Beyond Nationalism and toward a Dynamic Theory of Pan-African Unity

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INTRODUCTION: GLOBALIZATION AND ITS DISCONTENTS

For decades, Pan-African unity has provided the conceptual platform upon which theories of global racial justice for the African Diaspora have been grounded. Premised on the belief that the Diaspora shared (and share) a common interest in the enforcement of civil and human rights, including self-determination and ending European colonial domination in Sub-Saharan Africa and the Caribbean, Pan-Africanism proved a powerful ideology for blacks. However, it is the movement’s entrenchment in rigid adherence to formal legal structures and transnational economic coordination, including economic globalization and the multilateral trade agreements, that poses unique challenges to

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2. See Richardson, supra note 1.

traditional conceptions of Pan-African unity. By creating incentives that often place former ideological allies at economic odds, multilateral trade agreements, like the African Growth and Opportunity Act (AGOA), test Pan-African coalitions that have historically championed the convergent interests of embattled minority groups around the globe.

This essay examines two such challenges that are interrelated and mutually reinforcing. The first involves the migration of investor capital from American urban industrial centers to developing economies where labor and production costs tend to be cheaper. Multilateral trade agreements, like AGOA, North American Free Trade Agreement (NAFTA), and the General Agreement on Tariffs and Trade (GATT), facilitate this trend by permitting the inflow and outflow of global investor capital and labor to and from developed and developing economies in a less restrictive manner than was historically possible. The loss of domestic industrial jobs to overseas manufacturers typically follows these capital outflows. In turn, this migration of industrial jobs seriously undermines domestic labor security generally, and black labor security specifically.


5. AGOA, supra note 4.


7. See generally Thomas J. Manley & Ambassador Luis Lauredo, International Labor Standards in Free Trade Agreements of the Americas, 18 Emory Int’l L. Rev. 85, 94-95 (2004) (discussing the migration of domestic jobs overseas as a local economic dislocation stemming from rapid trade liberalization, noting however, that these losses are partly but not entirely offset by employment gains in the upper income levels); see also Edwards, supra note 3, at 188-89.

A second closely related by-product of economic globalization that exacerbates this process is known as the “race to the bottom.” The “race to the bottom” occurs when developing economies begin to erode important domestic labor standards in an attempt to outdo one another (and developed economies) in a bid to attract foreign investments and new jobs.9 And while global job relocations benefit developing economies in the short term, cheaper sources of labor and production inevitably emerge. When this occurs, these beneficiaries often find themselves confronting the same job losses and attendant economic dislocations that afflicted developed economies earlier in the cycle.10 In this fashion, the liberalization of global labor and capital markets not only facili-

employment levels traditionally exceed white levels, typically by a factor of about two, and that black unemployment levels can be expected to rise faster than the national average, indicating a greater susceptibility on the part of the black community to the vicissitudes of the job market, including the relocation of domestic industrial jobs abroad); see also Ronald Waters, Black Interests and the “Battle in Seattle,” BRC-NEWS, Dec. 19, 1999, http://groups.yahoo.com/group/brc-news/message/775.html (arguing that some black leaders who supported AGOA were unwilling to disclose openly the potentially adverse impacts that implementation of the Bill would have on black workers, namely in the form of black job migrations, because their support of other entrenched political and economic interests made such an admission politically impracticable).


10. This is precisely what happened recently when investor capital began to flow out of Mexico and into China. The latter boasts lower labor costs and superior economies of scale than the former, conditions that have encouraged the migration. The flight of investor capital has led to the closure of manufacturing facilities in Mexico along with predictable job losses and increased labor instability. See The Sucking Sound From the East, THE ECONOMIST, Jul. 24, 2003, available at http://www.economist.com/research/backgrounders/displaystory.cfm?story_id=1943820 (noting that investments and jobs continue to leave Mexico for China because labor, energy, telecommunications, and transportation costs remain appreciably lower in the latter than they do in the former); see also Canova, supra note 9, at 113 (noting that the “race to bottom” has led to the recent migration of jobs from Latin America to China). I am indebted to perennial presidential candidate and life-long consumer advocate and activist Ralph Nader whose pointed description of the “race to the bottom” led me to employ the concept of job migrations as part of a continuing cycle of regulatory competition that ultimately undermines global labor stability. See Ralph Nader & Lori Wallach, GATT, NAFTA, and the Subversion of the Democratic Process, in THE CASE AGAINST THE GLOBAL ECONOMY AND FOR A TURN TOWARD THE LOCAL 92, 98 (Jerry Mander et al. eds., 1996). For a timely examination of the ways in which unregulated trade liberalization can lead to increased labor insecurity, see generally Eugenia McGill, Poverty and Social Analysis of Trade Agreements: A More Coherent Approach, 27 B.C. INT'L & COMP. L. REV. 371, 381-82 (2004) (noting that unregulated global trade liberalization can lead to labor insecurity in developing countries), citing STRUCTURAL ADJUSTMENT PARTICIPATORY REVIEW INTERNATIONAL NETWORK (SAPRIN), THE POLICY ROOTS OF ECONOMIC CRISIS AND POVERTY: A MULTI-COUNTRY PARTICIPATORY ASSESSMENT OF STRUCTURAL ADJUSTMENT (2002), http://www.saprin.org/SAPRI_Findings.pdf.
tates greater resource mobility and transactional efficiency; it also facilitates labor market instability in both developing and developed economies. Moreover, by encouraging capital and labor market deregulation globally, thereby accelerating labor competition between African-American and Sub-Saharan African workers, multilateral trade agreements challenge a core premise around which Pan-Africanism operates: that the intersection of shared racial justice interests can form the basis for multi-party global collaboration in the political, legal, and economic spheres.

