Pathways to African Unification: The Four Riders of the Storm

ABSTRACT

Research on African unification has not yet explained why there was the belief in the possibility of post-colonial African states coalescing swiftly into a federal or strong, functioning, supranational, entity. This paper fills that gap in the literature; it explores the various paths towards African unification and why some paths failed because those states pressing for unification misconstrued the history of the successful models that they insisted Africa could follow. The consequence of this misunderstanding of history was that the assumption that a near frictionless and workable legal edifice for African unification could be easily created. The paper has a twofold purpose: first it draws attention to the importance of the intersection between history and law in construing and explaining the law as it relates to African unification. This is an intersection that has largely been ignored by scholars. Second the paper adds to the literature that asserts African unification enthusiasts should reconsider mimicking other models in the expectation that this will help propel their goal of a united Africa. The paper examines the routes to African unification: the role of socio-cultural interactions of Africans as propounded by Edward Blyden, the romantic speedy path as espoused by more radical forces by which elites should muster the political will to bring a united Africa into existence, the role of force in creating a supranational Africa out of its independent states, and the role of market integration as an essential ingredient for any form of deeper and stronger relations among African states.

PART I

Introduction

Edward Blyden of Liberia, the father of pan-Africanism, laid the groundwork for African unification starting in the 19th century.[1] From Blyden's work has emerged a torrent of writings and activity towards a united African entity governed by an executive arm, legislated for by an African parliament and whose disputes are resolved by an African apex court.[2] African unification is supposed to be a way forward for the continent to escape from its persistent underdevelopment[3] and the idea of a united Africa intensified in the 1960s as Europe's possessions in Africa gained independence. The practical possibility of a single African state drew on the existence of the United States (US) and the now erstwhile Union of Soviet Socialist Republics (USSR).

However, assuming a single African state identical to the US or the USSR did not emerge, the second best for African unification was an organisation similar to the European Union (EU) – a supranational body to which the members have surrendered a considerable degree of their sovereignty. The popularity of the EU model in Africa endures, notwithstanding the United Kingdom's recent withdrawal, and the model is found in the multiple economic integration treaties that copy the EU treaty system. For instance the Economic Community of West African States (ECOWAS) reconfigured its treaty in 1993 on the EU model thus marking a shift away from its

---

[1] Hollis R. Lynch, "Edward W. Blyden: Pioneer West African Nationalist", 6 (3) *Journal of African History* (1965), pp.373-388, p.374.
[2] Kwame Nkrumah, *Africa Must Unite* (1963), Heinemann: London, p.148. .
[3] Ibid chapter 17.

comparatively weaker 1975 Treaty.[4] The Revised ECOWAS Treaty commits its members to a supranational legal order under which, as the Treaty states, that the decisions of the ECOWAS Authority of Heads of State and Government, the highest decision-making body, shall be binding on the Member States and institutions.[5] The ECOWAS Council of Ministers also has supranational authority conferred upon it[6] and so too has the ECOWAS Community Court of Justice been assigned supranational powers.[7] This admiration[8] helps explain Africa being dotted with sub-regional treaties that have provisions for a single currency, regional courts of justice, regional Parliaments etc.[9] To date however, none of these has had a major impact yet the hope persists that Africa will make its major unification breakthrough.

Scholars, national leaders and pan-Africanist groups have proposed various paths to the goal of a US/USSR-style federal system or an EU-style supranational organization that could evolve into a

---

[4] ECOWAS Revised Treaty (1993). The explanation for this is found in the ECOWAS *Committee of Eminent Persons Report*: Review of the ECOWAS Treaty (1992) Lagos: Nigeria, pp.17-19; and Kofi Oteng Kufuor, *The Institutional Transformation of the Economic Community of West African States* (2006) Ashgate: London.

[5] Revised ECOWAS Treaty, supra, article 9 (4). Decisions of the Authority shall automatically enter into force sixty (60) days after their publication in the ECOWAS Official Gazette Ibid. para (6).

