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# Surfing the Wave: Pan-Africanism's Relationship with Socialism and the Transatlantic Right-Wing

Ross Davis

## Abstract

*Britain's vote to leave the EU and Donald Trump's election as President of the United States in 2016 stand as manifestations of the recent surge in support for right wing populism across jurisdictions, which is later defined within this analysis as the "Right Wing Wave". Parallel to this phenomenon, thought-leadership espousing notions of Pan-Africanism such as the Black Lives Matter movement have claimed a new and prominent visibility and appear to, as if by default, promote notions of Socialism as the anti-thesis to the growing right-wing sentiment.<sup>1</sup>*

*The present analysis will begin with an explanation of the core tenets of Legal Realism, the perspective from which this analysis approaches its subject matter. It will then move on to consider the genesis of contemporary Pan-African theory and its association with Socialist values. Following this, the analysis will present the notion of the Right-Wing Wave alongside Masaji Chiba's "Legal Dichotomies" theory. The analysis then moves on to explore the mechanics of Socialism as a counter-culture to the Right-Wing Wave and proceeds to use the Legal Dichotomies theory as a lens through which to examine the ethnic minority experience thereof. In conclusion, this analysis will elucidate various revelations that the Right-Wing Wave prompts contemporary Pan-African theory to consider, central to which is the proposition that Pan-Africanism should move to experiment with models of Liberalism.<sup>2</sup>*

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<sup>1</sup> For example, see "Marxism and the Fight for Black Freedom From the Civil War to Black Lives Matter": <https://www.socialistalternative.org/marxism-fight-Black-freedom/introduction/>. The pamphlet (under the heading "Black Lives Matter and Marxism: Black Pro-Capitalist Leadership Exposed") draws a contrast between the "emerging working-class young Black activists" of the Black Lives Matter movement and other activists who are, in the alternative, tied to the Democratic Party which is "pro-capitalist" in nature and therefore deemed to be non-progressive.

<sup>2</sup> Liberalism in this analysis is defined by its traditional meaning, that is, a discourse which favours, among other things, individualism over communalism; rather than the term being used to refer to a weak form of social democracy which is often the case colloquially. Note that Neo-Liberalism (defined below at fn 35) is taken to be a variant under this umbrella. See B. Barry, 'Liberalism and Multiculturalism', 1 *Ethical Perspectives* (April 1997), 3.

## **1. Introduction**

### **1.1 Legal Realism**

The present analysis plants itself in the approach of Legal Realism. There are various interpretations of Legal Realism, which in turn have produced their own nuanced definitions.<sup>3</sup> Generally speaking, Legal Realism can be described as an approach within legal theory that observes the gaps between legal rules and actually lived social norms<sup>4</sup>. Legal Realists advocate the view that the expectation that legal rules ('book law') are blindly applied as binding in an identical fashion across society does not match reality.<sup>5</sup> There are two main schools of thought within Legal Realism: the American and the Scandinavian Realists.<sup>6</sup> The former are known to have explicitly focused their studies on the activities and flexibilities of judges while the latter take a wider, more philosophical approach which presupposes that law should be observed by reference to the psychology of law's recipients.<sup>7</sup> Scandinavian Realists therefore seek to explore the relationship between law and society (the 'socio-legal'<sup>8</sup> realm) and the interplay of centralist notions of law with sociological approaches.<sup>9</sup> Adherents to Legal Realism as a whole take law to have a flexible meaning. Gilmore notes:

I have been using the term "law" loosely, referring to the decisions of judges, now to the total body of positive law, decisional and statutory, now to the fundamental principles by which society is organized...At all events, the realists [use] the term "law" as a symbol of multiple reference.<sup>10</sup>

Thus, by definition, an analysis from the perspective of Legal Realism will work against Statist or Positivist<sup>11</sup> presumptions that 'book law' (that is, law as legislated and sanctioned by state infrastructure) is the variable that has the greatest influence on the norms and social orders of its recipients. Instead, it will place onus on the activities of the social actor, above officiated legal organs such as courts or legislatures; or, at the very least, it will consider the activities of the social actor to be on an equal footing therewith. Green notes:

Properly understood, [Legal Realism] does not deny [that legislated] laws can guide...decision making when...attitudes recommend conformity with the law. Instead, the theory rejects the ability for the law to provide reasons for conformity with what the law recommends that exist independently [of] attitudes.<sup>12</sup>

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<sup>3</sup> Gilmore notes that "[t]here were almost as many strands in realist thinking as there were realists." See G. Gilmore, 'Legal Realism: Its Cause and Cure', 70 *The Yale Law Journal* 7 (1961), 1038.

<sup>4</sup> W. Menski, *Comparative Law in a Global Context: The Legal Systems of Asia and Africa* (Cambridge: CUP 2006), 164.

<sup>5</sup> *ibid.*, 165.

<sup>6</sup> *ibid.*, 166.

<sup>7</sup> *ibid.*, 166-167.

<sup>8</sup> Socio-legal studies is an interdisciplinary approach to analysing law, legal phenomena, and the relationships between these and wider society. Both theoretical and empirical work is included, and perspectives and methodologies are drawn from the humanities as well as the social sciences. See: <http://www.bl.uk/reshelp/findhelpsubject/busmanlaw/legalstudies/soclegal/sociolegal.html>.

<sup>9</sup> W. Menski, 166.

<sup>10</sup> G. Gilmore, 1039.

<sup>11</sup> An approach that dismisses the socio-cultural dimensions of law as being 'non' or 'extra-legal'. See W. Menski, 32-33.

<sup>12</sup> M. Green, 'Legal Realism as Theory of Law', 46 *William & Mary Law Review* 6 (2005), 1920.

