalization – in contrast, of course, to the pseudo-globalization claimed by colonial powers to justify the exploitation of black peoples under the guise of promoting civilization. Contending that, "it is a good thing to place different civilizations in contact with each other [and] it is an excellent thing to blend different worlds," Césaire argued that "exchange is *oxygen*," so long as it remains a cultural exchange rather than cultural domination and eradication, such as that which was attempted by European powers (A. Césaire 1972, 33; emphasis added). In one of her articles for *La Dépêche Africaine*, entitled "*L'internationalisme noir*" ("Black Internationalism"), Jane Nardal stated that "Negroes of all origins and nationalities with different customs and religions vaguely sense that they belong, in spite of everything, to a single and same race" (Condé 1998a, 2). This was a statement made in

agreement with most of the leading black scholars of the time, with the exception of Frantz Fanon, who argued of the impossibility of a blanketed black identity in *The Wretched of the Earth* (Condé 1998a, 2). Though this view of Nardal's is not necessarily representative of modern day race theory among the majority of Africana Studies scholars, as the concept of race is no longer considered much more than a pseudoscientific classification, she was undoubtedly an influential scholar involved in the promotion of globalization and the formation of a collective black consciousness, and was key in pushing forward the ideology of Négritude.

As scholars fiercely dedicated to illuminating the experiences of those impacted by the intersectionality of oppressions – before the term even existed – the Nardal sisters worked tirelessly to promote the realization of a collective black consciousness, to speak against androcentrism, to advocate for women's voting rights in Martinique, and to campaign for the rights of those of the lower and working class in their native country. The Nardal sisters were, however, often criticized for their advocacy of the rights of the poor in Martinique because they had been born into a wealthy family and were considered part of the French elite on the island. Particularly through Paulette Nardal's publication of *La Femme dans la Cité* (*Woman in the City*), a monthly journal published for *Le Rassemblement Féminin Martiniquais* (The Martinican Women's Assembly) following World War II, which focused significantly more on women's rights concerns than her previous works, "her own class position and the organization's primarily middle-class constituency inform[ed] an oftentimes paternalistic top down elitism" (Nardal and Sharpley-Whiting 2009, 23). The Nardal sisters, like many other intellectuals, did have blind spots in their scholarship as a result of their socioeconomic privilege. However, despite their privilege, it is difficult to contest the proposition that Paulette and Jane Nardal represented what it means to be engaged scholars, particularly within the disciplines of Africana and Women's Studies.

Another woman scholar whose contributions to the development of Négritude were vital was Suzanne Césaire. Also from the island of Martinique, Césaire grew up within an assimilated French culture like the Nardal sisters, eventually attending institutions of higher education in Paris, where she met and married Aimé Césaire. This relationship has defined much of the history written about Suzanne Césaire, as her husband's identity as one of *les trois pères* has overshadowed much of her own contribution to the movement. However, as a brilliant scholar herself and as an influential contributor to the literature that helped develop and spread the ideology, Suzanne Césaire was undoubtedly an influential voice in the promotion of black consciousness and Négritude.

One of the most important contributions Césaire made to the Négritude movement was her involvement with the cultural journal *Tropiques*. She was one of the co-founders of the journal, alongside her husband, Aimé, and another Martinican scholar by the name of René Ménil. Another woman scholar who contributed to the journal was Lucie Thésée, a poet and teacher also from Martinique; though not regarded as a major contributor and thus not widely studied, she was strongly associated with the Négritude movement and anti-colonial discourse in general. The publication released fourteen issues in Martinique between 1941 and 1945, an especially tumultuous time in the area's history due to heavy censorship by the Vichy government of France under Marshal Pétain during World War II. In spite of this and various economic and geographic limitations, "the journal had a profound impact as the hidden voice of Négritude aimed at all the colonized people in the world" (Sourieau 1997, 842). The contributing authors to *Tropiques*, like those of the journals that the Nardal sisters helped to found and produce, could not be conspicuous in their politics; disguised as a cultural review published in the interest of

inciting pride in Martinicans' African heritage, the journal was established to covertly begin the processes of disalienation and mental decolonization for its readers (Sourieau 1997, 842). With the country under the control of a fascist government, it was rather risky of the Césaires to begin this publication. In order to obscure political messages from the Vichy regime and to further the ideal of complete cultural liberation, the journal's contributors began to incorporate surrealism into its literary features.

Surrealism was one of Suzanne Césaire's strongest literary influences and this can be seen throughout her writings published in *Tropiques*. It was a cultural movement that began in the 1920s with the objective of blending reality and imagination, primarily exhibited through the visual and literary arts. André Breton, a French poet, first defined the term and movement in his *Manifeste du Surréalisme* in 1924, enabling the Césaires to find a solution to the problem of creating a political journal during the years of the Vichy regime. So inspired was Suzanne Césaire with Breton's work and ideology that she wrote articles praising him to be included in *Tropiques*, so that others might both understand the work of their literary inspiration and potentially become influenced themselves. In particular, she marveled at his ability to represent suffering in poetry that was, by all accounts, joyful, writing that, "in effect, Breton inhabits a marvelous country where clouds and stars, winds and swamps, trees and animals, humankind and the universe yield to his desires" (S. Césaire, 1941). The ability of surrealism to resolve suffering and oppression with joyful discourse, as opposed to masking them, had a great influence on Suzanne Césaire's compositions for *Tropiques*.

Several of the articles authored by Suzanne Césaire for the journal are compiled in *The Great Camouflage: Writings of Dissent (1941-1945)*, along with texts by other scholars, such as André Breton, René Ménil, and Suzanne's daughter, Ina Césaire, as well as poetry that was dedicated to Suzanne by her husband. The translator, Keith L. Walker, includes a note in the introduction to the collection that describes the lyricism of her writing style and the purpose that it served, asserting that "the ponderousness of her opening lines [of the essays] was a rhetorical ploy, indeed a camouflage, to divert the attention of the censors away from the dissident consciousness-raising content at the core of her essays" (S. Césaire and Maximin 2012, xxiii). Indeed, this is true. To begin her last contribution, "The Great Camouflage," Césaire details the aesthetics of her home island of Martinique, with its "beautiful green waves of water and of silence," and the grave beauty of water-borne natural disasters swirling around the islands of the Antilles (S. Césaire and Maximin 2012, 39). This poeticism gradually transitions into a discussion of the "refined forms of slavery [that] still run rampant," providing a commentary on the striking effects of neocolonialism that impacted the people of the Antilles (S. Césaire and Maximin 2012, 41). By so constructing her compositions for *Tropiques*, Suzanne Césaire effectively helped to spread the ideology of Négritude among the people of the Antilles, by raising awareness about the impacts of neocolonialism and the need to establish a collective black consciousness. She accomplished this while circumventing the attention of a fascist government that would have intervened had its representatives been privy to the genuine objectives of the publication's editors and contributors.

Relatively little is known about Suzanne Césaire, apart from the compositions included in *Tropiques*. In her ruminations on the scholar and her part in establishing the theoretical foundations for not only a collective black identity, but also the Caribbean identity of Créolité, Maryse Condé questioned whether "it is the fate of women writers in the Caribbean" to be left out of narratives on the literary history of the region (Condé 1998b, 64). This question is posited as part of a larger discussion on why, in many instances, Césaire has been entirely left out of

narratives regarding Caribbean literature of the time, when scholars such as Aimé Césaire and Edouard Glissant are discussed extensively. Although her absence from such discussions is potentially the result of her divergence from canonical Négritude, it can be contended that it is a direct result of histories being constructed through an androcentric framework. Thus, even in being fundamental to the movement, an intellectual like Suzanne Césaire has been victimized by the gender hierarchy evident within academia.

The integration of her life and work makes evident that Suzanne Césaire could be classified as an engaged scholar. In a poem composed in 2009 by her daughter, entitled "Suzanne Césaire, My Mother," Ina Césaire provides descriptions of Suzanne Césaire that are largely indicative of her character and intellectual persona:

> My militant mother hungry for freedom
> sensitive to the sufferings of the oppressed
> unwilling to accept any injustices
> enamored of literature and passionate about history,
> making us be quiet when our father was working,
> writing tirelessly, with her mysterious script,
> on white sheets with the letterhead of the National Assembly.

Here, Ina Césaire depicts the nature of Suzanne's unrelenting activism. It seems that these characterizations – being interested in history and writing, being a champion of the oppressed, and always seeking justice – can be applied to the Nardal sisters as well. Through their scholarship, literary contributions to journals founded during the Négritude movement, and fierce dedication to empowering the members of the African diaspora and the women in their communities, Paulette Nardal, Jane Nardal, and Suzanne Césaire embodied what it means to be engaged scholars. Their literature and commitment to social change proved to be so critical for the creation and perpetuation of the movement that the refusal by many to acknowledge their scholarship is a particularly striking example of historical erasure in academia. For example, Maryse Condé states that in *Aimé Césaire: un homme à la recherche d'une patrie* (1994), Georges Ngal, a scholar from the former Zaire, discussed Suzanne Césaire's contributions as simply extensions of her husband's work, dismissing her importance as well as her identity as an intellectual (Condé 1998b, 62). This is one example of how detrimental the reduction of histories can be. By attributing Suzanne Césaire's intellectual products to her husband and refusing to acknowledge her individual scholarship, Ngal contributes to the essential erasure of this woman's history and of the histories of the black women intimately involved in developing the Négritude doctrine. This is a striking example of the process of androcentrism within academia.

Regarded by Martinican author Joseph Zobel as "the godmother of Négritude," Paulette Nardal, along with her sister Jane, played an integral role in setting the foundations for not only the Négritude movement, but for the overall intellectual atmosphere in which Négritude ideals were born (as quoted in Sourieau 2001, 331). The Nardal sisters can, particularly through their establishment of the Clamart Salon and engagement with various journal publications, "be considered the *precursors* of the Négritude movement" (Sourieau 2001, 331; emphasis added). Paulette Nardal was quite aware of this unjust distribution of credit for the movement. It was recorded that, in a letter sent to Jacques Hymans, the biographer of Léopold Sédar Senghor, she "complained bitterly [that] 'Césaire and Senghor took up the ideas tossed out by us and expressed them with more flash and brio. We were but women. We blazed the trail for men'" (Edwards 1998, 168). As yet another example of intellectual erasure within an androcentric

historical framework, the Nardal sisters' work went largely underappreciated and remains so to this day, leaving an incomplete history of the development of Négritude.

This process of erasure is applicable to the entirety of women's scholarship behind the Négritude movement and its doctrine, and has indeed inspired this very composition. The revalorization of black culture and the promotion of a collective black consciousness among those of Africa and the diaspora were part of an intellectual movement in which both women and men were intimately engaged. Thus, intentional or not, the expunging of black women's contributions to such movements, whether by attributing their work to men or simply not acknowledging it, ensures that histories remain androcentric and incomplete. The inclusion of all scholars in discussions of social and political movements such as Négritude – irrespective of race, gender, or other identity classifications – will actively dismantle the androcentric historical framework that excludes so many dedicated and brilliant woman scholars, allowing for the acquisition of more complete, and more accurate, histories.

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Inter-country Adoption and Children's Rights: How the African Union Sets Norms and Confronts Challenges

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ABSTRACT

In the realm of human rights, the African continent is often framed as a violator in need of guidance and international oversight. Yet, the African Union, and before it the Organization of African Unity, set norms to protect human rights, even aligning the supposed distinct categories of primary and secondary rights into one African Charter on Human and Peoples' Rights (1981). Pertaining to the rights of children, the OAU/AU regionalized the UN Convention on the Rights of the Child in the 1990 African Charter on the Rights and Welfare of the Child (ACRWC). Now, as a hotspot for humanitarian intervention, African states in crisis and in peace deal with heightened global pressure to export the care of vulnerable children to international families through adoption to fulfill the best interests of children. To illustrate these tensions, this paper utilizes the case study of singer and international star Madonna's adoptions from Malawi and Martha Nussbaum's (2011) capabilities list. Together, these demonstrate the complexities of providing rights to African children as guaranteed by the ACRWC. The African Union's handling of various rights challenges pertaining to intercountry adoption exemplifies its role in setting norms to protect children's rights.

Keywords: intercountry adoption, Africa, children's rights, capabilities, Madonna, adoption

Basis for African Children's Rights Norms

Discourse on human rights emphatically focuses on flagrant violations in an attempt to best achieve basic rights for all, and places overwhelming emphasis on the African continent and its increasingly popularized violations of human rights. Satirically highlighting the construction of the African continent as a dark violator of human dignity, Wainaina's "How to Write about Africa" states that one must include "celebrity activists" and avoid "school-going children" without serious diseases when writing about the continent. Western-based discourse about African human rights developments often emphasizes the need for external guidance and international oversight to overcome issues of disease, poverty, and abuses of rights.

To offer a counterpoint to this construction of the African continent, an analysis of the role of the African Union (AU; previously the Organization of African Unity, or OAU) shows it to be a human rights norm-setter. In many ways, the OAU forged new standards of human rights on the continent, while global international institutions struggled to overcome heated debates between members. For example, the African Charter on Human and Peoples' Rights of 1981 distinctly merged the often differentiated civil and political rights with economic, social, and cultural rights, setting the OAU apart from other contemporary supra-national human rights organizations

(Viljoen 2012, 215). Years later, the OAU responded quickly to members' grievances – that the 1989 UN Convention on the Rights of the Child (CRC) had failed to address children's issues of gravity within the continent – with its distinctly African *and* universalist regional charter. Indeed, the resultant African Charter on the Rights and Welfare of the Child – passed in 1990, one year after the CRC – contributes a stronger arm of intervention for the rights of children in ratifying states and strengthens key aspects of the CRC (Viljoen 2012, 396). Through the ACRWC's provisions on intercountry adoption (IA) and the resultant realities of its implementation and interpretation, the norm-setting power of the African Union emerges in the realm of children's rights and human rights more broadly.