[6] Ibid., article12 (3).
[7] Ibid., article 15 (4).
[8] The example of the Member States of the European Communities in ceding part of their national sovereignty to Community institutions is itself a strong argument in favour of supranationality as an indispensable instrument for a successful integration process. If the individual Member States of the European Communities, with virtually self-sustaining economies find it necessary and desirable to integrate those economics, through supranational arrangements, then states with fragile and fragmented economies such as those of ECOWAS have even greater cause for adopting similar instruments. ECOWAS Committee of Eminent Persons, *Review of the ECOWAS Treaty*, supra, p.17, para 47.

[9] Janet Sylvia Mitamita, *Compliance and Rebellion: An Assessment of the EACJ Supranational Authority (2005–2018)* A Thesis Submitted to the School of Humanities and Social Sciences at the United States International University – Africa (2009) in Partial Fulfillment of the Requirement for the Award of Degree of Master of Arts in International Relations, United States International University-Africa; Tomasz P. Milej, What is Wrong About Supranational Laws", The Sources of East African Community Law in the Light of the EU's Experience", 75 ZaöRV (2015), pp.597-617; and Michael P. Okom, "Sovereignty Versus Supranationalism The ECOWAS Conundrum", 12 (23) *European Scientific Journal* (2016), pp.289-297.

neo-federal body[10] for Africa and although the initial hope for African unification is yet to come to fruition to fruition, its proponents persist with plans for the realisation of their goals. This aim has found its way into the African Union (AU) plan for integration when it adopted the 2007 Accra Declaration on the Union Government of Africa.[11] In this Declaration the AU agreed to accelerate Africa's economic and political integration with the ultimate goal being creating the United States of Africa.[12]

This paper tries to fill a gap in the literature on African unification. It seems that the eager protagonists for unification, in their vision of radically new international law and organisation for Africa never fully critically examined the interplay between law and history behind the formation of their inspirational models, the US, USSR and EU. The normal refrain by the forces keen on securing a surrender of sovereignty saw the problem from the standpoint of the lack of political will by post-colonial rulers in Africa. Issa Shivji has noted that the lack of political will is the problem preventing post-colonial East African integration from replicating the deep integration of the pre-colonial era.[13] Thom-Otuya sees the lack of political will to integrate the continent and achieve the unity goals of radical pan-Africanists as the barrier to overcoming a number of

---

[10] David J. Francis, *Uniting Africa: Building Regional Peace and Security Systems* (2006) Ashgate: Aldershot. George. B. N. Ayittey, "The United States of Africa: A Revisit", 632 (1) Annals of the American Academy of Political and Social Science (2010), pp.86-102; Gudeta, Selamawit Tadesse, *Political Unification before Economic Integration: a Critical Analysis of Kwame Nkrumah's Arguments on the United States of Africa* (2018), submitted in accordance with the requirements for the degree of Master of Arts in the subject International Politics at the University of South Africa. A neo-federal system would seem to be one that envisages incremental steps towards federalism. Francesca Vasallo, "A European Federalism from Altiero Spinelli to the EU Constitutional Treaty", *The Ashgate Research Companion to Federalism* (2009) Ann Ward and Lee Ward (eds.) pp.351-366, pp.354-355, Ashgate: Surrey.

[11] Accra Declaration on the Union Government of Africa Accra, Ghana, (03 July 2007) Assembly/AU/Decl.2(IX) available at https://archives.au.int/bitstream/handle/123456789/249/Assembly%20AU%20Decl%202%20%28IX%29%20_E.PDF?sequence=1&isAllowed=y (last visited 5 April 2021).

[12] Ibid., Article 1.