Formulating an effective practical response to these global economic challenges remains a largely unfulfilled task for international legal theorists, critical race scholars, and contemporary Pan-Africanists. This essay posits that Pan-Africanism must recognize a shared interest in promoting economic justice for the entire African Diaspora. It suggests that while Pan-Africanism remains a viable ideology, its adherents must create a more relevant multilateral dialogue and form new alliances to mitigate the potentially harmful effects of trade multilateralism. These alliances must look beyond domestic (nationalistic) economic considerations and embrace a dynamic theory of Pan-African unity.

At its core, this theory stresses the primacy of negotiated and collaborative transatlantic efforts to create a pragmatic Pan-African bulwark against some of the perceived ills of economic globalization.

Domestically, it requires heightened political activism to enshrine federal and state programs to mitigate the negative impacts of global job migration. This would include greater government support for the creation of more so-called economic empowerment zones, more comprehensive unemployment

11. See supra note 10; see also Emmert, supra note 6, at 84 (noting the pressures that capital and trade liberalization exert on labor markets in developed economies like Germany and France).

12. See Manning Marable, Free South Africa Movement: Black America's Protest Connections with South Africa, in Speaking Truth to Power: Essays on Race, Resistance, and Radicalism 189, 192-95 (1996) (noting that the migration of jobs from American urban centers to Sub-Saharan Africa has been an important feature of economic relations between the United States and Africa that has largely gone unnoticed in critical race circles).

13. See Manley & Lauredo, supra note 7 (examining the particular economic incentives created by free trade agreements to undermine existing or developing labor and environmental standards in order to attract foreign investments and new jobs).


15. See Manning Marable, Pan-Africanism: Yesterday and Today, in Along the Color Line (1995) (stressing the need for the creation of broad-based interest group coalitions at the global level to reinvigorate a moribund Pan-African ideology); see also Wing, supra note 14.

benefits, and increased funding for job training in economically depressed urban industrial centers. Globally, and especially in Sub-Saharan Africa, this would involve adopting binding regional worker protection standards, perhaps under the auspices of the New Economic Partnership for African Development (NEPAD). Such regional labor standard harmonization would significantly undermine the incentive structure that facilitates the "race to the bottom" problem without significantly diminishing foreign investment prospects. Moreover, it would signal a growing global political maturity on the part of both African and African-American leadership and a renewed pragmatic commitment to a truly progressive Pan-African dialogue.

I.
CRITICAL RACE THEORY, PAN-AFRICANISM, AND RACIAL JUSTICE: A HISTORIC OVERVIEW

The emergence of voices critical of international laws' and their attendant institutions' failure to effectively promote the interests of embattled minorities around the globe marks an important shift in the traditional foci of international legal scholarship. This emerging paradigm, sometimes referred to as "critical race globalism," embraces a diversity of perspectives: social and economic


18. To the contrary, a central premise frequently cited by proponents of free trade multilateralism holds that more comprehensive legal and regulatory structures in developing economies denote a greater degree of socio-economic and political stability, thereby making these economies more attractive to foreign investor capital. See Emmert, supra note 6, at 84-85 (noting that more predictable legal and economic regulatory regimes enhance foreign investment prospects). See also Michael D. Klaus, Dual-Use Free Trade Agreements: The Contemporary Alternative to High-Tech Controls, 32 DENV. J. INT'L L. & POL'Y 105, 124-25 (2003) (noting that Mexico's dedication to market reforms under NAFTA has created a more stable and predictable business environment in that country and has therefore enhanced foreign direct investment prospects).

19. See Robert I. Rothberg, Strengthening African Leadership, FOREIGN AFFAIRS, July-Aug. 2004 (noting that "[p]oor leadership has been the depressing norm in Africa for decades" and applauding the recent emergence of a more progressive class of Sub-Saharan African political elites).


21. Gott, supra note 20, at 1504. Professor Gott has employed the phrase "critical race globalization" to describe the scholarly synthesis of race, international law and fundamental rights themes into a more coherent global critical race dialogue. Its core emphasis involves the examination of the ways in which international legal and institutional biases impact historically marginalized people of color around the globe.
development theory, free trade and racial justice, global minority institutional enhancement, and minority economic empowerment, to name a few. Despite these diverse thematic preoccupations, critical race globalists all share the common belief that an examination of the intersection of human rights discourse, international legal, and critical race theory can render international law and institutions more responsive to the needs of historically marginalized groups.

This intersection of race, human rights jurisprudence, and related transnational legal problematics is seen as a way to overcome the conceptual limitations of nationalistic versus global thinking. More pragmatically, the intersection is seen as a potential response to some of the perceived harms of economic globalization and particularly of multilateral trade agreements like AGOA. Some of the dangers that purportedly stem from such agreements include the migration of jobs from developed to developing economies and the erosion of labor and environmental standards in these selfsame developing economies.


23. See generally Michelle Williams, Comment, Caribbean Shiprider Agreements: Sunk by Banana Trade War?, 31 U. MIAMI INTER-AM. L. REV. 163 (2000) (arguing that dismantling a European Union preferential trade agreement that benefited former colonies, especially former black colonies, would have a ruinous effect on the economies of those states).