Hence, if one accepts the wide conceptualisation of law that Legal Realism prescribes,<sup>13</sup> and in turn rejects the idea that legal organs alone dictate conformity to the law, the fundamental proposition of Legal Realism becomes blatant. To state it in Gilmore's terms, "law is not static, but dynamic. It changes as society changes".<sup>14</sup>

The present analysis is acutely aware of this truth; it is the author's argument that the *Right-Wing Wave* (defined below) represents a form of momentum through which social actors have dictated the way in which the law / their social order has evolved. Further, the author (in adopting an approach akin to that of the Scandinavian Realists) posits that if the law is to be approached by reference to the psychology of its recipients, it naturally follows that the politics and policies that determine the law should be approached in the same manner. The present analysis will reflect this idea throughout.

### 1.2 The Pan-Africanist and the Socialist

Pan-Africanism,<sup>15</sup> the ethos that peoples of African descent have common interests and should therefore be unified, emerged as a distinct political movement<sup>16</sup> in the late nineteenth / early twentieth century with the inception of the Pan-African Association in 1897, and later with the first Pan-African Conference in London in 1900. The movement has since gone through several different mutations and has existed in a variety of forms spanning from (to name a few) the early Pan-African Congresses, Garveyism<sup>17</sup> and the Civil Rights movement in America, to more contemporary crusades such as Afrocentricism.<sup>18</sup> In the view of a number of contemporary thinkers, Pan-Africanism and Socialism are inextricably linked; in the minds of many, the Pan-African agenda is essentially a Socialist one. This presumption has manifested itself in mainstream identity politics in a number of ways, one of the most explicit of which being the traditional affinity of the Black<sup>19</sup> voter with perceived "Leftist" political parties rather than perceived "Right-Wing" political parties.<sup>20</sup> I note, however, that this is no natural affinity. Rather, it is clear that the affiliation of Pan-African theory with Socialism was a deliberate strategic move. Kwame Nkrumah, former Prime Minister and President of the state of Ghana (a revered thought-leader within the early Pan-African movement), notes the association of the Pan-African movement with Socialist ideals as a

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<sup>13</sup> That is, law being a term that simply describes a means of social organisation.

<sup>14</sup> G. Gilmore, 1038.

<sup>15</sup> See Encyclopaedia Britannica, available at: <https://www.britannica.com/topic/Pan-Africanism>.

<sup>16</sup> Note that the definition of Pan-Africanism is far reaching as it incorporates historical, cultural, spiritual, artistic, scientific, and philosophical elements that have arguably existed in various guises throughout the African experience of colonialism. These elements no doubt pre-date the existence of a formalised political movement.

<sup>17</sup> The body of thought and organisational activities associated with Marcus Mosiah Garvey of Jamaica. See The Electronic Encyclopaedia of Chicago, available at: <http://www.encyclopedia.chicagohistory.org/pages/502.html>.

<sup>18</sup> A cultural and political movement whose mainly African American adherents regard themselves and all other Blacks as syncretic Africans and believe that their worldview should positively reflect traditional African values. See Encyclopaedia Britannica, available at: <https://www.britannica.com/topic/Afrocentrism>.

<sup>19</sup> While the term 'Black' often connotes various socio-political meanings, in the present analysis it is used in its coarser sense, as a reference to those of African or Caribbean descent.

<sup>20</sup> In England, statistics show that ethnic minorities vote for Labour regardless of their social class, rather than because of it. It would therefore appear to be a partisan choice linked to their racial identities. See D. Sanders, S. Fisher, A. Heath, and M. Sobolewska, 'The Calculus of Ethnic Minority Voting in Britain', 62 *Political Studies* 2 (2013).

specific point in the movement's evolution. Commenting on the Fifth Pan-African congress in 1945, he reflects:

... it was quite distinct and different in tone, outlook and ideology from the four that had preceded it. While the four previous conferences were both promoted and supported mainly by middle-class intellectual and bourgeois Negro reformists, this Fifth Pan-African Congress was attended by workers, trade unionists, farmers, co-operative societies and by African ... students ... its ideology became African nationalism ... and it adopted Marxist Socialism as its philosophy.<sup>21</sup>

This suggests that after 26 years of congresses<sup>22</sup> and (arguably) 45 years into Pan-Africanism's existence as a distinct political movement, the Socialist philosophy was consciously selected as a tool to further the movement's goals. It is this fifth congress that appears to have set the trajectory for the Pan-African movement, with Nkrumah going on to identify the "three political components of liberation", namely: nationalism, Pan-Africanism and Socialism. In his view, these components are so closely connected that one cannot be achieved fully without the other. This viewpoint has been normalised within contemporary Black political thought to such an extent that large groups within the Black electorate (and, in the author's view, within Black thought leadership) operate under an overarching presumption that Socialism is the only means by which to achieve the goals of the Black community at large. Hence, the fifth congress installed a 'Basic Norm'<sup>23</sup> in the mainstream Pan-African movement that generations later has interacted with other, newer norms to the point that Socialist arguments and Pan-African arguments have been taken as being almost synonymous. In turn, other schools of thought in other parts of the political spectrum have been dismissed by Black social actors as being incongruous with their goals.<sup>24</sup> Tsomondo, however, makes a telling observation. He notes:

Basic to Nkrumah's thinking was the uncritical assumption [1] [that] a genuine Pan-Africanist is necessarily a nationalist [2] such a Pan-Africanist seeks radical social changes and [3] Pan-Africanism and imperialism are mutually exclusive.<sup>25</sup>

Central to the author's interest is assumption (3). In assuming that Pan-Africanism and imperialism are mutually exclusive, it does not appear to have been in Nkrumah's contemplation that Socialism (by his view, a "political component" inextricably linked to Pan-Africanism) could in itself operate as a vehicle for imperialism. Contemporary legal theory certainly locates Marxism and its derivatives as being rooted in the theory of

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<sup>21</sup> M. Tsomondo, 'From Pan-Africanism to Socialism: The Modernization of an African Liberation Ideology', 5 *A Journal of Opinion* 4 (1975), 39.

<sup>22</sup> The first having been in Paris, France in 1919.