Two important elements of the ACRWC concerning intercountry adoption diverge from the CRC: the primacy of consideration for the child's best interests and the strength of intercountry adoption as a subsidiary to other methods of alternative care. First, under the CRC, the best interests of the child are *a* primary consideration, while the ACRWC stipulates that the best interests must be *the* primary consideration in international adoption (Skelton 2009, 486). In changing this single article, the OAU anticipated a global movement to implement the best interests of the child as the sole motivation regarding child care decisions. This change seems obvious in light of modern conceptualizations of childhood, yet the idea of children as agents of rights beyond the need for welfare emerged in the twentieth century (Nussbaum 2012, 553). The best interests' consideration advocates for children's rights in a way that is separate from parental and adult considerations and wishes for children. Secondly, the ACRWC invokes a stronger subsidiarity clause for international adoption as an alternate form of care. The CRC regards IA as an *acceptable* form of alternative care when domestic family solutions fail (Article 21(b)) (General Assembly 1989). However, the ACRWC asserts that IA must be the *last resort*, if a suitable form of care cannot be found domestically (Article 24(b)) (Skelton 2009, 492; OAU 1990). At face value, the terminology in the two texts diverges in the case of intercountry adoption and institutionalization as the sole available options for a child, with the CRC allowing intercountry adoption to have equal weight to institutionalization and the ACRWC placing IA beneath institutionalization (CRC Article 21; ACRWC Article 24). Yet, current realities of intercountry adoption demonstrate that *both* levels of subsidiarity place IA just beneath domestic familial options and above institutionalization in terms of securing a child's best interests.

These two distinctions in the legal frameworks for adoption augment the reality of intercountry adoptions of children from developing states to developed states, in that citizens and courts of the latter more often than not press that adoption into its territory will be best for a child regardless of the availability of domestic alternatives. Additionally, African courts, citizens, and human rights groups distrust fast and expensive adoptions, in addition to those conducted while family members are still alive or when national crises occur. These reservations around accepting the adoption of African children out of their home country – mostly to Western countries – reflect a rejection of extractive, exploitative, hegemonic tendencies, where children appear as a form of resource being passed from one state to another (Breuning and Ishiyama 2009, 91–92). In the following discussion on the interpretations and challenges of implementing the AU's norms, the particular wording of the ACRWC and reservations about IA will surface, with promising conclusions.

In focusing solely on intercountry adoption, the current issues within the broader human and children's rights contexts come to light in a sharply tangible manner. Benyam Mezmur, a children's rights legal scholar, identifies international adoption's symbolic significance in its unique position at the crossroads of international and local laws and at the crossroads of many

cultures (2009, 166). Further, intercountry adoption as the "human face of globalization" brings to light the deadly effects of economic, social, and cultural rights violations, particularly when disregarded as subsidiary to civil and political rights (Breuning and Ishiyama 2009, 90). The specific vulnerability of children and the lasting effects of inadequately considering their best interests render the development of the African Union's norms relating to intercountry adoption and orphans of especial concern to the global community (Nussbaum and Dixon 2012, 554–55). The cases of intercountry adoption within the African Union's jurisdiction epitomize how a contested and compromised law begets further debate and interpretation to render it applicable for local legal use. Children's place of value across the world allows for the ends to be agreed upon (i.e., children's best interests are fulfilled), while the law and its application are teased out to determine how exactly to reach those ends.

Absent from many discussions on the African framework for children's rights in intercountry adoption, the Hague Convention on the Protection of Children and Cooperation in Respect of Intercountry Adoption of 1993 sets minimum guidelines for adoptions between ratifying states. Although it is the most recent and most explicit international legal code on IA, only 98 countries worldwide have ratified or acceded to the convention (HCCH 2017). The convention requires intercountry adoptions between two ratified states to follow its minimum guidelines, but the institutional power and cost of implementing the requirements necessary to fulfill its domestication currently restrict its usefulness. The necessity for both sending and receiving states to ratify the convention before its guidelines can be enforced restricts its impact further as most intercountry adoptions involve at least one non-ratifying state. Additionally, only Burkina Faso and Madagascar have ratified the convention, restricting its impact on the African continent; however, Burundi, Cape Verde, Cote d'Ivoire, Ghana, Guinea, Kenya, Lesotho, Mali, Mauritius, Namibia, Rwanda, Senegal, Seychelles, South Africa, Swaziland, Togo, and Zambia have acceded to the convention, although with several objections (HCCH 2017). Yet, in developing precedents on the African continent of children's rights in IA, the convention demonstrates a standard of protection for children that states can strive to reach without necessarily meeting the institutional qualifications for ratification. Currently, calls to oblige any ratifying state to uphold the Hague Convention's standards in *any* adoption, whether to or from a non-ratifying state, seek to strengthen the protection of children's best interests in states without the institutional capacity to ratify the convention. Alternatively, states that are party to the convention could restrict their intercountry adoptions to only other Hague states (O'Keefe 2007, 1638–41). Due to the limited scope of the Hague Convention's effects, the CRC (ratified by all countries but the US) and the ACRWC (ratified by 41 out of 54 AU members) comprise the supra-national children's rights framework for African states (OHCHR 2017; ACHPR 2017). The CRC and ACRWC do provide strong protections for children in terms of intercountry adoptions, however they lack specificity on implementation and institutional structures of adoption procedures, which the Hague Convention aims to rectify.

Intercountry Adoption: The Last Resort or in the Best Interest?

The pioneering clauses of the ACRWC define the best interests of the child as the highest consideration in intercountry adoption and make IA a strong subsidiary to other alternatives. Potential contradictions in the rhetoric arise in the cases where the only choices available for a child are intercounty adoption and domestic institutionalization, similar to the case of potential contradiction between the CRC and ACRWC. If any family-based solutions are available domestically, these avenues necessarily must be pursued in compliance with the CRC, ACRWC,

and local laws. Through their use of the best interest clause's primacy, African courts have ultimately chosen intercountry adoption over domestic non-familial institutions; however, these decisions do not come without complexity, and, at times, vocal opposition by individuals, other courts, and non-state agents of human rights. Arguments to restrict IA rest on its subsidiarity in the ACRWC to *all forms* of suitable domestic care and the ACRWC's preference for children's cultural continuity (and the preference that African children grow up in African societies). Other arguments utilize rights to identity, the scandal surrounding failed adoptions, and the possibility that intercountry adoption exports the consequences of deeper domestic social problems (Mezmur 2012, 24–26, 44; O'Keefe 2007, 1624–25; Root 2007, 339). Nevertheless, courts' final interpretations of the ACRWC continually uphold IA as fulfilling the best interests of children under circumstances that render a last resort choice necessary.

The following elements of opposition to intercountry adoption from the African continent and their current handling in specific cases demonstrate the recent "stumble forward" in African states' determination of the best interests of their children under the ACRWC (Mezmur 2012, 53). In the twenty-first century, intercountry adoptions have increased in number, driven by a higher demand for adoptable children from the US, humanitarian action in response to the numbers of AIDS-orphaned children, and a variety of other global trends (O'Keefe 2012, 1633–37; Breuning and Ishiyama 2009, 90–91). This necessarily brings African countries to reconcile their local laws with the African Union's laws and international children's rights frameworks to ensure that children remain protected in intercountry adoptions. The largest areas of debate regarding the validity and implementation of intercountry adoption are residency requirements, culture and customary laws' interaction with supra-national laws, and poverty's role in orphanhood.

Residency Requirements

The existence of residency requirements in myriad African states' laws is aimed at refining the pool of families eligible to adopt, by requiring that prospective adoptive parents live in the country for a specified period of time before the adoption. Yet, these requirements, if longer than one or two weeks, make intercountry adoption incredibly difficult for potential adopters with less money and strong attachments in their own country, restricting the pool of adopters to the wealthy or the unattached. In essence, these requirements assume that full-time domestic residents can fulfill the best interests of the state's children. In some cases, in restricting residency to include only permanent citizens through a moratorium on IA, states definitively imply that the rights of the nation's children can be fully protected within domestic care options. The argument to require residency holds merit in that the process avoids discrimination against a child in another country by discouraging IA, and protects cultural continuity by enforcing prospective parents to learn about local culture by living in the country; as the adoption of a child into another state changes his or her cultural setting, it creates new possibilities for marginalization based on race, ethnicity, or birth (all forms of discrimination in violation of the rights of the child delineated in the CRC and ACRWC) (Root 2007, 336, 344–46). However, as recent cases depict, courts increasingly have decided that restricting the pool of potential adopters to nationals violates the ACRWC's order to consider each child's best interests above all else. This may eliminate the potential that a family outside of the child's state could best fulfill the child's best interests before courts are able to assess those families' suitability.

To refer now to the case study, for Madonna and her four Malawian children, the realities of IA legal frameworks in Malawi and the ACRWC's normative role in protecting children's rights

bear personal consequences. Unknowingly, Madonna has urged on the Africanization of children's rights and forced the formation of legal precedent (Skelton 2009, 499–500). Madonna, in 2006, first requested to adopt a Malawian boy, but the court, following a law requiring adoptive parents to complete a duration of residency that Madonna did not complete, granted only temporary custody (Mezmur 2008, 147, 161; Mezmur 2009, 387). Then, in 2008, the High Court of Malawi granted the adoption and set a progressive legal precedent for interpreting residency requirements as a "means to the end" in terms of the child's best interests – namely a happy, loving, understanding family environment (Mezmur 2008, 162; Mezmur 2009, 389, 392–94). Still, local human rights groups argue that Madonna's money and celebrity allowed her to complete the adoption before the Malawian government could effectively search for domestic solutions.

In 2009, Madonna initiated another adoption from Malawi that the High Court first rejected, again due to breach of residency laws, but the Supreme Court of Appeals subsequently overturned the rejection on the basis of Madonna's *purpose* in travelling to Malawi and her commitment to a "*targeted long-term presence*" (Mezmur 2012, 34; emphasis added). The first rejection of her adoption rested on the ideas that Madonna did not fulfill residency requirements, the child's orphanage met the ACRWC's definition of a "suitable manner" of domestic care (Article 24 (b)), and the possible "consequences [for other adoptable children] of opening the door too wide" to intercountry adoption (Mezmur 2012, 27; OAU 1990). However, studies have determined that institutional care damages children's psychological and social development; thus, if there exists an opportunity for acceptable familial care (in whichever country), institutionalization is not a suitable alternative for the best interests of the child (Bartholet 2007, 180). As such, while the ACRWC's best interests and last resort clauses combine to uphold intercountry adoption as the last alternative capable of ensuring a child's best interests, they remain above institutionalization as this option cannot be said to ensure a child's best interests. This second adoption was completed in 2009, and, in 2017, Madonna adopted Malawian twins in two weeks' time, signaling the Malawian court's settling on its interpretation of residency as a means to the end regarding the best interests of the child (Gonzalez 2017; "Madonna Scored Adoption" 2017).

Culture and Customary Law

This remains one of the strongest theoretical debates concerning IA – adopting a child to another country immerses him or her in a different culture. Children have the right to cultural identity and belonging as do all human beings. Accordingly, in article 25 of the ACRWC, placement of a child after separation from parental care must consider "continuity in… the child's ethnic, religious or linguistic background" alongside a preference for familial care (OAU 1990). For example, the court in Madonna's second Malawian adoption concluded that by committing to a "targeted long-term presence," she would respect her children's right to cultural continuity; yet, since her first adoption, Madonna had not returned to the country (Mezmur 2012, 27, 34). Despite the court's use of a continued presence in Malawian culture to justify Madonna's adoptions, this commitment need not be present for an intercountry adoption to fit legally within the CRC and ACRWC frameworks.

The capabilities approach demonstrates that, in the constrained choice between domestic institutionalization and intercountry adoption, IA protects a child's capability to enjoy culture without needing strings attached to a *birth* culture (Nussbaum and Dixon 2012, 561, 563–64). The ACRWC strengthens the argument to allow IA despite the transition of cultures, through a

preference for care in an African civilization for African children that preserves as much continuity as possible. This highlights a global adoption tension in that some children will need to be adopted outside of their ethnic, racial, religious, linguistic, or cultural community of birth, both within and between countries. The result of implementing adoptions under the frameworks of the CRC and the ACRWC errs on the side of keeping a child as close as possible to their birth identity for ease of access to the culture of their biological family. In intercountry adoption, this follows from the ACRWC's preference for inter-African adoptions, but would also include a preference for adoption of a Nigerian child to a Nigerian family in the diaspora.

Children also have a right to a culture of *their choosing*, and, as appropriate according to their ability, children's rights to express their wishes for their lives are protected by the ACRWC. Research shows that IA succeeds best in adoptions of those who are younger, where the children have yet to form substantive opinions on their culture of birth (Bartholet 2007, 179–80). All youth are necessarily constrained by nature of dependency to the culture of their guardians' choosing during childhood; yet, a positive family environment can allow a child the capability to connect with any culture. The reality of the depth of dependence of adoptable children amplifies institutions' abilities to inhibit a child's capabilities to participate in culture (Bartholet 2007, 180–81). Scholars such as An-Na'im and Mezmur uphold culture as the context of discerning human rights as a means to the end of a decision that is in line with the ACRWC's paramount best interests clause (An-Na'im 2011; Mezmur 2009, 394–98; Mezmur 2012, 50–51). Interpretations by the courts in Madonna's adoptions recognized that the child's capability to enjoy and choose cultural identity holds greater importance than a capability to enjoy a *specific* culture. The capabilities approach clarifies the need to reach a universal minimum threshold of capability protection, even if a child requires IA to meet the minimum (Nussbaum 2011). Intercountry adoption, therefore, does not violate the child's right to culture, but rather ensures the child's future enjoyment of the right to culture. This teasing out of the tension within the ACRWC's cultural continuity preference and the supremacy of the best interests of the child underlines the progress that Malawi specifically has made in balancing its local laws with its implementation of the ACRWC.

