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Black Internationalism: Embracing an Economic Paradigm

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BLACK INTERNATIONALISM: EMBRACING AN ECONOMIC PARADIGM

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INTRODUCTION

The seemingly inexorable march toward a more unified political and economic world order poses strategic and leadership challenges to States, international organizations, and local activists unimaginable a generation ago.[1] Governed by an increasingly interdependent world

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1. *See generally* Peter Malanczuk, *Globalization and the Future Role of Sovereign States*, *in* INTERNATIONAL ECONOMIC LAW WITH A HUMAN FACE 45, 49–53 (Friedl Weiss et al. eds., 1998) (noting the challenges that the international community faces as a result of the emerging global economic order). *See also* Scott L. Cummings & Ingrid V. Eagly, *A Critical Reflection on Law and Organizing*, 48 UCLA L. REV. 443 (2001) (tracing the rise of the law

economy,[2] the liberalization of international economic regulatory restrictions, and the enactment of legal norms favoring the mobility of international investor capital and labor,[3] this emerging and increasingly complex system elicits both approbation and despair. Supporters of this process, commonly called economic globalization, argue that easing international economic regulatory restrictions, creating a more predictable legal order, and liberalizing investment standards will benefit the global economy by rendering financial transactions more efficient, thereby increasing trade and investment opportunities.[4]

More euphemistically, commentators who advocate the expansion of free trade argue that such expansion will benefit *all* participating nations, both developed and developing, by rendering hitherto closed economies open to greater investment and development.[5] Greater investment and development in turn will raise living standards, especially in developing countries, through the creation of new jobs and greater opportunities for economic advancement.[6] In light of the opportunities suggested by economic globalization, many international trade scholars advocate strengthening the emerging system by further reducing those barriers that have historically hampered the creation of a truly global free trade regime.[7]

By the same token, globalization poses important conceptual challenges to international law and international trade scholars committed to

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and organizing movement which stresses the primacy of local initiatives to empower historically marginalized communities).

2. *See* Louis W. Pauly, *Capital Mobility, State Autonomy and Political Legitimacy*, 48 J. INT'L AFF. 369, 369 (1995) (noting that "[t]he 'globalization of finance' is the latest jargon used to connote a number of interrelated developments in the contemporary world economy. Among the most important changes are the reduction of direct controls and taxes on capital movements, the liberalization of long-standing regulatory restrictions within financial markets, the expansion of lightly regulated off-shore financial markets and the introduction of new technologies in the process of capital intermediation. These developments render capital more mobile, both within and across national borders.").

3. *See, e.g.*, G. Richard Shell, *Trade Legalism and International Relations Theory: An Analysis of the World Trade Organization*, 44 DUKE L.J. 829, 837 (1995) (observing that advocates of the so-called Efficient Market Model of international trade "see binding international trade rules as instruments with which to achieve efficient international capital and consumer markets by eliminating needless government interference and intrusion in international trade").

4. *See, e.g.*, Michael D. Pendleton, *A New Human Right—The Right to Globalization*, 22 FORDHAM INT'L L.J. 2052 (1999).

5. *See, e.g.*, John H. Jackson, *Interdisciplinary Approaches to International Economic Law: Reflections on the "Boilerroom" of International Relations*, 10 AM. U. J. INT'L L. & POL'Y 595, 603 (1995) (observing that current trade liberalization policies are designed to promote enhancement of world welfare, but also noting that these policies sometimes conflict with other policy goals).

6. *See* Shell, *supra* note 3, at 834–35, 854–55 (noting that free trade has accounted for much of the world's economic prosperity since the end of World War II, at least according to the free trade proponents). Shell refers to these adherents as "free trade legalists." *Id.*

7. *See* Shell, *supra* note 3, at 854–55.

defending local interests and historically marginalized people against the perceived adverse effects of accelerated global economic expansion.[8] Some of these perceived adverse effects include the loss of middle-class manufacturing jobs, the erosion of environmental and labor standards in developing countries, and an acceleration of the so-called "rush to the bottom phenomenon."[9] A growing number of critics have argued that this expansion has actually weakened local communities because the current economic order gives primacy to the demands of foreign investor capital over the economic and political viability of local interests and institutions.[10] Therefore it is not surprising that ensuring the continued economic and political viability of historically marginalized groups, especially ethnic and racial minorities like African-Americans, has become a central preoccupation of scholars who remain openly critical of[11] or cautiously optimistic about[12] economic globalization.

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8. *See* Ibrahim J. Gassama, *Transnational Critical Race Scholarship: Transcending Ethnic and National Chauvinism in the Era of Globalization*, 5 MICH. J. RACE & L. 133 (1999) (acknowledging the need to incorporate a broader global perspective into social justice discussions); Gil Gott, *Critical Race Globalism?: Global Political Economy and the Intersections of Race, Nation, and Class*, 33 U.C. DAVIS L. REV. 1503 (2000) (arguing in favor of a synthesis of critical race theory and international racial justice concerns as a response to the neoliberal discourse of economic globalization).

9. *See* Gassama, *supra* note 8, at 157 (criticizing the free trade regime created by the General Agreement on Tariffs and Trade (GATT) and the World Trade Organization (WTO) for encouraging "a seemingly never-ending global race to the bottom"). The "rush" occurs when States compete for foreign investments by loosening domestic regulatory standards, thereby making the investment climate in their country 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 free trade regimes like the North American Free Trade Agreement (NAFTA), which stress their purported "scrupulous neutrality and equal protection" orientation, serve only to formalize the existing economic inequalities between the developed and developing worlds).

10. *See, e.g.*, Jeffrey L. Dunoff, *Rethinking International Trade*, 19 U. PA. J. INT'L ECON. L. 347, 386–89 (1998) (noting that modern international trade dispute mechanisms like the WTO Appellate Body appear ill-equipped to reconcile conflicts that implicate both trade-related and non-trade values like labor and environmental concerns, primarily because the system was not designed to achieve such reconciliation).

11. *See* Gott, *supra* note 8, at 1504 (proposing a synthesis of critical race and international justice concerns as a response to globalization's tendency to marginalize historically subordinated communities). Gott has employed the phrase "critical race globalism" to denote scholarly efforts to link international law, racial justice, and critical race theory problematics into a distinct analytical modality. *Id.*; *see also* Gassama, *supra* note 8, at 158 (urging critical race scholars to embrace a transnational or global perspective in order to energize the ideologically moribund civil rights discourse that underscores most domestic and even global discussions on social and racial justice); Anthony D. Taibi, *Racial Justice in the Age of the Global Economy: Community Empowerment and Global Strategy*, 44 DUKE L.J. 928, 977 (1995) (promoting community-based institutional development as a way to empower the black community).

12. *See generally* Enrique R. Carrasco, *Opposition, Justice, Structuralism, and Particularity: Intersections Between LatCrit Theory and Law and Development Studies*, 28 U. MIAMI INTER-AM. L. REV. 313, 314–17, 327–36 (1997) (arguing in favor of an analytical model that

Given the complexities of the global economic order, determining precisely what strategies might best ensure the viability of historically marginalized people has proven challenging. Some commentators have proposed a merger of critical race and global justice perspectives as a way to counter globalization's most disruptive social and economic impacts.[13] Still others argue that economic globalization remains a viable option so long as that system does not disregard the needs of marginalized groups.[14] This general preoccupation with global racial justice notwithstanding, what these various perspectives also suggest is a deep uncertainty, and perhaps an even deeper ambivalence, regarding the ultimate implications of economic globalization. Such uncertainty seems inevitable given the multifaceted dimensions of globalization[15] and the degree to which talk of its expansion tends to galvanize world opinion, both for and against it. Indeed, I argue that the complexities and uncertainties of the emerging global economy suggest the need to approach problems of race, class, and international law from a more flexible ideological perspective, one that eschews unproductive categorical generalities in favor of a more nuanced interpretative methodology. Such a methodology would neither embrace nor reject economic globalization out of hand but would simply recognize this phenomenon as an unavoidable feature of postindustrial life. Moreover, a more nuanced interpretative methodology would attempt to respond to the particular legal, economic, and political imperatives of globalization pragmatically, not symbolically.

This is not to suggest that economic globalization has not historically engendered and reinforced the subordination and exploitation of racial and ethnic minorities.[16] To some it clearly has. In this light, efforts

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remains constructively critical of neoliberalism, but which does not propose radical systemic change to the prevailing model of socioeconomic organization). Neoliberalism in this context refers to the belief that regulation of the global economy is best left to market forces and that government regulation should be minimized).

13. *See* Gott, *supra* note 8, at 1504.

14. *See* Carrasco, *supra* note 12.

15. *See generally* Friedl Weiss & Paul De Waart, *International Economic Law with a Human Face: An Introductory View*, *in* INTERNATIONAL ECONOMIC LAW WITH A HUMAN FACE 2 (Friedl Weiss et al. eds., 1998) (noting that the "ongoing integration of the world economy, popularly described as 'globalization,' constitutes a comprehensive challenge to established principles of ordering life in economically and legally distinct territorial fragments"). The authors further note that "[w]hile some societies will be able to share some of the benefits of economic growth and welfare resulting from globalization, others remain excluded and increasingly marginalized." *Id.*

16. *See generally* MELVIN M. LEIMAN, THE POLITICAL ECONOMY OF RACISM: A HISTORY (1993) (tracing the genesis of Western racial prejudice and discrimination, an inevitable by-product of the global slave trade, to the development and expansion of global capitalism beginning in the seventeenth century, and continuing into the present under the guise of economic globalization). Importantly, Leiman's invective against the inherent racial biases of

to expose, via critical narrative and analysis, the lingering impacts of economic and political racial subordination that globalization purportedly reinforces serve an important historical and expositive function.[17] Nevertheless, exposing precisely how economic globalization has impeded black progress and reinforced historic patterns of subordination and discrimination does not, in and of itself, indicate what the black community should actually do in response.

For the black community then, the more pressing challenge concerns how best to employ and perhaps realign existing empowerment strategies to address the most fundamental aspects of globalization, its economic and supporting legal dimensions.[18] This emphasis on global economic considerations appears all the more pertinent given the precarious economic status of the poorest African-Americans in the postindustrial era. Black unemployment levels for August 2002 hovered at around 9.6 percent compared with 5.1 percent for white workers.[19] While the number of black-owned businesses actually increased drastically between 1992 and 1997,[20] suggesting greater black economic participation in the national economy, statistical evidence also indicates that minority-owned businesses in general were not a significant source of employment, except for their proprietors.[21] While black unemployment figures have dropped significantly from the 14 to 15 percent levels seen in the early 1990s, the

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Western capitalism reflects an understanding that economic globalization is not a phenomenon exclusive to the twentieth century, but is merely the latest incarnation of a systemic transnational pattern of economic expansion that has progressed historically in discreet stages.

17. *See, e.g.*, Hope Lewis, *Lionheart Gals Facing the Dragon: The Human Rights of Inter/National Black Women in the United States*, 76 OR. L. REV. 567 (1997) (discussing how feminist human rights scholarship can offer insights into the history of traditionally marginalized groups in the United States, especially women of color).

18. *See* Michael H. Davis & Dana Neacsu, *Legitimacy, Globally: The Incoherence of Free Trade Practice, Global Economics and Their Governing Principles of Political Economy*, 69 UMKC L. REV. 733 (2001) (defining globalization as both a legal and an economic phenomenon).

19. Press Release, U.S. Department of Labor, Bureau of Labor Statistics, Employment and Unemployment, National Employment, Economic News Releases: Employment Situation Summary (Sept. 6, 2002), *at* http://www.bls.gov/ces/home.htm [hereinafter Employment Situation Summary].

20. Press Release, U.S. Department of Commerce, U.S. Census Bureau, Minority Owned Firms Grow Four Times Faster Than National Average, Census Bureau Reports (July 12, 2001), *at* http://www.census.gov/Press-Release/www/2001/cb01-115.html (more recent figures are not yet available).

21. Press Release, U.S. Department of Commerce, U.S. Census Bureau, More Than 800,000 U.S. Businesses Owned by African Americans; New York, California, Texas Lead States, Census Bureau Reports (Mar. 22, 2001) (noting that only one in five minority-owned businesses actually employed workers other than their owners), *at* http://www.census.gov/Press-Release/www/2001/cb01-54.html.

most recent federal government indicators suggest that black unemployment is again on the rise.[22]

When one considers the relatively limited economic progress that the poorest African-Americans have made over the past three decades compared to the progress of the black middle class, available statistics paint an equally troubling picture. Thus, while the wealthiest blacks appear to have made significant economic gains over the last three decades, the poorest blacks have, in proportional terms, lost ground to the black middle class when compared to their counterparts from earlier periods.[23] While hardly conclusive, these figures suggest the continuation of a decades-old trend in the African-American community: incremental if hardly revolutionary black middle-class economic progress coupled with the ongoing socioeconomic stagnation of the poorest African-Americans.

Perhaps most telling is the general understanding that the endemic poverty and entrenched social pathologies that afflict urban black centers around the country show few if any signs of improving, despite the promises of better living standards for all in the era of globalization and free trade.[24] Moreover, the complexities of economic globalization, and the increasingly interrelated way in which national economies now operate suggest that the task of addressing the seemingly intractable problem of black urban poverty may prove more difficult than anyone ever imagined.

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22. *See* Employment Situation Summary, *supra* note 19. Additionally, black unemployment figures have shown a marked increase over the past year, possibly raising questions about the ability of the most recent economic expansionary period to reduce in the long term historically high levels of black unemployment, levels that typically hover at about twice the level of white unemployment. *See also* Max Smith, *William Spriggs on the Hidden Message of Black Unemployment*, AFRICANA.COM, *at* http://www.africana.com/DailyArticles/index_20011115_2.htm (Nov. 15, 2001) (noting that black unemployment trends traditionally exceed white levels, typically by a factor of two). Smith also suggests that black unemployment rates 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. *Id.*

23. Press Release, U.S. Department of Commerce, U.S. Census Bureau, People, Income, Historical Income Tables, People, Table H-3b, Mean Income Received by Each Fifth and Top 5 Percent of Black Households: 1967–2000 (Aug. 22, 2002), *at* http:/www.census.gov/hhes/income/histinc/h03b.html.

24. *See* WILLIAM JULIUS WILSON, THE TRULY DISADVANTAGED: THE INNER CITY, THE UNDERCLASS, AND PUBLIC POLICY (1987). Professor Wilson's book offers perhaps the most trenchant discussion of the calcification of urban black poverty, debilitating social pathologies and the policies that perpetuate these conditions. Wilson argues that a failure to grapple with these problems will result in the continued marginalization of these blacks from the nation's social, political, and economic mainstream. *See also* RANDALL ROBINSON, THE RECKONING: WHAT BLACKS OWE TO EACH OTHER (2002) (calling on black Americans of all classes to join the struggle to eliminate the persistent socioeconomic pathologies that have destroyed inner-city black America). Robinson's appeal suggests that the problems identified by Wilson fifteen years ago persist. *Id.*

Not surprisingly, recent attempts to outline black economic empowerment strategies invariably stress the need to do so within the framework of the existing political-economic order.[25] These proposals also suggest that many commentators continue to view possible solutions to the endemic problem of urban black poverty as dependent on domestic initiatives exclusively. Certainly, any collective black response to the perceived inequities engendered by the extant political-economic order must first reflect the prevailing sensibilities and expectations of those selfsame black Americans, and must also remain grounded in the pragmatic realities of black life in the twenty-first century.[26] I would add, however, that a truly effective strategy of black economic empowerment must also address the unique realities of the global economy. Thus, in addition to more traditional domestic concerns such as employment and credit discrimination, black America must also contend with the problem of overseas job migrations stemming from corporate decisions to invest globally but not locally. In short, black America must not only craft strategies responsive to domestic economic challenges, but must also reassess the manner in which it responds to the realities of an increasingly interconnected and complex global landscape.

Problematically, traditional modalities of black engagement in world affairs, or black internationalism, have typically not linked the generally precarious economic status of black Americans to larger global developments.[27] Instead, black internationalism has typically stressed the degree to which African-American liberation and empowerment struggles and those of the African diaspora around the globe are interrelated.

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25. *See, e.g.*, Lateef Mtima, *African-American Economic Empowerment Strategies for the New Millennium—Revisiting the Washington-Du Bois Dialectic*, 42 How. L.J. 391, 418–19 (1999) (positing that African-American economic empowerment strategies might be better directed toward providing white employers with "new incentives to abandon the discriminatory choices or practices that result from these racially reflexive feelings. . . . The objective should be to reduce or eliminate the discriminatory impacts of these feelings [of racial prejudice against black workers]"); *see also* David Dante Troutt, *Ghettoes Revisited: Antimarkets, Consumption, and Empowerment*, 66 Brook. L. Rev. 1 (2000) (recognizing the consumption of goods and services as a central feature of our economic system, and suggesting that consumer protection laws might be revised to mitigate the debilitating effects of conspicuous and irrational inner-city consumption practices).

26. *See* Carrasco, *supra* note 12 (suggesting that critical discourse of the existing economic system must remain cognizant of the realities of that system); *see also* Harold Cruse, Plural But Equal (William Marrow ed., 1987) (arguing more generally that an effective policy of black economic empowerment must respond to and remain compatible with the existing economic order).

27. There are, of course, exceptions to this observation, but they are rare. For example, Marcus Garvey's explicitly economic conception of black internationalism held that the shared economic interests of African-Americans and the African diaspora in other parts of the world, especially the Caribbean and sub-Saharan Africa, could serve as the basis for a global black trading network. Because of its working-class appeal, I discuss the Garvey movement in greater detail in Section II.C *infra*.

This philosophy of Pan-African solidarity rests on the basic assumption that people of color throughout the world, but especially those of African origins, share a common history of racial oppression and subjugation.[28]

More specifically, Pan-Africanism, at least from the African-American perspective, views the distinct cultural links between African-Americans and other members of the African diaspora as forming the basis for mutually beneficial cooperative action. In describing his vision of an African continent liberated from the yoke of colonial oppression, W.E.B. Du Bois noted, "[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 backward brethren in the new Africa."[29] Thus, for Du Bois, Pan-Africanism encompassed a belief in a global cultural pluralism that stressed the convergence of African-American and other African diaspora interests in the face of racial oppression and subjugation. However, in describing the underlying tenets upon which a more narrowly articulated and distinctly African conception of Pan-Africanism was based, P. Mweti Munya has more recently stressed the "eradication of colonialism and the promotion of African nationalism" as primary goals.[30] More importantly, Munya emphasizes that this re-articulated formulation of Pan-Africanism has largely jettisoned its earlier sentimentalized platform of racial solidarity in favor of a platform that placed bread-and-butter African, that is, not African-American, anti-colonial problematics at the forefront.[31]

This admittedly brief survey of Pan-Africanism is offered to demonstrate that the prevailing Pan-African trajectory of black (African-American) internationalism, expressed most recently in the Free South Africa Movement and in black opposition to the Bananas trade war, remains wed to a long-outdated and "sentimentalized platform of racial solidarity."[32] Unlike the re-articulated, interest-based Pan-Africanism described by Munya, black internationalism continues to champion a romanticized vision of Pan-African solidarity, a vision grounded not in pragmatic political and economic considerations, but

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28. *See* JOHN K. MARAH, AFRICAN PEOPLE IN THE GLOBAL VILLAGE: AN INTRODUCTION TO PAN AFRICAN STUDIES 79, 79–116 (1998).