24. See Richardson, supra note 1, at 58-64 (citing the black community’s desire to promote the use of internationalism and transnational strategies to obtain objective and even-handed enforcement of legal norms as they relate to human rights and use of force questions).


26. See Gassama, supra note 16.

27. See id.

28. Id.

29. See, e.g., Marable, supra note 12 (discussing the migration of black American jobs to South Africa as an important transnational racial justice concern); Waters, supra note 8 (noting the potentially adverse impacts that implementation of AGOA would have on black workers, including migration of domestic jobs overseas).

30. See Emmert, supra note 6, at 77 (linking the erosion of labor and environmental standards in the developing world in order to attract foreign investments and jobs as mutually reinforcing).

31: See Gassama, supra note 16, at 157 (criticizing the free trade regime created by the GATT and the WTO for encouraging “a seemingly never-ending global race to the bottom”). The “race” occurs when developing states compete for foreign investments by loosening local labor and environmental regulatory standards, thereby making the investment climate in those countries more attractive. See also Jose Alvarez, Critical Race Theory and the North American Free Trade Agreement’s Chapter Eleven, 28 U. MIAMI INTER-AM. L. REV. 303 (1997) (arguing that multilateral trade agreements like NAFTA ultimately exacerbate the existing economic inequalities between North and South America); Jeffery L. Dunoff, Rethinking International Trade, 19 U. PA. J. INT’L ECON. L. 347 (1998) (noting that the modern multilateral trade system cannot effectively reconcile conflicts that involve both trade-related and non-trade values like labor and environmental concerns).
Critical race globalism attempts, therefore, to link extant and emerging theories of global racial justice to the practical spheres of international law and its attendant institutions as they relate to embattled minorities around the globe.

The importance that critical race globalism assigns to the intersection of racial justice, minority rights, and international law problematics recalls earlier minority empowerment deliberations under the broader historical rubric of Pan-African unity. The idea of Pan-African unity, or Pan-Africanism, rests on the central premise that people of color throughout the world, especially those of African heritage, share a common history of racial subjugation and a common interest in eradicating the vestiges of this legacy. For example, throughout much of the twentieth century, this theory of Pan-African justice defined the human rights and self-determination aspirations of the global African Diaspora and the domestic African-American liberation and civil rights empowerment struggles as complimentary goals. In broader terms, this theory held (and still holds) that the interconnectedness and intersection of shared racial justice interests can and should form the basis for multi-party global collaboration in the political, legal, and, more recently, economic spheres.

In describing an earlier conception of Pan-African unity under the rubric of anti-colonialism, albeit in somewhat colloquial, paternalistic, and romanticized terms, W.E.B. DuBois waxed optimistically: "[T]he Negroes in the United States...could easily furnish from time to time technical experts, leaders of thought, and missionaries of culture for their...brethren in the new Africa." For DuBois, Pan-Africanism envisioned a global black cultural plurality that stressed the convergence of African-American and broader African Diaspora interests as a conceptual and pragmatic bulwark against racial oppression on a

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32. See, e.g., Natsu Taylor Saito, Crossing the Border: The Interdependence of Foreign Policy and Racial Justice in the United States, 1 YALE HUMAN RTS. & DEV. L.J. 53 (1998) (defining racial justice as a process linking domestic racial subordination problematics, especially those stemming from racially discriminatory U.S. foreign policy initiatives like support for the South African apartheid regime, to the larger imperatives of international human rights law); see also Andrews, supra note 20, at 868 (noting that the intersection of the American civil rights struggle and the global human rights movement, and the emergence of critical race theory provide potentially fertile soil for the emergence of an energized critical race globalism paradigm).

33. See generally FRANZ FANON, THE WRETCHED OF THE EARTH 158-205 (1963) (denouncing nationalistic and chauvinistic approaches to the anti-colonial struggle in favor of a broader Pan-African consciousness that eschews ethnic and racial tribalism).

34. See Richardson, supra note 1.

35. See Makua wa Mutua, Hope and Despair for a New South Africa: The Limits of Rights Discourse, 10 HARV. HUM. RTS. J. 63 (1997) (suggesting that critical race globalists would have better served the interests of justice by promoting not just black South African self-determination via a constitutional mandate, but a program of substantive economic justice, as well).

36. See W.E.B. DU BOIS, The Hands of Ethiopia, in WRITINGS 939, 948 (1986). Later in his career, Du Bois himself would embrace the idea of global Pan-African economic cooperation as a feature of black America's quest for racial equality though his earlier hostility to such an approach rendered his later conversion unacceptable to the black civil rights establishment of that era.
global level.\(^{37}\)

Professor Henry Richardson, a leading proponent of a global racial justice paradigm informed by and stressing the intersection of shared political, legal, and institutional interests, notes, for example, that the African-American desire to preserve the inviolability of international human rights law through the defense of individual and collective rights of embattled minorities can serve as the basis for collective action to promote this particular conception of racial justice.\(^{38}\)

The Free South Africa Movement (FSAM) is paradigmatic of a convergence of domestic and transnational African Diaspora conceptions of racial justice.\(^{39}\) Richardson suggests that African-American opposition to South African apartheid\(^{40}\) and to the Reagan administration’s support of that oppressive regime might serve as a programmatic template for a more pro-active black international movement.\(^{41}\) He further asserts that the African-American community’s intimate familiarity with domestic racial injustice provides it with unique insights into broader, and arguably, analogous, global racial justice issues.\(^{42}\) By extension, he suggests that in its desire to ensure that marginalized communities around the world receive fair treatment under international law, the Afri-