[13] Issa G. Shivji, "Pan-Africanism or imperialism? Unity and Struggle Towards a New Democratic Africa", 10 (1) *African Sociological Review/Revue Africaine de Sociologie* (2006), pp.208-220, p.214.

problems blocking the creation if a single Africa state[14] and Olympio has also interrogated this argument and noted that it is flawed but is still embraced by those enthusiastic about African unification.[15] Thus muster political will and the process of unification will proceed rather easily and a united Africa will spring forth from the ruins of the states that would have shredded their sovereignty. The paper questions the persistent assumption that creating a federal or neo-federal Africa is not problematic based on the seeming ease of the formation of the US, USSR and EU; rather, as we argue, the path to African unification is much more complex than is assumed and does not rise and fall on the repeated one-dimensional arguments that doing away with barriers to unification depends on the supposedly easy task of African elites mustering the needed political will.[16]

I argue that that bringing African states together is more likely to be found in market integration, coupled with the arguments of Edward Blyden for cultural cooperation. This exposes the position of the radicals as rather narrow in their understanding of measures by their exemplars towards federal/neo-federal structures. The paper thus unfolds as follows: Part II examines the early efforts at the unification of West Africa as a building block for overall African unification. Part II sheds light on the gradual path proposed by Edward Blyden. Part II also shows how this gradual path did

---

[14] Blessing E.N.Thom-Otuya, "Strengthening African Union for African Integration: An African Scholars Perspective", 8 (2) *African Research Review* (2014), pp.353-365, p.359.

[15] Francisco K.N. Olympio, *Transformation of the Organisation of African Unity (OAU): A New Vision for the 21st Century, or Political Rhetoric*? (2004) A Dissertation submitted to the Department of Political Science, Universität Trier, in partial fulfilment of the Requirements for the award of Doctor of Philosophy (PhD) pp.250-251.

[16] Joseph Rwagatare, *Lack of Political Will and Hypocrisy are Holding Africa Back: they are the same*, The New Times (November 26, 2018), available at https://www.newtimes.co.rw/opinions/lack-political-will-and-hypocrisy-are-same-they-hold-africa-back (last visited 18 March 2021).

not place too much emphasis on formal mechanisms to achieve unity; rather informal, non-state processes were to drive Blyden's goals.

Part III looks at the shift from Blyden's gradualism to demands for a speedier unification. Part III asserts that proponents of deeper and swifter unification made fundamental errors in construing the creation of the US as an example of an ostensibly seamless unification. The creation of the US was driven by an economic class that desired a strong central government to provide its members with post-independence economic relief. An economic class with this objective did not exist in Africa after independence; rather African commercial and business interests wanted to keep their local markets captive and therefore saw no need for sweeping away state sovereignty and thus creating opportunities for an influx of economic rivals with equal rights to commercial opportunities.

In addition, Part III makes the point that US unification was shaped by citizen activism – decision-makers were under pressure through the "instructions" issued by citizens in the respective colonies who were enthusiastic about uniting the US. Through instructions citizens applied pressure to their delegates at unification conventions to commit to the creation of the US; such pressure never existed in Africa as post-colonial African states hardly responded to pressure from domestic interests, especially in the realm of international affairs. Coupled with the absence of economic unification interests, the assumption that the US process could be easily copied in Africa was a mistaken one.

Part IV examines unification without law. It claims that the evidence suggests independent states merge in the wake of major external military threats to them or, there is the actual use of force where one state annexes another thus destroying the annexed state's sovereignty. Drawing on and comparing instances of unification in Europe and Africa, Part IV argues that Africa faced no direct external military threat that demanded a response in the form of continental unification with an attendant military force. The import of this assertion lies in the fact that the only durable instance of post-colonial unification of two independent African states is when Tanganyika and Zanzibar came together in the wake of the violent Zanzibar Revolution and the overthrow of the Zanzibar government at the time, to form Tanzania. As at writing it remains intact with no military action to rupture the country into its pre-union parts.[17]