29. W.E.B. DU BOIS, *The Hands of Ethiopia*, *in* DU BOIS: WRITINGS 939, 948 (Nathan Irvin Huggins ed., 1986). Later in his career, Du Bois himself would embrace a platform of global Pan-African economic cooperation as a necessary component in black America's struggle for racial equality, though his earlier hostility to such an approach rendered his later conversion largely unacceptable to his followers.

30. 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).

31. *Id.* at 540–41.

32. *Id.* at 540.

instead grounded in the prevailing mythos of convergent African-American and African, or Caribbean, interests. This has rendered black internationalism in its current iteration unable to address the profound and complex challenges of economic globalization, and unable to assist in fulfilling the very real material expectations of the poorest African-Americans.

In light of these realities, this Article proposes a paradigm shift away from the traditional rights-based, Pan-Africanist trajectory of black internationalism, grounded largely in concerns over racial justice and Pan-African solidarity,[33] and instead embraces an economically grounded black empowerment strategy that is responsive first and foremost to the unique economic imperatives of the emerging world economy.[34] Indeed, the growing complexity of the emerging global economic order as represented by a shift toward rule formalism in the international trade sphere and embodied in multilateral initiatives like the North American Free Trade Agreement,[35] the General Agreement on Tariffs and Trade,[36] and the World Trade Organization,[37] mandates that black institutions reassess traditional empowerment strategies that have little chance of succeeding in this fluid environment.[38] In the absence of such a fundamental ideological and programmatic reassessment, black internationalism will never realize its inherent potential to serve as an effective platform for black economic, political, and institutional empowerment. Indeed, a critical assessment of black internationalism is both essential and long overdue.

This suggests that black internationalism approach the problems of racial subordination and exploitation that globalization reinforces by identifying core substantive black interests impacted by that system, and

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33. *See* Natsu Taylor Saito, *Crossing the Border: The Interdependence of Foreign Policy and Racial Justice in the United States*, 1 YALE HUM. 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).

34. A more detailed discussion of the underlying dimensions of traditional liberal internationalism, black internationalism, and the globalization phenomenon appear in Part I *infra*.

35. North American Free Trade Agreement, Dec. 17, 1992, Can.-Mex.-U.S., 32 I.L.M. 605 [hereinafter NAFTA].

36. General Agreement on Tariffs and Trade, Oct. 30, 1947, 61 Stat. A-11, T.I.A.S. 1700, 55 U.N.T.S. 194 [hereinafter GATT].

37. The World Trade Organization is actually part of a larger body of international trade reforms that grew out of the Uruguay trade negotiation sessions in 1994. Marrakesh Agreement Establishing the World Trade Organization, Apr. 14, 1994, 33 I.L.M. 1125 [hereinafter WTO Agreement].

38. *See* Taibi, *supra* note 11, at 931 (suggesting that black empowerment strategies to address problems like lending and housing discrimination must eschew traditional civil rights paradigms because they can no longer respond effectively to the economic imperatives of globalization).

proposing strategies designed to protect and promote those interests. Such a reassessment should seek to illuminate the unique legal and economic dimensions of globalization and propose strategies responsive thereto. An underlying goal imperative to such an approach would be to expose the conceptual barriers that have historically impeded adoption of an economically driven black internationalism, and to suggest a possible way beyond this impasse. Implicit in this approach is the understanding that African-American interests may, from time to time, diverge from the political and economic interests of other people of African descent. For example, African-American opposition to the African Growth and Opportunity Act (AGOA) is premised largely on the fear of the economic dislocations that would result from a shift in corporate investment priorities away from the major American urban industrial centers and toward the States of sub-Saharan Africa. This suggests that Africans and African-Americans be prepared to identify not only those areas wherein shared interests exist, but also instances where their respective interests diverge.[39]

In more theoretical terms, an economically grounded black internationalism would, at a minimum, stress three core objectives: (1) overt economic empowerment; (2) greater black influence in shaping domestic foreign policy initiatives on matters like free trade and third world development; and lastly (3) black institutional capacity building, by which the goals identified under (1) and (2) above might be more effectively pursued. More pragmatically, such black internationalism would actually invigorate more traditional efforts to ensure racial justice, both domestically and globally, by creating a more influential economic and institutional platform from which to promote and defend black interests.

Because a rights-based model fails to address the larger economic imperatives of globalization, it cannot readily outline effective strategies responsive to global economic problematics. When viewed in this light, one could argue that although the more traditional rights-based approach to questions of international justice can effectively expose a limited range of rights-based problematics, this approach has proven less effective in identifying and resolving the underlying economic tensions often associated with globalization.

Part I of this Article assesses the core conceptual implications of globalization for the black community. It identifies the underlying legal and economic imperatives of globalization and suggests first and fore-

39. *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) (citing the migration of black American jobs to South Africa as an underlying economic concern that largely escaped the attention of human rights activists during the Free South Africa Movement).

most that black internationalism must respond to these particular imperatives. By extension, considerable attention is devoted to defining internationalism generally, black internationalism more specifically, and discussing how these concepts relate conceptually to globalization. The traditional liberal formulation of internationalism stresses the desirability of creating a global world order governed by predictable legal norms,[40] referred to herein as "internationalism's primary formulation."

An evaluation of the historic expressions of black internationalism reveals a corresponding desire on the part of the black community to maintain the inviolability of international law through the defense of individual and collective rights, especially those of racial and ethnic minorities, under the international legal system.[41] By the same token, recent scholarship indicates a secondary definition of liberal internationalism. According to this secondary formulation, internationalism also refers to the manner in which states and international actors pursue their own unique economic, geopolitical, and strategic interests in the global arena.[42] Applying this definitional framework to black internationalism, I argue that the latter has remained largely oblivious to the informal imperatives of this secondary formulation of internationalism, meaning those imperatives stressing the pursuit of national, group, or individual economic, political, and social interests within the larger skein of existing and emerging international legal norms.

To understand the implications of this bias and the ideological tensions that have ensued, one must understand precisely how black

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40. *See, e.g.*, J. M. Spectar, *Elephants, Donkeys, or Other Creatures? Presidential Election Cycles & International Law of Global Commons*, 15 AM. U. INT'L L. REV. 975 (2000).

41. *See* Henry J. Richardson III, *The Gulf Crisis and African-American Interests Under International Law*, 87 AM. J. INT'L L. 42, 57–68 (1993) (citing the black community's desire to promote the stature of the United Nations as an objective and evenhanded enforcer of legal norms as they relate to human rights and use of force questions). This is not to suggest that black internationalism and black internationalists have sought to maintain the inviolability of international law through the defense of individual and collective rights, especially those of racial and ethnic minorities, under the international legal system exclusively. The efforts of the early Free Africa societies stressed the need for blacks to return to Africa as a way to escape the perils of chattel slavery. More recently, black internationalists like W.E.B. Du Bois and Paul Robeson championed black inclusion in a system of global communist cooperation as a means of achieving racial justice in twentieth-century American society. However, the thrust of black internationalism throughout much of the second half of the twentieth century has overwhelmingly involved the pursuit of a relatively narrow set of goals closely aligned to twentieth-century civil/human rights activism.

42. *See generally* Spectar, *supra* note 40 (arguing that the level of sovereign State support for, and compliance with, international treaties like the Global Commons regime to protect Antarctica reflects how States like the United States perceive such treaties as promoting national interests). Confidence in, and compliance with, such treaties appears strongest, according to Spectar, when the goals of these treaties converge with the particular economic, security, and geopolitical interests of the United States. By the same token, both confidence and compliance with such treaties declines when these interests diverge. *Id.*

internationalism has responded in practice to particular global challenges. A programmatic reassessment of this sort must take into account the historic dimensions of black internationalism, and should propose strategic alternatives responsive to that particular history. It falls to Part II to assess the limitations, and ultimately the potentialities, of black internationalism from an historical perspective. Movements such as the Free South Africa Movement and the more recent trade dispute between the United States and the European Union over banana import and export policies reveal where black internationalism has been. By way of stark contrast, more overtly economic movements like Marcus Garvey's Black Star Line initiative, although perceived as a mere footnote on black internationalism's historical radar screen today, suggests an overtly economic trajectory along which black internationalism might realign itself going forward.

It falls to Part III of this Article to define more precisely the contours of an economically grounded black internationalism. As noted above, an economics-based formulation must stress three core objectives: (1) overt economic empowerment; (2) greater black influence in shaping domestic foreign policy initiatives; and (3) institutional capacity building. Nowhere has the need for such a formulation been more apparent than when concerned black activists and select members of the Congressional Black Caucus sought to intervene on behalf of Caribbean banana producers in a nasty global trade war over European Union banana import tariff subsidies. Premised largely on the pillars of Pan-African solidarity and moral right, the intervention of the Congressional Black Caucus and other concerned activists failed to grasp the deeper global economic and institutional problematics that confront the black community. The failure to grasp these imperatives rendered African-American involvement in that conflict largely ineffective.

Part IV demonstrates how an economically grounded, black internationalism might impact the trajectory of U.S. foreign trade policy as it relates to sub-Saharan Africa, although traditional black internationalism has apparently not yet made this connection. In this Part, the challenges posed by the recently enacted African Growth and Opportunity Act (AGOA) will be examined. This Part argues that black internationalism has failed to address and promote core black economic interests in connection with the mandates of the AGOA, which appear designed to promote sub-Saharan African political and economic interests over those of African-Americans by attracting investments away from urban industrial centers in this country in favor of African locales.

At a more conceptual level, this Part argues that an economically grounded black internationalism must, as a long-term priority, attempt to

outline an ideological orientation independent of both the majority-imposed, neoliberal economic ethos as well as the antiglobalization paradigm. This critical perspective can trace its roots to the radical race internationalism of writers like W.E.B. Du Bois, who attempted to expose the structural inadequacies of unrestrained capitalism and to incorporate this critical perspective into the black institutional mainstream, but who met with only limited success.[43] This limited success stems largely from the recognition that black middle-class aversions to criticism of the capitalist system have rendered black institutions unable to map strategies that recognize the potentially destabilizing effects of that system.[44] Part IV suggests a way out of this impasse.

The Article concludes with a set of modest proposals that will hopefully engender livelier, more informed debate among international law and international trade scholars over where black internationalism should go.

I. BLACK INTERNATIONALISM AND THE CHALLENGES OF GLOBALIZATION

As a threshold matter, whether efforts to craft empowerment strategies designed to combat the perceived destabilizing effects of economic globalization prove successful depends in large part on how the proponents of these strategies define the globalization phenomenon. More pointedly, this requires international law and trade experts, critical race globalists,[45] and local activists preoccupied with mapping effective responses to globalization to understand the precise nature of this amorphous phenomenon and the core challenges suggested thereby. Recent scholarship suggests that international trade and international law experts often do not give sufficient attention to defining globalization,

43. *See* W.E.B. DU BOIS, *Socialism and the Negro Problem*, *in* W.E.B. DU BOIS: A READER 337, 338–40 (Meyer Weinberg ed., 1970) (criticizing prevailing socialist discourse of the early twentieth century for downplaying the complexities of race and labor in the American context).

44. The question remains whether black intellectuals and activists should criticize the capitalist system with an eye toward its reform or its demise. *See* LEIMAN, *supra* note 16, at 310–15 (arguing that black progress has been limited by the inability of the black bourgeoisie to mount an effective critique against capitalism, a system Leiman would have us undo). Similarly, one has only to recall the outrage Paul Robeson's conversion to communism engendered among whites and blacks, to appreciate the degree to which blacks remain wed to the ethos of Western-style capitalism as a means of empowerment.

45. *See* Gott, *supra* note 8, at 1504–05 (defining critical race globalism as an emerging legal modality linking traditional critical race theory to international racial justice concerns). Some might refer to this approach as the internationalization of critical race theory. Occasionally, I will use the phrase "critical race globalism" to refer to that branch of legal scholarship named by and generally consistent with Gott's critical race methodology.

and therefore have not always grasped its deeper implications.[46] Much of this confusion owes to a tendency to use the term "globalization" in a very general, albeit imprecise, fashion.[47] After all, globalization has entered into the political, legal, and economic lexicons as a catchall term denoting a wide range of related, interrelated, and even unrelated developments that have swept the globe during the past two decades.[48] Unfortunately, this tendency to generalize has more often than not led to a lack of specificity in discussing the perceived adverse effects generally associated with globalization.[49]

Recent attempts to define globalization have stressed its quintessential economic and legal dimensions. Michael H. Davis and Dana Neacsu define globalization as "a political phenomenon whose strategy is to internationalize capitalism through a process of legalization."[50] This definition of globalization closely parallels other working definitions. In discussing the right to globalization as a core human right, Michael Pendleton defines the term to mean "the contemporary tendency for persons, corporations and institutions to expand out of the confines of a nation or civilization, toward participation in and identification with a world community. This expansion takes the form of *trade*, *investment*, communications, culture, sport, citizen affinities, *law*, and other contacts."[51] In addressing the jurisprudential implications of globalization, Doron M. Kalir offers a similar formulation: "Globalization refers to those processes which tend to create and consolidate a unified world economy. . . ."[52]

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46. *See* Davis & Neacsu, *supra* note 18, at 734 (citing the general failure of a surprising number of international law experts to define clearly, and therefore to understand clearly, globalization).

47. *See, e.g.*, Clarence Lusane, *Persisting Disparities: Globalization and the Economic Status of African Americans*, 42 How. L.J. 431 (1999) (describing how globalization has contributed to the decline of black economic progress in postindustrial America, but again sans the crucial definition); Reggie Oh, Comment, *Apartheid in America: Residential Segregation and the Colorline in the Twenty-First Century*, 15 B.C. Third World L.J. 385, 388 (1995) (arguing that global economic restructuring may actually accelerate the residential color line in America, but without actually defining the phrase "global economic restructuring").

48. *One World?*, The Economist, Oct. 18, 1997, at 79 ("For good or ill, globalization has become the buzz-word of the 1990s."). The article goes on to describe events over the past two decades, the 1980s and the 1990s, that have led to the emergence of this latest manifestation of economic globalization. *Id.*

49. These include capital migration, widespread job losses, and the accelerated economic and social erosion of marginalized communities. *See generally* Oh, *supra* note 47.

50. *See* Davis & Neacsu, *supra* note 18, at 733.

51. *See* Pendleton, *supra* note 4, at 54 (emphasis added).

52. Doron M. Kalir, *Taking Globalization Seriously: Towards General Jurisprudence*, 39 Colum. J. Transnat'l L. 785, 793 (2001) (quoting William Twining, Globalization and Legal Theory 4 (2000)).

In the same vein, Peter Malanczuk, in identifying some of the challenges that globalization poses to nation-states, has suggested a categorical segregation of some of the more important features of this system as a way of providing some much needed definitional clarity. He identifies the following categories of activity as important: trade and investment, finances, competition, technology, regulatory capabilities, world political unification, and, somewhat atypically, the emerging school of thought generally critical of this process.[53]

While each of these formulations varies to some degree in precise wording, they consistently stress two elements that appear to represent indispensable components of a working definition of globalization: (1) global economic unification under (2) the rule of law. Bearing these essential elements in mind, we can thus define globalization as an international process that seeks to integrate or unify disparate national economic systems under a set of uniform and predictable legal principles.[54] This formulation will constitute the working definition of globalization for purposes of this Article.

A. *Defining Internationalism*

The foregoing analysis begs a deeper question, namely how might an economics-based model of international black empowerment, or black internationalism, respond to the economic and legal imperatives of globalization. This requires that we establish a basic definitional framework before proceeding, beginning with internationalism, for it is primarily through its own brand of internationalism that the black community must respond to the challenges of the emerging global economic order. As with Pendleton's definition of globalization discussed above,[55] the traditional definition of internationalism[56] repeatedly stresses

53. *See* MALANCZUK, *supra* note 1, at 50. While admittedly a bit exaggerated in scope and breadth, at its core, Malanczuk's definition does stress the fundamental economic and regulatory nature of economic globalization. This type of globalization can be distinguished from other types of globalization, namely cultural, social, ideological, and linguistic, the latter of which can be seen by the acceleration to adopt English as the *lingua franca* of the post-Cold War era.

54. *See also* Lawrence M. Friedman, *Erewhon: The Coming Global Legal Order*, 37 STAN. J. INT'L L. 347 (2001) (noting that globalization is largely if not exclusively an economic phenomenon encompassing international trade, international business transactions, production, and distribution); Robert Knowles, *Starbucks and the New Federalism: The Court's Answer to Globalization*, 95 NW. U. L. REV. 735 (2001) (noting that globalization refers to the integration of markets and nations under the general auspices of free-market capitalism); Chantal Thomas, *Globalization and the Reproduction of Hierarchy*, 33 U.C. DAVIS L. REV. 1451, 1476 (2000) (defining globalization in terms of international production and consumption).

55. *See supra* note 4.

56. See generally, RANDOLPH S. BOURNE, WAR AND THE INTELLECTUALS: COLLECTED ESSAYS, 1915–1919 (Carl Resek ed., 1964), for a penetrating and still pertinent discussion of internationalism in the wider American context.

the primacy of creating a global world order governed by relatively predictable legal norms.[57] I refer to this as internationalism's primary formulation. This definition grows out of earlier aspirations to create a peaceful world order governed by an objective, identifiable legal framework.[58] For example, Richard Gardner has defined (liberal) internationalism as the "intellectual and political tradition that believes in the necessity of leadership by liberal democracies in the construction of a peaceful world order through multilateral cooperation and effective international organizations."[59] In tracing how differing presidential internationalist perspectives have impacted U.S. compliance with or opposition to international regulatory regimes, J.M. Spectar has defined internationalism to mean "a general foreign policy orientation characterized by international cooperation, international law and institutions, economic interdependence, international development, diligence in seeking arms control, and restraint in the use of force."[60]

An analysis of the literature suggests that internationalism is also accorded a secondary meaning or formulation. According to this secondary formulation, internationalism also refers to the manner in which states and international actors pursue their particular economic, geopolitical, and strategic interests in the global arena.[61] For example, in exposing fluctuations in U.S. presidential support for international regulatory regimes like the Global Commons, J.M. Spectar observed that such support was at its strongest when U.S. political elites perceived the goals of that regime to be consonant with national interests. Conversely, U.S.

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57. *See, e.g.*, Spectar, *supra* note 40, at 1034, citing Tom J. Farer, *International Law: The Critics Are Wrong*, FOREIGN POL'Y, Summer 1988, at 22, 22.