Poverty and Orphanhood

Due to the pervasive nature of economic hardship on the African continent, the ACRWC recognizes the duty of the state to assist families in achieving their rights and their children's rights despite poverty (Article 20 (2); OAU 1990). As such, the construction of African nations as places of looming crisis, where external intervention is permissible, does not merit intercountry adoption of children to areas of *better* stability and socio-economic conditions if the state can meet the minimum threshold of capabilities (O'Keefe 2007, 1615–19; Root 2007, 350). This being stated, the realities of poverty and lack of welfare assistance in areas of the African continent render many families and nations unable to care for their children. As such, many scholars hesitate in condoning IA, as it can become a way of masking the underlying absences of rights protection for families and children on the part of the state (O'Keefe 2007, 1624–25; Root 2007, 339; Mezmur 2012, 44; Skelton 2009, 494–95). Yet, the CRC and ACRWC documents, in categorizing intercountry adoption separately from adoption, kafalah (a system of orphan care similar to adoption that does not include the transfer of legal rights of parenting in terms of lineage or inheritance; practiced under Islamic law), fostering and other institutions, imply the necessity of cultivating and maintaining in-state methods of child care. Additionally, the psychological and social detriments of non-familial care for children necessitate viable in-state

adoption and fostering procedures to provide for the best interests of children (Bartholet 2007, 180).

Today, several African countries have chosen to halt international adoption completely or have residency requirements to the same effect, which can allow time for a government to ascertain the adoptability of children, promote domestic alternative care, or implement welfare programs to eliminate poverty as a cause of orphanhood (for example, Ethiopia most recently ended intercountry adoption) (BBC 2018). The drawback to this approach is that some children may need to rely on institutional care as the country sorts out its orphan care framework, and this has been proven to adversely affect children's health and psychological well-being (Bartholet 2007, 154). However, given the popularity of debates surrounding Madonna's adoptions and the moratoriums on intercountry adoption, African governments are cognizant of the issues of IA and are using the ACRWC progressively to fulfill the rights of children in challenging circumstances. The analysis of these tensions arising in the ACRWC's framework for international adoption amplifies the need for oversight of adoptions, promotion of domestic familial solutions, and culturally mediated and realized universalism.

The Capabilities Approach and Intercountry Adoption

From the above analysis of the African Union's norm-setting for children's rights through the ACRWC and its implementation, it is clear that intercountry adoption must be closely evaluated on a case-by-case basis to ensure that the best interests of the child will be fulfilled through the adoption. The capabilities of each child will vary depending on their individual circumstances and the input of effort on the state's part to ensure a child achieves his or her best outcome must vary accordingly. However, in real practice, the trend of interpretation of the ACRWC and the CRC by African states implies the following hierarchy of care options for the best interests of the child: biological familial care > community-based familial care > domestic familial care (adoption, fostering, or kafalah) > intracontinental adoption > intercountry adoption > institutional care. The next question to review, then, is: Does this hierarchy have a theoretical basis in human rights discourse? Making use of Martha Nussbaum's capabilities approach, international adoption can in fact fulfill the capabilities of a child where all other domestic avenues have been fully explored and found impracticable (2011).

A capability defined within the framework of human rights represents an ability to do and an ability to choose to do (Sen 2005, 152–53). For a human right to be realized successfully, an individual must have the option to claim human dignity and the freedom to choose to claim that human dignity. For children's rights, capabilities present an argument in favor of modern shifts toward children's agency over their own rights, and allow for a distinction of children's capabilities from adults' and the extension of such capabilities to infants (Nussbaum and Dixon 2012, 552–53). A child's capabilities vary from case to case, while the support of universal equality of human rights necessitates the particularity of meeting children's best interests in the CRC and ACRWC. Vulnerability and unequal power structures present justifications of greater protection for some children over others, a theory that holds for adults of various capabilities as well (Nussbaum and Dixon 2012, 573–78; Nussbaum 2011, 24). Also, the protection of children's rights deserves special priority when their disadvantages are greater than adults' due to their heightened vulnerability and dependence – for example, a child orphaned due to AIDS needs greater input from the government to reach its capabilities than does an adult widowed because of AIDS (Nussbaum and Dixon 2012, 561). Nussbaum and Dixon strongly assert that attention to children's best interests in intercountry adoption cannot render consideration of these

children higher than that of children or adults in a state of similar deprivation of capabilities (2012, 555). For poverty-induced orphanhood, the capability approach emphasizes that the capabilities of families, parents, and children are best protected when states support the equity of capabilities for all citizens. This reflects the ACRWC's provisions of family rights and a state's role in social welfare to eliminate poverty as a reason for orphanhood, by striving for all citizens to meet the minimum threshold of capabilities (Nussbaum and Dixon 2012, 554).

The capabilities approach is also useful in supporting the ruling of courts in favor of intercountry adoption over institutionalization. Nussbaum distinguishes between internal capabilities and the circumstances surrounding a person that allow or restrict capabilities (Nussbaum 2011, 21–24); institutionalization of a child harms internal capabilities and restricts external capabilities out of necessity. Intercountry adoption, which may also harm internal capabilities of cultural identity and belonging and restricts the child's ability to participate in his or her birth culture, saves the child from the damages of institutionalization that would inhibit his or her full capability of enjoyment of any culture. As much as possible, the capabilities approach values the expression of children's views on their own lives, and thus in determining what lies within the best interests of the child, the state must focus on a child's expressed opinions – a right supported by both the CRC and the ACRWC.

The capabilities approach allows for the restriction of children's capabilities at certain times to encourage the development of their full dignity and adult capabilities. A distinction in law or parenting can restrict children's rights to vote, for example, in order to cultivate future capabilities of political participation. Children also receive special priorities to claim their rights based on avoiding "a spiraling need to protect more and more capabilities," as the violation of certain capabilities at crucial times in a child's life can inhibit the development of more capabilities in the future (Nussbaum and Dixon 2012, 580). Even expensive mechanisms and agencies put in place to regulate the determination of adoptability must be provided for by a state to ensure that the children's capabilities are protected and to avoid unnecessary damage to their future capabilities.

Nussbaum's list of Central Human Capabilities offers a concrete baseline of human rights beneficial to assessing international adoption. The list includes the capabilities of life; bodily health; bodily integrity; senses, imagination, and thought; emotions; practical reason; affiliation; other species and the environment; play; and control over one's own environment (Nussbaum 2011, 33–34). Orphans' capabilities, without recourse to domestic familial care of any sort, are therefore best protected by international adoption, in order to avoid the state needing to provide increasing levels of protection in the future. In the following paragraph, the consideration of capabilities will pit the last resort methods of care, intercountry adoption and domestic non-familial institutional care, against one another from the view of capabilities. Domestic non-familial institutions include orphanages, children's homes, year-round state boarding schools, and a number of other phrases used to soften the rhetoric of orphanages' connotations.

Institutional care restricts each one of the capabilities for children.[1] Given the destitution and constraints in staffing surrounding orphanages, children's capabilities for leading a normal *life* are compromised and the limited resources available to many institutions violates children's

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[1] Information regarding the following negative effects of institutionalization can be found in Bartholet, 2011. Additionally, the author's experiences in a children's home in Nairobi inform much of the analysis, from the perspectives of older orphans, social workers, caregivers, volunteers, orphanage owners, and the author herself.

bodily health capability. Although children do not generally have full capabilities in terms of bodily integrity because of guardian dependence and authority structures, institutional care further violates children's *bodily integrity* by necessitating greater regulated rules and procedures for the smooth management of large numbers of children. The often sterile and needs-based objectives of orphanages harm children's ability to fully utilize their *imagination* and distort their conceptions of attachment and love. The psychological effects of the institutional setting on children's development limits their capacity to *think*. In orphanages, children experience separation from family or trauma leading to their placement in the institution – a disruption which may also occur in international adoption. Yet, the trauma and loneliness perpetuates in orphanages as new children bring their own reflections of pain and the general absence of familial love – affecting the children's capability of *emotions*. Children in institutional care suffer especially from attachment trauma as caretakers and volunteers come and go as their own lives necessitate, leaving children to repeatedly form vital adult attachments that are broken outside of the children's control. Children's ability to *practically reason* in the form of reflecting on one's own life may be seen in institutionalized children; however, children must always seek out love and basic needs within the institution, which preoccupies their time, away from future life planning. Orphans in institutional care also cannot depend on the continual presence of the orphanage in their lives, as they may be transferred, adopted, or fostered, or may age out of the system, affecting their capability for practical reasoning. Without the stability of forming solid attachments, institutional care also restricts children's perceptions of *affiliation* and limits their interactions with others to those facilitated by the institution. The capability to live with concern for *other species and the environment* remains tenuous due to institutionalized children's necessary concern for the basic necessities of their own lives. Similarly, with inadequate resources in terms of materials and human interaction, children's capability to *play* is severely curtailed by institutionalization and the constrained freedoms allowed them within the institution. Lastly, children in institutional care have virtually no *control over their own environment* and do not have access to typical familial support for future planning. Arguably, intercountry adoption also limits a child's capability to control his or her life, but IA should only be condoned in line with the child's expressed views in whatever ways possible, in light of the ACRWC's guarantee of a child's right to expression.[2]

This inability of institutional care to fulfill the capabilities of children renders the current implementation of the ACRWC's best interests and subsidiarity clauses appropriate. By meeting children's capabilities through intercountry adoption or domestic familial placement over institutionalization, African countries can avoid the greater degradation of children's capabilities and meet the ones most fertile for the future. The development of one capability at the related crucial time in a child's life can foundationally strengthen other capabilities given their indivisible nature, thus ensuring that fewer state protections of the child's capabilities are required later on (Nussbaum and Dixon 2012, 580–83).

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[2] The idea to utilize the compact list of capabilities to analyze how institutionalization measures up is drawn from Nussbaum's own use of her list to evaluate violence against women in her 2005 piece "Women's Bodies: Violence, Security, Capabilities" on pages 171–73. Additionally, for more details on the full meaning of each of her listed capabilities used here, see the second chapter of her book *Creating Capabilities* (Nussbaum 2011).

Conclusion

As shown through this discussion of Malawi's decisions surrounding Madonna's adoptions and Martha Nussbaum's capabilities approach, the African Union's norms for children's rights actively mold the African approach to alternative child care. Intercountry adoption highlights the need for realistic and inclusive human rights discourse, and the use of the CRC and ACRWC in the African context validates, localizes, and strengthens children's rights globally. Of course, the existence of a flexible and growing children's rights framework for the continent cannot preclude violations of children's rights in totality, especially in intercountry adoption. However, the existence of violations of children's rights in intercountry adoption as measured against the norms of the ACRWC should urge on the process of strengthening and validating implementation procedures; this process can be observed in Madonna's case, as courts and human rights groups became involved to tease out the ruling that would apply the law to best serve the children involved. Amidst reservations and tensions surrounding the benefits of intercountry adoption, the best interests of the child and the best capabilities of the child are met through IA when proper oversight allows adoptable children to avoid institutionalization. Yet, the debate can never reach a totalizing settlement, given the variability of each child's particular experience and the necessity to meet each child's particular needs to achieve enjoyment of their human rights to the fullest. The framework of children's rights norms on the African continent shows promise and follows the work of previous scholars, lawyers, courts, activist groups, and individuals to ensure greater implementation of domestic child care systems and oversight of intercountry adoptions, creating societies of children and adults who realize their best interests.

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Eugenics and Reproductive Justice in North Carolina

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ABSTRACT

The reproductive rights of North Carolinians, African American women in particular, have been severely diminished over the course of US history. The eugenics program established by the state in the early 1900s led thousands of North Carolinian African American women to be sterilized without their consent. The effects of the program continue today, as the surviving victims are unable to procreate due to the irreversibility of the procedure. States such as North Carolina and Virginia have attempted to provide some semblance of an apology for these atrocities in the form of financial payments. However, not all of those who were involuntarily sterilized qualified to receive reparations, and only two of the numerous states that participated in eugenic practices have attempted to aid victims. Also of concern is that involuntary sterilizations are still taking place in the United States, even though North Carolina's eugenics program ended in 1977. In California, 148 female prisoners were involuntarily sterilized between 2006 and 2010, but the governor of this state passed a bill in 2014 to stop such sterilizations. Even though such legislation and the Affordable Care Act have attempted to protect and broaden the reproductive rights of Americans, numerous problems continue to restrict reproductive freedoms, including complex consent forms.

Keywords: reproductive justice, eugenics, African American women, North Carolina, sterilizations

Introduction

Throughout the history of the United States, women and people of color have been discriminated against in a number of ways. These two groups have had their political rights and their basic human rights infringed upon. With this knowledge, it is clear that African American women have been discriminated against on account of being both African American and women. From the early to mid-1900s, North Carolina was one of many states that implemented a eugenics program that sought to take away people's right to reproduce. Both women and African Americans were two particular groups affected by this program. While the state has formally ended this program and paid reparations to some of those who were involuntarily sterilized, there are still a number of ongoing issues that work to limit the reproductive freedom of some US citizens, particularly that of African American women, in the current day. These include unwarranted sterilizations in prisons, as well as consent forms that are too complex for many of those who undergo the procedure to fully comprehend. Legislators must take action in order to protect individuals and allow them the reproductive justice they deserve.

In examining sterilization and the history of this practice in the US, it is important to first determine what exactly is meant by the term "reproductive justice." The term "reproductive rights" has often been associated with a woman's right to have an abortion. However, this is not all that the term applies to. Charlotte Rutherford (1991) states that people in the US should embrace a new definition for this term, a definition that encompasses a woman's ability to make her own informed choice about what she wishes to do concerning her reproductive health while having access to adequate health care. Rutherford further argues that this new definition should involve a woman's ability to have the freedom to make whatever choice she wishes, whether it be "terminating unplanned and unwanted pregnancies [or] delivering healthy babies under healthy circumstances" (1991, 255–56). Reproductive justice, then, also applies to rights around the practice of sterilization, in the current day and historically.