Other mergers after decolonisation in Africa have collapsed. Somalia was the unification of Italian Somalia and British Somalia. Unification was agreed before independence and the merger took place five days after Italian Somalia got its independence and one day after British Somalia gained independence[18] Given the exceedingly brief existence of the two separate entities it is rather implausible to assert that this was the union of two independent states that had subsisted freely

---

[17] However, Zanzibari secessionists want to break up the union and have tried to use the East African Court of Justice to achieve this aim. In *Rashid Salim Adiy & 39,999 Others v The Attorney General of the Revolutionary Government of Zanzibar & 2 Others* (reference No.9 of 2016) the pleadings were, inter alia, that the purported unification of the Republic of Tanganyika and the Peoples Republic of Zanzibar to form the United Republic of Tanzania is a nullity; available at https://www.eacj.org/?cases=rashid-salim-adiy-39999-others-v-the-attorney-general-of-the-revolutionary-government-of-zanzibar-2-others (last visited 12 March 2022),

[18] British Somaliland and Italian Somaliland, when they were still colonies agreed to merge upon the grant of independence in 1960. Italian Somaliland had been granted independence on 26th June 1960 after British Somaliland had been granted independence on 30th June 1960. Unification was given effect on 1st July 1960. However, the unity between the two territories was rooted on weak foundations as there were major differences between the two parts of the new country. It did seem that British Somaliland in the North was dominated by Italian Somaliland in the South: Redie Bereketeab, *Self-Determination and Secessionism in Somaliland and South Sudan Challenges to Postcolonial State-building* (2012), Nordiska Afrika Institutet Discussion Paper 75, Uppsala, p.5.

until a decision was taken to shed their sovereignty and create a new country. Neither colony had been independent long enough for an elite to consolidate its hold on their respective countries and begin to reap the dividends that spring from state power.

States provide opportunities for rent-seeking. Rent is an economic reward which is obtained by the power to extract the same through the investment of time and resources. Special interests invest time and resources lobbying governments for monopoly protection or subsidies through the political mechanism.[19] Potential dividends are lost if a domestic elite surrenders its power and control, tools that bring it profitable returns. It is this interpretation of law that has led scholars to argue that the creation of a state is a rent-seeking enterprise.[20] On the contrary another interpretation of the merger of Somalia suggests that this new state was really a colonial grab by Italian Somalia as with unification, Italian Somalia immediately dominated the new state's apparatus. [21] The plausibility of this is reinforced by the German Democratic Republic's (GDR) reunification with West Germany. This is construed as practically a colonial enterprise, with West

---

[19] The seminal paper on this is Gordon Tullock, "The Welfare Costs of Tariffs, Monopolies and Theft", 5 (3) *Western Economic Journal* (1967), pp.224-232.

[20] Mancur Olson jr., "Dictatorship, Democracy, and Development," 87 (3) *American Political Science Review* (1993), pp.567-576; and Oliver Volckart, "The Open Constitution and its Enemies: Competition, Rent seeking, and the Rise of the Modern State", 42 (1) *Journal of Economic Behavior & Organization* (2000), pp.1-17.

[21] There was southern domination in the government formed upon unification: there was a southern Constitution, a southern capital, a southern flag, a southern President a southern Prime Minister, a southern police commander, and a southern military commander. The ministerial portfolios of Finance, Foreign Affairs, the Interior to name but a few were allocated to southerners. So too was a southerner appointed to head the national bank. The only major portfolio that was allocated to a northerner was the Defence portfolio. The number of parliamentarians in the National Assembly was disproportionately in favour of the south with it getting was two-thirds of the parliamentarians ((99 seats) and a third (33 seats) from the north. Hussein Mohammed Nur, *The Rebirth of Somaliland 2: The Process of the Union and Act of Union* (2018), available at https://saxafimedia.com/the-rebirth-of-somaliland-2-the-process-of-the-union-and-the-act-of-union/ last visited 22 April 2022.