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37. It goes without saying that Du Bois’ outdated paternalism holds no currency in contemporary Pan-African theory. Indeed, one can make the argument that African-American intellectuals and political elites stand to learn more about effective empowerment models than their counterparts from South Africa, to cite one example. See also P. Mweti Munya, *The Organization of African Unity and its Role in Regional Conflict Resolution and Dispute Settlement: A Critical Evaluation*, 19 B.C. THIRD WORLD L.J. 537, 540-41 (1999) (speaking more directly to the question of Sub-Saharan Africa’s self-determination aspirations, professor P. Mweti Munya has identified the “eradication of colonialism and the promotion of African nationalism” as primary goals of the Pan-African ethos).

38. See Richardson, *supra* note 1 (citing the black community’s desire to promote the use of internationalism and transnational strategies to obtain objective and even-handed enforcement of legal norms as they relate to human rights and use of force questions).

39. *Id.*

40. South African Apartheid was a system of racial segregation and subjugation maintained through the use of force and terror against non-white South Africans (and white South African’s opposing the system). The South African apartheid system rested on two central pillars: the preservation of white political, economic and social hegemony, and the preservation of white racial purity through the strict physical separation of South Africa’s numerous ethnic and racial groups. Paul Sauer, a senior official in the white-only National Party (the political party of F. W. DeKlerk) first articulated the apartheid credo in 1946. See LEONARD THOMPSON, A HISTORY OF SOUTH AFRICA 185-86 (1990).

41. See Richardson, *supra* note 1, at 62-64. Black internationalism can be thought of as the manner in which the black community collectively, and through the efforts of particular individuals, articulates its basic foreign policy orientation. This method of global engagement is typically characterized by the group’s transnational cooperation, its engagement with international law and institutions, group economic development, and collective views on human rights and use of force issues. See also MARABLE, *supra* note 12 (defining black internationalism as the articulation and promotion of particular legal, social, moral or institutional interests at the global level); Brown, *supra* note 25 (defining black internationalism along a global economic axis).

42. See Richardson, *supra* note 1, at 64.
can-American community has potentially created the moral and legal foundations for a global African Diaspora empowerment paradigm. Thus, Richardson contends that the convergence of the African-American community's interest in global racial justice problematics can and should translate into a broader desire to ensure the equitable treatment of embattled ethnic minorities via international legal norms and institutions.

The FSAM proved uniquely effective because it saw, in practice, the interest convergence that Richardson identifies as an essential component of effective Pan-African collaboration. On the one hand, we witnessed the convergence of a wider global interest in supporting black South African self-determination against apartheid oppression through widespread public protests. Thus, calls by anti-apartheid activists for multinational corporations to divest from the South African economy occurred contemporaneously with widespread student and political protests in the United States against apartheid rule, and multilateral political collaboration, especially via the United Nations, to undermine global support—both political and economic—for apartheid rule. By the same token, the advancement of these rights under international law assumed center-stage, globally, most notably in the form of United Nations General Assembly and Security Council resolutions condemning apartheid.

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43. See id. at 63-64.
44. Id. at 58-61.
45. See RANDALL ROBINSON, DEFENDING THE SPIRIT: A BLACK LIFE IN AMERICA 146-52 (1998) (recounting how the author, along with Congressman Walter Fauntroy and Mary Frances Berry, peaceably occupied the South African Embassy, and refused to leave the Embassy grounds until the South African government agreed to release all of its political prisoners and to dismantle the apartheid system).

Recalling its previous resolutions on the question of race conflict in South Africa resulting from the policies of apartheid of the Government of the Union of South Africa . . . Recalling also that the Government of the Union of South Africa has failed to comply with the repeated requests and demands of the United Nations and world public opinion and to reconsider or revise its racial policies or to observe its obligations under the Charter,

1. Deplores such continued and total disregard by the Government of the Union of South Africa and furthermore its determined aggravation of racial issues by more discriminatory laws and measures and their enforcement, accompanied by violence and bloodshed;
2. Deprecates policies based on racial discrimination as reprehensible and repugnant to human dignity;
3. Requests all States to consider taking such separate and collective action as is open to them, in conformity with the Charter of the United Nations, to bring about the abandonment of these policies;
4. Affirms that the racial policies being pursued by the Government of the Union
nally, dismantling the apartheid regime required the effective use of transnational coalitions to create a global backlash against oppressive minority rule in South Africa.\footnote{48}

Under the more limited foci of international law, the foregoing discussion suggests that Pan-Africanism historically has articulated three primary goals. First is the eradication of racial discrimination and subjugation (alternatively, black African sovereignty) in fulfillment of human rights norms. Second is the coherent articulation of these normative principles under the auspices of international organizations like the United Nations.\footnote{49} Finally, and perhaps centrally, Pan-African unity stresses that the intersection of shared racial justice interests can form the basis for multi-party global collaboration in the political, human rights, and economic spheres.\footnote{50}

The symmetries between Pan-Africanism on the one hand and critical race globalism on the other are undeniable. Both perspectives see the intersection of complementary racial justice and fundamental rights concerns, and the possibility of global interest group collaboration as providing a theoretical framework around which progressive scholars and activists can create a functional global minority empowerment paradigm.\footnote{51} The cynically minded should not interpret this discussion as undermining the validity of critical race globalism. Rather, by conceptually and historically linking the latter with earlier formulations of racial justice, we are better positioned to view critical race globalism as simply a continuation of a deeper and older tradition of progressive international legal scholarship and activism.