<sup>23</sup> Otherwise known as a 'Grundnorm', which is Hans Kelsen's theory that there is in every legal system one non-positive law (see fn 11 on Positivism) that exists as a logical necessity rather than being created by a law-making organ. The Grundnorm authorises all fundamental constitutional laws. In other terms, this is a 'mother norm' from which other norms within the system are spawned and derive their validity. J. Raz, 'Kelsen's Theory of the Basic Norm', 19 *American Journal of Jurisprudence* 1, (1974), 6.

<sup>24</sup> The traditional lack of ethnic minority vote for the UK Conservative party stands as an example of this, having won 33% of the total ethnic minority vote in the 2015 UK elections, in comparison to Labour's 52%. Statistics from British Future are available at: <http://www.britishfuture.org/wp-content/uploads/2015/05/ethnicminorityvote2015.pdf>.

<sup>25</sup> M. Tsomondo, 39.

Enlightened Universalism<sup>26</sup> which ultimately is a globalising force intended to foster a global society based on transnational social bonds.<sup>27</sup> While some may welcome concepts of Enlightened Universalism as modernising or even liberating in nature, I note that many critics have branded such thinking as “a new kind of imperialism.”<sup>28</sup> A bold example of this viewpoint is evident in the responses of many social actors to the Human Rights infrastructure, the central mission of which is to foster transnational social bonds (making it Universalist in outlook). In commenting on the interaction of international Human Rights norms with local governance in South Africa, Hinz notes:

In training programmes of the Human Rights and Documentation Centre at the University of Namibia, we have always paid special attention to the perception of human rights by those who attended our programmes. Some of these perceptions we had to listen to were: human rights are western concepts; human rights interfere with the values of our culture ... Human rights are, so it has been said by a distinguished and well-respected traditional leader, monsters.<sup>29</sup>

It is clear in this example that there is a tension between Human Rights and the local laws of Human Rights recipients, with Human Rights (as a globalising force), being viewed as interfering with or seeking to otherwise displace local norms. In other terms, the recipients sighted this version of Enlightened Universalism as being imperialist in nature. Tsomondo, however, foresaw the possibility of imperialist discourses taking a more sophisticated approach than that of the Human Rights project. He anticipated that imperialism, rather than overtly interfering with or seeking to displace Pan-Africanism (in a similar manner to how Human Rights norms have sought to displace local norms), could potentially use Pan-Africanism as an instrument through which to achieve its own goals, he writes:

... [Nkrumah] therefore assumed ... that a genuine Pan-Africanist would necessarily be inclined towards those policies which strike at the root of imperialism and, by logical inference on his part, that Socialism was the only tool for the purpose. In all of Nkrumah's works on the subject, a Pan-Africanist and a Black Socialist were one and the same person. Nkrumah also seems to have adopted a static conception of imperialism as incapable of co-opting Pan-Africanism. It never even occurred to him that in as much as neo-colonialism calls for the independent state as its prerequisite, imperialism could, at some historical stage, find Pan-Africanism essential for its survival.<sup>30</sup>

As previously noted, Socialism, like Human Rights, shares an imperialist outlook in its search for a global society. Indeed, some commentators have gone so far as to note that many core Human Rights principles were in fact shaped by Socialist ideals, so a nexus between the two

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<sup>26</sup> Liberalism, too, could be viewed as such, but notably has not been subjected to the same criticisms as the likes of Human Rights, discussed below. See W. Menski, 13.

<sup>27</sup> W. Menski, 11.

<sup>28</sup> *ibid.*, 12. Note that this criticism is levelled at various manifestations of universalism, including the Human Rights discourse.

<sup>29</sup> M. Hinz, *Without Chiefs There Would be No Game; Customary Law and Nature Conservation* (London: Out of Africa Publishers 2003), 114.

<sup>30</sup> M. Tsomondo, 39.

should come as no surprise.<sup>31</sup> It is thus my argument that Nkrumah's conflation of the Pan-Africanist and Black Socialist as being 'one and the same' overlooked the fact that the phenomenon, 'Black Socialism', in and of itself, could constitute a co-option with imperialist aims. I posit that this oversight led to deficiencies in the Pan-African discourse's evolution. Keeping in mind the proposition that Marxist discourses have potential to operate as a new form imperialism, the very existence of a "Black Socialist"<sup>32</sup> that espouses Pan-African ideals is then a contradiction in terms which could damage Pan-African interests; the Pan-Africanist, through his or her advocating of Socialism, becomes a victim that furthers the interests of his or her imperialist aggressors. In this way then, Socialism, by being installed as one of the Pan-African movement's core political components, has acted as a regressive gene in the context of Pan-Africanism's growth.<sup>33</sup> To put this in other terms: a core *Basic Norm* of the movement is flawed and, over time, has spawned flawed secondary norms. I believe that a growing awareness among Black social actors of Socialism's potential to appropriate the Pan-African cause has systematically affected their behaviour and, in turn, has fortified what this analysis refers to as the *Right-Wing Wave*.

## **2. The Right-Wing Wave: a Shift in Unofficial Laws**

The present moment in world history is characterised by a trend of right-wing populism that has transcended continents. Manifestations of the *Right-Wing Wave* are visible in England (arguably, via Brexit), the US (note the election of protectionist Republican, Donald Trump), mainland Europe (note the growing popularity of Marine Le Pen in France and Norbert Hofer in Austria), as well as India (note what many view as Narendra Modi's brand of Hindutva or Hindu Nationalism).<sup>34</sup> Somehow simultaneously, the electorates of a variety of nations have all shown an affinity to their own culturally-specific models of Nationalism and, seemingly, state-centric Neo-Liberalism<sup>35</sup>. In terms of socio-legal theory, the *Right-Wing Wave* can be understood as a right-wing shift within the realm of Official Law, that is, a right-wing shift among the norms that are sanctioned by the state.<sup>36</sup> Alongside Masaji Chiba's concept of Official Law is the concept of Unofficial Law, which can be defined as norms as cultivated and sanctioned by the community.<sup>37</sup>

This Legal Dichotomy of the Official vs. the Unofficial<sup>38</sup> law often displays a tension<sup>39</sup> experienced by ethnic minorities in western nations, between norms that are brought by

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<sup>31</sup> M. Ishay, 'The Socialist Contributions to Human Rights, An Overlooked Legacy', 2 *International Journal of Human Rights* (2005), 1.