Eugenics in North Carolina

A major issue that one must confront when discussing reproductive justice for North Carolinian African American women is that of eugenics. Eugenics is the act of "improving a society's gene pool through reducing populations of people with negative traits" (Lou 2014). Eugenic programs began to gain in popularity in the early 1900s due to the United States' Supreme Court ruling in *Buck v. Bell* in 1927. This case involved Carrie Buck, a "feeble minded" woman whose condition, according to the majority opinion written by the Supreme Court, had been present in her family's last three generations (Cornell Law School n.d.). She was committed to a mental institution in Virginia, the state that had passed a law allowing the reproductive sterilization of institutionalized individuals for the "health of the patient and the welfare of society" (Cornell Law School n.d.). The law also required a hearing to be held to determine whether or not sterilization was necessary before the procedure could actually be implemented. Buck's lawyers argued that this law was a violation of her right to due process of the law. The Supreme Court, however, ruled that this law was not a violation of the Constitution, because the hearing had to take place and months of observation were required, in order for the procedure to be done (Oyez n.d.). Thus, sterilizations mandated by the state were constitutional according to the Supreme Court. Justice Holmes stated that, in his opinion, "Three generations of imbeciles are enough" (Cornell Law School n.d.). Following the Court's ruling in *Buck v. Bell*, sterilization laws were passed or extended in many states across the country (Scott 2015, 6).

In 1929, North Carolina was the seventeenth of 33 states to pass a sterilization law that gave authorization to all administrative heads of institutions in the state to sterilize any "mentally defective or feeble-minded inmate or patient thereof" (Kaelber 2014). The first law was overturned by the United States Supreme Court, but in 1933, North Carolina created a formal Eugenics Board made up of five state officials who oversaw sterilizations in the state (Klein 2012, 422). These five members included "the commissioner of the Board of Charities and Public Welfare, the secretary of the State Board of Health, the chief medical officer of a state institution for the feeble-minded or insane… the chief medical officer of the State Hospital at Raleigh, and the attorney general" (Learn NC, n.d.). As stated in a release by the North Carolina Eugenics Board, one of the purposes of this program was "to decrease breeding among the undesirable stocks" (Brown 1938, 5). Among such "undesirable stocks" was any person who was a "mentally diseased, feeble-minded, or epileptic inmate or patient of the State or county institutions, or… resident of a county" in North Carolina (Brown 1938, 8). It is important to note here that the admission of an individual as a patient to such an institution did not necessarily mean that she or he belonged there nor that such a diagnosis was applicable (Kaelber 2014). One

particularly interesting aspect of the North Carolina eugenics program is that local welfare officials were given the ability "to submit sterilization petitions for their clients," thus making it more likely for a welfare recipient to undergo a sterilization procedure (Price and Darity 2010, 264). This program continued until it was abandoned in 1977, but by the end of the program's tenure, roughly 7,600 North Carolinians had been involuntarily sterilized. However, it was not until April of 2003 that the sterilization law was actually overturned by the North Carolina Senate (Kaelber 2014).

Of particular interest to this paper's focus are the statistics regarding the North Carolinians who were sterilized under this program. Even though the purpose of the program was stated as discussed above, when one takes into account the numbers of minorities who were sterilized, it is clear that there was more of an underlying motivation on the part of the North Carolina Eugenics Board to sterilize specific groups of people. For example, 85 percent of the total number of people sterilized were women; 80 percent of those who were sterilized between 1950 and 1960 alone were African American men and women both (Klein 2012, 422). Between July 1946 and June 1969, the highest number of sterilization procedures were performed in Mecklenburg County (485 procedures), and Guilford County had the second highest number of procedures completed during this time period, with 167 sterilizations ordered (Office of Justice for Sterilization Victims n.d.). During the 1950s and 1960s, 63 percent of all sterilization victims in North Carolina were on welfare (Klein 2012, 423). This program therefore developed into somewhat of an "American genocide" in order to "control the reproduction of women on welfare" so that the state could save money (Carmon 2014). As Johnnie Tillmon stated in her 1972 article, "Welfare is a Women's Issue," women on welfare during this period were "not supposed to have any sex at all… You give up control of your body. It's a condition of aid. You may even have to agree to get your tubes tied…just to avoid being cut off welfare."

North Carolina is a state that has a remarkable history of utilizing eugenics programs. When it was found unconstitutional for welfare administrators to discriminate against African Americans, they were forced to find a new way to stop blacks from having access to state funds. The North Carolina eugenics movement clearly was a way to lower the number of black welfare recipients by eliminating the ability for black women to procreate – notably, an act that should be viewed as a basic right and extended to all humans regardless of race or gender. As Jennifer Klein has stated, "These procedures were generally irreversible. And…the state's actions were an enormous violation of the individual's bodily integrity and autonomy" (2012, 424). These actions are thus evidence of how the government has infringed upon the rights and lives of African American women in all parts of the country, including North Carolina. After World War II, the number of sterilization procedures decreased in many states due to the widespread knowledge of how the Nazis performed unwarranted sterilizations on an estimated 350,000 people; thus, many US states decreased or halted the number of sterilizations being completed (Klein 2012, 423–24). Contrary to what other states decided to do, North Carolina reached its highest number of sterilizations after World War II ended (Klein 2012, 424). For example, it was revealed in 1965 that North Carolina had been the state with the highest number of reported sterilizations in every year but one in the period between 1950 and 1965 (Klein 2012, 424).

However, North Carolina was the first state to offer reparations in 2014, for victims who had undergone sterilization without their knowledge or consent. There was a 10-million-dollar budget allocated for the payment of reparations to the victims who were still living in 2014 (Carmon 2014). It was assessed that each of the estimated 2,000 living victims would receive 50,000 dollars (Klein 2012, 424). Beverly Perdue, the governor of North Carolina who

established the task force to compensate the state eugenic program's victims, said on the matter, "You can't rewind a watch or rewrite history. You just have to go forward and that's what we're trying to do in North Carolina" (Kessel and Hopper 2011). However, some sterilization victims in North Carolina could not seek reparation, as the money was set aside only for victims of the state program; there were also many victims who were sterilized through county agencies. For example, in North Carolina, some people were sterilized by Mecklenburg County health officials and others were sterilized in Raleigh at the Dorothea Dix Hospital, a psychiatric hospital; however, these victims were not eligible for reparations because the official North Carolina Eugenics Board was not directly responsible for their sterilization (Campbell and Helms 2016).

Eugenics Outside of North Carolina

Currently, North Carolina and Virginia are the only states that have paid reparations to victims of involuntary sterilizations; Virginia, however, only paid 25,000 dollars to each of its surviving victims (Bold 2015). Furthermore, while many states like North Carolina have overturned their sterilization laws, there are still sterilizations being completed without the individual's full consent in other parts of the US, often on those who are incarcerated. In 2013, it was reported by Paul Campos, a University of Colorado law professor, that 148 women in California prisons had been illegally sterilized between 2006 and 2010. Campos further reported that these women were "given tubal ligations without the prison administrators" obtaining the proper "case by case authorization for the procedures, required by law, from a state board." There was a large public outcry over this news, which led Jerry Brown, the governor of the state, to sign a bill in 2014 that banned involuntary sterilizations in California prisons (Schwarz 2014).

Under President Obama, the Affordable Care Act was passed in 2010 and it has expanded the reproductive rights of women in the United States. This act carries the potential to increase the number of US citizens with insurance coverage and to raise the value of coverage, specifically concerning reproductive health needs. This act also has the potential to improve access to services and information regarding health services (Sonfield and Pollack 2013, 374). The act was revolutionary, as it set the initiative for providing health insurance for all US citizens, regardless of one's race or social class (Sonfield and Pollack 2013, 373). However, public reception has been very mixed. According to a 2011 study, 42 percent of individuals in the US deemed the act favorable, while 47 percent regarded it as unfavorable (Brodie, Deane, and Cho 2011, 1100).

The prevalence of one reproductive health service increased significantly with the passing of the Affordable Care Act, and it was, ironically, sterilization. In an analysis of the Affordable Care Act's utilization rates in women's reproductive health services, it was found that sterilization procedures increased from 0.7 percent in 2011 to 2.3 percent in 2013 (Arora and Desai 2016, 228). In a 2012 study completed by Sonya Borrero, Nikki Zite, and Mitchell Creinin, it was discovered that, due to forms which must be completed for publicly-funded sterilizations to occur, not all women who had signed these forms fully understood what they were giving consent to. This was because of the forms' complexities. To fully understand the forms, one must possess significant, above-average literacy skills, yet the majority of women "likely to undergo publicly funded sterilization…are at particularly high risk for having average or below average health literacy skills" (Borrero, Zite, and Creinin 2012, 1822). The researchers found that women who had undergone the procedure misunderstood the permanence of sterilization, and they concluded that insurance providers do not always ensure that the patient understands what the procedure will entail. The authors also established that it is minority and low-income women who are more likely to undergo this procedure. These findings are

disconcerting because of the vast number of misunderstandings caused by the consent forms (Borrero, Zite, and Creinin 2012, 1822). If the process is not soon changed, the United States could once again have a eugenics movement; this time, though, minority women will be signing off on their own government-funded sterilization, without fully understanding what the procedure involves.

Conclusion

Clearly, the government, in particular the state government of North Carolina, has worked in the past to limit the reproductive freedoms of African American women through the implementation of eugenics programs. While reparations have given those affected by these sterilization practices some semblance of justice, they are still not comparable to having the ability to procreate. There is simply no way to set an adequate price on a human being's rights in terms of control over what happens to one's own body. However, it is a good place to start, and reparations should be paid to those who did not qualify for the North Carolina funds. Reparations should also be paid to victims in other states. These reparations are paid with taxpayer money and will be costly, and this will force lawmakers to set aside their partisan politics to allow these victims a semblance of the justice that they deserve. This should include those who were sterilized through county agencies and also those who have died. Reparations can be paid to victims who are still alive, and damages can be paid to family members of those victims no longer living. Compensation for having their basic human rights violated will allow these victims and their families to feel some sense of justice. However, it might be difficult for someone to prove that their ancestor was sterilized if they are no longer living.

Even though North Carolina's eugenics program ended in 1977, illegal sterilizations were still taking place until 2014 in California prisons. Future research considerations should be focused on whether other illegal sterilizations have taken place in recent years. Additionally, research should be completed on consent forms in order to create a form that will be easily comprehensible for those undergoing a publicly-funded sterilization. Above all else, a permanent piece of legislation should be passed in order to ensure that the basic human right of reproduction is never again taken away from citizens in the United States, regardless of their situation, race, or gender. Our legislators must set aside their political differences and work together to create a law that will adequately confront and eradicate this issue of basic human rights.

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Healthcare Denied and Revived: 1896–1970
A Mississippi Case Study

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ABSTRACT

Health is both a civil and human right. However, the United States has historically treated health and healthcare as solely a civil right that can be selectively granted and revoked, rather than as a human right. Healthcare has been cast into the periphery of segregation and desegregation discourses, just as black populations' access to care has been minimized. We lose out on the evolution of health activism, and its dominant actors, throughout monumental institutional changes when these issues remain out of focus. To reinforce the magnitude of racism, the author makes use of the stories of Dr. Charles R. Drew and Juliette Derricotte, who died preventable deaths. The research centers healthcare in the civil rights discourse by examining the evolution of healthcare in the South before and during desegregation as it relates to the dominant actors of healthcare activism in the Mississippi Delta, particularly in Mound Bayou.

Keywords: healthcare activism, human rights, segregation, Civil Rights Movement, Mississippi

Basically, you can't separate medical problems from social, economic, and political ones, nor can you neglect the health of one racial segment or class without damage to the health of all.

—Edward C. Mazique, M.D.
The Milwaukee Sentinel
August 14, 1958

Spencie Love's *One Blood: The Death and Resurrection of Charles R. Drew* (1997) follows the life of Dr. Charles Richard Drew, a well-known surgeon and research professor at Howard University's medical school. Dr. Drew became famous for his groundbreaking research and work in blood plasma and in helping to establish the first American Red Cross blood bank. However, all this fame and potential were suddenly ceased after a long, nighttime drive from a conference in Alabama on April 1, 1950, when Dr. Drew and his passengers wound up in a car accident in Alamance County, a rural region of North Carolina. Rumors began to spread that Dr. Drew and the passengers were refused emergency care because of his race. The truth was that Dr. Drew was treated by two white surgeons in a segregated emergency room of the Alamance General Hospital. Dr. Charles Richard Drew was, in this way, a legend in life and death. Even though the rumors were untrue, they spoke volumes about American discriminatory practices toward African Americans, especially in the South (Love 1997, 1–5).

The story of Juliette Derricotte provides a striking parallel to that of Dr. Charles Richard Drew. Juliette Derricotte was an African American educator from Athens, Georgia, who showed

much potential in her years as a student leader at Talladega College, and then as the Dean of Women at Fisk University in the early 1930s. She was stopped short of her future leadership potential when a white couple's vehicle collided with hers about a mile outside of Dalton, Georgia. The car carried three other passengers who were students at Fisk University. Derricotte and one other passenger were seriously injured and in need of emergency treatment, however the nearest hospital refused admission to African Americans. At that time, skin color could cause a person to be stripped of their humanity and added to an exhaustive list of preventable deaths due to healthcare denial. Derricotte and the injured student were relegated to the care of a local black woman who offered beds for refused black patients. The student died that night and Derricotte died on November 7, 1931 (the next day), after her ambulance ride to Walden Hospital in Chattanooga (Love 1997, 1–5; Gale Research 2002). Such stories prove that racism is a living, evolving entity that can pervade every institution.