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of South Africa are a flagrant violation of the Charter of the United Nations and the Universal Declaration of Human Rights and are inconsistent with the obligations of a Member State;

5. Notes with grave concern that these policies have led to international friction and that their continuance endangers international peace and serenity;

6. Reminds the Government of the Union of South Africa of the requirement in Article 2, paragraph 2, of the Charter that all Members shall fulfil in good faith the obligations assumed by them under the Charter; [and]

7. Calls upon the Government of the Union of South Africa once again to bring its policies and conduct into conformity with its obligations under the Charter.

48. See Brown, \textit{supra} note 25, at 828-29 (briefly tracing the genesis of the FSAM and the role that global coalitions played with the larger anti-apartheid movement).

49. See Richardson, \textit{supra} note 1, at 70-71.

50. See Mutua, \textit{supra} note 35.

51. In general, both perspectives also view nationalistic or inward-looking measures as antithetical to effective Pan-African collaboration. See Gassama, \textit{supra} note 16. But see Brown, \textit{supra} note 25 (advocating that domestic minority group institutional viability remains a necessary prerequisite of effective Pan-African collaboration).
II.
THE NEW PAN-AFRICANISM: RESPONDING TO THE CHALLENGES OF ECONOMIC GLOBALIZATION

In recent years, critical race globalists have also attempted to expand the traditional foci of Pan-Africanism or critical race globalism to embrace not only the aforementioned fundamental rights themes, but also economic justice considerations. Professor Penelope Andrews suggests that "the focus in international law would address how communities of color are situated within the global configuration. Its primary focus, therefore, will be the intersection of global economics and politics with [fundamental] rights and the Third World."52 In the same vein, noted critical race globalist Professor Ibrahim Gassama has argued in favor of an informed critical race response to the perceived ills of trade multilateralism.53 Speaking on the domestic front, the author has advised that the African-American community approach the problem of racial subordination and exploitation that globalization reinforces by identifying core economic group interests affected by that system and implementing strategies designed to protect and promote those interests.54

This is not to suggest that critical race globalists are the first to attempt to articulate a coherent conception of economic justice on behalf of historically marginalized minorities around the globe. A generation earlier, during the waning days of Western colonialism in Sub-Saharan Africa, Frantz Fanon adumbrated a theory of economic justice that closely mirrors the ideological contours of the theories embraced by today's critical race globalists.55 Fanon advocated a Pan-Africanism unencumbered by nationalist tendencies that embraced economic collaboration over economic and political isolationism.56 Fanon observed: "This is why we must understand that African unity can only be achieved through the upward thrust of the people, and under the leadership of the people, that is to say, in defiance of the interests of the [nationalistic] bourgeoisie."57

The conceptual bonds linking Fanon to the current generation of critical race globalists involve more than a shared belief in a romanticized and outdated Pan-African ethos. Professor Gassama recently cautioned against the same nationalistic and chauvinistic excesses in critical race discourse that Fanon de-

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52. See Andrews, supra note 20, at 878; see also Gassama, supra note 16; Gott, supra note 20.
53. See Gassama, supra note 16, at 157 (criticizing free trade for encouraging "a seemingly never-ending global race to the bottom" whereby competing states continually erode important labor and environmental standards in an attempt to outdo one another in a rush to attract foreign investments and new jobs).
54. See Brown, supra note 25, at 815.
55. See FANON, supra note 33, at 180.
56. Id. at 180.
57. Id. at 164.
nounced forty years earlier. More pointedly, Gassama criticizes those aspects of global progressivism that hinder the pursuit of racial justice for embattled minorities around the globe, or what he refers to as a "crude and virulent strain of ethnocentric chauvinism." To counter this "crude and virulent strain," Gassama would link traditional domestic racial subordination problematics to the larger question of international racial economic subordination that globalization reinforces. As an example, he points to the international campaign to preserve the "socio-economic viability" of Caribbean banana producers in the face of recent efforts by the United States to dismantle a European Union banana tariff system economically beneficial to the Caribbean states.

For Gassama, working toward international solidarity requires international law and critical race scholars to embrace a model of racial justice premised on what he describes as "a scholarship and politics of solidarity." This scholarship model would expose the underlying brutality of the global free trade system by demonstrating how historically marginalized groups suffer from policies that prioritize trade liberalization and capital and labor mobility over social welfare and development considerations.

Gassama’s concerns regarding globalization and its harmful impacts closely mirrors Fanon’s fear that nationalist or local concerns would undermine the ability of Pan-Africanists to pursue a global agenda of African Diaspora empowerment. Of course, the structure of the global economy has transformed drastically since Fanon’s time, as denoted by the growing prevalence of multilateral trade agreements like AGOA, NAFTA, the GATT, and the WTO. Nevertheless, concerns over nationalistic or chauvinistic trends remain a unifying theme in both critical race and Pan-African discourse.