<sup>32</sup> Socialism being widely accepted as having been derived from Marxism.

<sup>33</sup> In Tsomondo's terms 'Pan-Africanism can be irreparably damaged by a fusion with socialism'. See M. Tsomondo, 39.

<sup>34</sup> See: [http://www.huffingtonpost.in/2017/04/14/subramanian-swamy-interview-if-you-peel-off-modis-exterior-it\\_a\\_22038027/](http://www.huffingtonpost.in/2017/04/14/subramanian-swamy-interview-if-you-peel-off-modis-exterior-it_a_22038027/)

<sup>35</sup> The modern form of Liberalism, as derived from Classical Liberalism, which emphasises the value of free market competition / laissez-faire economics. See Encyclopaedia Britannica, available at: <https://www.britannica.com/topic/neoliberalism>.

<sup>36</sup> Masaji Chiba quoted in Werner Menski 'Comparative Law in a Global Context: The Legal Systems of Asia and Africa' (Cambridge: CUP 2006), 124.

<sup>37</sup> Unofficial norms are sanctioned at a micro level by social actors while Official norms are sanctioned at a macro level by state infrastructure. See W. Menski, 124.

<sup>38</sup> Masaji Chiba quoted in W. Menski, 128.

immigrants from their countries of origin and norms received by immigrants from their second countries. Minorities are constantly vying for the recognition of their culturally specific practices and goals by the state. An example of this is the fact that the traditional Muslim *Nikah*<sup>40</sup> remains unrecognised by English law. This leads British Muslim couples to typically have two marriage ceremonies: an English civil ceremony (satisfying the Official Law), as well as a *Nikah* (satisfying the requirements of Islam, as an Unofficial Law). Note that among most Muslim communities, the *Nikah* is often of greater significance to the social actor than the Official Law of the legal ceremony. The couple in question is typically accepted as being married by the community after the *Nikah*, with civil registration being taken to be a formality. A second, more discreet example is the over-representation of Black men in U.K and U.S mental health institutions due to diagnosis of schizophrenia. Many suggest that rather than being indicative of a psychosis that happens to be common among Black males and lesser so among males of other races, the trend exemplifies a failure of the state to apprehend the transplanted norms of the Black male as the *other*.<sup>41</sup> Hence a wide cross-section of ethnic minorities are constantly engaged in a struggle for recognition of their rights and culturally-specific requirements by a state that often operates on the presumption that there is an “English norm” to assimilate into.<sup>42</sup> If one observes the status quo in global politics with this context in mind, the shift demanded by voters in the Official Law through their support of right wing policy is indicative of a corresponding shift in the Unofficial realm. In the present analysis, the role of ethnic minorities as social actors will serve as a tool for the examination of the nature of the right-wing shift in their Unofficial Laws. I note at this juncture that from hereon in in this analysis, the term “Socialist” or “Socialism” will be used to refer to Marxism, Socialism, Social Democracy and other stances across the “Leftist” political spectrum, for the sake of ease. The author is, however, acutely aware of the variances beneath this umbrella.

### **3. “Brexit” and the 2016 U.S presidential elections**

Socialism, with its advocating of communalism, is generally accepted as the natural counter-culture to Neo-Liberalism. Indeed, the central critics of the *Right-Wing Wave* tend to root themselves in Socialism in one guise or another. History indicates that it is characteristic of the Socialist movement to adopt the causes of other movements.<sup>43</sup> For example, campaigns

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<sup>39</sup> Masaji Chiba describes a “continuous struggle between the two.” See W. Menski, 127.

<sup>40</sup> A marriage through the performance of Muslim religious rites.

<sup>41</sup> See ‘The Inquiry into the Schizophrenia Label’ (ISL): <http://www.schizophreniainquiry.org/news/Black-and-mad>, Shankar Vedantam ‘Racial Disparities Found in Pinpointing Mental Illness’ (2005), <http://www.washingtonpost.com/wp-dyn/content/article/2005/06/27/AR2005062701496.html>; J. Metzl, ‘The Protest Psychosis: How Schizophrenia Became a Black Disease’ (New York: Beacon Press 2010).

<sup>42</sup> In other terms, the state operates a monist presumption which is in contravention of the apparent legal plurality.

<sup>43</sup> In contemporary society, some socialists have also adopted the causes of other social movements, such as environmentalism, feminism and Liberalism. See G. Sheldon, “Encyclopaedia of Political Thought: Facts on File” (London: Infobase Publishing 2001), 280. For example: the suggestion, inspired by Hilary Clinton, that supporters of the “Black Lives Matter” group should accept the ethos that “All Lives Matter” carries a clear risk of deracialising a slogan that was fundamentally desired to advance the discourse on race. Thus, in the Official sphere, a disillusionment with Socialism is visible in voting patterns.