58. *See* Thomas, *supra* note 54, at 1479–81 (tracing the rise of the still emerging global economic order to the enactment of global free trade regimes like the GATT, which passed in 1948, the WTO in 1995, and NAFTA in 1996). It should be noted that the more fundamental notion of a rule-oriented, peaceful world order can trace its origins to the writings of German philosopher Immanuel Kant and his theory of Perpetual Peace. Under this theory, Kant identified as the necessary elements of such an order: (1) the existence of liberal States with representative governments; (2) a legal framework based on a "federalism of free nations"; and (3) strict compliance with a rule of universal hospitality between States. *See* Anne-Marie Burley, *Law Among Liberal States: Liberal Internationalism and the Act of State Doctrine*, 92 COLUM. L. REV. 1907, 1914–16 (1992). More recently, the doomed League of Nations initiative embraced this ideal by promoting global peace through a system of predictable rules and regulations.

59. *See* Richard Gardner, *The Comeback of Liberal Internationalism*, WASH. Q., Summer 1990, at 23, 23. This stress on the creation of a world order premised on the creation of a peaceful global world order through the rule of law closely parallels the definition of globalization discussed above except that the latter stresses the creation of a distinctly economic world order. Thus, it would be appropriate, at least for descriptive purposes, to view globalization as the primarily economic counterpart to the traditional notion of internationalism widely embraced by international legal scholars.

60. *See* Spectar, *supra* note 40, at 1034.

61. *See id.* at 1033–34.

support of that regime waned when the goals of the latter seemed inapposite to national interests.[62] Spectar attributes this shift to fluctuating conceptions of an individual candidate's internationalist postures, all the while recognizing the legitimacy of these fluctuations. From the foregoing discussion, one can see that the pursuit of national or individual interests is also implied in the term "internationalism."[63] Thus we can define this secondary formulation of internationalism as the pursuit of national, group, or individual interests within a particular transnational legal framework.

B. *Black Internationalism: A Conceptual Overview*

By deploying a similar two-pronged modality, this Article suggests that black internationalism can also be thought of as encompassing two distinct paradigms. One paradigm is grounded in the desire to create a peaceful world order governed by predictable legal mandates, and responsive to the needs of historically marginalized people. This modality will be referred to herein as black internationalism's "Pan-African solidarity paradigm." The other paradigm remains grounded in the pursuit of particular black social, economic, and political interests within the large skein of transnational legal norms. The latter model will be referred to as black internationalism's "economically grounded modality." This Article argues that the former paradigm has largely dictated the tenor and focus of black internationalism for much of the twentieth century, while the latter has received little or no attention whatsoever. This Article seeks to redress this perceived imbalance.

Recent attempts to outline a more contemporary formulation of black internationalism nevertheless reveal an ongoing preoccupation with the conceptual remnants of Pan-African solidarity. For example, Henry J. Richardson has suggested that African-American opposition to South African apartheid and to the Reagan administration's support of that oppressive regime might serve as a programmatic template for a more proactive black internationalism.[64] According to Richardson, the unique history of black Americans has imbued them with particular insights into questions of racial justice, for example, mandating that such interests receive just consideration in the international arena. By extension, Professor Richardson argues that, in their desire to ensure that marginalized communities around the world receive fair treatment under

62. *See id.*

63. *See id.* (suggesting that international law experts might better predict how nations will behave within a given transnational context by analyzing the intersection of sovereign State interests and international law).

64. *See* Richardson, *supra* note 41, at 58–64.

international law, African-Americans have potentially created the moral and legal foundations of a global black empowerment paradigm.[65] Richardson's methodology reveals a desire to ensure fair and equitable treatment of historically marginalized groups under international law, and a corresponding desire to see these values reflected in progressive legal scholarship and political activism domestically.[66]

Pursuing a similar agenda, although not one specifically grounded within the contours of black internationalism, Ibrahim Gassama more recently has criticized those elements of progressive politics that have hindered the pursuit of racial justice for historically marginalized groups. Gassama decries what he sees as the tendency of progressive scholarship to localize racial justice problematics by embracing a "crude and virulent strain of ethnocentric chauvinism."[67] 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. He argues that the international campaign to preserve the "socioeconomic 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, "should be seen as an act of transnational solidarity."[68]

For Gassama, this would require that international law and critical race scholars embrace a model of racial justice premised on what he terms "a scholarship and politics of solidarity."[69] This scholarship model would expose the underlying brutality of the global free trade system by demonstrating how historically marginalized groups continue to suffer from policies that stress the primacy of capital and labor mobility and trade liberalization over social welfare and development considerations. However, Gassama's overt appeal to expressions of "international solidarity" suggests that the conceptual decoupling of African-American from actual Afro-Caribbean interests, for example, is not of primary concern.

Certainly, a more concerted and coherent expansion of the rather limited foci of traditional free trade discourse, one that includes an informed discussion of relevant racial justice problematics, seems long overdue.[70] In this regard, I am in complete agreement with Gassama and

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65. *See id.* at 62–64.

66. *See id.* at 58–61.

67. Gassama, *supra* note 8, at 141.

68. *Id.* at 157.

69. *Id.* at 141.

70. *See, e.g.*, Dunoff, *supra* note 10, at 388 (proposing an interdisciplinary approach as part of the effort to rethink the imperatives of global free trade); *see also* Thomas, *supra* note 54, at 1451–55, 1499–1501 (arguing that LatCrit theory can provide an effective counterpoint

Richardson. Nevertheless, and despite this growing scholarly commitment to racial justice principles there is little evidence that black Americans, or any of the world's countless other economically and politically marginalized ethnic and racial minorities, have actually benefited from this renewed commitment to these principles. Black Americans continue to trail their white counterparts in terms of overall economic progress,[71] black influence in formulating U.S. foreign policy initiatives remains marginal at best,[72] and black institutions have yet to mature to a level sufficient to promote effectively the material and political expectations of their constituents.[73] Indeed, the speed at which the global landscape has altered over the past two decades merely reinforces an unavoidable truth about black life in postindustrial America: namely, that black interests will continue to play second fiddle to other more effectively represented interests so long as black Americans lack the economic, political, and institutional capacities necessary to promote effectively and vigorously their collective interests, both domestically and globally.

In light of these realities, I largely eschew any attempt to merge racial justice imperatives to the problem of international racial economic subordination that globalization tends to reinforce.[74] While recognizing the importance of this approach, and of exposing the causes of transnational racial subordination, I suggest here that strategically an economically grounded black internationalism can actually enhance contemporary expressions of black internationalism by creating a more influential economic and institutional platform from which to promote and defend African-American interests.

The idea of an economically grounded black internationalism can trace its origins to Marcus Garvey and the United Negro Improvement

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to the prevailing discourse that champions the globalization phenomenon by showing how the latter sometimes adversely impacts local interests).

71. *See* Lusane, *supra* note 47, at 434–36.

72. The recent inability of black activists like Jesse Jackson, Sr. to persuade the United States to participate in the United Nations Racism Conference indicates the degree to which black interests remain largely immaterial in the context of national foreign policy formulation.

73. *See* Taibi, *supra* note 11, at 931 (suggesting that black institutions must realign organizationally and strategically in order to respond to the imperatives of globalization).

74. While there is an emerging consensus that the discourse of rights can no longer ensure continued African-American social and economic progress, there is no consensus concerning the precise parameters of such an alternative substantive model of empowerment. However, one general point of consensus stressed by the post-rights establishment involves the transcendence of the traditional civil rights paradigm in favor of a more structuralist orientation. *See, e.g.*, Eric K. Yamamoto, *Critical Race Praxis: Race Theory and Political Lawyering Practice in Post-Civil Rights America*, 95 MICH. L. REV. 821, 834–39 (1997).

Association (UNIA) generally.[75] By stressing global economic empowerment of the race, Garveyism adumbrated a potentially useful paradigm upon which future global black empowerment initiatives might be built. Such an approach was particularly suited to addressing persistent racial subordination problematics. While organizationally flawed,[76] Garveyism appeared to understand that a truly effective black internationalism must attract the support of working-class blacks, a lesson that largely has escaped the collective imaginations of contemporary critical race globalists.[77]

However, W.E.B. Du Bois, along with most educated middle-class blacks, held Garveyism, as Garvey's approach came to be known, in disdain in large part because Garveyism appealed to the uneducated black masses.[78] In sharp contrast to Garvey's particular brand of black internationalism, stressing as it did the pursuit of core black economic interests, black internationalism throughout most of the twentieth century, has more routinely pursued those goals championed by the traditional formulation of liberal internationalism.

This tendency can be seen in the black community's aggressive opposition of South African apartheid and constructive engagement, its general support of anticolonialism movements, and more recently, sup-

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75. *See* EDMUND DAVID CRONON, BLACK MOSES: THE STORY OF MARCUS GARVEY AND THE UNIVERSAL NEGRO IMPROVEMENT ASSOCIATION 3 (1962). Cronon writes:

> In the years immediately following World War I there developed among the Negroes of the world a mass movement of considerable influence and importance. Under the leadership of a remarkable Jamaican Negro, Marcus Garvey, the Universal Negro Improvement Association [hereinafter UNIA] attracted the attention of the colored world to a degree never before achieved by a Negro organization. Garvey's activities were world-wide in scope, and his organization had members scattered from Africa to California, from Nova Scotia to South America.

Id.

76. The underlying organizational imperatives of Garveyism certainly deserve greater attention, especially in light of the growing body of scholarship dealing with the law and organizing movement. Unfortunately, such a discussion is beyond the scope of this Article.

77. One sometimes forgets that prominent internationalists like W.E.B. Du Bois were not products of the industrial working class, but part of the black intellectual bourgeoisie. Thus, in spite of his extraordinary intellectual gifts, it is arguable that Du Bois's inability to truly understand working-class blacks was his greatest shortcoming as a black leader. *See* DAVID LEVERING LEWIS, W.E.B. DU BOIS: BIOGRAPHY OF A RACE 55 (1993) ("He [Du Bois] would finally meet other people of color like himself. They were still a mystery, these vibrant people. . . .").

78. *See* CRONON, *supra* note 75, at 73–74 (1962) (noting that part of the difficulty of organizing African-Americans stemmed from the traditional distrust of the upper classes for any mass group movement); *see also* W.E.B. DU BOIS, *Africa and the American Negro Intelligentsia*, *in* W.E.B. DU BOIS: A READER, *supra* note 43, at 401. ("[Garvey] promoted an African movement, but it was purely commercial and based on no conception of African *history* or its needs.") (emphasis added). Du Bois himself found the liberationist impulses of the Free African societies more compelling intellectually. *Id.*

port for Caribbean banana producers engaged in a vicious international trade war.[79] What has emerged is a black internationalism paralyzed by its inability to resolve the underlying tensions between the competing paradigms of self interest on the one hand, and Pan-African solidarity on the other. Whether under the guise of Pan-Africanism or global solidarity, black liberation from white racism, or some other model, recent expressions of black internationalism like the Free South Africa Movement or efforts to avert a costly trade war over preferential banana tariffs reveal an institution hampered by conceptual contradictions, lacking an ideological center, and disconnected from the basic economic and social concerns of most blacks.[80]

This Article posits one approach to resolve this impasse, the adoption of an economically grounded black internationalism. As the foregoing analysis suggests, the interconnectedness and increasingly complex challenges of the global landscape renders such a fundamental shift in African-American institutional thinking all but unavoidable.[81]

II. HISTORICAL EXPRESSIONS OF BLACK INTERNATIONALISM

Traditional patterns of collective African-American opposition to, or involvement in particular international conflicts, have mirrored the strategic protest models of the black civil rights movement.[82] Moreover, black internationalism typically has engaged a rather limited range of concerns and interests, but has never veered far astray from the prevailing civil rights orthodoxy that has characterized the bulk of collective black action throughout most of the twentieth century. This model of collective social mobilization through protest is not surprising given the particularities of the civil rights struggles of the 1960s, and of the undeniable appeal of Pan-African solidarity.[83] A representative though hardly

79. *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 the EU trade regime will have disastrous effects on the economies of the banana producing States).

80. *See* MARABLE, *supra* note 39, at 194–96 (advocating the adoption by black activists of a modality that stresses substantive black interests as well as the racial justice interests of oppressed minorities like black South Africans).

81. See LEIMAN, *supra* note 16, for an excellent discussion of race, class, and empowerment strategies, albeit with a strong socialist tenor. Professor Leiman synthesizes critical political and economic historicism to argue that American racism has its roots in the exploitative nature of global capitalist expansion, and that any model of empowerment must address the persistent inequities of class and race in this society.

82. *See generally* MARABLE, *supra* note 39.

83. *See* HAROLD CRUSE, THE CRISIS OF THE NEGRO INTELLECTUAL 5–6 (1967) (tracing the emergence of African-American Pan-Africanism to Martin R. Delany, a leading Abolitionist and early Black Nationalist who influenced the thinking of W.E.B. Du Bois). Du Bois

comprehensive historical assessment of black internationalism will more clearly reveal the recurrence of these tendencies and will also suggest an alternative approach to this modality.

A. *Assessing the Free South African Movement*

The largely black-led[84] domestic Free South Africa Movement (FSAM) that emerged in the mid-1980s remains perhaps the most visible and successful (at least in light of its stated objectives) example of African-American, or as I prefer for purely stylistic reasons, black internationalism. In form as well as content, the FSAM provides a revealing glimpse into the national and global potentialities of an economically oriented black internationalism, and also suggests the inherent limitations of that institution in its current form.

The FSAM emerged in response to South Africa's oppressive policy of apartheid.[85] To mask the inherent brutality and callousness of its corporate-friendly foreign policy preferences, the Reagan administration concocted a policy known as "constructive engagement." Constructive engagement was ostensibly founded on the belief that the United States could best influence the formulation of a more humane South African policy of racialism by maintaining close political and economic ties with the apartheid regime.[86] The Reagan administration reasoned that disengagement would limit the political and economic influence America might exercise over the South African government.[87] In light of this belief, the administration elected to pursue a policy that stressed closer economic, military, and political ties between the two nations, to the exclusion of isolating South Africa politically and economically for its racist domestic policies.

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himself embraced Pan-Africanism as a global empowerment strategy, in addition to his more widely known support of racial integration under the auspices of the NAACP. *Id.*

84. By "black-led" I simply refer to the fact that much of the initial resistive thrust of the domestic Free South Africa Movement (FSAM) originated in the African-American community. Of course, at its zenith, the FSAM united activists representing a wide spectrum of class, race, and political perspective.

85. 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 Africans who opposed that system). The South African apartheid system rested on two ideological pillars: the preservation of white political, economic, and social superiority, and the preservation of white genetic purity through strict physical separation of the races. Paul Sauer, a senior official in the National Party (the political party of P.W. Botha and F.W. DeKlerrk) first elaborated the policy in 1946. *See* LEONARD THOMPSON, A HISTORY OF SOUTH AFRICA 185–86 (1990).

86. *See generally* SOUTH AFRICA AND THE UNITED STATES: THE DECLASSIFIED HISTORY (Kenneth Mokoena ed., 1993).

87. Assistant Secretary of State for African Affairs Chester Crocker is credited officially as the architect of the policy known as "constructive engagement." *See* PAULINE H. BAKER, THE UNITED STATES AND SOUTH AFRICA: THE REAGAN YEARS 22–53 (1989).

On November 21, 1984, Randall Robinson, the President of Transafrica, a Washington, D.C. based think-tank, Congressman Walter Fauntroy and Mary Frances Berry, peaceably occupied the South African Embassy.[88] The protestors 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.[89] Thus began on the domestic front the pivotal social protest movement that would culminate almost a decade later with the release from prison of Nelson Mandela.[90] In the following months, thousands of concerned citizens protested in front of the South African Embassy, often suffering arrest at the hands of the Washington, D.C. police force.[91] The domestic FSAM targeted three key points: (1) the dismantling of the apartheid system; (2) the release of all political prisoners, including Mr. Mandela, from South African prisons; and (3) the divestiture of all U.S. financial holdings in South Africa by our government, major colleges and universities, and corporations. Certainly, one can trace the origin of points (1) and (2) to the initial list of demands that Randall Robinson and his supporters presented to the South African Ambassador Bernardus G. Fouries on November 21, 1984,

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88. RANDALL ROBINSON, DEFENDING THE SPIRIT: A BLACK LIFE IN AMERICA 151–52 (1998).

89. *See id.* at 152.

90. In addition to the U.S.-based FSAM, the global struggle against apartheid took place on a number of fronts. Within South Africa, the African National Congress waged an aggressive anti-apartheid campaign, and also forged ties with regional anti-apartheid activists in countries like Namibia. Growing discontent in the Third World more generally led to stronger condemnations of the South African regime and indirectly, to the passage of the International Convention on the Elimination of All Forms of Racial Discrimination on December 21, 1965, by the General Assembly of the United Nations.

91. I lived in Washington, D.C. at the time of the FSAM protests. Nightly news broadcasts detailing which celebrities had been arrested during the day filled the local airwaves. As a student at Howard University at the time, I vividly recall the degree to which the FSAM mobilized huge cross sections of the black community, regardless of class. I also recall that on most other issues, the Washington, D.C. black community remained divided, especially along class lines. While working-class blacks overwhelmingly supported Mayor Marion Barry because of his populist appeal; middle-class blacks largely did not, myself included. Working-class blacks also gravitated to the southernmost neighborhoods of the District while middle-class blacks migrated to Prince George's County, a relatively prosperous black middle-class suburban enclave in Maryland. Progressive radical politics remained a viable alternative in the lives of working-class blacks living in the racially mixed neighborhoods of that time, such as Adams Morgan (now completely gentrified and no longer a working-class neighborhood). I fondly recall a local communist bookstore near 16th Street and Columbia Avenue that catered to intellectually disaffected students at Howard University and to local activists. The political picture was quite different amongst middle-class blacks. Many of them worked in some capacity for the federal government, either as employees or as consultants and advisors. Needless to say, their dependence on the federal government as a source of employment profoundly limited both their willingness and ability to explore political options outside of the two-party mainstream. I address the impact that this intra-group, black-on-black class disjuncture has had on black internationalism more fully in Section II.C *infra.*

when they occupied the embassy.[92] It is unclear who originally proposed the complete divestiture of all holdings in South African property, stocks and bonds, and other investments, by the U.S. government, along with major U.S.-based colleges, universities, and corporations.[93] By the mid-1980s, however, divestiture had become the third central feature of the domestic FSAM.[94]

Despite its apparent success in helping to end apartheid, however, it is not at all clear that the black community derived any lasting substantive benefits from its not insignificant participation in the FSAM. In large part, this owed to the fact that domestic black economic empowerment was never an express goal of the FSAM. In recognizing this shortfall, historian Manning Marable has suggested that the FSAM failed to spur more radical expressions of black internationalism because black foreign policy elites behind the movement failed to link a progressive political agenda to deeper black political and economic interests.[95] Marable has noted a number of underlying economic features of the apartheid system that implicated domestic black economic interests, but which were never publicly recognized as motives for black involvement in the FSAM. These included: (1) tacit American corporate support of South African apartheid because that system suppressed black South African and colored wages and encouraged labor transfers away from the United States to South Africa; and (2) large-scale purchases of South African products such as steel over readily available American steel because racially suppressed wages rendered South African steel cheaper, to cite two examples.[96]

For Marable then, one potential programmatic option involves linking a radical black internationalism to specific global and domestic economic and labor considerations.[97] Implicit in Marable's proposal is the conviction that a critically realigned black internationalism must attempt to expose the particular features of economic globalization that have historically limited black economic and social progress in America.