It would perhaps be more accurate, then, to say that today’s critical race globalists are the intellectual heirs to a tradition of progressive analysis that Fanon championed, which sought to dissect the complex interplay between race, national identity, nation-state sovereignty, and global investor capital in a new way. By extension, this essay posits that critical race globalism really represents a more contemporary expression of Fanon’s enlightened Pan-Africanism but with greater emphasis given to the legal intricacies of global economic expansion and its impacts.

It is important to recall at this juncture that an express goal of critical race globalists like Gassama and Richardson and of Pan-Africanists like Fanon remains to identify shared racial justice interests and merge theory and praxis via multi-party global collaboration in the political, legal, and economic spheres.

58. See Gassama, supra note 16, at 141, 158.
59. Id. at 157.
60. Id. at 141.
61. Id. at 157.
62. Id.; see also FANON, supra note 33.
However, beyond simply articulating a policy of collaborative advocacy, a
global Pan-African ethos must also walk the fine line between the uninformed
pursuit of local interests and the promotion of collective African Diaspora in-
terests. As Fanon foresaw four decades earlier, and as Gassama has cautioned
against more recently, today’s critical race globalists must resist the natural
impulse to champion domestic causes without first considering the impact their
efforts will have on the larger Pan-African polity. This is especially true when
responding to the adverse impacts of global economic expansion via multilat-
eral trade agreements like AGOA. Thus, a domestic call to resist AGOA be-
cause it will result in the relocation of African-American jobs overseas, without also considering the impact such a critique will have on those Sub-Saharan
African states party to AGOA fairly misses the forest through the trees. This is
because the impacts of free trade agreements are both transnational and intern-
ally reinforcing.

III.
TOWARD A DYNAMIC THEORY OF PAN-AFRICAN UNITY

A. Overcoming Nationalism

Recent debates surrounding the harmful impacts of multilateral trade
agreements, including those about the perceived strengths and weaknesses of
the AGOA enacted by Congress in 2000 provide a useful platform from which
to assess both the limits of nationalistic trends in critical race discourse and the
potential for a truly global, mutually-reinforcing Pan-African dialogue to cor-
rect these trends.

Briefly, the AGOA champions a re-articulated U.S. foreign policy traject-
ory toward Sub-Saharan Africa, grounded in the principles of African self-

63. Id. at 180-205.
64. See Gassama, supra note 16, at 157.
66. This is what Gassama meant when he cautioned critical race globalists from embracing
causes that articulate “crude and virulent strain[s] of ethnocratic chauvinism.” Gassama, supra
note 16; see also Canova, supra note 9 (discussing how the “race to the bottom” facilitates job
migrations and how the underlying system perpetuates this process).
67. The region commonly referred to as Sub-Saharan Africa presently consists of 48 states.
These states include: Angola, Benin, Botswana, Burkina Faso, Burundi, Cameroon, Cape Verde,
the Central African Republic, Chad, Comoros, Congo, Cote d’Ivoire, the Democratic Republic of
Congo (former Zaire), Djibouti, Equatorial Guinea, Eritrea, Ethiopia, Gabon, Gambia, Guinea,
Guinea-Bissau, Kenya, Lesotho, Liberia, Madagascar, Malawi, Mali, Mauritania, Mauritius, Moz-
ambique, Namibia, Niger, Nigeria, Rwanda, Sao Tome and Principe, Senegal, Seychelles, Sierra
Leone, Somalia, South Africa, Sudan, Swaziland, Tanzania, Togo, Uganda, Zambia and Zim-
help, free trade multilateralism, and governmental transparency and accountability. 68 Section 103(1) of the AGOA expresses the Bill's basic aim. It stresses the importance of:

(1) Encouraging increased trade and investment between the United States and sub-Saharan Africa...
(3) Negotiating reciprocal and mutually beneficial trade agreements, including the possibility of establishing free trade areas that serve the interests of both the United States and the countries of sub-Saharan Africa; [and]...
(4) Focusing on countries committed to the rule of law, economic reform, and the eradication of poverty. 69

In the words of Alan P. Larson, Under Secretary for Economic, Business, and Agricultural Affairs,

AGOA offers African countries one concrete benefit: duty- and quota-free access for most products from eligible countries. There are benefits available for American businesses and consumers as well. In many instances, new apparel factories have bought American equipment. U.S. businesses are also investing directly in sub-Saharan Africa.... Our approach to AGOA, which includes dialogue on critical political and economic policy issues as well as AGOA's job and growth benefits, can help in our overall effort to make Africa more stable and prosperous—which will of course make Africa a stronger partner with the United States and a growing market for American goods and services. 70

Current statistical data would, at first blush, seem to support optimistic interpretations of the impact AGOA has had on the economies of the participating Sub-Saharan African states. A recent statistical report reveals that covered agricultural imports to the United States from the Sub-Saharan African AGOA states grew from a total of $212,436,000 in 2002 to just over $272,075,000 in 2005 (figures stated in U.S. dollar amounts). Similar growth was seen in other product sectors such as energy (oil), minerals, and chemical related products for the same time period. 71

By the same token, serious concerns have arisen about what these numbers actually say. One oft-cited criticism notes that in total dollar volume, the greatest increases in imports from Sub-Saharan Africa to the United States

68. See, e.g., 19 U.S.C. §§ 3701(4), (7), (8), and (10).
come from increased oil sales. The message here is that the bulk of increased trade stems from increasing American demand for cheap oil supplies, and that trade increases in total have little to do with AGOA.