for women's rights and the African-American Civil Rights movement (examples of "Host Causes", for the sake of this analysis) have both aligned themselves at one time or another with the Socialist revolutionary ethos.<sup>44</sup> The Host Cause, typically proposing the introduction or acceptance of some new norm being promoted by a group of others<sup>45</sup> (in these examples, the equal treatment of women or Black people by the state), allows the Socialist cause to attach to it, so as to enhance campaigns and create greater coverage for the *Host Cause*. Socio-legal thinkers argue that norms, as sociological phenomena, will always interact with other norms, rather than overriding or displacing one another. If this proposition is accepted, it becomes apparent that the Host and Socialism combinations that are created by these alignments with Socialism (*i.e.* Socialism + Feminism or Socialism + Civil Rights) will have the effect of altering the *Host Cause*. Feminism thus changes from a proposition akin to 'women are persecuted by men due to patriarchal norms' to 'the persecution of women is due to a monopoly of the means of production (by men)'. Equally, the Civil Rights proposition akin to 'Black people are persecuted by white people due to colonialist norms' changes to 'Black people are persecuted due to a monopoly of the means of production (by white people)'. At best, these new formulations manufacture the much lauded "solidarity" that Socialists advocate. That is, Feminists and Civil Rights activists can now collectively combat a common enemy (the owners of the means of production), who can usefully be personified as both male and white. At worst, however, such formulations can act to dilute the *Host Cause*. For example: the suggestion, inspired by Hilary Clinton, that supporters of the 'Black Lives Matter' group should accept the ethos that 'All Lives Matter.'<sup>46</sup> Alignment with Socialism can thus potentially dilute the *Host Cause* and blend it in with other campaigns. The minority group behind the *Host Cause* is led to surrender the exclusivity of its concerns in the name of a common goal. This dilution<sup>47</sup> leads to the *Host Cause* being appropriated and its original supporters becoming disenfranchised, as, put simply: their campaign no longer belongs to them.

With this in mind, the voting statistics relating to Brexit are notable, with 27% of Black people and 30% of Muslims, Chinese and Hindu people alike, all stating that they intended to support Brexit.<sup>48</sup> With the vote for Brexit being widely regarded by the media as a 'protest vote', I posit that the unexpectedly high amount of support for Brexit among ethnic minorities is a direct reflection of the disillusionment of those groups with the "Leftist" political movements that are more traditionally associated with their causes. This message is more tangible through the US example in that Donald Trump's success does not appear to be

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<sup>44</sup> One of the most overt examples of this being the Black Panther movement. See 'Marxism and the Fight for Black Freedom From the Civil War to Black Lives Matter', at <https://www.socialistalternative.org/marxism-fight-Black-freedom/introduction/>.

<sup>45</sup> The idea of Otherness is central to sociological analyses of how majority and minority social identities are constructed. See R. Kapuscinski, *The Other* (Krakow: Wydawnicto Znak 2006).

<sup>46</sup> Now a phrase used colloquially to counter the values of the Black Lives Matter pressure group and used (controversially) by Hillary Clinton during her 2016 electoral campaign. See <https://www.theguardian.com/commentisfree/2015/nov/23/all-lives-matter-racist-trump-weekend-campaign-rally-proved-it>; <http://www.npr.org/sections/itsallpolitics/2015/06/24/417112956/hillary-clintons-three-word-gaffe-all-lives-matter>.

<sup>47</sup> Or otherwise, homogenisation.

<sup>48</sup> See 'Voting Statistics', *The Independent*, at <http://www.independent.co.uk/news/uk/politics/eu-referendum-result-7-graphs-that-explain-how-brexit-won-eu-explained-a7101676.html>.

linked to an influx of new Black and Hispanic Republican supporters<sup>49</sup>. Rather, Hilary Clinton's loss of Black and Hispanic Democrat voters was of greater influence. Hispanic support for the Democrats decreased by 6% compared to last election and support for the Democrats among Black voters fell by 5%.<sup>50</sup> Hence in the US scenario, the trend among ethnic minority voters indicates a loss of faith in the mainstream Left, rather than an increase of faith in Neo-Liberal ideals. Such supports the proposition that ethnic minority engagement in the *Right-Wing Wave* is directly attributable to the systematic failings of Socialism. Thus, in the Official sphere, a disillusionment with Socialism is visible in voting patterns. In the Unofficial sphere, however, disillusionment is visible through other more discreet phenomena. While countries such as India have shown a bold trend of voting on the basis of faith-based nationalism,<sup>51</sup> the anecdotal evidence of Southall Black Sisters<sup>52</sup> suggests that, in the UK, the influence of faith has manifested itself through identity politics in a trend of "Inter-Faithism"<sup>53</sup>. For example, a Christian Black person may take a certain policy stance, be it right-wing, if they think it could better the Christian community and, in turn, establish the Christian community as more "rightful" within the eyes of the state, relative to other faith groups. Rather than identifying themselves as a member of the collective Black/ethnic minority community and voting in a way that furthers that collective interest, they opt to primarily identify and vote on the basis of their faith. I posit that in respect of the Black community, this pattern has been intensified by the involvement of Black community faith institutions in political campaigns<sup>54</sup> and the increasing need for faith institutions to assist in areas where the state has otherwise failed in Black communities (visible in the UK, for example, in the provision of accommodation to "non-recourse"<sup>55</sup> peoples by Christian groups<sup>56</sup>). It is thus clear that Black social actors who feel isolated from the mainstream political system and economy have turned to religious institutions for support in both realms.

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<sup>49</sup> Albeit that exit polls showed a marginal 2% increase in Black and Hispanic support alike for the party since the last election.

<sup>50</sup> See voting statistics as published by "The Telegraph" newspaper: <http://www.telegraph.co.uk/news/2016/11/09/hillary-clinton-failed-to-win-over-Black-hispanic-and-female-vot/>.

<sup>51</sup> Narendra Modi's ruling BJP party is typically associated with such. See: <https://www.britannica.com/topic/Bharatiya-Janata-Party#ref789897>.

<sup>52</sup> A prominent not-for-profit organisation and pressure group focussed on promoting the interests of Asian and African-Caribbean women in the UK.

<sup>53</sup> P. Patel, (Director of Southall Black Sisters), lecture: "Donald Trump, Brexit, and the Transatlantic Left", Housmans Radical Booksellers, London, 4 January 2017, described the trend of 'Inter-Faithism' in the South Asian community, an example was given of the phenomena operating as between Hindus and Sikhs.