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92. *See* ROBINSON, *supra* note 87, at 152.

93. *See* Ann-Catherine Blank, *The South African Divestment Debate: Factoring "Political Risk" Into the Prudent Investor Rule*, 55 U. CIN. L. REV. 201 (1986) (assessing some of the financial implications of divestment vis-à-vis investor strategies).

94. *See* MARABLE, *supra* note 39, at 192.

95. *See id.* at 194–95. Ironically, the third feature of the FSAM, divestiture, loosely hinted at the underlying economic imperatives that underscore the apartheid system and the multinational corporations that benefited from that system's practice of artificially suppressing wages along color lines in order to attract foreign investment. Unfortunately, the seeds of a radical black internationalism premised on exposing these distortions and linking them to the material aspirations of working-class blacks never materialized.

96. *See id.* at 192–94.

97. *See id.*

In this sense, Marable's formulation of racial justice appears to stress economic equity over the more formalistic racial justice paradigms championed by civil and human rightists. At a minimum, his formulation gives equal weight to both economic considerations and civil-human rights aspirations under the banner of Pan-Africanism.[98]

With its emphasis on substantive economic criteria, Marable's conviction that black internationalism actively addresses questions of economic equity and empowerment has profound implications. First, his proposal would provide a broader conceptual and pragmatic framework than does the predominant Pan-African solidarity approach. Second, because the objective is to link black internationalism to a broader range of international economic problematics, an economically grounded, pragmatic orientation would provide a more effective model for meeting these challenges. This is not to suggest that an economically oriented black internationalism should seek to influence global problematics only insofar as specific material African-American interests are implicated. The adoption of an ideological and programmatic platform as limiting as this would run the risk of increasing African-American global and domestic isolation and marginalization.[99] Rather, an economically driven black internationalism must effectively accomplish several tasks. It must promote core black economic and political interests. It also must strive to link those interests, ideologically and programmatically, to larger international law, economic, and political problematics. For example, in the FSAM, an economically driven black internationalism would have exposed not only the substantive labor and wage disruptions of the apartheid system sanctioned by the Reagan administration's policy of constructive engagement, it also would have exposed the transatlantic collusion between the United States, Great Britain, and France in perpetuating the apartheid regime through the collusion between the military infrastructures of those States, the gross human rights abuses

98. The task of putting in place a more radical black internationalism along the lines proposed by Marable is rendered more difficult by the historic unwillingness of the black middle class to think critically about global capitalism (economic globalization) and the impact that system has had on black lives. It is precisely this unwillingness to assess critically the strengths and weaknesses of global capitalism that undermines the long-term effectiveness of a civil rights-oriented African-American internationalism, shunting its true radical potential. *See* LEIMAN, *supra* note 16, at 310 (arguing that the pro-capitalist position of affluent blacks often conflicts with the radical tendencies of the black underclass and certain elements of the black intelligentsia). Leiman attributes this disjuncture to the desire of the black middle class to protect hard-won economic gains, gains that might be threatened by those who "buck the power structure too vigorously." *Id.*

99. *See* DU BOIS, *supra* note 78, at 401–02 (arguing that the failure to wed local concerns to global problematics compounds black intellectual, cultural, and economic isolation).

this collusion facilitated, and their impact on black political and economic progress at home.

Lastly, Marable's analysis suggests that an informed, proactive, economically grounded black internationalism cannot rely exclusively or even primarily on moralistic appeals or perceived Pan-African solidarity as a basis for collective black mobilization against transnational violations of international law. Such determinations tend toward the subjective and their ability to mobilize opposition collectively is highly unpredictable.[100] Indeed, as argued in the next Section, the reliance on such appeals and on a frequently advocated but largely unqualified Pan-African solidarity rendered African-American opposition to U.S. foreign trade policy initiatives in the Bananas war wholly ineffective.

B. *Bananas, Trade, and the Limitations of Pan-Africanism*

The Bananas war,[101] a long-standing and highly complex international trade dispute with potentially far-reaching racial justice implications, is a more recent international conflict that has drawn the attention of black internationalists and critical race globalists.[102] As spelled out below, this

100. In the 1930s, for example, hundreds of African-Americans voluntarily assisted Spanish revolutionaries in their struggle against General Franco's fascist regime. More telling, their efforts drew the praise and garnered the financial support of prominent African-American intellectuals like the revered Paul Robeson. *See Robeson Calls for Aid to Negroes Defending Democracy in Spain*, THE NEGRO WORKER, June 1937, at 9, *reprinted in* PAUL ROBESON SPEAKS 118 (Philip S. Foner ed., 1978). By way of eerie contrast, the African-American community remained largely silent when fascist Italy invaded and devastated Ethiopia in the 1930s, despite the patent illegality of Italy's actions under international law. If a sense of Pan-African commonality proved inadequate to prompt to action black internationalists in that instance, this suggests the inadvisability of basing any formulation of black internationalism upon a symbolic Pan-African framework, however appealing such a framework might appear on an emotional level.

101. There is a growing interest on the part of international trade scholars to assess the legal and economic impact of the Bananas war, although largely from a trade and foreign policy perspective. *See generally*, Zsolt K. Bessko, *Going Bananas over EEC Preferences?: A Look at the Banana Trade War and the WTO's Understanding on Rules and Procedures Governing the Settlement of Disputes*, 28 CASE W. RES. J. INT'L L. 265 (1996); Raj Bhala, *The Bananas War*, 31 MCGEORGE L. REV. 839 (2000); Richard Lyons, *European Union Banana Controversy*, 9 FLA. J. INT'L L. 165 (1994); Ernst-Ulrich Petersmann, *Prevention and Settlement of International Trade Disputes Between the European Union and the United States*, 8 TUL. J. INT'L & COMP. L. 233 (2000); Hale Sheppard, *The Lome Convention in the Next Millennium: Modification of the Trade/Aid Package and Support for Regional Integration*, 7 KAN. J.L. & PUB. POL'Y, Spring 1998, at 84; Williams, *supra* note 78; Rodrigo Bustamante, Note, *The Need for a GATT Doctrine of Locus Standi: Why the United States Cannot Stand the European Community's Banana Import Regime*, 6 MINN. J. GLOBAL TRADE 533 (1997); Jack J. Chen, Note, *Going Bananas: How the WTO Can Heal the Split in the Global Banana Trade Dispute*, 63 FORDHAM L. REV. 1283 (1995).

102. *See* Gassama, *supra* note 8, at 157 (arguing that the Bananas war "was fundamentally about the alienation and devastation caused to multiple communities across national

case highlights, albeit on a relatively small scale, precisely the type of economic dislocation and disregard for minority interests that has drawn fire from the opponents of globalization. For black internationalists, however, the Bananas war also represents an instance where their inability to discern the essential economic, as opposed to the moral, character of the underlying dispute, significantly undermined their ability to impact the dispute's ultimate outcome. This suggests a failure to grasp the overriding importance the global free trade system places on economic interests but not on social, cultural, human welfare, or other noneconomic values. At another level, the Bananas war reveals a deeper historic failure on the part of black internationalists and their Pan-African allies to give economic and political substance to the overarching moral framework that has largely guided black internationalism's Pan-Africanist trajectory for much of the twentieth century.

Briefly put, the dispute involved a preferential banana tariff system adopted by the European Union Economic Community (EEC) in 1975, revised in 1989, and finally implemented in 1993 under the Lome Convention.[103] The Convention's preferential banana tariff system was originally created to support the fragile, export dependent economies of certain African, Caribbean, and Pacific States (ACP States), all former European colonies.[104] Under this arrangement, the participating EU States agreed to waive the standard per ton duty typically assessed against imports of ACP-produced bananas.[105] This preferential treatment would allow the smaller, less efficient ACP producers and exporters to compete price-wise with the larger multinational banana producers.[106]

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boundaries by multinational corporations lacking deep or lasting connections to any community or nation").

103. *See* African, Caribbean and Pacific States—European Economic Community: Final Act, Minutes and Fourth ACP-EEC Convention of Lome, Dec. 15 1989, 29 I.L.M. 783 (1990) [hereinafter Lome Convention]. The so-called banana protocol was implemented to provide the ACP States greater access to EU banana markets by improving local marketing and production conditions for those producer States. *Id.* The portion of the "banana protocol" under review here is Council Regulation (EEC) 404/93 of 13 February 1993 on the Organization of the Market in Bananas, 1993 O.J. (L47) [hereinafter EEC 404/93].

104. The ACP States include seventy African, Caribbean, and Pacific Rim countries. In the instant dispute, the Caribbean actors include Martinique, Guadeloupe, Dominica, St. Lucia, and St. Vincent. Dominica, St. Lucia, and St. Vincent rely on banana exports for nearly half of their export earnings, a staggering figure.

105. The preference waives the provisions of article 1, paragraph 1 of the GATT and allows participating EU States to provide preferential tariff treatment to products originating in the ACP States. *See* WTO Dispute Settlement Report of the Appellate Body on European Communities—Regime for the Importation, Sale and Distribution of Bananas, WT/DS27/AB/R (Sept. 25, 1997) [hereinafter WTO Dispute Settlement Report]; *see also* EEC 404/93, *supra* note 103, at 1.

106. These producers include, for example, Dole Bananas and Chiquita Brands International, Inc. It is worth noting that France, Spain, the United Kingdom, and the recipient ACP States remain the system's strongest supporters, even in the face of legal attacks from the

By way of contrast, the multinational producers enjoyed impressive economies of scale that allowed them to produce bananas more efficiently and cheaply than the ACP producers.[107] It bears mentioning that the total ACP banana crop accounts for a relatively small percentage of the world's total banana production levels. The multinational and non-ACP producers, on the other hand, control roughly 90 percent of the world banana production and sales markets.[108] Most of the ACP bananas go to Europe under the terms of the Lome Convention where they avoid many of the tariffs imposed on non-ACP bananas. Acting on behalf of a petition filed by Chiquita Brands International, Inc. and the Hawaii Banana Industry Association under section 301 of the United States Trade Act, the United States Trade Representative (USTR) challenged the EU-ACP arrangement as a violation of the non-discrimination provisions of the General Agreement on Tariffs and Trade (GATT).[109] Specifically, the USTR alleged that Council Regulation (EEC) 404/93 (hereinafter EEC 404/93), the quota system under review, violated the non-discrimination provisions of article 13(2) of the GATT.[110] The USTR claimed that by exempting ACP banana imports from select tariff obligations, the EU had violated article 13(2)'s non-discrimination provisions, thereby injuring U.S. banana producers by putting them at a distinct price disadvantage.[111]

This dispute was not merely a thinly disguised variant of post-Cold War American versus Western European trade oppositionalism, as one scholar has suggested.[112] Importantly, the Bananas war also pitted European allies against one another, revealing the highly volatile and

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United States, several Latin American producer States, and even other EU States. *See* First Submission of the United States of America in European Communities—Regime for the Importation, Sale and Distribution of Bananas, 1997 WL 397092 (WTO July 9, 1996).

107. It is worth noting that in the fall of 2001, Dole Bananas, one of the world's largest multinational banana producers, filed for bankruptcy protection. One of the reasons cited by Dole for the decline in international sales was the alleged adverse impact of the Lome Convention tariff preferences that favored ACP banana imports over non-ACP imports.

108. *See* ROBINSON, *supra* note 88, at 248–49.

109. The USTR is an executive office that oversees U.S. foreign trade policy. Section 301 of the United States Trade Act of 1974 empowers the President, through his or her designated representative, to investigate and possibly initiate retaliatory trade measures against States that violate the non-discrimination provisions of the GATT. Typically, the USTR initiates such an investigation after receiving a petition from an allegedly aggrieved party. Following the investigation, the USTR can either decline to act or she or he can pursue a claim before the WTO. *See* Trade Act of 1974 §§ 301–09, *amended by* 19 U.S.C. §§ 2411–2415 (1988).

110. Article 13(2) of the GATT mandates that any member who erects an import restriction must do so in a non-discriminatory manner, and in a way least disruptive of free trade. GATT art. 13(2).

111. *See* Case C-280/93, F.R.G. v. Council, 1994 E.C.R. I-5039, 34 I.L.M. 154 (1995).

112. *See, e.g.*, Petersmann, *supra* note 101.

divisive nature of the conflict. Germany, later joined by Belgium and the Netherlands, (the "EU complainants") actually filed a complaint against the European Council on May 23, 1993. Germany argued that EEC 404/93 violated an earlier protocol that permitted Germany to import a specific quota of bananas duty free. Thus, Germany sought to protect her own economic interests in the underlying dispute, despite the posture adopted by those States that supported EEC 404/93.

Collectively, the EU complainants objected to the Lome provisions on the grounds that they violated: (1) the rules and objectives of the Treaty of Rome; (2) basic property rights and the concept of nondiscrimination under EU law; and (3) the concept of nondiscrimination under the GATT. The European Court of Justice ultimately rejected the claims of the EU complainants.[113] However, the Court's rejection did nothing to disguise the fact that on foreign trade policy grounds, the States of the EU remained deeply divided over the desirability of the trade regime put in place under EEC 404/93. Adding to this complexity, Spain, Greece, Italy, France, Portugal, and Great Britain joined the Committee of European Communities in opposing EEC 404/93.[114]

Yet another group of complainants, this time Colombia, Costa Rica, Ecuador, Guatemala, Honduras, Nicaragua, Panama, and Venezuela (the "Latin American complainants"), challenged the Lome tariff provisions before a specially convened GATT panel because EEC 404/93 ostensibly violated prior EU obligations of nondiscrimination toward those complainants.[115] As with their ACP counterparts, agricultural exports play an important role in the economic life of the Latin American producer States.[116] The Latin American complainants ultimately succeeded in convincing the EU to modify significantly the Lome provisions in the form of a so-called "Framework Agreement."[117]

In support of EEC 404/93, the ACP States and their European allies argued that any effort to dismantle the Lome tariff system would lead to the collapse of the banana-export dependent economies of the ACP States.[118] Moreover, the ACP producers, some of whom have apparently

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113. *See* F.R.G. v. Council, 1994 E.C.R. at I-5043-44, 34 I.L.M. at 155.

114. *See id.* at I-5043–44, ¶¶ 2–5, 34 I.L.M. at 167, ¶¶ 2–5.

115. *See* WTO Dispute Settlement Report, *supra* note 105.

116. *See generally* Nathaniel Sheppard, Jr., *Expected Banana Export Boom Turns into Bust for Central America; EC Quotas Add Stiff Tariffs*, J. COM., Aug. 3, 1993, at 5A. The multinationals have also invested heavily in the Latin American banana industry, resulting in the latter enjoying significant economies of scale over their ACP counterparts. *See also* William Dullforce, *EC Tries to Straighten Out Banana Problem*, FIN. TIMES LTD., Oct. 18, 1990, at 38.

117. *See* WTO Dispute Settlement Report, *supra* note 105.

118. *See* Williams, *supra* note 79, at 180 (noting the adverse economic impact dismantling the banana trade regime under EEC 404/93 will have on the Caribbean banana-producing

already shifted to illicit drug production, have warned that dismantling the Lome regime would result in a large-scale shift away from banana production to the production of illicit drugs, most of which would be destined for U.S. markets.[119]

Transafrica, along with select members of the U.S. House of Representatives' Congressional Black Caucus, including Representative Maxine Waters ("the Coalition"), spearheaded domestic opposition to the USTR's planned challenge of EEC 404/93.[120] During a series of meetings with then-USTR Mickey Kantor, the Coalition argued against the proposed U.S. challenge to EEC 404/93. The Coalition stressed that any attempt to dismantle the Lome tariff system through the World Trade Organization (WTO) would have disastrous results for the ACP economies given their dependence on banana export revenues generated from sales to the EU.[121] Available figures indicate that roughly 45 percent of the bananas consumed in the EU come from the eight key ACP banana producers.[122] The Coalition also stressed that dismantling the trade preference regime under EEC 404/93 would encourage, and indeed, pave the way for many of the smaller Caribbean producers to turn to drug production as the most likely economic alternative to growing bananas.[123] Finally, the Coalition argued that the USTR's position smacked of foreign policy hypocrisy because it stressed corporate profits over the economic needs and political stability of the Caribbean States, our ostensible democratic allies in the region.[124]

States); *see also* ROBINSON, *supra* note 87, at 248. In more general terms, the basic argument is: Multinational Firm A commands approximately 60 percent of the international market in a certain commodity. Its market dominance has gone unchallenged for nearly thirty years. The Firm wants to penetrate new markets in small developing countries, including the markets of some developing States newly admitted to the GATT/WTO system. However, Firm A finds its dominance challenged in some of these States because of price supports extended to less efficient State run firms that mask their productive inefficiencies. Firm A, frustrated by its inability to penetrate these markets, persuades its foreign trade delegate to launch a proceeding before the WTO challenging the local price support program as a violation of GATT nondiscrimination rules. Applying rules grounded in the principles of facial neutrality and economic efficiency, the WTO rules the price support system untenable under the GATT article 13(2) framework despite the impact such a move is likely to have on local workers and local economic conditions.

119. *See* Williams, *supra* note 79, at 180–83.

120. *See* ROBINSON, *supra* note 88, at 248.

121. *See id.*

122. *See* Starla Henrichs-Cohen, *EEC Treaty Article 115—The Surviving Safeguard: Ridding Residual Member State Protection in the Single Market*, 24 LAW & POL'Y INT'L BUS. 553, 553–87 (1993).

123. *See* Williams, *supra* note 79, at 180–83.

124. *See* ROBINSON, *supra* note 88, at 250.

Ultimately, the USTR decided to proceed with the U.S. challenge, despite the forceful objections voiced by the Transafrica Coalition.[125] The question remains: Given such insistent and vocal opposition to the USTR's challenge, and given the potentially disastrous economic and social consequences that the challenge posed to the Caribbean States,[126] why did the Transafrica Coalition nevertheless fail to alter the trajectory of U.S. foreign trade policy in a way that would benefit the ACP producers?

First, as the brief summary of the Bananas war above indicates, this highly complex international trade dispute was not particularly well-suited to the type of transnational activism practiced by groups like Transafrica. Unlike the FSAM, a cause that evoked strong public sympathy[127] and which highlighted the racial ambiguities of U.S. foreign policy as they impacted African-Americans,[128] this arcane and little-understood dispute over EU banana tariff preferences never struck a resounding chord with the American public, black or otherwise. Nor did this dispute impact black economic interests in any demonstrable way. Instead, the Bananas war involved a series of highly technical and interrelated disputes that most observers only partially understood—an altercation involving the intricacies of trade import tariffs, conflicting multinational treaty mandates, competing spheres of global political and economic influence,[129] obscure WTO panel decisions, and the like. While

125. The dispute over the legality of EEC 404/93 is ongoing. Generally, the WTO has tended to side with the United States and those parties opposed to the banana tariff regime. With the adoption of Council Regulation No. 1637/98 on July 20, 1998, the EU attempted to address the concerns of the WTO and the United States over the discriminatory impact of EEC 404/93, but the United States remained unconvinced. More recently, the WTO determined that the United States suffers approximately $191.4 million per year in damages as a result of the preferential banana tariff system. *See* Williams, *supra* note 79, 174–80; *see also* Bhala, *supra* note 101, at 839 (noting that the U.S.-EU Bananas war has also adversely impacted U.S.-EU trade relations, in addition to the damage inflicted on the economies of the Caribbean and other ACP banana producing states).