Importantly, critical assessments of AGOA within both the African-American and Sub-Saharan African communities reveal the degree to which traditional models of analysis remain moored to largely nationalistic paradigms, ultimately limiting their effectiveness. For example, some African-American critics have observed that the African-American community faces the very real prospect of global investor capital flowing away from America’s urban centers and into the economically depressed regions of Sub-Saharan Africa. One commentator has even criticized black supporters of the AGOA, like the Congressional Black Caucus (CBC), by emphasizing the latter’s unwillingness to explain to the black community that AGOA may cause job loss. Others have cautioned that the implementation of AGOA would threaten black jobs and undermine African-American labor security. Thus, in both tone and substance, domestic African-American criticisms of AGOA, at least in the public sphere, overwhelmingly stress domestic or local considerations, largely to the exclusion of broader Pan-Africanism.

This internal, nationalistic basis for AGOA criticism has been echoed across the Atlantic. There, Sub-Saharan African criticism of AGOA has less to do with job migration and more to do with the growing perception amongst some African political and economic leaders that AGOA represents a serious threat to African sovereignty. These concerns focus on compliance with AGOA’s so-called “conditionality” requirements and the actual and perceived

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72. See Charles Cobb, Jr., Some Progress, Some Uncertainties Ahead of AGOA Forum in Mauritius, ALLAFRICA, Jan. 10, 2003, http://www.africaaction.org/docs03/ag0301b.htm (noting that while oil exports from Africa to the U.S. have indeed increased, direct foreign investments in the region continue to decline at an alarming pace, down by nearly ten (10) percent since 2000, despite the adoption of AGOA).

73. See id.


75. See MARABLE, supra note 12, at 193-95.

76. See Waters, supra note 8.

77. Ironically, Ralph Nader himself criticized select members of the Congressional Black Caucus who supported the AGOA on the ground that “they are being corporatized. Half of the Black Caucus voted for the African Trade bill. NAFTA for Africa. It is a new Colonialism.” Up Close with Ralph Nader, supra note 65.

78. See generally Cobb, supra note 72 (noting that deep uncertainty over whether implementation of AGOA can deliver the promises of sustained economic growth, true American-Sub-Saharan African political collaboration and equality, and democratic reform).
costs of doing so. The concern is that the specific political and economic conditions that the United States would place on participating states in return for most favored nation trading status unlawfully infringe on matters of governance and policy that are purely internal.

While none of these criticisms are wrong per se, they nevertheless manage to avoid the deeper and broader Pan-African challenge that underscores the purely interstate problematics: that each of the intrastate problems cited above reinforces the other. The natural impulse to consider only the domestic impacts of AGOA often prevents its critics from considering the wider implications of the Bill, such as its tendency to increase, rather than decrease, global labor insecurity. In this sense, AGOA’s critics must look beyond domestic economic considerations and embrace a broader and more nuanced ideology of Pan-African unity in order to promote and pursue a shared interest in economic security and stability.

B. Embracing Dialogue

At its core, a dynamic theory of Pan-African unity must pursue negotiated and collaborative efforts to create an effective institutional bulwark against the perceived ills of multilateral free trade arrangements. Such negotiations would address four concerns: (1) identifying the ways that multilateral trade agreements threaten the economic stability of African-American and African workers; (2) identifying shared economic interests; (3) developing mutually beneficial strategies for promoting shared interests; and (4) recognizing those instances when the economic interests of the parties diverge. Such negotiations could be carried out under the auspices of the New Economic Partnership for African Development (NEPAD), perhaps in connection with domestic labor and civil rights organizations, signaling a growing global political maturity on the part of both African and African-American leadership.

Tanzanian President Yoweri Museveni is a leading advocate of a more forward-looking, multiparty negotiated solution to address the question of Sub-Saharan economic and political marginalization in the post Cold War era. President Museveni argues “the ultimate answer to Africa’s marginalisation”

79. See African Perspectives on the Trade Bill, http://www.aaiweekly.org/whatwedo/whatAfricaPerspagoa.asp (last visited Apr. 14, 2006) (noting the various critiques that have been aimed at AGOA, including concerns over required reductions in social spending, a de-emphasis on regional integration and development initiatives, and the emergence of disruptive economic competition amongst the signatory African states).
80. See Nader, supra note 10, at 92-98.
81. See Gassama, supra note 16, 139-40 (encouraging local activists to abandon chauvinistic empowerment strategies in favor of building global alliances to combat the perceived ills of economic globalization and systemic racial subjugation).
82. See generally The New Economic Partnership for African Development, supra note 17.
lies in the consolidation and concentration of African political might via a process of sovereign-state amalgamation "into fewer but more viable states." He identifies three key goals that would emerge from this structural realignment: (1) a fundamental nation-state transformation that would redraw existing boundaries established by the leading colonial powers; (2) the creation of a collective Sub-Saharan African defense policy; and (3) the creation of collaborative regional economic development platform. Importantly, Museveni's proposal implicitly recognizes the limitations of economic and political chauvinism in favor of a regional and continental collaborative effort to overcome African political and economic marginalization. On the labor and trade front, Museveni's proposal suggests that the AGOA compact states would do well to eschew bilateral negotiations with the United States in favor of multilateral discussions regarding labor. Negotiating from a unified position of relative strength would reduce the potential for the destructive "race to the bottom" incentives that have undermined more meaningful economic progress under contemporary free trade regimes.