The stories of Dr. Charles R. Drew and Juliette Derricotte, even with fictitious discrepancies, highlight the all-too-common narrative of healthcare denial for African Americans in the South. Credentials, respectability, and professionalism were not enough to grant them the highest care attainable. Jim Crow refers to the segregation laws that subjugated African Americans, giving blacks a lower quality of US citizenship and forcing them to use separate public facilities between 1877 (the end of Reconstruction) and the 1960s. The US healthcare system under Jim Crow (and even in the present) was simply not built to care for everyone's healthcare needs. It has acted more as a rationing mechanism for care commodities and privileges. Yet, with the understanding that healthcare discrimination can be deadly, healthcare should be approached as a human right. Human rights are necessary and inherent to human existence and, for this reason, should not be taken away ("What is the Difference Between a Human Right and a Civil Right?" n.d.).

The concept of human rights was popularized in 1948 with the end of World War II, after the gross discrimination toward and torture and killing of Jewish people (University of Minnesota, 1998). Article 25 of the Universal Declaration of Human Rights of 1948 addresses healthcare as a human right with the following:

> Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services.

The World Health Organization (WHO) also created a constitution in 1948 that fortified health as a human rights issue. The preamble includes 3 primary principles that apply to this research and is paraphrased as follows: 1) that health is a holistic state of being that includes physical, mental, and social well-being in addition to a biological one; 2) that the highest attainable standard of health is a fundamental human right granted without consideration of race, religion, political leanings, or socioeconomic condition; and 3) that governments have a responsibility to ensure the health of their citizens through adequate provision of social and health programs (WHO 2018). Before 1948, rights had usually been described through the lens of civil rights granted by citizenship (University of Minnesota, 1998). Civil rights can serve as protection against discrimination, and because of this fact, healthcare can be categorized as both a human and civil right. According to my observations, the original ideas of citizenship had always been in question for African Americans and this made healthcare denial that much easier until the Civil Rights Acts of 1964.

This paper specifically discusses the history of Mound Bayou and the surrounding towns of Mississippi in a case study that exemplifies the changes in the political exemption of African Americans from the healthcare system over time. In the 1960s, poor Americans were four times more likely to die before age 35 than those who could afford appointment fees and transportation costs. African American women who resided in Mississippi were six times more likely to die during childbirth than their white counterparts. Furthermore, the average life expectancy of African Americans was 61, while white individuals lived an average of 68 years (*The New York Times*, 19 May 1968). Many physician-activists and community leaders employed the aforementioned human rights view of healthcare in their activism for healthcare access. Health care providers and civil and human rights organizations alike worked toward the common goal of providing care to African Americans, even when formal healthcare institutions deliberately chose not to. The following questions concerning Mississippian experiences with medical discrimination have directed the research resulting in this paper: What were the forces of medical discrimination that black communities and health activists had to fight against? What were some of the barriers to creating sustainable healthcare delivery interventions? How did the ideologies during medical desegregation differ among black healthcare providers? How did formal medical facilities (hospitals) deal with desegregation? Through the discussion, the reader should gain a sense of the magnitude and breadth of racial discrimination, its effects on African American health, and the ways in which black communities, organizations, and physician-activists attempted to extend healthcare delivery beyond the racist and classist limitations of the US healthcare system.

Mound Bayou, Mississippi is a rural and historically African American town that was established in 1887 by two African American cousins, Isaiah T. Montgomery and Benjamin T. Green (Beito 1999, 183). Since Mound Bayou's inception, the town has faced a plethora of challenges regarding healthcare – before, during, and after Jim Crow laws were implemented. Healthcare in Mound Bayou was severely diminished given its poverty rates. According to Dittmer's *The Good Doctors*, six physicians took a tour of the Mississippi Delta and witnessed the disturbingly diminished level of health in the area. The physicians found rampant malnutrition and starvation, and other illnesses related to the destitute environment. Children had swollen bellies and were fed scraps by neighbors (Jack Geiger Collection, Folder 316). The conditions of Mississippians were especially shocking to these physicians since they were used to much higher levels of health, up-to-date technology, and more medical personnel in the Northern states. In 1969, Dr. Jack Geiger, an avid healthcare activist during the civil rights era, declared Mound Bayou, Mississippi, to be in a state of a public health emergency based on the town's water levels and sanitation system. Geiger determined that the water levels were too low to be properly chlorinated and that the sewage system was "suboptimal." With the lack of water infrastructure, residents of Mound Bayou were made susceptible to infections such as Shigella, gastroenteritis, and viral encephalitis (Jack Geiger Collection, Box 1. "Water Crisis 1969"). However, there was no improvement in the quality and access to healthcare services until after the civil rights movement.

As the stories of Dr. Charles R. Drew and Juliette Derricotte illustrate, white-operated facilities vehemently refused to admit African American patients in Mississippi. If they were treated, these patients were subjected to humiliating second-class treatment, even in the face of illness and possible fatality. Some medical facilities would have separate wings of the hospital for white and African American patients. Others would not permit African Americans to enter the facility through the front entrance, forcing them to enter through the back. Other means of

second-class subjugation and humiliation included requiring African Americans to bring their own overnight toiletries and linens. Those African Americans who could afford an appointment and the transportation costs of admission to a white facility still had to bring their own toothbrushes, towels, sheets, and other overnight materials (Beito 2000, 183). Furthermore, there was a lack of physicians present in the rural, predominantly African American town of Mound Bayou. Most white physicians practiced in white-owned and operated hospitals that were situated in densely populated, and predominantly white urban areas. In fact, there was only a total of 55 African American doctors in Mississippi in 1960 (Dittmer 2009, 5).

Most African American physicians deliberately chose against practicing in rural, low-income areas such as Mound Bayou. However, African American physicians were caught between a rock and a hard place when it came to their medical practices and their politics. Conservative ideologies were one barrier that kept African Americans from practicing in these areas. Establishing a medical practice in an area such as Mound Bayou would not prove to be lucrative enough for some outside African American physicians. Usually, African American physicians wanted the same luxuries that the medical degree afforded white doctors. Sacrificing prestigious leisurely activities was synonymous with practicing in rural, low-income areas. African Americans could not fully exploit the material gains that could follow their degree when not practicing in a wealthier, urban population (Dittmer 2009, 6). For those African American physicians who did have the desire to practice in rural areas, their scope of practice was narrowed. Dr. Douglas L. Conner describes the politics surrounding African American medical practice in Mississippi in his book *A Black Physician's Story: Bringing Hope in Mississippi.* Dr. Conner gives the example of discriminatory actions from national medical societies such as the American Medical Association. African American doctors were also denied hospital practicing privileges and even access to African American patients. Lastly, internalized ideas that positioned white facilities as inherently better also hampered African American medical practices. Potential African American patients would bypass African American physicians in favor of white institutions that were seen as being of better quality, even if these patients were getting less dignified treatment. One white physician, Dr. Tumminello, exemplified, in a *Boston Globe* article from July 17, 1967, the white provider perspective toward African Americans:

> We give the very best advice we know, we tell that nigger he's got to establish a private physician-patient relationship and we even tell him where the nearest doctor is located (Jack Geiger Collection, Folder 320).

Another example from *The Boston Globe* article provides further insight into the treatment of African American patients: "if there is a nigger in my waiting room who doesn't have $3, he can sit there and die. I don't treat niggers without money" (Jack Geiger Collection, Folder 320). Furthermore, the same article bolsters such views from white physicians. This issue is amplified by a quote from an African American who had received medical care from white physicians: "Most oft I sits on one side of the office and he sits on the other asking questions. There ain't no listening or thumping or looking in the mouth like white folks get." A black mother describes the "Wait and See treatment" that her 14-month-old girl and 3-month old boy and many other African Americans were subjected to if they were without funds or access to physicians: "There's nothing I can do for 'em. There's no doctors and I got no money for a hospital. All's I can do is wait and watch, either they get better or they gonna die. I cain't do nothin' but wait and pray." These passages describe well the faces and fates of healthcare neglect for African

Americans in Mississippi before the passage of civil rights laws (Jack Geiger Collection, Folder 320).

However, even with the lack of willing physicians, white or black, this Mississippian community found a way to insert itself into the negligent healthcare system. In the "Years of Neglect" (1896–1954),[1] African American community leaders were forced into a self-help process where they created their own means of penetrating the healthcare system. Black fraternal organizations, such as the International Order of Twelve Knights and Daughters of Tabor, were essential in the establishment of black operated hospitals in Mississippi. By 1931, nine black hospitals led by fraternal organizations had been created in Arkansas, South Carolina, and Florida. Moses Dickson established the black-owned and operated Taborian Hospital before the *Brown v. Board* decision of 1954, in which racially segregated schools were declared unconstitutional. Dickson was a free African American man and Civil War veteran from Ohio. He had established the African American fraternal organization called the International Order of Twelve Knights and Daughters of Tabor in 1846. Taborian Hospital was founded with $100,000 in funding, used for surgical and laboratory equipment for emergency surgical services along with a blood bank, incubator, and other primary care tools. However, Taborian did not have an ambulance service (Beito 1999, 126). This meant that African Americans had to arrange for their own transportation in order to receive care. Transportation costs thus added another barrier to accessing care during the Jim Crow period. Taborian Hospital was also connected to the larger Civil Rights movement through its practice, as the facility admitted and treated Fannie Lou Hamer, a well-known civil rights advocate, alongside Amzie Moore and other Freedom Ride protesters. Since many other facilities refused African Americans, Taborian Hospital was the first instance of dignified healthcare for Mound Bayou natives. Neglect under Jim Crow was the primary reason why Taborian Hospital and other black-funded hospitals were able to be established and sustained until the Civil Rights Movement. The ideology during Jim Crow was that African Americans were a burden when it came to healthcare, and specific decisions were made as a result of this thinking. For example, white planters did not regulate African American facilities because increased regulations would likely result in the disappearance of these facilities, making African American health a problem for whites to face. Jim Crow laws thus caused the neglect and exploitation of African Americans.

The Friendship Clinic was established in 1948 in the same area as the Taborian Hospital, thus creating a competition for potential African American patients in Mound Bayou. Dr. Theodore Roosevelt Mason Howard, the Chief Surgeon of Meharry Medical College at the time, was the mastermind behind the Clinic's foundation. The Friendship Clinic offered the same ambulatory services on a smaller scale than Taborian. Despite its disadvantage in terms of size, the Friendship Clinic proved to be a rival of Taborian Hospital (Beito 1999, 126). However, both the Taborian Hospital and the Friendship Clinic provided affordable and dignified healthcare services to thousands of indigent African Americans in Mound Bayou.

Financial pressures and regulations eventually caused African American fraternal hospitals in Mississippi to die out during desegregation. These facilities relied on community resource pooling to compensate for the lack of federal funding resources. For example, fraternal members of the Mississippi Jurisdiction of the Knights and Daughters of Tabor raised money through holding spelling bees, beauty contests, and oratorical contests. Some contributors would give

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[1] This is the author's terminology from the author's own research, based on her own conceptualization of the period.

goods such as pillows, washcloths, soap, and nonperishable foods instead of money (Beito 1999, 127). This kind of community participation from African American fraternal organizations allowed for medical assistance and care for the members of the financially destitute Mound Bayou community.

Then, in the "Years of Paternalism" (1954–1980s),[2] African Americans were suddenly no longer responsible for their own healthcare. With increasing financial pressures, declining fraternal organization membership, and increased medical regulations, African American hospitals were not able to survive the changing face of American healthcare. Even before desegregation, politicians could sabotage these hospitals through methods involving funding and regulations. Throughout the enforced desegregation process, the federal government became more involved in the operation of formal healthcare provision. Whether or not a hospital could remain in existence was almost entirely up to federal fund allocation and regulations. After the *Simkins v. Cone* case of 1963 and the Civil Rights Act of 1964, African American fraternal hospitals gave way to physician-led community health initiatives. The *Simkins* decision declared that racial discrimination by private institutions, like hospitals, was unconstitutional according to the Fourteenth Amendment (Martin 2016). President Lyndon Johnson signed the Civil Rights Act of 1964, which prohibited discriminatory practices in public facilities. According to the U.S. Department of Health and Human Services, Title VI of the Civil Rights Act of 1964 prohibits discriminatory allocation of federal assistance. One example of a Title VI violation that could apply to the lack of equally-resourced medical facilities in Mississippi is as follows:

> A predominantly minority community is provided lower benefits, fewer services, or is subject to harsher rules than a predominantly non-minority community.

This clause of the Civil Rights Act of 1964 automatically posed Jim Crow in any US facility as unconstitutional. Thus, Jim Crow met its demise in healthcare. Its absence allowed for a greater capacity for activism from both southern and northern medical personnel, rather than just from African Americans themselves. Desegregation helped attract quality care (in comparison to previous years) under the new regulations, such as through Jack Geiger's Tufts-Delta Health Center, the Mound Bayou Community Hospital, and the Medical Committee for Human Rights. Each of these places of care provision allowed for healthcare to be seen holistically as a human right for Mississippians.

The medical needs of black Mississippians were exacerbated by the mechanization of agriculture in the late 1960s. Subsequently, African American residents who could afford to move out of the South to Northern and Midwestern states became part of the Second Great Migration. Meanwhile, back in the Delta, people were without jobs and many did not have enough income to even participate in welfare programs like food stamps. Food stamps required a monthly payment of about 12 dollars for a family of six (Dittmer 2009, 232).

Dr. Jack Geiger, a New York native, was one of the most notable physician-activists who worked in Mound Bayou, Mississippi during the civil rights era. After receiving his medical training at Case Western School of Medicine, Geiger explored the application of his training in international health. More specifically, he worked with Dr. Sidney Kark and Dr. Emily Kark in the Pholela community health center in South Africa in 1958. South Africans were undergoing apartheid, which lasted from 1948 to 1991 and separated black and white people in public

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[2] This is the author's terminology from the author's own research, based on her own conceptualization of the period.

facilities, similar to Jim Crow laws in the US. In 1940, the South African Health Department had recruited South African-born Sidney and Emily Kark to establish a community health center in Pholela, a community in KwaZulu-Natal, a rural province in South Africa (Horwitz 2009, 3–6). The Karks' health activism helped establish a community health center for the Pholela community that focused on preventive care, health promotion, and training community health workers. The Pholela community center was modeled such that the community would have the tools it needed to deliver health education and environmental interventions (Dittmer 2013, 29–30).