<sup>54</sup> For example, Theresa May canvassed what is regarded as being "one of the largest Black-majority Pentecostal churches in the UK" during her 2017 election campaign: see

<http://Blackchristiannews.com/2017/05/prime-minister-theresa-may-challenges-Black-church-to-be-prepared-to-talk-about-the-christian-faith-so-people-can-see-that-freedom-exists/>; and <https://www.theguardian.com/us-news/2016/nov/09/far-right-first-to-congratulate-donald-trump-on-historic-upset>; while both Donald Trump and Hilary Clinton visited Black churches during their 2016 election campaigns, with some clergymen reportedly sidestepping the law to speak in support of the latter: see <https://www.theguardian.com/us-news/2016/sep/03/donald-trump-protest-Black-detroit-church>; and <https://www.theatlantic.com/politics/archive/2016/08/Black-pastors-pulpit-hillary-clinton/494876/>

<sup>55</sup> At UK law, those who are staying in the UK illegally have "no recourse" to public funds. This means that they are unable to claim most benefits, tax credits or housing assistance that are paid by the state.

<sup>56</sup> Examples of such accommodation providers are Mary House and the Catholic Worker Farm, who collaborate with charities/services that are active within low income communities (often with a large Black demographic) that tend to attract ethnic minority refugees.

This has catalysed the fragmentation of Black political activism and engagement in the *Right-Wing Wave*.

## **4. Conclusions**

### **4.1 The Pan-Africanist and the Liberal**

Black engagement in the *Right-Wing Wave* fundamentally begs the question as to whether Black activism should align with something other than Socialism. Socialism operates as one of many globalising agendas that are currently in operation in contemporary transnational politics and law making.<sup>57</sup> Central to its theoretical root and overall agenda are notions of Enlightened Universalism which ultimately seek to form a transnational (normative) consensus. It is this theoretical root that likens Socialism to the universalist aims of imperialism. Indeed, it is accepted that some Liberal discourses, too, may derive or adopt globalist notions from Enlightened Universalism. However, it is the author's proposition that if such is the case, it is unlikely that Liberal and Pan-African collaborations would lead to the appropriation of the latter (as Host Cause) by the former; this is because of the fundamental tenets of the Liberal agenda itself. With the notions of individualism and freedom of determination acting as Liberalism's Basic Norms<sup>58</sup>, it does not follow logically that, when collaborating, the agenda of one group would be dissolved in the name of a wider, collective purpose. Rather, it seems more likely that collaborating Host Causes would by default seek a manner of co-existence with the wider Liberal agenda that maintains the integrity of their individual goals. Hence, I posit that while aligning with Socialism may have worked well historically, perhaps the *Right-Wing Wave* is a sign that it is time to review and abandon that alignment in favour of the Liberal discourse. Indeed, Tsomondo reflects that, "[t]he lack of a specific economic ideology on the part of Pan-Africanism actually represents its inclination towards capitalism."<sup>59</sup> The alignment of Black activist groups with Liberal discourses that otherwise promote social freedoms alongside free market economics (*e.g.* 'Small State' agendas such as Classical Liberalism<sup>60</sup> or Libertarianism<sup>61</sup>), so as to outwardly acknowledge this inclination is ground that it may be time to break.

A core criticism of Liberalism from the perspective of ethnic minorities is that social inequalities are inevitable to the model. This criticism is thus based on a presumption that a state should guarantee the equality of outcomes. On this, Barry notes, "[e]qual outcomes can be secured only by departing from [the values of] equal opportunity so as to impose equal

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<sup>57</sup> W. Menski, 4-15.

<sup>58</sup> In reference to Kelsen's theory of a 'mother norm' from which other norms within the system are spawned and derive their validity. J. Raz, 'Kelsen's theory of the Basic Norm', 19 *American Journal of Jurisprudence* 1 (1974), 6.

<sup>59</sup> M. Tsomondo, 44.

<sup>60</sup> A branch of liberalism advocating private property, an unhampered market economy, the rule of law, constitutional guarantees of freedom of religion and of the press, and international peace based on free trade. See: <https://mises.org/library/what-classical-liberalism>.

<sup>61</sup> A political philosophy closely associated with classical liberalism where individual liberty is its primary political value. See: <https://www.britannica.com/topic/libertarianism-politics>.

success rates for all groups.”<sup>62</sup> The imposition of equal success rates is arguably a Socialist project while the notion of equal opportunity to compete with no guarantee of outcomes underlies the fundamental propositions of a Free Market.<sup>63</sup> It is worthy of note at this juncture that Pan-Africanism, the project of promoting interests specific to Africans and African diaspora, by definition, does not set out to achieve equal success rates for all groups. Indeed, quite the contrary: it promotes the self-determination and individualism of a single demographic. This in itself should challenge us to further reconsider Pan-Africanism’s relationship with the Liberal ethos.

#### 4.2 The Liberal agenda: from a Pan-African perspective

A Pan-Africanist agenda that rejects separatist arguments by default seeks a model of Multiculturalism<sup>64</sup> in one form or another. To the minds of some commentators, Liberalism and Multiculturalism are two notions that cannot be consolidated. Liberalism, with its advocating of equality of opportunity under “one law for all” is often charged with being an essentially assimilationist agenda.<sup>65</sup> In the view of its critics, an inevitable by-product of this agenda is discrimination against minorities, as those that fail to take on the norms of the single “one law” system are unable to succeed within the system as a result.<sup>66</sup> It is not untrue that minority groups succeed to different extents under a Liberal agenda, Barry explains:

The general theorem is that equality of opportunity plus cultural diversity is almost certain to bring about a different distribution of outcomes in different groups. Equal outcomes can be secured only by departing from equal opportunity so as to impose equal success rates for all groups ... [A] Liberal will have to say that this is the unavoidable implication of cultural diversity.<sup>67</sup>

It is the author’s position that while different cultures may obtain differing results under a Liberal model, the fact of this does not make the model assimilationist in nature. Under Liberal models, there is no coercive force being exerted upon minorities to drop their cultural distinctiveness. Rather, Barry indicates that disparities in success between cultures will come as a result of the choices of the social actors themselves, he notes that “inequalities [often flow] from choices rooted in culturally-based preferences”.<sup>68</sup> Thus, just as the value of non-discrimination is core to Liberalism,<sup>69</sup> so is the notion that people in a Liberal society are open to make use of opportunities available to them as they are to not make use of such opportunities.<sup>70</sup> That is, if it is of perceived advantage<sup>71</sup> for a group to adapt their norms to be

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<sup>62</sup> B. Barry, 8.