126. It is worth noting that the Latin American challengers have alleged the loss of thousands of jobs as a result of the preferential tariff regime set up under EEC 404/93. *See Global Banana Crisis Threatens Central American Unions and Wages*, NEWSLETTER (U.S.-Labor Education in the Americas Project), Dec. 1999, *at* http://usleap.org/Banana/crisis/CrisisaThreat12-99.html.

127. *See, e.g.*, Gassama, *supra* note 8, at 153 (observing that the appeal of the FSAM owed as much to substantive issues as it did to television broadcast images of "brave South Africans fighting and dying for freedom" in their struggle against apartheid).

128. *See* MARABLE, *supra* note 39, at 192–95.

129. Clearly, a complete discussion of the entire range of interests implicated by the Bananas war is beyond the scope of this Article. Suffice it to say, the range of interests involved—including numerous sovereign States, local and multinational producers, suppliers, distributors, as well as regional and international trading blocks—suggests the futility of any attempt to reduce this dispute to a series of basic concepts.

of scholarly interest to a few international trade experts, this is not the stuff of widespread black activism of the sort seen during the FSAM.

Second, while it remains true that antiglobalization demonstrations in cities like Genoa, Italy, Washington, D.C., Seattle, Washington, and Quebec City, Canada, have effectively drawn attention to a growing wellspring of popular discontent over the perceived failure of globalization generally to improve the living standards of the world's poor, such overt appeals to global solidarity obfuscate a much deeper problem. Specifically, it is not clear that the type of global solidarity implied by these protests generally, or advocated by critics like Gassama in support of the ACP banana producers specifically,[130] can be implemented on a widespread level given that various interest groups may often possess conflicting political agendas and economic motivations. In the Bananas war, this tension stemmed from conflicting economic loyalties that rendered any such coalition building highly unlikely. Thus, it is not at all clear that appeals to unite behind the ACP producers would have generated much sympathy, let alone support, from the Latino community given that a number of Latin American States actually opposed the EU preferential tariff system.[131] The Latin American complainants opposed the preferential tariff system because multinational producers like Chiquita and Dole operate large plantations in these countries, providing jobs and much-needed tax revenues.[132] Because of their close economic ties to the multinational producers, EEC 404/93 threatened the economic viability of these Latin American States, many of whom remain export dependent as well.[133]

Finally, and perhaps most importantly for the proponents of a more proactive and critical black internationalism, the conflict reveals the primacy the global free trade system places on concrete economic interests. Thus, despite the vastly competing postures assumed by the parties, each of their respective positions could ultimately be tied to a set of demonstrable economic interests. For example, the ACP States, especially the Caribbean actors, sought to preserve the preferential tariff system embodied in EEC 404/93 because these export dependent States owed their

130. *See* Gassama, *supra* note 8, at 157 (exhorting concerned parties to support EEC 404/93 as a matter of global solidarity).

131. *See First Submission of the United States*, 1997 WL 397092, at *37–39.

132. *See id.*

133. The potential for similar conflicts of interest to emerge appears all but unavoidable. More immediately, such conflicts represent a significant barrier to the creation of global coalitions to combat the perceived ills of economic globalization. I address these concerns in an unpublished manuscript tentatively titled *Assessing the Critical Race Implications of the Banana Wars: Beyond the Discourse of Free Trade* (forthcoming).

economic viability to the benefits derived from that system.[134] The U.S. multinational producers, on the other hand, sought to dismantle that same tariff regime under the auspices of section 301 of the United States Trade Act because the preferential treatment extended to ACP imports limited the ability of the multinationals to obtain import licenses for their products.[135] The Latin American complainants, eager to pursue new agricultural markets,[136] sought to penetrate European produce markets more aggressively. However, despite their superior economies of scale and productive capabilities, the Latin American complainants found "that the presence of such great production resources is of no value if they are deprived of the full utility of their productive capacity. Jobs and economic gain can only be realized if the production capability can be utilized" in the way of international sales.[137]

By way of notable contrast, challenges to the USTR's position by the Coalition relied primarily on moral appeals largely unrelated to the free trade imperatives that defined this dispute. This posture suggests a deeper inability on the part of the Coalition and its members to distinguish between the moral imperatives that underscored the conflict, and the economic ones that ultimately won out. These events also highlight an important truth regarding U.S. foreign policy formulation, especially U.S. foreign trade initiatives. Namely, that national governments, including our own, will embark on a particular course of action that some find morally objectionable, so long as the political and economic benefits of those initiatives outweigh the potential risks that adverse publicity is likely to generate.

At a deeper level, the Bananas war underscored the relative absence of any underlying substantive economic connections, beyond the symbolic, between African-Americans and the ACP States. While appeals based on a perceived solidarity of moral convictions were commonplace,[138] less apparent were appeals to defend the shared economic interests of black Americans and their Caribbean counterparts. This largely owes to the historic failure of these selfsame actors to establish any such common substantive linkages in a coherent fashion. African-Americans did not own production facilities in the ACP States, nor were they significant importers of ACP bananas, except perhaps as base consumers. In short, no solidarity of economic interests could be

134. *See* Lorraine Woellert, *Latin American Bananas Focus of EU Import Proposal*, WASH. TIMES, Jan. 15, 1998, at B10, *available at* LEXIS, News Library, CURNWS File.

135. *See* Bessko, *supra* note 101, at 283.

136. *See* Lyons, *supra* note 101, at 172.

137. *See id.* at 173.

138. *See* Gassama, *supra* note 8, 133–42 (appealing to notions of global moral solidarity).

cited because none existed. In this sense, Pan-Africanism lacked an underlying economic platform that could give substance to its moral foundations, ultimately rendering African-American involvement in the Bananas war ineffectual.

C. *The Roots of an Economically Grounded Black Internationalism: Marcus Garvey and the Black Star Line*

Collective black opposition to South African apartheid and to U.S. constructive engagement, and the Transafrica Coalition's unsuccessful lobbying efforts on behalf of Caribbean banana producers in the Bananas war reveal two defining features of black internationalism that warrant further discussion. First, black internationalism has historically reflected a desire to ensure that similarly situated people of African descent receive fair treatment under international law. Thus, the global struggle for racial justice under international law can be seen as an extension of the African-American struggle for *de jure* equality in American society.[139] Moreover, some commentators suggest that the perceived interconnectedness of Pan-African and African-American international law interests can serve as a model of black empowerment, at least when it comes to ensuring U.S. executive branch compliance with national binding obligations under international law, as in the FSAM.[140] This particular trajectory of black internationalism, one propelled largely by a rights-oriented, symbolically compelling model of Pan-African solidarity, has remained dominant during much of the twentieth century.

Second, black internationalism has typically followed a hierarchical, top-down model of collective engagement and mobilization.[141] That is, black internationalism was and largely remains a preoccupation of the black intelligentsia. Thus, with few exceptions,[142] it has largely fallen to

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139. *See* Richardson, *supra* note 41, at 65 (arguing that African-American internationalism "indicates a knowledgeable involvement by African-Americans in the international community based on the importance of projecting principles and lessons of their historical struggle in the United States into the international community on major questions of war, peace and law.").

140. *See id.* at 63.

141. The most notable exception to this model of black internationalism involved Marcus Garvey's failed Black Star Line shipping company and his ill-fated Back to Africa movement. However, certain members of the black intelligentsia opposed Garveyism, in part because of a middle-class commitment to a policy of civil rights inclusionism within the American multiracial polity.

142. By way of contrast, Malcolm X, a black leader not of the formally educated black middle class, embraced a type of internationalism grounded largely in theological notions of Pan-Islamic universality and shared religious conviction. *See* Malcolm X, Letter From Abroad, Jedda, Saudi Arabia (Apr. 20, 1964), *in* MALCOM X SPEAKS 59, 59 (George Breitman ed., 1990). This religious orientation distinguishes Malcolm X's internationalism from more mainstream black internationalist impulses, including Garveyism and Pan-African solidarity. It is

the black intellectual caste to identify the relevant international problematics that ostensibly impact their communities and to develop appropriate responsive strategies.[143] This class orientation largely defined initial African-American opposition to apartheid, and remains true in the more recent international Bananas war dispute, and therein lies an important historical rub. Traditional expressions of African-American political activism (including black internationalism), although wed to a top-to-bottom model of engagement has historically derived support from both middle-class and working-class blacks. The strength of the civil rights era social protest marches and voter registration initiatives for example, lay in their ability to unite blacks across class lines. As discussed more fully below, this traditional model of engagement and mobilization has failed to provide a long-term impetus for an *intra-class* black internationalism, or to serve the deeper economic interests of working-class blacks more generally. Moreover, it seems that the almost callous disregard that black internationalism has shown toward the plight of those African-Americans accurately described as the "truly disadvantaged" has rendered it functionally irrelevant to twenty-first century black American life.

In acknowledging this largely class-driven disjuncture, Julian Bond, the Chairperson of the National Association for the Advancement of Colored People (NAACP) recently challenged the NAACP faithful to embrace a new platform of intra-class inclusionism.[144] In large part this institutional about-face owes to the failure of black leadership to link global problematics to core black economic and political interests at home, a move that would almost certainly garner wider support for black institutional initiatives from working-class blacks.[145] On programmatic

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perhaps worth noting that Malcolm X's Pan-Islamic internationalism was itself an outgrowth of a more radical black nationalism that largely defined the practice of Islam in black America. It is beyond the scope of this Article to address the relative merits of an economics-based black internationalism as juxtaposed against a black internationalism embracing a more Pan-African or Pan-global ethos. While I make some attempt to frame the basic contours of such a debate in this Article, the deeper contours of this debate must fall to another time and place.

143. In this context, see DU BOIS, *supra* note 78, at 384–403 (castigating the black intelligentsia for its relative ignorance of African history and of the historical failure of blacks in this country to maintain social, political, cultural, and economic ties with the African continent). African-American internationalism also includes early Back to Africa initiatives under the auspices of the so-called Free African societies. *See id.* at 385. Du Bois noted that early black leaders and their white contemporaries, including President Abraham Lincoln, considered the relative merits of a large-scale repatriation of blacks to the West Indies and South America as a way to resolve the race question in America. *Id.* at 389.

144. *See also* ROBINSON, *supra* note 88 (appealing to an intra-class model of collective black action to cure the social pathologies that continue to afflict the poorest black communities).

145. *See generally* Gott, *supra* note 8.

grounds, the poorest African-Americans[146] have every right to ask: what material interest did we have in opposing South African apartheid? How do banana import and export policies affect black lives today, if at all? Why should we express concern over the global expansion of multinational corporations? How do these developments impact black lives? These are legitimate questions that an effective model of black internationalism must address, but cannot given its current ideological and structural limitations.

The result is a model of black internationalism that appears surprisingly piecemeal and reactionary. Piecemeal because it lacks a coherent set of motivational and organizational principles to guide it.[147] Reactionary because black internationalism has typically defined its core objectives around high-profile causes like the FSAM, the forceful repatriation of Haitian refugees seeking peaceful domicile in this country, or the legality of the Gulf War, but without considering the long-term implications of these events as they relate to core black political and economic interests.[148] Indeed, given the interrelated nature of global economic, social, and political developments over the past twenty years, a piecemeal and reactionary black internationalism seems unlikely to effectively promote deeper political and economic group interests, or to provide a convincing rationale for more radical, informed models of engagement and mobilization.

Ironically, to understand the latent potential of an economics-based, black internationalism to generate widespread working-class interest in, and to garner financial backing for such a global endeavor, one must look not to the future, but to the past. It fell to the controversial and still debated efforts of influential Marcus Garvey (1887–1940), born in Jamaica,[149] and the UNIA, to reveal the theretofore untapped potential of an economically grounded black internationalism to promote radical economic and institutional reform in the name of black progress.[150] Garvey arrived in the United States on March 23, 1916, ostensibly to promote his "program of race improvement," but later to advance a strategy of racial redemption and group empowerment under the auspices of the UNIA.[151]

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146. Professor William Julius Wilson has referred to this segment of the black community as the black "underclass," denoting that group's marginal economic position, and its growing isolation from the political, social, and cultural mainstream of American society, including black middle-class America. *See generally* WILSON, *supra* note 24.

147. *See generally* MARABLE, *supra* note 39.

148. *Cf.* MARABLE, *supra* note 39, at 190. *But see* Gassama, *supra* note 8, at 157.

149. *See* CRONON, *supra* note 75, at 4–7.

150. *See* Gassama, *supra* note 8, at 155.

151. *See* CRONON, *supra* note 75, at 21–38.

Garvey remains perhaps best known for advocating a radical but largely ill-conceived plan to create a Pan-African commercial trade and manufacturing network that would empower people of color around the globe. A corollary goal was to repatriate to Africa a select group of industrious blacks that would create a progressive modern State, thereby redeeming the image of black people throughout the world.[152] This idea, conceptualized by Garvey, and promoted under the auspices of the Black Star Line (BSL) shipping company, unofficially became perhaps the most visible and concrete expression of Garvey's then radical internationalism.[153] The movement drew substantial support from working-class blacks at the time. Indeed, the impressive support the BSL garnered from working-class blacks stemmed directly from the ability of the BSL to appeal to black economic interests. Thus, Garvey's Pan-Africanism stands apart from more contemporary African-American expressions of Pan-Africanism because the former provided a conceptual platform grounded in economic considerations that spoke to the economic expectations of its adherents.

Briefly stated, the BSL sold shares of common stock to its investors, idealistic African-Americans who believed and invested in Garvey's vision of creating a global Pan-African economic, social, and political base via a global trade network.[154] Garvey's plan involved the purchase of a small fleet of seaworthy vessels that would create a vast shipping network that would link Africa, the United States, the Caribbean, and Latin America in a global trade network.[155] The fleet would also transport the "faithful" and much-needed supplies back to the "motherland."[156] Unfortunately, Garvey's plan drew the disfavor of the District Attorney of New York[157] and of influential black leaders like W.E.B. Du Bois, both of whom accused Garvey and his BSL of engaging in fraudulent investment

152. *See id.* at 77–78.

153. The Black Star Line (BSL) was incorporated in Delaware on July 27, 1919. Garvey boasted that the BSL would obtain commercial ships to trade "to all parts of the world. The corporation will offer employment to thousands of our men and women." *See* DAVID LEVERING LEWIS, W.E.B. DU BOIS: THE FIGHT FOR EQUALITY AND THE AMERICAN CENTURY, 1919–1963, at 61 (2000).

154. *See* TONY MARTIN, MARCUS GARVEY, HERO: A FIRST BIOGRAPHY 55–56 (1983).

155. *See* LEWIS, *supra* note 153, at 61.

156. To the surprise of many, Garvey's first ship, the *Yarmouth*, actually made two voyages to Central America and the West Indies. *See* CRONON, *supra* note 75, at 81–84. Moreover, according to historian David Levering Lewis, "[t]he anchoring of the old Canadian ship *Yarmouth* at 135th Street pier on September 14, 1919, was received by five thousand jostling, cheering Harlemites as one of the greatest events in the modern history of the Negro race." LEWIS, *supra* note 153, at 61–62.

157. *See* CRONON, *supra* note 75, at 53 (noting the widening scope of the New York District Attorney's investigation into allegations that the Black Star Line venture was riddled with financial improprieties).

practices.[158] Moreover, at that time Du Bois himself was committed to a policy of civil rights inclusionism within the American multiracial polity, and therefore found Garvey's strategy objectionable on ideological grounds. According to Du Bois, African-Americans, although admittedly desperate for a feasible strategy of empowerment, could not rely on the empty promises of Garveyism, which Du Bois characterized as "mere rhodomontade [sic] and fatuous propaganda."[159] Du Bois's criticism was grounded in his belief that Garveyism appealed fundamentally to a naïve and unsophisticated black escapism, one that eschewed realistic empowerment strategies in favor of counterproductive empowerment platforms rooted in a largely uninformed, economically grounded Pan-Africanism.[160]

Du Bois's critique of Garveyism revealed a deep seated bias against what the former perceived to be black working-class preoccupation with material and commercial pursuits, and general cultural excess.[161] According to Du Bois, the black intelligentsia began to lose touch with its earlier internationalist impulses owing largely to what he termed the emergence of a new "Negro *bourgeoisie.*" Representative of this shift was the emergence of a commercially oriented internationalism represented by the thinking of men like Marcus Garvey, a leader of some influence, but whom Du Bois denigrated as "sincere but uneducated and demagogic."[162]

Despite its flaws (failure to disclose to investors the risks of the venture, inaccurate tracking of expenses, and the purchase of vessels of questionable integrity, for example), the BSL initiative demonstrated the latent potential of an economically driven black internationalism to mobilize widespread black financial support in a way that no other model of black internationalism has, either before or after. Several important features of the BSL initiative stand out. First, unlike either the FSAM or the

158. *See* LEWIS, *supra* note 153, at 62.

159. W.E.B. DU BOIS, *On Being Ashamed of Oneself, in* W.E.B. DU BOIS: A READER, *supra* note 43, at 11–16.

160. Importantly, Du Bois's ideological rival, Booker T. Washington, a black leader who always enjoyed greater support among so-called working-class blacks, generally downplayed the significance of black internationalism as a component of group empowerment. This stance largely owed to Washington's belief that internationalism had no readily cognizable practical dimension around which working-class blacks could mobilize. *See* Richardson, *supra* note 41, at 61.

161. *See* DU BOIS, *supra* note 78, at 401 (describing Garvey as "the sincere but uneducated and demagogic West Indian leader . . . [who] promoted an African movement, but it was purely commercial and based on no conception of African history or needs.") Garvey expressed the same disdain toward Du Bois and his followers that the latter expressed toward the former. According to Garvey, "Du Bois represented the antebellum Negro whose time was fast running out." LEWIS, *supra* note 153, at 63.

162. *See* DU BOIS, *supra* note 78, at 390, 401.

Transafrica Coalition's opposition to the USTR banana tariff challenge, the BSL initiative enjoyed the support of an institutional base created specifically to support the initiative's goals.[163] While it is true that prominent institutions like churches and civil rights organizations supported the FSAM, their underlying organizational function was not to promote black interests via a program of global black economic empowerment. For these institutions, the FSAM merely provided another opportunity to participate in the latest high profile social protest movement. The BSL on the other hand, was specifically created to support and promote a particularly aggressive iteration of black internationalism, one whose ideological foundations rested on the twin pillars of black commercial and institutional development.