In gaining information about Mississippi during the civil rights movement, Geiger identified health needs similar to those he had observed in Pholela, and decided to then bring this South African community model of care to the United States. Inspired by this work in South Africa, Geiger recruited Dr. Count Gibson, a Georgian, to work with him on bringing the community health model to the US. In his 2013 interview with John Dittmer, Geiger recalled the moment he shared his inspiration during a Delta ministry meeting:

> For the first time in this whole sequence, I *remembered Pholela* and the community health centers in South Africa and kind of blurted out, "What really needs to happen is that a good Northern medical school should come down here and start a comprehensive community health center."
>
> And everybody said, kind of, "What is that?" And I described it, this concept of care for the individual and care for community, the integration of clinical medicine and public health, and the attention, indeed, to the environment, but also to the social and political and economic environment. (Dittmer 2013, 40; emphasis original).

Geiger's experiences in South Africa would change the systemic operation of healthcare in the United States, especially for predominantly black, rural, and low-income regions of the South. His holistic perception of health, gleaned from his experience in South Africa, stemmed from the idea that health is a human right ("H. Jack Geiger, Oral History Interview," 1992). In order to deliver care without regard for a patient's socially ascribed status, the caregiver must believe that health is not a commodity but a civil right. Geiger implemented this idea of health as a civil right when founding the Tufts-Delta Health Center with Dr. Count Gibson in 1965. In the process of securing funding from the Office of Economic Opportunity (OEO), Geiger noted that the health of participants in the OEO's anti-poverty programs, Head Start and Job Corps, was suboptimal. With Geiger's support, the Tufts-Delta Health Center was the first health component that the OEO funded ("H. Jack Geiger, Oral History Interview," 1992). Geiger was fueling a change in terms of medical infrastructure in Mississippi, setting up medical care that had not previously been in place, even with the creation of Taborian Hospital. The Tufts-Delta Health Center formally began clinical work in the fall of 1967. However, they ran into the same problem that the African American population in the area had previously experienced, the lack of willing physicians. In a 1988 letter to L.C. Dorsey, a known health activist, Geiger explained the physician recruitment problem in rural Mound Bayou:

> The problems faced by physicians in rural areas and in practices like the Delta Health Center include: social and intellectual isolation, professional isolation and limitation (inability to conduct hospital practice, limited number of colleagues and consultants); amenities; educational facilities for children; job opportunities for spouses (Jack Geiger Collection, Folder 82).

Dr. Geiger recruited mostly pediatricians due to the population skew of Mound Bayou. In his 2013 interview with Dittmer, he noted that the median age was 15 and "the median age of male heads of households was 50," and that those in between the two ages were part of the Second Great Migration from about 1940 to 1970 (Dittmer 2013, 63). The population that would have balanced out the skewed statistics left the South to obtain better paying industrial jobs in Chicago and other northern cities. Geiger perfectly stated in the aforementioned quote why physicians at large were not drawn to practicing in rural, low-income areas such as Mound Bayou. Jim Crow laws significantly narrowed the scope of practice for African American physicians until the civil rights-based win in the *Simkins v. Cone* case of 1963, which declared any discrimination toward black doctors in practice settings unconstitutional.

In 1966, John W. Hatch called the quality of care offered by Taborian Hospital "awful," given its outdated technology and lack of focus on preventive care such as immunizations (Beito 1999, 129). In comparison to Taborian Hospital, Tufts-Delta Health Center (TDHC) had more resources and could do much more than provide clinical care for the all-black town. TDHC provided services that addressed the underlying determinants of health such as environmental, social, and economic factors, using health education (Jack Geiger Collection, Box 4, Folder 92). This is evidence of Geiger's approach to health as a human right. Patient illnesses in Mound Bayou could not be properly addressed without addressing shelter, food sources, and health information. In fact, in 1980, the Tufts-Delta Health Center's work in Mound Bayou sparked political support from Alpha Kappa Alpha Sorority, Incorporated, a black Greek organization Alpha Kappa Alpha Sorority, Inc. n.d.).

The Medical Committee for Human Rights (MCHR) was founded in 1964 with Dr. Jack Geiger as one of the founding members. The MCHR provided care for civil rights activists and newly desegregated hospitals, and also became involved in the civil rights movement on a larger scale. The MCHR protested the American Medical Association's denial of membership to black physicians. The organization also recruited nurses, social workers, physicians, and other medical personnel to send into areas without adequate medical manpower. The organization was mostly founded by physicians of Jewish descent, although the first three chairpersons of the organization were black (Dittmer 2009, xi).

Though it was not specifically involved in ensuring better health conditions for Mound Bayou natives, the MCHR was involved in healthcare activism around the time of Mississippi's Freedom Summer of 1964. The MCHR had arrived in Mississippi without resources such as personnel or updated technology, but it provided the manpower and community leaders to organize healthcare for Mississippians during this time. Moreover, organization members experienced the coldness of white supremacy and Jim Crow laws as they attempted to activate white physicians in the civil rights fight for healthcare. This is most apparent in the aftermath of the "Brenner-Coles Letter," in which the MCHR attempted to rally white physicians to provide care for poor Mississippians. As noted in *The Good Doctors,* the tone of the "Brenner-Coles Letter" was received as a condescending one, and it alienated even more moderate and cooperative white physicians and kept them from potentially participating in the civil rights cause (Dittmer 2009, 40–41).

In *The Good Doctors*, Dittmer notes that another barrier for the MCHR was the difference in MCHR's meaning to the enrollees. After Mississippi's Freedom Summer of 1964, the MCHR was left with two factions: the civil rights and public health factions. The civil rights faction wanted doctors to lend their bodies, not their political power, to fuel the civil rights struggle for healthcare. This meant that these MCHR participants expected physicians to show up to protests

and be physically involved in grassroots struggles. Tom Levin, a primary catalyst for the MCHR, was a part of the civil rights faction that was created once the MCHR left Mississippi. He wanted doctors to lay down their bodies to fight for the greater cause (Dittmer 2009, 40–41). Geiger also mentioned the differences in purposes for joining the MCHR in his 2013 interview with Dittmer. He stated that, on one hand, some individuals came with the clear purpose of partaking in public health interventions as medical professionals. On the other hand, Geiger noted, some people who were involved *appeared* to have similar reasons for joining but their actions showed otherwise. Individuals that fell into this category did not want to live among the black community like the other participants (Dittmer 2013, 34–35). In separating themselves from the community to enjoy a more cushy lifestyle, their motives for joining the MCHR seemed to be more for show, rather than out of a genuine care for understanding Mississippi's healthcare complexities.

A struggle aside from the covert differences in ideologies was the lack of organization. The first set of MCHR volunteers did not have guidance or instruction. They simply had to figure out their role as they went along (Dittmer 2009, 48). The MCHR volunteers went to tour the Mississippi facilities and build relationships with the existing black practitioners, but were met with the coldness of Jim Crow. The few black physicians that practiced in the state were middle-aged and conservative for the most part. These black doctors did not want to threaten their prized medical career by being involved in the civil rights movement, and thus very few of them would provide care for civil rights activists before desegregation (Dittmer 2009, 45). For instance, Dr. Aaron Jackson would not provide medical care to a civil rights activist who was beaten in Greenwood, Mississippi, even though he was the only black doctor in the town (Dittmer 2009, 45).

In 1967, Sarah Brown Hospital and Taborian Hospital buildings merged to create the Mound Bayou Community Hospital, the only volunteer hospital between Greenville and Memphis ("Forming a New Board," 1967). According to David Beito's "Black Fraternal Hospitals in the Mississippi Delta," community members would recall Taborian's care in a more positive light in the 1950s and 1960s than what Geiger and Hatch saw in the facility when they arrived in Mississippi. During the 1970s and 1980s, after the Taborian and Sarah Brown Hospitals merged to create Mound Bayou Community Hospital, perspectives of the care seemed to neutralize. Granted, this was after federal regulations had been imposed on Mississippi's healthcare system. Before Mound Bayou Community Hospital came into existence, Taborian Hospital was unique to residents in Mound Bayou. The patients did not have access to these kinds of services during Jim Crow.

Mississippi epitomizes the white supremacist and inhumane processes that led to the legendary deaths of Dr. Charles R. Drew and Juliette Derricotte. Until the passage of the civil rights acts of the late 1960s, African Americans were forced to find ways to provide their own healthcare, a necessity that was clearly against the 1948 Universal Declaration of Human Rights and the WHO's 1948 Constitution. Similar to the educational desegregation process, the increase in regulations geared toward anti-discriminatory practices decreased both the autonomy and neglect that these communities had previously been forced into, while also increasing government role in healthcare provision. In this way, health care activism evolved from a more direct community approach to a more physician-driven one with the increase of regulations. Black-owned medical facilities could not survive the financial and regulatory pressures of the desegregated healthcare system. Even though these hospitals could not bear the systemic pressures and lacked resources for quality care provision, they had provided medical safe havens from the mainstream Jim Crow atmosphere. These were trustworthy facilities where black

people could maintain their health with their dignity intact. These facilities should thus be viewed as a success for the black community during a time of medical segregation.

The Medical Committee for Human Rights, Tufts-Delta Health Center, and the Mound Bayou Community Hospital later served as formal and quasi-formal means of delivering healthcare to destitute populations of Mississippi. These organizations and facilities maintained that care should be provided without regard to nationality, creed, race, gender, age, or socioeconomic status. Geiger's community health center further employed the health as a human right ideology, and black fraternal hospitals fought against the idea that black people did not deserve healthcare services. Jim Crow fueled the idea that health is a commodity and a right that can be granted to those considered to be deserving and denied to those seen as undesirable. The community health center sparked a continuation of the same ideologies that had previously forced the establishment of black fraternal hospitals. With the increase of community health centers, health was not approached only as a matter of illness, but as a symptom of poverty, lack of shelter, lack of financial resources, and lack of information. Thus, health activism actors such as physician-activists (like Dr. Jack Geiger), the Medical Committee for Human Rights, Taborian Hospital, Mound Bayou Community Hospital, and the like exemplify the changes in approaches to healthcare as a human right, before, during, and after the desegregation process.

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Obstacles and Opportunities in Africa for the Ratification of the *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families*

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ABSTRACT

On December 18, 1990, the United Nations adopted the *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families* (ICMWR), effectively establishing the principle of equal treatment and extending social and economic human rights to all regular and irregular migrant workers. Despite the Convention's landmark capability to serve as a legal instrument for the protection of undocumented workers' rights, as of 2017 only forty-six countries have agreed to its ratification, rendering the ICMWR the least ratified treaty among all major human rights treaties, with the significant absence of all Western European countries and the United States as signatories. A diversity of approaches to the ICMWR also exists within the African continent, as shown by the high ratification rates among West African countries, compared with the significant absence of migrant-receiving South Africa. The following article examines the ratification failures and the opportunities that the ICMWR poses for nation states and their interests, and for migration management within the African continent. The analysis subsequently develops a normative framework to evaluate the ICMWR's attempt to establish a rights-based international framework for migration management, drawing from Amartya Sen's institutionalization and feasibility critiques. It is concluded that African states and the global community should push for the ratification of the United Nations ICMWR, a thesis that draws normative support from Sen's imperfect obligation framework and practical support from the heterogeneity of human rights actors beyond the nation state.

Keywords: migration, social and economic rights, Africa, Amartya Sen, imperfect obligations

Introduction

At the September 2016 *Summit on Migrants and Refugees*, William Lacy Swing, Director General of the International Organization for Migration (IOM), described human migration as humankind's oldest poverty reduction strategy: "As long as you look on migration as a problem, as something to solve, you're not going to get anywhere. You have to look at it as a human reality that's as old as humankind" (UN Regional Information Centre for Western Europe 2017). The advocacy for and utilization of international human rights instruments to safeguard those who move within and across national and international borders concern international organizations such as the IOM, but also national governments, non-state actors, and individuals. With the formal development of the United Nations' international human rights regime after

World War II, legal instruments dedicated to safeguarding human rights for migrant workers have been debated, drafted, and ratified. In terms of migrant workers' rights, after the International Labour Organization's (ILO) adoption of the *Migration for Employment (Revised) Convention No. 97* in 1949, and the ILO *Migrant Workers (Supplementary Provisions) Convention No. 143* in 1975, the United Nations also formally introduced on December 18, 1990, the *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families* (ICMWR), effectively establishing the principle of equal treatment for migrant workers, instead of a minimum standards approach to migrant human rights (Siby 2002). The ICMWR actively extended fundamental human rights to regular and irregular migrant workers, offering full legal recognition and protection for the first time to all migrant workers irrespective of their legal status. Despite the Convention's landmark ability to serve as a legal instrument for the protection of undocumented workers' rights, as of 2017 only forty-six countries have agreed to its ratification, rendering the ICMWR the least ratified among all major human rights treaties, with the absence of all Western European countries and the United States as signatories. A significant diversity of approaches to the ICMWR also exists within the African continent.

The following article sets out first to address the ratification failures of the ICMRW, and to critically discuss the content and the role of the Convention in the formulation of appropriate policy responses by African states. Subsequently, the analysis turns to developing a normative framework for the application of a rights-based approach to labor migration, in order to engage with the Convention's implementation difficulties and the strained relationship between ethical imperatives and the institutional capabilities of governments. The logical structures from Amartya Sen's (2004) "Elements of a Theory of Human Rights" and Martin Ruhs and Ha-Joon Chang's (2004) "The Ethics of Labor Immigration Policy" will be drawn from to formulate the normative arguments to assess the theory and practice of the ICMRW in the international human rights regime and in African regional politics.