It would of course be naive to suggest that a monolithic political impulse in favor of multilateral collaboration unifies the entire region. Despite the appeal of President Museveni's proposal, the more immediate, and arguably the most difficult task, clearly involves overcoming the divergent national interests and domestic realities that have rendered widespread Sub-Saharan multilateral collaboration difficult if not impossible to achieve. On a structural level, there exist important and in some instances, fundamental, political differences that militate against greater multilateral collaboration. Thus, while states such as South Africa and Nigeria boast relatively stable political economies grounded in democratic frameworks, states like the Democratic Republic of the Congo and Zimbabwe remain hampered by both domestic and international geopolitical difficulties that would seem to preclude effective multilateral collaboration on their parts. Similarly, while South Africa enjoys a relatively high degree

83. See President Yoweri Museveni, Why Africa is Lagging Behind, NEWAFRICAN, Nov. 2003, at 12, 15.
84. See id. at 15-16 (stressing the paramount need for sovereign African states to act collaboratively to promote common human rights, defense and economic interests).
85. Id. ("You cannot, however, trade if you cannot bargain. You cannot bargain if you are too small or if you are not in a strategic area." He goes on to note that "if we think of pan-Africanism rather than parochialism," the states of Sub-Saharan Africa can negotiate better deals that more effectively promote their interests, not western interests).
86. The Democratic Republic of Congo has suffered for years in the grip of governmental ineptitude, internal civil strife, and a seemingly endless run of disputes over regional international boundaries. See generally Republic of Congo: A Past that Haunts the Future, AMNESTY INTERNATIONAL, Apr. 9, 2003, available at http://web.amnesty.org/library/index/ENGAFR220012003 (discussing the general political and human rights instability in the former Zaire). Zimbabwe faces continued isolation over a governmental policy to transfer ownership of valuable farmlands from white to black African ownership, including the use of violence in some instances. See generally Joseph Winter, Mugabe's Descent Into Dictatorship, BBC NEWS ONLINE, Mar. 13, 2002,
of political openness and transparency, the same cannot be said for a country like Zimbabwe, which boasts far less transparency and far less compliance with human rights mandates.

Stated more succinctly, these geopolitical differences make it more difficult for Sub-Saharan Africa to speak in a united voice on regional and global initiatives such as the trade adjustment programs contained in AGOA. Arguably the kind of political and developmental integration and collaboration that defines and unifies a region like the European Union remains, at least in the short term, programmatically unattainable in Sub-Saharan Africa. Nevertheless, more modest efforts present the potential for greater political and developmental policy cohesion going forward. In this sense, Museveni's emphasis on regional stabilization initiatives, a collective Sub-Saharan African defense policy, and the creation of collaborative regional economic development platforms are more than just rhetorical. History has demonstrated, certainly in the European context, that the pursuit of shared political and economic objectives can provide a basis for deeper levels of intergovernmental collaboration and integration. At work here then is the core proposition that both the perceived and demonstrable problems associated with AGOA and similar global trade initiatives and adjustment programs are best addressed through multilateral collaboration.

Consistent with the need to promote a more proactive transatlantic dialogue between African-American and African elites, contemporary activists, scholars, and political leaders should consider convening a summit to discuss these issues. Such a summit, perhaps organized under the auspices of NEPAD, the United Nations, and the Congressional Black Caucus, would welcome activists, NGOs, academics, and political elites to engage in multiparty negotiations to chart a more proactive trajectory, not just for Sub-Saharan Africa, but for the whole of the African Diaspora.

C. Reinforcing Global Strategies through Local Action

Domestically, a dynamic theory of Pan-African unity would employ heightened political activism to advocate federal and state programs to minimize the negative impacts of global job migrations. This would include more federal and state support for the creation of more economic empowerment zones, more comprehensive unemployment benefits, and increased funding

http://news.bbc.co.uk/1/hi/world/africa/1709488.stm (detailing the increasingly authoritarian and politically unstable regime of President Mugabe).

87. See Nader, supra note 10.
88. See Waters, supra note 8.
89. See Museveni, supra note 83.
90. See generally Audrey G. McFarlane, Local Economic Development Incentives in an Era of Globalization: The Exploitation of Decentralization and Mobility, 35 Urb. Law.
for job training in economically depressed urban industrial centers.

More broadly, the African-American community would do well to revisit the basic assumptions of Pan-African unity in order to determine precisely how such a theory might inform a post-civil rights empowerment agenda at home. Unfortunately, the African-American community more often than not reveals a propensity to think and act locally, with little consideration given to broader geopolitical questions. Stated another way, if African political elites like President Museveni are envisioning dynamic political structures that would redefine the Sub-Saharan African political reality, African Americans should do the same.

CONCLUSION

Contemporary Pan-Africanists and critical race globalists must overcome the nationalistic and chauvinistic excesses that have historically hampered the economic progress of the African Diaspora. They must actively pursue a negotiated platform of empowerment by identifying areas of shared economic interest. Simultaneously, they must embrace empowerment paradigms that mutually reinforce the interests of African-American, Sub-Saharan African, and Afro-Caribbean workers. More importantly, this dialogue must move beyond the academic realm and into the political, labor, and foreign policy spheres if the promises of a progressive Pan-African dialogue are to succeed.

305 (2003) (proposing the adoption of an urban development paradigm that stresses both direct economic incentives to firms and more active public participation in charting the future development trajectory of at-risk communities).