Second, although Garvey himself espoused an underlying Pan-African philosophy not unlike that embraced by Professor Richardson,[164] Garvey's particular Pan-Africanism was expressly linked to a strategy of economic (and institutional) empowerment for people of black descent. In this sense, the Pan-Africanism that underscored the BSL initiative differed radically from that which underscored both the domestic FSAM and the efforts of the Transafrica Coalition to avert a disastrous trade war between the United States and the EU over preferential banana tariff subsidies. Neither the Transafrica Coalition, nor the domestic FSAM leadership made any direct appeals to specific black socioeconomic interests in their efforts to mobilize large-scale black opposition to these perceived global wrongs. This oversight severely hindered the ability of these initiatives to propose more radical strategies of black empowerment.

In terms of class, the BSL movement drew its support primarily from working-class blacks (although middle-class blacks were not precluded from participating). The BSL and Garvey's innate appeal rested in large part on their willingness to convey to the rank and file a message of economic populism. Unfortunately, the practical value of a black internationalism driven largely by economic considerations seems to have escaped the imaginations of today's critical race globalists, both scholars and activists. By and large, they have not attempted to appeal directly to the socioeconomic interests of their constituents. For example, in advocating a merger of radical race theory and practice by embracing a global outlook, Professor Gassama appears wholly oblivious to the all-important economic question. According to Gassama, "[i]t appears that

163. *See* CRONON, *supra* note 75, at 51 (noting that for its time, the Black Star Line represented a "supremely audacious" organizational venture, one uniquely attuned to the perceived and actual needs of the organization's largely working-class constituency).

164. *See* Richardson, *supra* note 41.

no one has discovered a more effective way than rights to successfully mobilize large numbers of people to give their all to a struggle for justice."[165] This is simply not true.

This is not to suggest that either Garvey or the BSL was immune to some well-deserved criticism regarding questionable business practices. The purported financial mismanagement of the BSL by Garvey and his associates led to two noted criminal trials in the New York federal courts.[166] During trial, Garvey fired his African-American attorney, and proceeded to represent himself.[167] Garvey was arrested at least once for selling stocks illegally in support of the BSL venture.[168] In short, while ambitious in scope and successful in its ability to draw support from the black masses, the BSL initiative was an utter disaster financially and organizationally. However, the very failure of the BSL has, from a historical perspective, profound implications for modern political lawyering practice. First, the very existence of the BSL and widespread black middle-class opposition to that venture suggests a deep cleavage between the black masses and that same black middle class, a cleavage that has only deepened in the intervening years. Second, the BSL venture reveals a fact that African-Americans do not generally like to discuss outside of the group, but which must be recognized in the Garvey-BSL context. Namely, the unfortunate inability of working-class and middle-class blacks to collaborate successfully on matters of shared interest.[169] The intense animus between the Garveyites and the followers of Du Bois painfully bears out this observation.

Of course, the failure of contemporary black internationalists to link Garvey's largely successful mobilization formula to a more progressive, coherent ideological and institutional platform raises important questions. Why have black internationalists not attempted to replicate Garvey's economic progressivism to a modified and more coherent strategy? How has the denunciation of the positive elements of Garveyism affected U.S. foreign policy toward Africa and the Caribbean in the intervening years? Part III will present an attempt to answer these questions.

In assessing the unique characteristics of the emerging world economic order, and in identifying the unique implications suggested thereby, Part I posited that the core challenges of globalization for black

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165. *See* Gassama, *supra* note 8, at 155.

166. *See* Garvey v. United States, 4 F.2d 974 (2d Cir. 1925).

167. *See* CRONON, *supra* note 75, at 113.

168. *See id.* at 76.

169. *See* CRUSE, *supra* note 83, at 258–59 (arguing that the failure of the Harlem Renaissance to fulfill its burgeoning promise of black spiritual, economic, and cultural empowerment owed to the failure of the black middle class to support these objectives).

Americans were those that implicated black economic interests. In light of this conclusion, Part I recommended that black internationalism embrace an alternative empowerment platform, one that emphasized black economic development and institutional capacity building.[170] Part I concluded by stating that a realignment of black internationalism along an economically grounded axis would serve to energize more traditional modalities of black empowerment both domestically and globally.

This particular strategic shift was made all the more apparent by an historical evaluation of black internationalism. Part II revealed that black internationalism as an instrument of empowerment could be rendered more effective by embracing an economically grounded approach. However, the FSAM revealed that black activists and internationalists have remained largely oblivious to the economic implications that often underscore transnational racial subordination problematics. Thus, while black anti-apartheid activists rightly perceived the inherent moral contradictions of U.S. governmental support for the brutal minority-led South African regime, those same activists did not appear to appreciate the adverse impact U.S. governmental and corporate policies favoring that regime had on black labor viability.[171] In other words, black America's collective preoccupation with securing nonsubstantive racial justice for black South Africans during the FSAM diverted and arguably undermined efforts to secure a form of substantive racial justice for the economically and politically subordinated black masses in this country.[172]

Recent expressions of black internationalism have only reinforced the importance of economics as it relates to the question of black empowerment and to the ability of black institutions to impact U.S. foreign policy initiatives in a manner consistent with black values and interests. Part II demonstrated that the adoption of an economics-based paradigm might actually have bolstered efforts by black activists to alter the disastrous trajectory of U.S foreign trade policy in the global Bananas war. That conflict revealed that the current international trade dispute system, an important feature of the economic globalization, championed and ultimately afforded legal protection to those parties with concrete economic interests at stake.[173] Thus, the current system

170. *See supra* Section I.A.

171. *See* MARABLE, *supra* note 39, at 190.

172. Makau wa Mutua, *Hope and Despair for a New South Africa: The Limits of Rights Discourse*, 10 HARV. HUM. RTS. J. 63, 112–14 (1997) (arguing that global activists would have better served the interests of justice by promoting not just constitutional reform but a program of substantive, i.e., economic, justice as well).

173. This conclusion is consistent with the conclusions of a growing number of international trade scholars who note that the fundamental incompatibility of trade and non-trade values renders the current international trade system unable to recognize and protect non-trade values. *See generally* Dunoff, *supra* note 10.

appears to recognize and to give legal cognizance to a rather limited range of interests. Concerns over equity, social and racial justice cannot find solace in the existing system because it was not designed to promote or advance those interests. Part II concluded that by creating a more concrete body of black economic interests, and by stressing black institutional capacity building to promote those interests, black activists would have been better positioned to impact U.S. foreign trade policy through a strategy of informed activism. This suggests that black internationalism must, at least within the confines of the global economic sphere, attempt to expand and strengthen for the benefit of its constituents the kinds of concrete economic interests that the system does recognize.

Harkening back to the early decades of the twentieth century, it fell to the Marcus Garvey-BSL movement to suggest, however incompletely, the essential elements of an economics-based black internationalism. Part II argued that the lessons of Garveyism served dual prescriptive functions. First, Garveyism provided an historical glimpse at how black internationalism might have developed had black leadership embraced a platform of economic global empowerment. Second, Garveyism provided a theoretical platform for a forward-looking black internationalism. Although largely unpopular amongst the black intelligentsia,[174] plagued by an overly-romantic and largely unrealistic "Back to Africa" ideology, and cursed with a regrettable inattention to important financial, organizational, and legal details, Garvey's particular brand of black internationalism nevertheless succeeded where later attempts failed, namely in its ability to attract the financial and ideological support of the black working class in large numbers.[175]

It was through the still-controversial BSL, with its emphasis on the primacy of economic self-reliance through the creation of black institutions and businesses as a means of achieving group empowerment that the first two elements of an economically grounded black internationalism would emerge.[176] These include a program of black economic

174. *See generally* DU BOIS, *supra* note 78.

175. It perhaps says something about the implicit radical potential for change the BSL represented, that neither the federal government nor the individual states could muster the political will to pass legislation or take concrete steps to end the lynching of blacks in the Jim Crow south. It is ironic, then, that something as ostensibly nonthreatening as a black commercial venture targeted at blacks exclusively would draw the attention of the New York District Attorney's office. For a provocative analysis of the Garvey movement, see CRUSE, *supra* note 83, at 115–46.

176. *See* MARTIN, *supra* note 154, at 50–53 (identifying the three core elements of Garvey's philosophy of group empowerment). These core elements included the promotion of group interests through the creation of (1) independent black institutions; (2) a philosophy of black self-reliance; and finally (3) black nationhood. This third element referred to the per-

empowerment coupled with a companion strategy of institutional capacity building. A third element of an economically grounded black internationalism is suggested by the very nature of the global economy and its attendant and still emerging legal substructure, referred to as the need to influence domestic and international free trade initiatives through a policy of proactive black participation in the political process. Simply put, an economics-based black internationalism would, at a minimum, stress the following features: black economic development; institutional capacity building; and a program of informed legislative and foreign policy advocacy.

The goal in the next Part is to sketch a broad theoretical framework for an economically grounded black internationalism. In articulating a realignment of black internationalism along an overtly economic axis, this Article aims to engender livelier debate among black internationalists, critical race theorists, and international law experts regarding the perceived strengths and weaknesses of this approach.[177]

III. The Theoretical Underpinnings of an Economically Grounded Black Internationalism

A. *Economic Empowerment*

As argued above, the failure of black internationalism to alter or even impact significantly the trajectory of the Bananas war owed to the inability of black internationalists conceptually to de-couple the economic and moral imperatives that underscored that conflict. As discussed previously, that dispute involved the intersection of competing economic interests, whether American, Caribbean, European, Latin American, or

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ceived need to create an independent and economically viable black homeland, preferably in Africa. *Id.* This Article ignores the last element of Garvey's empowerment philosophy because the idea of creating an independent and economically viable black homeland no longer has widespread currency among most black Americans. Additionally and perhaps more importantly, such an initiative is no longer politically or economically feasible, especially within the framework of a more democratic and multiethnic American polity, one wherein blacks do have a real social, cultural, and economic stake. Despite these barriers to the creation of an independent and economically viable black homeland, the idea continues to ignite the imagination of the black intelligentsia. *See generally* Kevin Hopkins, *Back to Afrolantica: A Legacy of (Black) Perseverance?*, 24 N.Y.U. Rev. L. & Soc. Change 447 (1998) (arguing that the "Back to Africa" ideal still has currency as an emblem of black spiritual perseverance and creativity in the face of racial subordination and discrimination).

177. It is not my intent to predict all of the theoretical implications raised by such a reassessment. Rather, the goal of this Article is to identify certain ideological tensions that historically have impeded the adoption of an economically driven black global empowerment strategy, and to suggest a way out of this seemingly strategically limited, largely unproductive end game.

corporate. Lacking a demonstrable economic platform from which to pursue concrete black interests, domestic black intervention in the dispute had to be bootstrapped to concerns like a feared increase in illicit drug production,[178] or to more general condemnations of the perceived brutality of the USTR's challenge.[179] More precisely, the failure of black internationalism to engender any significant impact in the Bananas war owed to the deeper historic failure of the former to embrace and outline a functional platform of black economic empowerment that would address the economic tensions that globalization purportedly reinforces.[180] In assessing this failure, two central problematics emerge, each connected to the other historically and ideologically.

First is the inability of a black internationalism that remains linked ideologically to the ideals of Pan-African solidarity to grasp and respond to the short-term economic dislocations such as the loss of jobs in the black community caused by capital migrations to developing countries. Professor Manning Marable has expressed similar concerns by stressing that the failure of the FSAM to incorporate a platform of economic em-

178. *See* Williams, *supra* note 79, at 180.

179. *See* Gassama, *supra* note 8, at 155–58. In addition, the failure of the Transafrica Coalition also owed to the limited number of foci present in international trade dispute mechanisms. Thus, considerations of increased drug production or underlying questions of equity and fairness simply lay beyond the limited scope of the WTO's trade dispute resolution mandate. Recent scholarship provides at least partial explanation for the inability of the international trade system to resolve these kinds of issues and tensions. First, there is a growing belief that global trade policy must embrace market principles only and remain separate and distinct from local, social, cultural, and political concerns and structures. Second, trade globalists view the sovereign State as the proper arena for these local, social, cultural, and political concerns and structures, not the realm of international economic politics.

In response to these trends, some international trade scholars have embraced the idea of "linking" international trade problematics with labor, environmental, and other non-trade issues. In essence, "linkage issue" advocates seek to correct what they perceive as imbalances in the global trade system by expanding the range of values considered by international trade regimes. Professor Jeffrey Dunoff, a leading "linkage issue" scholar, observes that an institutional danger exists which undermines the notion that local (and by extension black) interests should be promoted and defended at the global level. Dunoff remains unconvinced about the prospects of forging effective linkages that seek to address environmental, labor, and other non-trade concerns because trade experts often lack the necessary expertise to make such linkages work. Instead, Dunoff suggests that "international trade scholars . . . discontinue their attempts to fashion a new model; instead they ought to identify the strengths and weaknesses of the various models available, and pull from each of these models insights that can help illuminate the difficult challenges posed by the linkage issues." Dunoff, *supra* note 10, at 386, 377–89. Dunoff concludes by urging a synthesis of economics, political science, and legal scholarship as a possible way out of the dilemma he describes as a paradox of the limitations of WTO jurisprudence in the face of increasing demands for reform. *See id.*

180. Ironically, an essential objective of Garvey's Black Star Line was the creation of an extensive trade network linking African-American economic interests with those of blacks in the Caribbean and Africa. One can only speculate on the potential for black internationalism to impact on disputes like the Bananas war had the Black Star Line initiative met with even modest success.

powerment seriously undermined the innate radical potential of black internationalism.[181] The domestic FSAM did not address the migration of black jobs to South Africa, a migration encouraged by the minority-led South African government's policy of racially-based wage suppression, because the FSAM never identified as a viable policy goal the economic empowerment of blacks in this country. A primary function of an economically grounded paradigm, then, must be to identify the ways in which globalization undermines in the short term the loss of jobs in this country through capital outflows to other parts of the world, and to develop strategies responsive to these developments.

Second, the inability of black internationalism to embrace an economically grounded paradigm owes to lingering confusion within the black community over the distinction between economic and institutional empowerment on the one hand, and the domestic struggle for civil rights on the other.[182] A number of commentators have echoed this observation. Professor Harold Cruse has suggested that black institutions like the NAACP have eschewed an economic program of group empowerment in favor of a program extolling the universal virtues of civil rights empowerment.[183] Cruse attributes this failure to deep and historically rooted contradictions within the civil rights-black empowerment movement. Cruse notes: "[t]he real internal difficulty was the [Afro-American League's] inability to argue out a functional consensus among the deeply divided intraracial ideals related to the fulfillment of black citizenship in American democracy. How to secure and maintain progressive black public school education was only one of a number of conflictual programmatic issues the league had to contend with."[184]

This inability of black leadership generally, and black internationalism more specifically, to promulgate a coherent platform of economic empowerment stems in large part from the black community's deep ambivalence over its precise role in American economic life. Nowhere is this ambivalence more apparent than on the so-called "globalization question." For example, in recent months, Congressman Jesse Jackson, Jr. has become an outspoken critic of the newly enacted AGOA. He has argued that multinational corporations will emerge as the primary beneficiaries of a trade regime that does not differ in principle from the North American Free Trade Agreement (NAFTA), a regional trade agreement

181. *See* MARABLE, *supra* note 39, at 189–96.

182. *See generally* Gary Chartier, *Civil Rights and Economic Democracy*, 40 WASHBURN L.J. 267 (2001) (arguing, incorrectly in my opinion, that the black civil rights struggle in the United States always reflected an underlying commitment to black economic empowerment).

183. *See* CRUSE, *supra* note 26, at 370–91.

184. *See id.* at 11.

that has faced similar criticism because it purportedly stresses the demands of investor capital but ignores social justice considerations.[185]

At the same time, Jesse Jackson, Jr. and the Reverend Jesse Jackson, Sr., have championed the cause of black corporate employees seeking greater access into the upper echelons of the largely white-dominated corporate power structure.[186] Ironically, these same corporations remain the strongest supporters of the free trade goals embodied in international agreements like NAFTA and the African Trade Bill—goals that Jesse Jackson, Jr. apparently opposes, at least to some degree. The Jacksons' positions illustrate the degree to which black leadership and black America in general remain deeply divided over the question of black economic participation in this country.

Importantly, it is not at all clear that calls for greater black participation in corporate governance are actually premised on the belief that black managers as opposed to white ones will run multinational corporations any differently, or with any greater circumspection toward the mandates of global free trade. To the contrary, the assumption here seems to be that qualified blacks can run America's corporations as effectively as their white counterparts, subject to the same domestic and international rules of the game. Thus, blacks remain overwhelmingly committed to the notion that *individual* economic progress largely depends on one's acceptance of the general principles of capitalism[187] as championed by the majority political and corporate establishment.

This suggests that the black middle class in particular remains wed to the idea that economic advancement is still largely a function of how successfully one is able to navigate the treacherous currents of corporate American life. Black middle-class economic dependence on corporate America then, renders these same blacks unable and unwilling to reflect critically on the advantages and disadvantages of black allegiance to this system, even as poor blacks overlooked by the system remain free to pursue more radical political options.

Ironically, when black internationalists like W.E.B. Du Bois and Paul Robeson criticized and largely rejected the U.S. neoliberal economic ideology in favor of a more radical form of international socialism,[188] they found themselves ostracized not only by white America, but also by

185. *See, e.g.*, Alvarez, *supra* note 9, at 307–10.

186. The Reverend Jesse Jackson, Sr. has been criticized by conservative groups recently for apparently accepting large contributions for his "Operation: Push" organization in return for his agreeing to end protests aimed at addressing black concerns over perceived discriminatory treatment by these same corporate actors.

187. *See* CRUSE, *supra* note 26, at 391.

188. *See* DU BOIS, *supra* note 43, at 338–40 (criticizing prevailing socialist discourse of the early twentieth century for downplaying the complexities of race and labor in the American context).

a significant number of blacks as well. This unwillingness to assess critically the strengths and weaknesses of America's unwavering adherence to a neoliberal economic ideology renders black America incapable of reaching any internal consensus on the precise role that black Americans should play in the domestic and global economies. Thus, at a more fundamental level, an economically grounded black internationalism must attempt to outline a more coherent strategy of black economic empowerment. It also must try to reconcile an ongoing and deeply rooted black ambivalence to the imperatives of capitalism and economic globalization by developing an independent critical ideology, one that can pragmatically assess the strengths and weaknesses of the extant economic system and craft strategies responsive to the material needs of all African-Americans.

Recent attempts to develop a black economic empowerment framework suggest an awareness of this crucial aspect of a more comprehensive black empowerment program. For example, Lateef Mtima has suggested that African-American economic empowerment strategies might be better directed toward providing white employers with "new incentives to abandon the discriminatory choices or practices that result from these racially reflexive feelings . . . . The objective should be to reduce or eliminate the discriminatory impacts of these feelings [of racial prejudice against black workers]."[189] More recently, David Dante Troutt has proposed an economic empowerment strategy that employs consumer protection mandates as a means of mitigating the destabilizing impact of irrational consumption practices among poor blacks.[190]

Notable as these efforts are, however, they remain limited in their potential vis-à-vis economic globalization because they view the black economy as requiring only external empowerment assistance. By way of contrast, an economically grounded black internationalism advocates an internal black response consonant with the legal and economic mandates of globalization. Given the historic disjuncture between the traditionally limited foci of black internationalism and the precarious economic status of most working-class blacks,[191] such an approach seems both timely and recommended.