The ICMWR as a Human Rights Instrument

An initial understanding of the ICMWR's content is necessary to contextualize its objectives and outcomes within the framework of human rights instruments already available to global governance structures and national institutions. The ICMWR specifically addresses migrant workers, who are defined in Article 2 as follows: "The term *migrant worker* refers to a person who is to be engaged, is engaged or has been engaged in a remunerated activity in a State of which he or she is not a national." The ICMWR re-emphasizes the fundamental human rights already outlined in the Universal Declaration of Human Rights (UDHR) and the 1966 International Covenants adopted by the United Nations (International Covenant on Civil and Political Rights [ICCPR] and International Covenant on Economic, Social and Cultural Rights [ICESCR]), in order to re-state their applicability to migrant workers and members of their families of all legal statuses (Nafziger and Bartel 1991). The Convention's listed fundamental rights include the right to freedom of thought, conscience, and religion (Article 12), the right to life (Article 9), protection from torture, cruel treatment, and punishment (Article 10), and protection from slavery, servitude, and forced labor (Article 11). In Part III, the Convention extends legal representation rights to migrants of legal and illegal status, with Articles 18 and 20 introducing legal recognition and equal treatment of migrant workers in national tribunals and outlawing imprisonment for failure to fulfill contractual obligations. Finally, economic and social rights, such as the rights to social security, emergency medical care, employment opportunities,

and trade union participation, are recognized for all migrant workers, and Part IV extends further social protection rights to workers of legal status.

The ICMWR therefore both overlaps with previously codified rights and extends specific economic and social rights to migrant workers and members of their families residing with them in a state of which they are not nationals (Nafziger and Bartel 1991). While the contested includability of economic and social rights in governments' obligations to their citizens already animates scholarly debates on human rights (Sen 2004), the ICMWR further stretches the argument's conceptual soundness by granting economic and social rights to workers without citizenship qualifications. However, significant skepticism concerning the ICMWR's argument that social protection provisions should be unlinked from citizenship requirements still persists.

The ICMWR on the African Continent

In addition to the refusal of the United States and Western European countries to sign the ICMWR, heterogeneity in preference and participation also affects the African continent. African state signatories include Rwanda, Senegal, Morocco, Mali, Lesotho, Uganda, Niger, Ghana, Mauritania, Cape Verde, and Burkina Faso; however, with the exception of Nigeria (Adedokun 2013), primary migrant-receiving states such as South Africa, Kenya, and Ethiopia have neither signed nor ratified the treaty. In 2014, Ethiopia replaced Kenya as the largest refugee-hosting country in Africa and the fifth largest worldwide (UNHCR 2015). African migration literature has in fact shown that the continent's population is extremely mobile, at the internal, regional, continental, and transcontinental levels (Adedokun 1983). The *International Migration Report* published in 2002, the first report of its kind, shows that out of a total of 70.6 million migrants from "Less Developed Regions" (LDRs) combined in 2000, African states collectively generated 16.2 million migrants representing approximately 22 percent of world migration numbers (Olowu 2007).

Despite the limited and heterogeneous state-level ratification, African institutions have positively received the efforts of the ICMWR to standardize migration policy with a rights-based approach. In 2006, the African Union adopted its Migration Policy Framework for Africa, which expresses the need for a comprehensive migration policy across the continent (Van Eck and Snyman 2015). The policy framework calls on member countries to adopt principles from the ILO's 1949 and 1975 Conventions and from the ICMWR (Van Eck and Snyman 2015). Notwithstanding the aforementioned formal recognitions, disagreement within the academic community persists as to the efficacy of AU instruments for the regulation and protection of migrants, with Olivier (2012) arguing that the adoption, implementation and monitoring of international and regional standards appear to be problematic in relation to the accessibility to South African social security benefits for Southern African Development Community (SADC) country citizens. Regional policy solutions within the African continent are another institutionalized method used to harmonize social protection standards across African states. For example, member states of the Economic Commission for West Africa (ECOWAS) have agreed on a "Common Approach to Migration" and on establishing a protocol that ensures the free intra-regional movement of persons within the regional economic zone. Furthermore, all ECOWAS states are held accountable to the ICMWR and to Article 59 of the ECOWAS Treaty: "Citizens of the community shall have the right of entry, residence and establishment and Member States undertake to recognize these rights of Community citizens in their territories in accordance with the provisions of the Protocols relating thereto" (ECOWAS Commission 2008, 4). In addition to the ECOWAS regional economic zone, in August 2003, the SADC heads of state signed the

Charter of Fundamental Social Rights. Within the Charter, the SADC Social Security Code encourages member states to facilitate the exportability of benefits, however it does not yet include provisions for the rights of irregular migrant workers (Van Eck and Snyman 2015). As a consequence, authors Van Eck and Snyman (2015) admonish SADC member states such as Botswana, citing the 2007 World Bank Report to highlight the government's "exclusive approach with respect to social services for non-citizens and portability of these services in SADC" (Van Eck and Snyman 2015, 96). Social assistance is therefore generally limited to citizens only and is not rights-based, which means that those who are in need of social assistance do not have a legal basis to claim social security benefits. Institution strengthening should continue as a priority in order for African continental governance and overall global governance institutions to promote rights-based migration management outcomes, according to Van Eck and Snyman (2015), and UNESCO (2003).

Developing a Normative Framework for Migrant Rights: The Institutionalization Critique

After the practical analysis of what has been done and what most importantly has failed to be accomplished at the global governance level in terms of implementing an accountable rights-based safeguard for migrant workers and their families, a normative interpretation is required to dig deeper into the puzzling failure of the ICMWR to achieve international recognition. The rights-based debate is further complicated when social and economic rights are to be granted without citizenship or residency as argumentative bases. To construct and evaluate a normative framework for the ICMWR's ineffective ratification efforts and implementation outcomes, Amartya Sen's institutionalization and feasibility critiques will serve as the blueprint for the analysis.

   In "Elements of a Theory of Human Rights," Sen's (2004) institutionalization critique first establishes human rights as ethical requirements that extend beyond delineated duties in structuralist frameworks. Structuralist concerns as argued by Onora O'Neill cite the weakness of freestanding "welfare rights" in international human rights regimes: "they must be institutionalized: if they are not there is no right" (O'Neill 2000, 132). Sen instead argues that the current unrealizability of any accepted human right does not, by itself, convert that claim into a *non*-right, drawing from the Kantian distinction between perfect and imperfect obligations. The definition of perfect obligations holds that specific persons have to perform particular acts to uphold the stated duty. On the other hand, imperfect obligations are ethical requirements that stretch beyond fully delineated and codified duties (Kant 1788, in Sen 2004, 321–22). According to the imperfect obligation approach, if economic and social rights cannot be realized because of inadequate institutional capacity, then to work for institutional expansion or reform can be part of the imperfect obligations generated by the recognition of these rights. Therefore, depending on institutional capabilities, the implementation of economic and social rights may call for both perfect and imperfect obligations on behalf of governments and human rights agents. As Sen concludes: "Imperfect obligations are correlative with human rights in much the same way that perfect obligations are" (Sen 2004, 319).

   The imperfect obligations approach pushes the rights-based argument into the field of consequentialism, which debates the issue of exact correspondence between authentic rights and precisely formulated correlate duties. While strict consequentialism argues that correspondence exists only when a right is institutionalized, a more nuanced approach such as Sen's imperfect obligation argument can allow for greater cooperation among human rights actors and for the overlap of human rights and development discourses. Ruhs and Chang (2004) apply the

consequentialist framework specifically to migration human rights by considering the desirable degree of consequentialism in the ethical evaluation of public policies in their article "The Ethics of Labor Immigration Policy." The authors coin the expression "bundle of rights" to argue that the impact of immigration on conventional outcome parameters in economic analysis depends on the rights package afforded to migrant workers (Ruhs and Chang 2004). Migrant workers' rights change parameters such as economic efficiency and equity outcomes for the state, and a consequentialist understanding of migrant rights affects the interpretation of their obligations and outcomes.

The Feasibility Critique

The feasibility critique on the principle of holding states accountable for the social protection and equality of irregular migrant workers asks the fundamental question: should recognized human rights, of necessity, be wholly accomplishable? Arguing in terms of feasibility poses a challenge to the conditions for the cogency of a human right, placing importance on its realization and fulfillment rather than on its intrinsic moral value. Major obstacles to the safeguarding of the rights of migrant workers include the compatibility of international human rights treaties with domestic legislation and that international institutions cannot suffice as the primary sites of the struggles for human rights (Donnelly 1994). For example, domestic legal regimes must have the resources necessary for the transposition of international law, but often have differing instruments, legal structures, and enforceability mechanisms. Consequently, a second argument in favor of focusing on the feasibility of a human right is the high cost of developing the infrastructure required to implement the ICMWR, due to the differing levels of resources in individual states, the number of migrant workers present within national borders, and the state's position of power in the global economic and political system. Additionally, various political obstacles hinder a government from granting greater economic and social rights to irregular migrants, such as domestic sentiments of nationalism and nativism, and incomplete welfare provision for citizens. Lastly, while the safeguarding of migrant human rights is often considered to be a "pull factor" that increases migration flows, Article 68 in the ICMWR addresses this concern by stating the Convention's aim of reducing the employment of irregular workers by removing incentives for employers to exploit irregular migrants through giving the latter equal rights.

Sen addresses the feasibility critique by focusing on public reasoning as a necessary and beneficial strategy for ensuring civic engagement and creating solutions for rights-based policy. Sen argues that a theory of human rights "cannot be sensibly confined within the juridical model in which it is frequently incarcerated" (Sen 2004, 319). Public recognition and discourse can instead figure in as imperfect obligations generated from the drafting and signing of human rights instruments such as the ICMWR. In addition to Sen's public reasoning focus, I further argue that the heterogeneity in human rights actors beyond the role of the state further strengthens the case for the ratification of the ICMWR despite the feasibility critique, because of the Convention's role as a policy guide for non-state actors and advocacy work. Sen's framework can in fact be used when discussing the potential role of non-state actors in using the ICMWR: "Human rights generate reasons for action for agents who are in a position to help in the promoting or safeguarding of the underlying freedoms" (Sen 2004, 319). However, NGOs can play a relevant role in promoting human rights and the rights of migrant workers in Africa, as discussed in Makau Mutua's (2009) *Human Rights NGOs in East Africa: Political and Normative Tensions*. It is important to critically consider the liberal elites in charge of

international NGOs on the African continent, particularly in terms of how their conditionality, neo-colonial operational mandates, democratization in management, and self-interest must be weighed against their promise and mission in any interpretation of Sen's human rights ethical framework.

Concluding Remarks

This paper has introduced a normative framework of analysis that uses structures and logical reasoning from Sen (2004) and Ruhs and Chang (2004), and takes into account Mutua's (2009) critical work, to support the decision to ratify the ICMWR. Such a framework can make use of the imperfect obligation framework, the consequentialism of rights allocation, the role of public discourse, and the heterogeneity in human rights actors to ensure migrant workers' rights can be safeguarded. Mutua's (2009) work further contextualizes the promises and pitfalls of the international human rights regime and international actors within the African continent. Despite the normative support outlined throughout this article for the ICMWR and the strengthening of global governance and standard-setting for migration management purposes, a final problematization of the exogenous structures within which migrant workers operate is necessary for a comprehensive policy recommendation for global migration management priorities and the African continent's related role. African mobility and African governments operate within the nation state political system and the predominantly neoliberal economic system, which affect the drafting, ratification, and implementation of the ICMWR.

The ICMWR establishes a narrow definition of migrant workers and by extension the members of their families (Article 2 and Article 4), thereby inextricably tying migration rights to labor rights. Rendering economic and social rights directly dependent on labor provision results in three potential pitfalls worthy of consideration: the exclusion of non-labor related migration, the commodification of transnational labor, and an emphasis on individual economic decisions as opposed to the structural realities influencing individuals. In terms of the exclusion of non-labor related migration, the ICMWR fails to consider other forms of migration that would not qualify migrants for refugee status, such as migration induced by climate change. The ICMWR renders social protection directly related to labor protection, which raises concerns as to the commodification of labor. Researcher Dejo Olowu, in "Globalization, Labour Migration and the Rights of Migrant Workers in Africa," states: "It is my contention that labor does not migrate; it is those men and women who provide it in form of services, skills and strengths that are capable of making the same available for productivity beyond the frontiers of their own states. It is therefore the plight, rights, and interests of these human beings that should form the essence of scholarly, institutional and policy discussions" (2007, 67). Olowu's commodification criticism of the international human rights regime's treatment of labor highlights the double-edged nature of generating comprehensive legal instruments to safeguard international migrant workers' rights. Preibisch, Dodd, and Su (2016) also address the incomplete vision of the ICMWR, but instead of labor commodification, the authors use the capabilities approach to criticize the Convention's inability to address the greater structural inequalities affecting the microeconomic decision-making of workers and migrants. They argue that "the emphasis on individual economic decisions obscures the structural realities of the global political economy including growing inequality between countries and within communities, development failures, and poor governance" (2016, 5–6). Overall, the ways in which the ICMWR is currently drafted, signed, and implemented imperfectly reflect an extractive global economic system that does not yet recognize all migrant labor as equal in value, and in a political system that is unable to positively

assure economic and social rights for all people, and not even in some cases for qualified citizens.

Despite the stated obstacles, African states and the global community should push for the ratification of the United Nations' ICMWR, a thesis that finds normative support in Sen's human rights ethical framework and practical support from the heterogeneity of human rights actors beyond the nation state. However, the Convention needs to be problematized in terms of African mobility in a global colonial history and postcolonial context, the risk of human labor commodification within the rights-based approach, and the institutional and feasibility critiques of the Convention's limited relevance, efficiency, and implementation. While a solid normative framework for the protection of migrant workers' rights can support the Convention's prerogatives, it is only the start of the journey toward the safeguarding of rights for migrants of all legal statuses and of all geographical origins and destination routes.