<sup>63</sup> Typically coupled with Liberalism, an unregulated system of economic exchange, in which centralised economic interventions by government either do not exist or are minimal. See <https://www.britannica.com/topic/free-market>.

<sup>64</sup> The idea that cultures, races, and ethnicities, particularly those of minority groups, deserve special acknowledgement of their differences within a dominant political culture. See Encyclopaedia Britannica, available at: <https://www.britannica.com/topic/multiculturalism>.

<sup>65</sup> B. Barry, 6.

<sup>66</sup> Indeed, a core criticism of Liberalism is that it ‘imposes a false universality that discriminates against minorities of all kinds’. See B. Barry, 3.

<sup>67</sup> B. Barry, 8.

<sup>68</sup> *ibid.*, 9.

<sup>69</sup> “It is undeniably important [to liberals] that the organs of the state should not behave in a discriminatory way” he also notes the “liberal crusade against unequal treatment” by such organs. See B. Barry, 4.

<sup>70</sup> *ibid.*, 7.

<sup>71</sup> And note that different cultures will have different perceptions as to what is and is not advantageous.

more complimentary to the norms of the system within which they operate, that fact does not make the system assimilationist or discriminatory in nature, so long as it also allows them the freedom to not adapt. The inevitable result of not adapting is the inequality of outcomes.<sup>72</sup> Note however, there is much thinking to support the idea that in contemporary societies ethnic minorities no longer face this simplistic “either/or” choice but rather, tend to opt for a process of “cultural navigation”<sup>73</sup>, through which they “manoeuvre their way to their own advantage both inside and outside the ethnic colony”.<sup>74</sup>

Of course, not all inequalities are due to the choices of the minority concerned. Inequalities can often be borne out of structural phenomena such as institutionalised racism and prejudice. It is the author’s proposition that this analysis’s treatment of the *Legal Dichotomies* should lead to the conclusion that a smaller state and consequently lower state involvement in the social sphere (as advocated by Liberal models) would naturally counteract such structural issues. By definition, a small state model means that the overall reach of *Official Law* is reduced; that is, fewer areas of life are to be observed and sanctioned by the state. In turn, this means that there is less of an ambit for the prejudices of relevant state organs to influence the lives of social actors. The proposition of a Liberal model therefore has progressive implications for the norms of ethnic minority social actors: because less is sanctioned by the state, there is less opportunity for minority norms to be side-lined by the state. Hence, under a Liberal model, *Unofficial Laws* could actively take greater prominence and the state in question could operate on the basis of acknowledged legal plurality.<sup>75</sup> Barry contemplates this, writing that:

There is nothing actually incoherent in a state’s delegating [of] powers to subunits and permitting them to act in ways that contravene its basic principles...[s]imilarly, a Liberal state could treat certain groups within it as in effect independent ‘nations’ whose autonomy included a waiver of (some) Liberal constitutional restraints.<sup>76</sup>

Thus the ‘one law’ envisioned by Liberal models can act to authorise the existence of various other laws/sub systems within its sphere and so cultivate “weak legal pluralism”.<sup>77</sup> By this thinking then, a Liberal model could establish a greater degree of “Salad Bowl”<sup>78</sup>

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<sup>72</sup> For example, Barry notes how people’s beliefs may make some job opportunities unattractive to them and that inequality is often necessary to ensure that the economy works efficiently. See B. Barry, 5,9.

<sup>73</sup> R. Ballard’s theory initially in reference to British born individuals of South Asian descent who were “trading between “English” and “Asian” norms.” Devadason argues that the same phenomena can be seen among other minorities. But note that not all ethnic minority communities are equally skilled at social transactions across ethnic boundaries, or for that matter, share the same willingness to participate in arenas outside their own ethnic group. See R. Devadason, “Cultural Navigation”. Negotiating Ethnic Minority Identities in Britain’s Graduate Labour Market’, EUROFOR Summer School 2000.

<sup>74</sup> *ibid.*, 2.

<sup>75</sup> The coexistence of different bodies of norms within the same social space, see W. Menski, 83.

<sup>76</sup> B. Barry, 10.

<sup>77</sup> A model wherein a state (implicitly) commands different bodies of law for different groups within a population; to be distinguished from ‘strong pluralism’ wherein many bodies of law exist but the state commands no uniformity, and unlike weak legal pluralism, there is no centralist presumption. See W. Menski, 115-116.

<sup>78</sup> The opposite of the assimilationist ‘melting pot’ pot model, wherein different cultures/legal orders co-exist for the improvement of social and material circumstances but retain their culturally-specific characteristics, see W. Menski, 58.

Multiculturalism with little (if any) pressure to assimilate being applied by the state concerned. Justin Trudeau has indicated the merits of this style of nation-building to some degree by discussing the desirability of Canada being “Post-National”.<sup>79</sup> Alongside the cultivation of “weak pluralism” through Liberal models’ reduction in the reach of the state, there also exists the potentiality of developing a model of “Neo-Liberal Multiculturalism”. Kymlica writes:

[T]he defining feature of neo-Liberal multiculturalism is the belief that ethnic identities and attachments can be assets to market actors and hence that they can legitimately be supported by the neo-Liberal state.<sup>80</sup>

Hence Neo-Liberal Multiculturalism is a model wherein distinct cultural goals are actively promoted by the free market. It is notable that this model of Multiculturalism is a relatively new one. In fact, Kymlica notes that in the early days of Multicultural policy<sup>81</sup>, Neo-Liberals were Multiculturalism’s strongest opposition. Put simply: the notion of the state actively promoting the interests of certain groups was initially seen as “unjustified intervention in the market.”<sup>82</sup> There has thus been a change among Neo-Liberal thinkers who have not only tolerated Multiculturalism, but have arguably now actively embraced it,<sup>83</sup> there now being (in Kymlica’s view) several different versions/models of Neo-Liberal Multiculturalism in operation.<sup>84</sup> Although there are several variants on the model, the evolution of Multiculturalism from its genesis to a contemporary Neo-Liberal model represents a single far reaching paradigm shift which can be characterised as thus:

The original aims of multiculturalism – to build fairer terms of democratic citizenship with nation-states- have been replaced with the logic of diversity as a competitive asset for cosmopolitan market actors, indifferent to issues of racial hierarchy and structural inequality.<sup>85</sup>

I posit that Pan-African theory follows a similar trajectory. Much like the original aims of Multiculturalism, the 5th Pan-African Congress’ adoption of Socialism as its mobilising tool was led by concerns over racial hierarchy and the overly prejudicial terms of democratic citizenship for Africans and African diaspora in the West; this congress having taken place in 1945, the twilight of the Jim Crow era. However, while racism and inequality still exist, notions of racial hierarchy are no longer accepted in mainstream society nor is there a formalised disparity in democratic citizenship as between Africans / African diaspora in the West and their white counterparts, in the manner that regimes such as the Jim Crow laws promulgated. It would seem then that Pan-Africanism’s adoption of Socialism as a core

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<sup>79</sup> See the current Canadian Prime Minister’s comments at: <https://www.theguardian.com/world/2017/jan/04/the-canada-experiment-is-this-the-worlds-first-postnational-country>.

<sup>80</sup> W. Kymlica, ‘Neoliberal Multiculturalism’, in P. Hall, M. Lamont, *Social Resilience in the Neo-Liberal Era* (Massachusetts: CUP 2016), 109.

<sup>81</sup> Kymlica notes that western democracies saw a move to a more multicultural approach to state-minority relations in the 1960s; there was a trend of policies aimed at increasing the recognition of minority rights. See W. Kymlica, 101.

<sup>82</sup> *ibid.*, 107.

<sup>83</sup> *ibid.*, 109.

<sup>84</sup> *ibid.*, 110.

<sup>85</sup> *ibid.*, 113.

component has successfully served its purpose in the West, where there is now, at least formally, solidarity and equality within the terms of democratic citizenship, a notable achievement of the American civil rights movement. Unlike the trajectory of modern Multiculturalism however, the conceptualisation of mainstream Pan-African theory is yet to be overhauled or replaced. That is, unlike models of Multiculturalism, Pan-Africanism has not yet displaced its focus on issues of racial hierarchy and the like in favour of a focus on market competitiveness. Speaking on the experience of Neo-Liberal Multiculturalism among indigenous peoples in New Zealand, Kymlica continues:

[I]ndigenous people are capable of taking advantage of neo-Liberal reforms to enhance their status as market actors and to use their enhanced status as market actors to further their ethnic projects of indigenous self-determination.<sup>86</sup>

Such experimentation with Neo-Liberal reforms is yet to be emulated by the Pan-African discourse. While it has been visible in the in the case of groups such as the indigenous Kiwis, as noted above, mainstream Pan-African thought leadership is yet to seek to “govern...in accordance with the logic of globalized capitalism”<sup>87</sup>, and surf the rising wave of Neo-Liberal reforms in order to enhance the status of Pan-Africanism’s beneficiaries as market actors. As such, with the *Right-Wing Wave* representing an active rejection of the Socialist presumptions which currently underlie Pan-African theory, a review of the foundations and strategies of Pan-Africanism with openness to Liberal models of mobilisation would be most timely.

#### 4.3 Reflections on Brexit and the 2016 U.S presidential elections

The role played by Black voters in Brexit and the election of Donald Trump as president of the US is symptomatic of divisions within Black political activism that have been caused by the resounding disillusionment of parts of the Black electorate with Socialism and its habit of treating all *Others* the same. These divisions have led to the diminution of a collective Pan-African political identity. In discarding Socialism, Black social actors have polarised based on faith. This has been compounded by the involvement of faith institutions in mainstream politics, as well as the centrality of these institutions in providing services where the state has failed to do so. It is thus tempting to suggest that if the trend of faith-based polarisation (or rather, *Inter-Faithism*) were tackled directly, such could act to remedy the negative effects that the phenomena has had on collective Black activism. By this thinking, the hopes of Black activism rest on a project of either mass-secularisation or the mass-homogenisation of religious beliefs within the Black community. This, at worst, is unrealistic and at best, is a controversial moot point.<sup>88</sup>

Some may argue that an alternative to driving secular engagement of the Black community is the establishment of a form of solidarity that can be guaranteed as being exclusive to Black people. The reasoning for this would be that the ethos of solidarity would act to counteract fragmentation and the assurance of exclusivity would guard against the dilution of the Black agenda, as has been the case with Socialist Pan-African models. This, however, could lead to

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<sup>86</sup> *ibid.*, 117.

<sup>87</sup> *ibid.*, 113.

<sup>88</sup> See “Is Religion for African People? Black people should reject religion and adopt African Spirituality”, a debate hosted by the Centre of Pan African thought, Swedenborg Hall, London, 17 November 2016.

consequences that verge on a Black separatist or Black supremacy discourse. It is the view of the author, for reasons that are beyond the ambit of this piece, that supremacist theories are simplistic to the point of being practically inoperable and are – moreover – undesirable in contemporary societies.<sup>89</sup>

In any event, if either of these remedies were to be applied, it is the author's view that, at their most effective, they would only paper over the figurative cracks. The *Right-Wing Wave* exemplifies a critical deficiency at the very core of Pan-African theory in its current state: its omnipresent and unchallenged Socialist guiding norms. The *Right-Wing Wave* stands as the demand of Black social actors that this central force be overhauled and that the Pan-African discourse be re-invigorated in order to engage with and answer to the demands of modern capitalism.

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<sup>89</sup> Modern manifestations of such (for example, some of Dr Umar Johnson's arguments) are divisive and, in the author's belief, unproductive.