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189. Mtima, *supra* note 25, at 419.

190. *See generally* Troutt, *supra* note 25 (recognizing the consumption of goods and services as a central feature of our economic system, and suggesting that consumer protection laws might be revised to help mitigate the debilitating effects of conspicuous and irrational inner-city consumption practices).

191. *See generally supra* notes 20–25.

B. *Policy and Legislative Advocacy*

At a very fundamental level, when critics reference the globalization process,[192] they are also implicating the international legal system itself, whether inadvertently or not.[193] This is because globalization also refers to the attendant international legal regimes that profoundly influence multinational corporate behavior.[194] When viewed in this light, it becomes apparent that criticisms of the perceived increased power of multinational corporations in the global arena, to cite one example, in part place the blame at the wrong source. These corporations have not usurped the power they are often accused of abusing in some illegitimate or insidious fashion. Rather, they have acquired this influence with the assistance and ostensible approval of various State actors.[195] In other words, States themselves, and the western industrialized democracies in particular, have made possible via structural economic adjustments and global legal initiatives, the very events that have raised concerns for so many critics. This subtle but nevertheless important distinction has profound theoretical and pragmatic implications for the proponents of community-based empowerment initiatives.

First, this distinction suggests that local capacity building (black institutional capacity building) should not be viewed solely as a strategy to

192. *See* Lusane, *supra* note 47, at 434–36 (noting that the gap between the poorest and wealthiest blacks has widened during the most recent economic expansionary period).

193. *See* Joel P. Trachtman, *The International Economic Law Revolution*, 17 U. PA. J. INT'L ECON. L. 33 (1996) (arguing that international lawyers should de-emphasize the distinction between international public law and international economic law); *see also* Jackson, *supra* note 5, at 597 (arguing that no justifiable distinction should be made between international economic law and public international law). Professor Trachtman notes that ongoing economic integration provides perhaps the most powerful impetus for new public international law developments. *See* Trachtman, *supra*, at 597.

194. *See* Alvarez, *supra* note 9, at 304–05 (arguing that NAFTA has produced a rule-based system of international trade governance that emphasizes predictability of outcome to the benefit of multinational corporations, and to the detriment of workers).

195. *But 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, 99–101 (Jerry Mander & Edward Goldsmith eds., 1996). Former Green Party Presidential candidate and long-time consumer safety advocate Ralph Nader, an outspoken critic of NAFTA, has suggested that this characterization is not entirely accurate. He argues that the United States, Canadian, and Mexican legislatures that signed NAFTA did so absent a full appreciation of its far-reaching and often antidemocratic tendencies. In this sense then, multinational corporations received a kind of legislative windfall through the passage of NAFTA, albeit without the actual approval of the relevant State actors because the latter's consent to be bound to that agreement was largely uninformed. This observation, while perceptive, does not undercut the observation that increased freedom of corporate action through more liberal rules governing capital mobility involved deliberate State action, if not actual approval under Nader's more literal formulation of sovereign intent. Professor Alvarez argues that the agreement is not even a treaty between "sovereign equals" because "[t]here is no actual symmetry of direct benefits to the national investors of all three NAFTA parties—at least not for the foreseeable future." Alvarez, *supra* note 9, at 304.

counter the perceived economic and political dominance of multinational corporations. Some scholars have gone so far as to suggest the ultimate futility of such efforts, given the size and extensive financial power of these corporate Goliaths.[196] Rather, this interpretation suggests that its proponents view localism[197] as both a legal and political model of collective action that, when deployed effectively, has the potential to influence both sovereign State adherence to international law, and how sovereign States identify and pursue foreign policy objectives that impact marginalized groups. In this sense, Professor Schacter hit the proverbial "nail on the head" when he recognized the continuing importance of sovereign States as the *only* legal entities that can effectively regulate global economic and political affairs.[198]

When viewed in this more legalistic light, the perceived corporate excesses about which some critics of globalization complain appear less objectionable. Given the favorable legal environment in which multinational corporations operate,[199] one can plausibly characterize their behavior as indicative of deliberate and rational choice.[200] In other words, when one conceives of this issue in purely economic terms, efficiency

196. *See* CARL BOGGS, THE END OF POLITICS: CORPORATE POWER AND THE DECLINE OF THE PUBLIC SPHERE 213 (2000) (arguing that community-based empowerment strategies will likely prove ineffective in countering the overwhelming power of multinational corporations).

197. Localism has emerged in recent years as a central strategic model for both international trade and poverty law scholars. Unlike critical race globalism, with its ostensible preoccupation with macro-level questions of race, class, gender, and nationalism in the global context, localism focuses on micro-level organizational problematics and specific institutional dynamics. The proponents of localism advocate the creation of local institutions that can redirect political and economic control back to the local level. Poverty law scholars use the phrase "law and organizing" to describe their community-based approach to effecting social change through political lawyering practice. *See generally* Scott L. Cummings & Ingrid V. Eagly, *A Critical Reflection on Law and Organizing*, 48 UCLA L. REV. 443 (2001). The law and organizing movement encompasses a broad range of perspectives and approaches. Hence, it would be inaccurate to suggest that a comprehensive and unified law and organizing movement has actually emerged. International trade scholars sometimes deploy the term "relocalization" to describe their strategy of local empowerment to counter the dislocating effects of globalization. *See generally* THE CASE AGAINST THE GLOBAL ECONOMY AND FOR A TURN TOWARD THE LOCAL, *supra* note 195. Importantly, both poverty law scholars and international trade scholars advocate strategic organizational alliances to effectively counter the immense power and influence of multinational corporations and international trade regimes like NAFTA.

198. *See* Oscar Schacter, *The Erosion of State Authority and Its Implications for Equitable Development*, *in* INTERNATIONAL ECONOMIC LAW WITH A HUMAN FACE 31, 31–44 (Friedl Weiss et al. eds., 1998).

199. *See* Alvarez, *supra* note 9, at 309–10 (arguing that the tendency to view multinational corporations as natural persons and to extend to them all of the rights and privileges, but not the obligations commensurate with that status, has merely increased the power and disproportionate influence they now enjoy). I would counter that if we actually treat corporations as natural persons, then we should expect them to act accordingly in the marketplace, and to pursue their own economic advantage as persons given prevailing political and legal realities.

200. *See* ERIC A. POSNER, LAW AND SOCIAL NORMS (2000).

suggests that it is desirable to move production offshore if doing so avoids the higher overhead typically associated with higher labor costs and compliance with environmental and other regulations. All of which brings us to the third point, namely, that a primary aim of an economics-based black internationalism should be to influence and shape public policy decisions at the national level, that is, mobilizing constituencies at the local level. This is especially true in the case of regional and global trade agreements that potentially impact the viability of black jobs in major industrial centers. Such activism will ensure that the correct mix of legal and economic incentives and disincentives exists in order to effectively influence corporate behavior.[201] Indeed, it is potentially counterproductive to view globalization as a phenomenon separate and distinct from national foreign policy agendas. Such an interpretation runs the risk of removing global economic developments from the precise legal and global political environments in which they operate.

The danger lies not in corporate excess per se, but in allowing a domestic foreign policy platform which champions unrestrained corporate expansion as a central U.S. foreign policy objective to proceed unchallenged.[202] Historically, U.S. foreign trade policy formulation and implementation has taken the form of bilateral trade initiatives of rather limited scope,[203] comprehensive trade restrictive tariffs and related barriers,[204] and informal State Department, Office of the U.S. Trade Representative, or Congressional intervention on behalf of U.S. multinational firms doing business in foreign States. Indeed, the image of Congressional or State Department intervention in Latin America on behalf of the Doles and Chiquitas of the world[205] may strike modern trade scholars as anachronistic in its relative informality and reliance on ad hoc, versus more formalized, dispute resolution mechanics, but it is

201. *See generally* Kenneth W. Abbott, *"Economic" Issues and Political Participation: The Evolving Boundaries of International Federalism*, 18 CARDOZO L. REV. 971 (1996) (arguing in favor of a series of modest proposals to increase public participation in the U.S. foreign trade policy formulation context); *see also* PETER KATZENSTEIN, SMALL STATES IN WORLD MARKETS 87–94, 139–49, 199–204 (1985) (arguing that community-based institutions have a better chance influencing local policymakers than they do influencing national or international ones).

202. *See* Carrasco, *supra* note 12, at 317 (promoting a pro-capitalist critical race agenda that eschews alternative models of political-economic organization).

203. *See generally* Free Trade Agreement, Can.-U.S., 27 I.L.M. 281 (Jan. 2, 1988).

204. The Smoot-Hawley Tariff Act of 1930, 19 U.S.C. § 1304 (1930), is a good example of the type of formal trade-restrictive measures typical of earlier U.S. trade policy.

205. I have in mind here calls by American multinational corporations operating in Chile during the Cold War to Congress, appealing for deliberate action to be taken in order to protect U.S. corporate interests in the face of calls to overhaul Chile's feudal property ownership laws by the democratically elected but socialist-leaning president, Salvador Allende. Allende was eventually overthrown in a violent coup orchestrated by Chilean dictator Augusto Pinochet with the support of the United States.

certainly not untrue. This older process has been criticized as "inexpedient and unpredictable,"[206] referring to both the cumbersome nature of this particular method of foreign policy implementation, and to the unpredictable political and economic outcomes that often resulted.

Recently, the capitalist democracies of Western Europe, the United States, and Canada have largely abandoned ad hoc international trade governance in favor of a more strictly regulated system that stresses rule consistency and relative outcome predictability.[207] Correspondingly, we have witnessed the wholesale embrace of international trade governance through regimes like the GATT, the WTO, and NAFTA. On the domestic front, the United States has followed suit, largely abandoning trade unilateralism and arbitrariness in favor of a rule-oriented system of trade governance.[208] For example, responsibility for supervising major United States trade initiatives, and more importantly foreign trade disputes, has moved from general State Department oversight to oversight under the auspices of the United States Trade Representative.[209] In this sense, trade issues have assumed greater prominence within the larger U.S. foreign policy framework. Perhaps more importantly, supporters of the current rule-based system see it as fairer to all participants and more likely to provide stability and predictability of outcome over older, more inexpedient methods of trade governance.

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206. Natalie R. Minter, *Fast-Track Procedures: Do They Infringe Upon Congressional Constitutional Rights?*, 1 SYRACUSE J. LEGIS. & POL'Y 105, 107 (1995). It is questionable whether the results of this informal method of foreign trade regulation can actually be deemed unpredictable. Political scientists have long held that U.S. trade policy in Latin America, was premised on a deliberate and highly predicable strategy of achieving hemispheric economic hegemony through direct and indirect military and economic intervention in that region. This model of foreign trade policy is intimately linked to the larger history of U.S. foreign policy during the Cold War. Today, it seems almost axiomatic to suggest that the "inexpedient and unpredictable" nature of Cold War-era foreign policy actually benefited particular corporate and strategic interests inside the United States in a highly predictable fashion.

207. *See* Glen T. Schleyer, *Power to the People: Allowing Private Parties to Raise Claims Before the WTO Dispute Resolution System*, 65 FORDHAM L. REV. 2275, 2291 (arguing that the "increasing emphasis on rule integrity in international trade dispute resolution is a desirable trend that should continue in the future").

208. However, for an excellent analysis of the lingering dilemmas of cold war foreign trade policy unilateralism, see James M. Cooper, *Spirits in the Material World: A Post-Modern Approach to United States Trade Policy*, 14 AM. U. INT'L L. REV. 957, 958 (1999). It has been suggested that the spate of trade disputes that have arisen in recent years between the United States and its foreign trading partners indicates a retreat from the principles of free trade multilateralism on the part of the United States. However, some critics would argue that the success of free trade multilateralism is not denoted by the absence of trade disputes altogether, but by the fact that the parties involved have developed and agreed to resolve these disputes in a special forum, such as the WTO, under rules predetermined and known from the outset.

209. *See generally* Trade Act of 1974 §§ 301–09, *amended by* 19 U.S.C. §§ 2411–2415 (1988), at § 2411.

Critics of globalization tell a different story. They decry this shift toward rule and institutional formalism as a threat to local communities and local interests.[210] They argue that formalized international trade governance and dispute resolution ignore or subsume local concerns in favor of the demands of global investor capital.[211] The recent and sometimes violent protests in Seattle, Montreal, and Washington, D.C., challenging the perceived global hegemony of international trade regimes like the WTO, demonstrate the apprehension many communities feel in the face of global economic expansion. The image conjured by free trade opponents is that of a global trading system dominated by centralized bureaucracies and transnational corporations largely disengaged from and unaccountable to the concerns of local communities and their constituent political representatives.[212]

It remains paramount then for an economically grounded black internationalism to promote black interests through an informed and aggressive legislative agenda, one that seeks to give due recognition to black economic and other concerns at the national level. This will ensure at the national level that any particular sovereign foreign policy calculus incorporate the widest possible considerations of relevant interests, both public and corporate.[213]

C. *Institutional Capacity Building*

The vulnerability of local communities to the adverse impacts of globalization (job migration, declining labor and environmental standards, rapidly increasing income inequality) reflects to a large degree, weaknesses within civil society and the continued political and economic

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210. *See generally* Jeffrey L. Dunoff, *Institutional Misfits: The GATT, the ICJ & Trade-Environment Disputes*, 15 MICH. J. INT'L. L. 1043 (1994) (discussing the ways in which GATT promotes corporate and trade interests over noneconomic ones like labor standards and the environment).

211. *See generally* Jessica C. Pearlman, Note, *Participation By Private Counsel in World Trade Organization Dispute Settlement Proceedings*, 30 LAW & POL'Y INT'L BUS. 399, 405–09 (1999) (discussing the desire by developing countries to use private lawyers in WTO dispute settlements due to the limited resources of these countries).

212. *See* Adebayo Adedeji, *An Alternative for Africa*, *in* ECONOMIC REFORM AND DEMOCRACY 126, 127–39 (Larry Diamond & Marc F. Plattner eds., 1995) (arguing that the structural reforms proposed by international organizations like the International Monetary Fund ignore the historical and political realities of many African States).

213. *See* Jackson, *supra* note 5, at 595 ("Governments increasingly find it difficult to implement worthy policies concerning economic activity because such activity often crosses borders in ways to escape the reach of much of national government control."). This suggests that governments alone cannot craft legal and policy strategies sufficient to shape the global economy and to meet the needs of their constituents. It also suggests the importance of healthy community-based activism in order to define the global economic agenda.

marginalization of the poorest Americans.[214] To combat these trends a growing number of international trade scholars argue that local communities must rethink their relationships to one another and to the global economy, and craft strategies that will prove effective in promoting and protecting local or group interests.[215]

Relocalization or localism, a term employed by some international trade scholars,[216] stresses the primacy of local initiatives to combat the adverse effects of globalization.[217] Two underlying substantive features of relocalization warrant discussion: (1) relocalization proponents stress the importance of community-based models of action that can effectively shift political and economic power back to local communities;[218] and (2) these proponents stress the need to create economics-based coalitions to mount an effective political challenge to the perceived political and economic hegemony of multinational corporations, and the perceived political unaccountability of international trade regimes like NAFTA. A thorough discussion of coalitional theory falls beyond the immediate scope of this Article. Instead, the challenges the African-American community faces internally as it struggles to respond to a world of increasing complexity and global interdependence are addressed below.

For the black community,[219] the implications of globalization, and the effectiveness of strategies designed to combat the loss of jobs and local economic control, are profound. Recent studies indicate that African-American economic progress over the past two decades[220] has been tempered by the emergence of a growing and increasingly marginalized black "underclass," despite an unprecedented period of economic

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214. Some commentators have posited the collapse of the sovereign State as the primary reason for this acceleration. *See, e.g.*, Jessica T. Mathews, *Power Shift*, FOREIGN AFF., Jan./Feb. 1997, at 50.

215. *See generally* THE CASE AGAINST THE GLOBAL ECONOMY AND FOR A TURN TOWARD THE LOCAL, *supra* note 195.

216. *See* Helena Norberg-Hodge, *Shifting Direction From Global Dependence to Local Interdependence*, *in* THE CASE AGAINST THE GLOBAL ECONOMY AND FOR A TURN TOWARD THE LOCAL, *supra* note 195, at 393–406 (using the term "localization").

217. *See generally* William P. Quigley, *Reflections of Community Organizers: Lawyering for Empowerment of Community Organizations*, 21 OHIO N.U. L. REV. 455 (1994) (advancing community organizing as an indispensable component of local empowerment efforts).

218. *See* Taibi, *supra* note 11, at 977; *see also* Tim Luke, *Community and Ecology*, *in* THE GRAYWOLF ANNUAL TEN: CHANGING COMMUNITY 207, 214–15 (Scott Walker ed., 1993), *cited in* Taibi, *supra* note 11, at n.115.

219. My use of the phrase "black community" should not be read to mask the fact that underclass and middle-class black interests often diverge, and in ways that have proven especially destructive to the fabric of black social and economic life in postindustrial America. Indeed, it is a central premise of this Article that black progress in general has been severely retarded by the inability of black leadership to grasp and effectively manage the class question in African-American political and economic life.

220. *See generally supra* notes 20–25.

expansion during the mid-to-late 1990s.[221] The sharp decline via job migration in manufacturing jobs in our major urban industrial centers—long a fertile source of black employment—for example, reveals the need for blacks to respond strategically to these developments, and denotes the way in which economic globalization has impacted black America. The challenge remains to realign black institutions so that they can better respond to the imperatives of economic globalization and more effectively meet the needs and expectations of their constituents.

IV. MAKING AN ECONOMICS-BASED BLACK INTERNATIONALISM WORK

The debate surrounding the perceived strengths and weaknesses of the African Trade Bill (AGOA, or "the Bill")[222] recently enacted by Congress provides an ideal platform through which to assess the potential effectiveness of an economically grounded black internationalism. In brief, the AGOA champions a sub-Saharan African[223] economic and political rebirth[224] grounded not in reliance on traditional U.S. foreign aid initiatives, but in the principles of African self-help, regional free trade, and the implementation of meaningful democratic reforms.[225] Critical discussions surrounding the AGOA, especially within the black community, reveal the degree to which that community

221. *See* Lusane, *supra* note 47, at 434–36; *see also* WILSON, *supra* note 24 (providing what remains perhaps the most insightful discussion of the growing class divide between middle-class and working-class blacks in postindustrial America). The inability of blacks to achieve widespread economic gains during the most recent expansionary period either suggests possible structural flaws in the American capitalist system, or shortcomings in the ability of African-American leadership to deliver the economic goods, or perhaps a bit of both.

222. The Trade and Development Act of 2000 (African Trade Bill), 19 U.S.C. §§ 3701–3741 (2000). The provisions of the African Trade Bill are also collectively referred to as the African Growth and Opportunity Act [hereinafter AGOA or, alternatively, "the Bill"].