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Review of *Women and the War on Boko Haram: Wives, Weapons, Witnesses*

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In her first book, *Women and the War on Boko Haram: Wives, Weapons, Witnesses*, Hilary Matfess explores the complex and contested role of women within Boko Haram and affected communities. Her research and its conclusions sharply remind readers that women interacting with Boko Haram do not make choices a scholarly distance away from their lived experiences and that they are not merely victims. Matfess contests many security studies and counter-terrorism strategies by problematizing their proponents' neglect and/or patronizing of women. The three levels at which she explores women in relation to Boko Haram are the specific experiences of women residing in areas of northeastern Nigeria where Boko Haram is present, the fluidity and complexity of women's agency and their victimization by state and insurgent forces, and the importance of women's inclusion in security and counterterrorism studies.

The backdrop of northeastern Nigeria and Boko Haram's beginnings in the early 2000s with Mohammed Yusuf, the group's now-deceased founding leader, has created a dual state-building experience for residents in the area: the state's noted neglect of state-building activities and care for its residents, and the Salafist sect's popular social welfare mixed with anti-state ideology, performed as alternative state-building. Although elite Muslims live comfortable lives due to their political positions in local governments, Boko Haram and Yusuf worked to attract the marginalized majority who could not afford marriage, lived in low-quality housing, and had experienced the neglect of the state due to the actions of corrupt politicians. Women's experiences of state neglect in the area are also compounded by their marginalization in society. For women in northeastern Nigeria who faced economic and political discrimination before Boko Haram took hold in the region, have no control over whom they marry, and increasingly see modernization dislodge their family structures and livelihoods, the order within Boko Haram's strict following of Islamic law is a form of liberation. This held true for Yusuf's Boko Haram and remains true, even with harsher applications of the law, in Abubakar Shekau's present-day Boko Haram.

Indeed, Matfess urges that to deny women acknowledgement of the agency they utilize in interacting with or joining the group is to fundamentally misunderstand the contexts in which women make decisions. The assumptions of scholars in security and terrorism studies, Matfess argues, include a casual acceptance that men join violent groups willingly out of self-preservation and ideology, yet women only interact with such groups on the basis of their own victimization and as pawns of warfare. However, in the Nigerian state, the asymmetry of women's and men's disadvantages would indicate that women might flock to Boko Haram's anti-state ideology in greater numbers and with greater ease than men, even if this means supporting or turning a blind eye to the violence with which the group pursues its aims (63). Quoting Suba Mahmood, Matfess discusses women's agency within oppressive systems and the choice of seemingly illogical alternatives to those of secular communities: "even illiberal actions can arguably be tolerated if it is determined that they are undertaken by a freely consenting individual who acted on her own accord" (Mahmood 2001, 207, in Matfess 2017, 103). This

assertion posits that contrary to Western feminist tendencies, women's agency must include all possibilities of choice, whether those choices seem to combat oppression or actively engage with oppression. However, in cases without clearly uninhibited choice, the problem of women choosing an illiberal option cannot be regarded outside of critical engagement with the circumstances that led to the choice. Matfess asserts that the lines between consent and coercion and autonomy and oppression are not clear because of Nigeria's structural violence against women (103). Certainly, the northeastern Nigerian setting, with its state- and insurgent-perpetrated violence and neglect of human rights, does not leave women much free choice around joining a group such as Boko Haram, especially given the 'kill the men, take the women' strategy of both the insurgency and the Nigerian security sector, which leaves women to pick up the pieces of life under great material and psychological duress if they choose not to join the sect (89, 151).

Matfess also compares women's choices to join or work with the insurgency with the increased use of women as bargaining chips and suicide bombers. Women are stolen back and forth by Boko Haram and the state, and their importance as child-bearers and as domains of asserting patriarchal dominance is reflected in the gendered abductions that reach the international news circuit. Security presence in the northeast, too, has encouraged Boko Haram, like other terrorist groups globally, to adopt female suicide bomb strategies that prey upon gendered ideas of modesty, meekness, and ease of coercion. Matfess, while acknowledging women's agency and roles within the group, does not claim that the women suicide bombers of Boko Haram are actively volunteering out of religious duty; rather, she observes that these women and young girls seem to be those who have refused to marry insurgents after their abductions. However, the women who do choose to join the group seem to do so out of ideological, relational, or survival motives and marry accordingly. In her research, Matfess interviewed several women who had chosen to join the group and then been rescued by security forces against their will, and she contends that many women in IDP or deradicalization camps tend to favor the story of abduction and coercion over facing social stigmatization by admitting to joining the group willingly. This type of narrative downplays the existence of women who choose to join the sect in the popular media coverage of the insurgency. Indeed, there is a "stigma surrounding association with Boko Haram [that] incentivizes narratives of coercion and abduction [on the part of these women] rather than grappling with [truths around] the murkier depths of structural violence in Nigerian society, intergenerational conflict, and the ideological appeal of an anti-state movement" (95).

Matfess relays stories of women affected by Boko Haram to display the spectrum of agency and victimization in Islamist terrorist organizations and in the Nigerian context specifically. Yet, she goes one step further by constructing these revelations of women's realities into a case for the inclusion of women in international and national security, counterterrorism, post-conflict, and state-building strategies. Women are the most systematically marginalized by the state in northeastern Nigeria, fill the majority of IDP camps, and serve important roles as pawns, wives/mothers, and bomb-carriers for the insurgency. Thus, the study of their varying roles in the insurgency, in communities before and after interactions with Boko Haram, and in social, political, economic, and religious structures of the state, is of utmost importance to laying the groundwork for activities aimed at halting the insurgency, reconstructing after the conflict, and ensuring stable peace in the region.

Women in Nigeria suffer greatly due to Boko Haram, the state's responses to their actions, the historic legacy of structural violence against women, and the humanitarian post-conflict

discrimination against women. Many studies have found that gender inequality leads to increased instability in communities and that the best way to lasting peace is through gender-inclusive peace-building and the restructuring of cultural norms (186). As women constitute the majority of those rescued from Boko Haram and left in internally displaced person camps after surviving the violence that kills men, their voices and investments in ending the conflict and cultivating long-lasting peace are indispensable. The inclusion of women in all aspects of counterterrorism, security operations, national and local governance, religious leadership, activism, peace-building, and the restructuring of societal norms will provide positive and stable changes to ensure that insurgencies like Boko Haram cannot possibly attract women or have the power to terrorize society again. Treating women's participation in the Boko Haram insurgency as a fluid and ever-changing dynamic of gendered and local contexts will help to ensure that counterterrorism strategies can better discern true threats to peace and present methods of re-establishing state-citizen trust with women in particular. The understanding of women's agency and oppression within the sect and in terms of the northeastern region's culture and governance can be aided by discourse with women themselves – for women and for the stability of the community and country. Perhaps, Matfess states, "those who are waiting for 'feminism' (meaning Western feminism) to arrive in northern Nigeria should be aware of the ways in which women throughout the region have organized and advanced their own interests" and will continue to do so (63). Also, she writes, we must consider, "if women are sidelined and made more vulnerable in the post-conflict era, then who is peace for?" (186).

The compelling arguments for women's inclusion in security and counterterrorism strategies through an analysis of their roles in the insurgency as agents and victims render Matfess' book a success. The book can be read by those without any prior knowledge of the region and its insurgency, and it offers critical support of feminist security discourse and challenges to those who only see women as victims of violence. Of course, Matfess does not claim her work is the concluding research that proves women's agency in masculinized spaces of violence. Rightly so, as stronger research and arguments for women's agency within restricted choices and under multi-faceted threats of violence and marginalization need to be developed. Although her research and arguments boldly confront the seeming incompatibility of simultaneous agency and victimization, Matfess could have reached further into scholarly discourses of agency, protest, religiosity, gender, and state-building to clarify and contextualize women's roles as both agents and victims of Boko Haram's violence. Yet, no matter the reader, Matfess' deep knowledge of her subject matter and her well-articulated points illuminate the roles of women in the conflict of northeastern Nigeria and in terrorism more broadly.

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Short and Not Too Sweet: Rethinking Mwalimu through
Paul Bjerk's *Julius Nyerere*

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Writing academically, and particularly historically, about Julius Nyerere, Tanzania's first president, is a fraught endeavor. He is one of a few figures whose impact is generally understood as foundational to modern post-independence African history, and the explicitly intellectual approach he took in justifying Tanzania's heterodox socialist politics helped ingratiate him to the Western academy. However, the coercive impact of his resettlement projects and Tanzania's economic collapse have undermined his previously sterling reputation. As a result, most modern scholarship attempts to decenter Nyerere from Tanzania's history. This shift has helped to create a deeper body of scholarship around postcolonial Tanzania that is better able to understand the experiences of marginalized communities, such as women and urban populations (Callaci 2017; Geiger 1996). Historian Paul Bjerk seems to have missed this trend, and wrote his first book, *Building a Peaceful Nation: Julius Nyerere and the Establishment of Sovereignty in Tanzania, 1960-1964*, on Nyerere's role in guiding Tanzania during early independence. He has continued that project in a brief biography titled *Julius Nyerere*, which came out in 2017. Fortunately, Bjerk is not interested in hagiography or condemnation, and he creates a compelling narrative by leaning in to the apparent contradictions of Nyerere's legacy. As both a quick read and a nuanced portrait of a sometimes divisive figure, this is a good introduction or reintroduction to Mwalimu Julius Nyerere, despite sagging in places under the weight of its subject matter.

Bjerk's attempt to reframe Nyerere starts slowly with his interrogation of Nyerere's pre-presidential career. It is not uncommon for scholars to mention Nyerere as a young college student representing Tanzania's best and brightest in Edinburgh or as an independence leader on the cusp of success, and on the way to the presidency. However, Bjerk's analysis does a good job of using the confines of these now almost mythological settings to describe the impact that an early exposure to socialism and egalitarian theology, both in Tanzania and Scotland, had on Nyerere's later ideologies (2017, 24–30). This expands into a well-executed interpretation of Nyerere's early life, but Bjerk's transition to focus on Nyerere's early political work happens, if anything, too slowly. Waiting until almost one-third of the way through a 163-page book to address Nyerere as a political figure is an overestimation of the importance of his youth. This is especially true here, as it is not until discussing the early independence process that Bjerk truly begins to interrogate Julius Nyerere's central contradictions. Beginning with Nyerere's early leadership and activism, Bjerk acknowledges that Nyerere was both honestly committed to egalitarian values and occasionally reliant on heavy handed, top down governance (2017, 55). In creating this balanced portrait, Bjerk equally avoids both boilerplate critiques that frame Nyerere as a naïve authoritarian lacking in economic sophistication and exultant celebrations of Nyerere as the quasi-omnipotent Father of Tanzania. Instead, Tanzania's first president is described as a leader whose idealistic vision of a new pluralist African socialism was tempered by his deep pragmatism and dedication to ideological dominance.

Part of the charm of this biography, beyond its evenhandedness, is its directness in addressing this balance. Bjerk's candor enables him to explicitly complicate the implications of oft-cited facts, like Nyerere's status as one of the few early African presidents to step down voluntarily. This is often used as a justification for describing Nyerere as almost a benevolent ingénue among the power hungry. Bjerk points out that such a narrative is incomplete given the political savvy required to navigate the dangerous terrain of early independent African states, and the repeated failure of Nyerere's historical peers to serve similar terms as presidents or prime ministers (2017, 14). Instead, Nyerere's early displays of strength were clearly effective in consolidating power that fed into his larger popularity. When Bjerk discusses the early structure of Tanzanian democracy, he makes clear that Nyerere's choice to espouse majoritarian rule was not necessarily predicated on an interest in dissent. This acknowledgement includes direct quotes from Nyerere about elected officials being allowed to use "supreme authority" to control any attempts by minorities to organize around matters of race, religion, or tribe (54). This initial repressive behavior is described by Bjerk as that of a "socialist dictator" – but this is only part of a man who Bjerk describes as neither "saint nor tyrant" (2017, 1, 8). As Bjerk summarizes him in the final chapters, Nyerere appears as a thoughtful and savvy leader with a singular vision for one of the poorer countries in sub-Saharan Africa.

Unfortunately, while creating this complicated narrative, Bjerk often unsuccessfully tries to balance personal insights into Nyerere with a much larger discussion of the entire post-colonial history of Tanzania. In one such instance, Bjerk highlights coercive inclinations in Nyerere's acceptance of British help in 1964 with crushing the mutineering Tanzanian Army (2017, 67). To his credit, he effectively demonstrates the way in which Nyerere's most repressive tactics were often a direct response to internal crisis. However, at the same time, he also attempts to explain the extremely complicated international politics of Tanzania being created during the Cold War, an issue which needs much more than the two pages of explanation he provides (67–69). This maximalist inclination is understandable given the importance Nyerere held as president, but Bjerk continues to make the same mistake in describing events that occurred after Nyerere's retirement. In one instance, Bjerk attempts to describe the entirety of neocolonialism in the Democratic Republic of the Congo, map the Hutu and Tutsi divisions in Rwanda, and summarize Nyerere's involvement in the Burundi peace process in only four pages (2017, 139–44). *Julius Nyerere* already carries the difficult task of succinctly summarizing its namesake, and there is no room in its pages for a simultaneous summary of Tanzania's entire history.

Luckily, the value of Bjerk's project is not limited to its disenchantment with a mythically angelic version of Nyerere, or even to its acknowledgment of the sincerity of Nyerere's commitment to creating a socialist state. Its value is also derived from Bjerk's consistent interest in acknowledging the tenuous balancing act of personal interest and nationalist ambition that faced the leaders of Tanzania as they tried to create a prosperous and just future for their nation. In truth, the difficulty of understanding Nyerere's legacy does not solely stem from the complexity involved in adjudicating the mixed quantitative results of his ambitious policies. It stems from the difficulty in creating any single narrative of this complicated man who sat at the center of so many historically important debates. Bjerk's embrace of contradiction and complexity allows him to address this amorphous question of legacy, and he draws deeply on the full range of existing scholarship about Tanzania. Given that Bjerk accomplishes all of this in a book about the length of a novella, it is worth reading his biography of Nyerere.

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