223. The region commonly referred to as sub-Saharan Africa presently consists of forty-eight States. These States include: Angola, Benin, Botswana, Burkino Faso, Burundi, Cameroon, Cape Verde, the Central African Republic, Chad, Comoros, Congo, Cote d'Ivoire, the Democratic Republic of Congo (formerly Zaire), Djibouti, Equatorial Guinea, Eritrea, Ethiopia, Gabon, Gambia, Guinea, Guinea-Bissau, Kenya, Lesotho, Liberia, Madagascar, Malawi, Mali, Mauritania, Mauritius, Mozambique, Namibia, Niger, Nigeria, Rwanda, Sao Tome and Principe, Senegal, Seychelles, Sierra Leone, Somalia, South Africa, Sudan, Swaziland, Tanzania, Togo, Uganda, Zambia, and Zimbabwe. 19 U.S.C. § 3706 (entitled "Sub-Saharan Africa Defined").

224. It is worth noting that by its own terms, the Bill is *not* intended to serve as the exclusive means through which this African rebirth will materialize. Instead, the Bill is envisioned as merely supporting a so-called sub-Saharan renaissance already in progress. *See, e.g.*, 19 U.S.C. § 3701(4) (observing in the political realm, for example, that "the region has [already] experienced the strengthening of democracy as countries in sub-Saharan Africa have taken steps to encourage broader participation in the political process"); *see also* John F. Harris, *Clinton Hails "African Renaissance"*, WASH. POST, Mar. 24, 1998, at A1.

225. *See, e.g.*, 19 U.S.C. § 3701(4),(7),(8),(10).

remains deeply divided over how best to respond to the challenges posed by the Bill's passage. As discussed below, this uncertainty exposes a particular inability on the part of black America to define more concretely the parameters of a functional relationship between itself and sub-Saharan Africa under the auspices of an informed black internationalism.[226]

This Part applies the general theoretical framework of an economically grounded black internationalism as set out above to the general policy imperatives of the Bill, stressing that the goal here is not to delineate a *definitive* black response to the Bill. Rather, it falls to this Part of the Article to expose through the lens of an economically grounded black internationalism the particular economic, legal, and institutional considerations suggested by the Bill, and what these mean for the black community. As a threshold matter, this Part begins by briefly tracing how U.S. foreign policy initiatives toward sub-Saharan Africa have changed since the end of the Cold War, and explaining how the recently enacted AGOA embodies the core dimensions of this foreign policy realignment. The discussion then turns to both the practical and conceptual challenges that the AGOA poses for the American black community, and suggests that an independent, economics-based assessment of these challenges might lead to a more informed and coherent black response.

A. *Post-Cold War Constructive Engagement: A New U.S. Foreign Policy Agenda for Sub-Saharan Africa*

U.S. foreign policy initiatives toward sub-Saharan Africa have undergone a profound shift since the end of the Cold War. During the Cold War, U.S. involvement in that region consisted largely of foreign aid assistance to select States, including direct financial and military support of regimes that promoted U.S. foreign policy interests, especially the containment of global Communism.[227] By the end of the Cold War, America's commitment to and interest in sub-Saharan political

226. This particular problem is neither new nor novel. Almost a century earlier W.E.B. Du Bois noted that black ignorance of African history, politics, and modern economic developments rendered effective African-American outreach toward Africa all but impossible. *See* DU BOIS, *supra* note 78, at 384–403.

227. *See, e.g.*, Philip C. Aka, *Africa in the New World Order: The Trouble with the Notion of African Marginalization*, 9 TUL. J. INT'L & COMP. L. 187 (2001) (observing that U.S. Cold War foreign policy initiatives toward that region were largely dictated by superpower strategic calculations). Aka further posits that the widely accepted notion of an economically and politically marginalized post-Cold War sub-Saharan Africa—a sub-Saharan Africa no longer central to superpower geopolitical calculations—profoundly misstates the true status of the region. The result Aka argues, is an inability to shape responsive and effective policies that can address the true challenges confronting the sub-Saharan region. *Id.*

and economic developments had waned, primarily because the postcolonial superpower imperatives that shaped earlier U.S. foreign policy thinking toward Africa were no longer of great importance.[228] The result was a swift and visible U.S. retreat from the sub-Saharan geopolitical scene.

Because of a growing dissatisfaction with the scope and pace of African reform, and given the expanding emphasis placed on economic globalization as a development paradigm, a number of American political elites have started to rethink U.S. foreign policy initiatives toward Africa.[229] These elites suggest that sub-Saharan Africa's salvation lies not in unlimited foreign aid to combat the perennial problems of draught, pestilence, starvation, and civil war, but in a new policy referred to herein as "post-Cold War constructive re-engagement." This new policy framework stresses the need for the states of that region to embrace democratic systems of governance, political reform, free trade mandates and the principles of self-reliance and self-help.[230] Under section 103(1) of the AGOA, the United States and its sub-Saharan partners would, in striking contrast to Cold War era foreign aid initiatives, embrace a new policy aimed at:

- encouraging increased trade and investment between the United States and sub-Saharan Africa;
- 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
- focusing on countries committed to the rule of law, economic reform, and the eradication of poverty.[231]

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228. *See id.* at 190 (noting that the end of the Cold War saw a reprioritization of superpower foreign policy objectives, including the reprioritization of sub-Saharan Africa as a region of lesser strategic importance). Aka further notes that the foreign policy vacuum that has emerged provides donor States, non-governmental organizations, and other international bodies the ideal chance to revitalize foreign policy initiatives toward the sub-Saharan region in a more thoughtful and effective fashion. *Id.*

229. *See, e.g.*, OFFICE OF THE U.S. TRADE REPRESENTATIVE, 2001 COMPREHENSIVE REPORT OF THE PRESIDENT OF THE UNITED STATES ON U.S. TRADE AND INVESTMENT POLICY TOWARD SUB-SAHARAN AFRICA AND IMPLEMENTATION OF THE AFRICAN GROWTH AND OPPORTUNITY ACT 1 (2001) [hereinafter 2001 AGOA Report] (noting that "[t]he AGOA establishes a new framework for U.S. trade, investment, and development policy for sub-Saharan Africa").

230. *See id.* at 1.

231. *See* Trade and Development Act of 2000 (African Trade Bill), 19 U.S.C. § 3702(1),(4),(5) (2000).

This abrupt shift toward a free-trade friendly paradigm that stresses the centrality of an underlying system of predictable legal norms is consistent with the definition of economic globalization suggested in Section I.A above. From a U.S. foreign policy perspective, the road to sub-Saharan Africa's salvation rests upon that region's willingness to adopt the tenets of economic globalization and political reform, and to pursue aggressively the benefits that purportedly lie therein.[232]

B. *The African Growth and Opportunity Act*

Supporters of the AGOA, including some prominent members of the black community, argue that its passage will bring U.S. foreign policy initiatives toward sub-Saharan Africa firmly into the twenty-first century.[233] Under the terms of the AGOA, the United States in collaboration with its African partners will jettison an outdated system of foreign aid assistance that has remained disconnected to any concrete expectations of reform, economic liberalization, and political democratization. Additionally, the Bill's supporters argue that its passage will usher in a new era of mutual economic cooperation between the United States and the

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232. This shift in U.S. foreign aid thinking, with its insistence on self-reliance, governmental reform, and adoption of free trade policies, contrasts sharply with the more traditional foreign aid and development paradigm outlined in the Lome Convention. As discussed in Section II.B, *supra*, that paradigm provides trade preferences to certain product classes that originate in the ACP States, preferences that in some cases appear to violate WTO mandates prohibiting discriminatory treatment of imported products. Moreover, it is not coincidental that the AGOA was first proposed during the height of the Banana wars trade dispute between the United States and the EU, and then only after U.S. foreign policy initiatives toward Africa encountered criticism by the WTO. The United States responded to these concerns by passing § 134 of the Uruguay Round Agreements Act, 19 U.S.C. § 3554 (1994). One should note that the foreign aid paradigm pursued by the EU under the Lome Convention has itself been criticized for embracing an outdated foreign policy model that is no longer effective. *See* Sheppard, *supra* note 101, at 89. It is also worth noting that not all EU Member States support the goals of the Lome Convention. *See, e.g.*, Case C-280/93, F.R.G. v. Council, 1994 E.C.R. I-5039, 34 I.L.M. 154 (1995).

The foregoing discussion reveals that no clear consensus exists among the industrialized northern States over precisely what form foreign aid should take, or what goals such aid initiatives can reasonably hope to accomplish. However, in a nation such as the United States, where foreign aid calculations often reflect individual, instead of public, economic, and political agendas, it is paramount that blacks attempt to influence those calculations in a manner that gives due weight and consideration to their unique global interests. In other words, even if blacks cannot prompt a global reevaluation over the value of foreign aid, they should attempt to impact the dynamics of U.S. foreign aid decision making in a manner consonant with black group values and interests. *See* Richardson, *supra* note 41, at 42–44 (arguing that African-American interests in international law problematics related to issues such as the use of force, the United Nations, and the hostilities in the Middle East during the Gulf War, deserve special consideration under international law).

233. *See* 2001 AGOA REPORT, *supra* note 229, at 1.

sub-Saharan region.[234] The Bill therefore has come to symbolize a new and mutually beneficial framework for increased U.S. and sub-Saharan economic, political, and developmental cooperation.

Not surprisingly, black critics of the AGOA have emerged. Some of these critics have suggested that the shift in U.S. foreign policy toward sub-Saharan Africa actually is owed not to a genuine and informed domestic African foreign policy framework reassessment per se, but to a desire to address WTO concerns over perceived U.S. foreign policy inconsistencies toward that region.[235] Importantly, whether the impetus for the Bill's creation ultimately rests with the Clinton administration, or owes to the WTO's chidings, the fact remains that as of May 18, 2001, the AGOA became a political and legal reality. All of which begs a bigger question, namely, how should the black community respond to the passage of the AGOA?

In the short term, the black community must first face the real possibility that outflows of investor capital away from U.S. urban centers and into the economically depressed regions of sub-Saharan Africa will result in the loss of jobs in this country. There are indications that some commentators are aware of this looming issue. One commentator has criticized black supporters of the AGOA like members of the Congressional Black Caucus by citing their unwillingness to explain to the black community the deeper implications of the AGOA for black workers.[236] Other black leaders have argued that implementation of the AGOA would threaten black jobs and therefore undermine black economic viability in the long term. These critics also stress that multinational corporations will emerge as the primary beneficiaries of a trade regime no different in principle or methodology from NAFTA. However, it is not at all clear that the economic dislocation message is actually reaching black workers. More disturbing is the fact that some black political elites appear either unable or unwilling to inform their constituents about these concerns because of competing political loyalties.

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234. *See, e.g.*, Hunter R. Clark, *African "Renaissance": and U.S. Trade Policy*, 27 GA. J. INT'L & COMP. L. 265 (1999) (indicating that some of the impetus for U.S. enactment of the Bill rested on domestic economic considerations).

235. *See, e.g., id.* at 283 (noting that some have criticized the Clinton administration's sincerity in proposing the AGOA. They argued that the real impetus for the shift in U.S. foreign policy toward Africa stemmed from a congressional directive to address the WTO's criticisms in a concrete legislative initiative).

236. *See* Ronald Waters, *Black Interests and the "Battle in Seattle"*, BRC-NEWS (Dec. 19, 1999), *at* http://groups.yahoo.com/group/brc-news/message/775.html (noting that members of the Congressional Black Caucus (CBC) who supported the AGOA could not freely disclose the potentially adverse impacts that implementation of the Bill would have on black workers because of their support of and allegiance to the Clinton administration).

Unlike the members of the Congressional Black Caucus (CBC)[237] who appear unable to take an independent stand on the economic dislocation issue because of limitations imposed by their political allegiance to a presidential administration that embraced the underlying aims of the AGOA, a politically independent black internationalism would suffer no such limitations. It would remain free to pursue the interests of its own constituents without regard to the policy preferences of the major political parties by openly acknowledging the economic tensions that underscore the AGOA, and by proposing strategies responsive to these issues.

Second, passage of the AGOA raises fundamental questions about the relationship between African-Americans and the States of sub-Saharan Africa, and how the AGOA might impact those relations. Given that the economic dislocations caused by job migrations to the sub-Saharan African region might very well occur, this suggests a possible conflict between African economic interests on the one hand, and African-American economic interests on the other. It is not clear that a Pan-African philosophy that stresses global solidarity in the face of such conflicts can readily resolve these tensions. By way of contrast, an economically grounded black internationalism would posit that such tensions are all but unavoidable in the era of globalization. Moreover, such a philosophy would posit that the challenge under such a scenario lies not in the

237. It would be useful to learn precisely what role the members of the CBC envision the black community serving within the larger AGOA framework. In the more than 140-page 2001 AGOA Report delivered by the President to Congress in May of 2001, I found not one reference to the role envisioned for black institutions in the much-heralded sub-Saharan economic and political renaissance. The absence of any such discussion in the Report is equally baffling given the relatively high profile role certain classes of Cuban-Americans are envisioned to play in the analogous rebirth of Cuba that is predicted to follow the much-anticipated fall of the Castro regime. *See, e.g.*, Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996, 22 U.S.C. § 6022 (2000) [hereinafter LIBERTAD]. For example, LIBERTAD identifies as a core objective the need "(6) to protect United States nationals against confiscatory takings and the wrongful trafficking in property confiscated by the Castro regime." This provision suggests that a democratic, post-Castro Cuba would provide some kind of property restitution to Cuban-Americans whose property had been confiscated after Castro came to power. Thus, at least under the provisions of LIBERTAD, it is envisioned that former Cuban-American estate holders would be able to participate in the process of Cuban liberation not merely as interested observers advising from the mainland, but as actual owner-participants in the island's post-Castro era of economic and political transformation. It is worth noting that at least one commentator has concluded that the means by which LIBERTAD seeks to promote Cuba's reintegration into the community of democratic, freedom-loving States may actually violate international law. *See, e.g.*, Leslie R. Goldberg, *Trade Policy and Election-Year Politics: The Truth about Title III of the Helms-Burton Act*, 18 Nw. J. INT'L L. & BUS. 217 (1997) (observing that Title III of LIBERTAD, which confers on former Cuban property owners a private right of action against foreign firms that do business with and profit from their relationships with nationalized firms, is both ineffective as foreign policy, and arguably illegal under international law).

absolute avoidance of such conflicts, but in the frank willingness of Africans and African-Americans to recognize those areas wherein their interests converge, and also to recognize those instances wherein their interests diverge.

The ability of an economically grounded black internationalism to accomplish this task requires that its proponents demonstrate a high degree of ideological independence. This requires both the willingness and an ability to develop critical insights born of an independent evaluation of black interests outside of the limited conceptual orthodoxy championed by either the neoliberal or the antiglobalization camps. Black political elites who supported passage of the AGOA appeared unable to assess critically the deeper economic and labor implications of the Bill because they lacked the ideological and institutional independence that would permit them to engage openly in such an exercise. By the same token, black critics of the AGOA appeared, and still appear, unable to propose constructive and responsive global agendas for black internationalism beyond the limited foci of the standard antiglobalization discourse championed by critics like Ralph Nader.[238] Critical insights like Nader's no doubt serve a useful descriptive function, and at a basic level, I advocate the adoption of similar critical insights on the part of black internationalism. However, as suggested above, the global problematics that the AGOA poses in terms of long-held assumptions about the nature of African-American and African relations, the intragroup conflicting paradigms suggested therein, and how to address these issues pragmatically lie outside of the antiglobalizationist's conceptual field of vision.

On purely practical grounds, a failure to overcome this conceptual impasse leaves black internationalism forever incapable of defining more clearly the dimensions of a productive relationship between black America and the States of sub-Saharan Africa, either within the pro-trade-economic empowerment paradigm championed by the AGOA or along alternative lines.

By way of contrast, a critique informed by the imperatives of an economics-based black internationalism would transcend these externally imposed conceptual restraints in favor of an interpretative paradigm more consonant with core black interests and objectives. For

238. 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. NAAFTA [sic] for Africa. It is a new Colonialism." *Up Close with Ralph Nader*, SAN FRANCISCO BAY GUARDIAN (May 26, 2000), http://www.sfbg.com/upclose/nader.html. This does mean that I endorse Nader's position on NAFTA or the African Trade Bill (ATB). What matters here is that black leadership must discuss the issues Nader raises and decide for themselves, based on internal black criterion, what is good and bad about the ATB specifically, and the global economy more generally.

example, such a critique might propose a constructive agenda that black institutions might pursue to minimize the adverse labor impact that implementation of the AGOA would purportedly generate. Such a critique also might indicate that the correct response would be for blacks to actually participate as entrepreneurs in the free trade regime promoted under the auspices of the AGOA. In the end, the precise strategic agenda that an economics-based black internationalism might identify and pursue is irrelevant. What remains both relevant and paramount is that an economics-based black internationalism must adopt a critical ideological perspective liberated from the conceptual limitations imposed by an uncritical conformity to the prevailing proglobalization discourse. Similarly, it must strive to liberate black internationalism from the externally prescribed and often dogmatic constraints of the prevailing antiglobalization orthodoxy that thus far has proven unable to respond effectively to the realities of black economic and political life in postindustrial America, and beyond.

CONCLUSION

This Article has advocated the adoption of an economically grounded black internationalism as one way to overcome the conceptual and institutional limitations that have historically impeded black progress in the global arena. This impasse has frequently been reinforced by black internationalism's adoption of interpretative paradigms not always responsive to the needs and aspirations of the black community. It is my belief that an economics-based paradigm, one premised on an independent evaluation of concrete black needs in the emerging economic world order, might overcome these limitations.

Second, an implicit aim of an economics-based black internationalism must be to help heal the economic, political, and social rift that has created not just two Americas, but two black Americas: the black middle class and an increasingly disenfranchised poor black America, a group one scholar has termed "the truly disadvantaged."[239] In this sense, the ideological animus between Du Bois and Garvey remains in place; it has simply become more insidious, more difficult to root out. The tensions have, in a sense, become structural, institutional.[240] So long as this tension exists, black America will never achieve the vision of economic self-sufficiency pursued so diligently by Garvey and his followers almost a century ago. However, we should not view a realigned black internationalism as a

239. *See* WILSON, *supra* note 24.

240. *See generally* LEIMAN, *supra* note 16.

panacea able to fix all of the problems and social pathologies that afflict the black community in twenty-first century America. No single institution or movement, no matter how far-reaching and profound, has the capacity to engender such a shift. All that one can reasonably hope for is progress in small, incremental steps.

More generally, the aim of this Article is to engender continued debate over the ultimate feasibility of an economics-based black internationalism in an era of economic globalization and ever-increasing geopolitical uncertainty. Thus, the purpose of the Article is to provide an alternative black empowerment paradigm, one that ideally would enhance existing theoretical paradigms. My hope is that critical race scholars might adopt or at least consider critically this interpretative model as they continue to define the parameters of a comprehensive theory of international racial justice for the black community in postindustrial American society.