Germany imposing its economic and financial order on the GDR.[22] Nonetheless, Somalia has broken up with a new *de facto* state Somaliland being born in 1991.[23]

Another union, the Mali Federation that brought Senegal together with French Soudan, also collapsed within a year of its creation.[24] On the other hand, the role of force in creating unions out of independent entities is found in the 19th century merger of independent Maryland with independent Liberia and the formation of the Fanti Confederation. Part V concludes; it states that Africa should focus on markets and the law as paths towards unification. It posits further that the early model proposed by Blyden sits well with markets as central to a slow yet much more realistic path for African unification.

---

[22] The economic order of West Germany was transferred to the GDR and thus terminating GDR's economic and monetary sovereignty. Irwin L. Collier jr. and Horst Siebert, "'The Economic Integration of Post-Wall Germany", 81 (2) *American Economic Review* (1991), Papers and Proceedings of the Hundred and Third Annual Meeting of the American Economic Association, pp.196-201.

 For the merger of the 2 states the parties agreed the following as part of the treaty arrangements:

(1) The Contracting Parties shall establish a Monetary, Economic and Social Union.

(2) Starting on 1 July 1990 the Contracting Parties shall ......constitute a Monetary Union comprising a unified currency area and with the Deutsche Mark as the common currency. The Deutsche Bundesbank shall be the central bank in this currency area. The liabilities and claims expressed in Mark of the German Democratic Republic shall be converted into Deutsche Mark in accordance with this Treaty.

Treaty establishing a Monetary, Economic and Social Union (Bonn, 18 May 1990) available at https://www.cvce.eu/en/obj/treaty_establishing_a_monetary_economic_and_social_union_bonn_18_may_1990-en-9847e49d-43c7-4c0e-b625-ff732673a06e.html (last visited 6 August 2022)

[23] On 18 May 1991, the various Somaliland communities met at a Grand Conference and decided to re-assert Somaliland's sovereignty and independence based on its brief existence as a state in 1960. The Union with Somalia was revoked and the territory of the State of Somaliland (based on the borders of the former British Somaliland Protectorate) became the Republic of Somaliland.
[24] J. Peter Pham, "Somalia: Where a State Isn't a State", 35 (2) *Fletcher Forum of World Affairs* (2011), pp.133-151; and Katharina Wurzer, "The Mali-Federation: A Pan-African Endeavour? Reflections on Pan-Africanism and Nationalism in Times of Decolonization", 20 (38) *Vienna Journal of African Studies* (2020), pp.55-72.

Our claim in this paper is that the command model of law for the design of a legal complex for African governance is flawed. The concepts of the command model stems from Austin's approach to legal positivism. In the positivist understanding of law the command of a sovereign exacts compliance with the law.[25] The commands are supported by the sovereign's ability to impose sanctions should there be non-compliance with the law. The command model of law, particularly in international law, is problematic for the following 2 reasons: first are there is no international sovereign; in some instances a hegemonic power can lead in the creation of an international or regional order but in Africa there is very little evidence of such a hegemonic power that could act as a sort of sovereign and insist, in this regard, that African unification take place lest the laggard states be denied the benefits of trade, the protection of the hegemon, or face sanction by the hegemonic power.[26] Thus in their zeal for African governance it does seem that the significance of a hegemonic power to provide strong leadership has been ignored as irrelevant.

A second flaw of the command model in the African context lies in the difficulty of effectively transplanting the EU model, into Africa. Legal transplants are not without their difficulties and complexities. The command model of African governance assumes the simple and easy transferability of one legal system to another while ignoring the forces that produced the model it

---

[25] John Austin, *The Province of Jurisprudence Determined*, (1832, 1995), Wilfrid E. Rumble (ed.), Cambridge University Press: Cambridge.

[26] Enforcing international law depends on the presence of a hegemonic power. This is the assertion developed by the likes of Charles Kindleberger, Stephen Krasner and Robert Gilpin. The hegemon bends states to its will because it provides so-called global public goods of such as peace, trade, and finance. The hegemonic power has an interest in providing these global public goods as they allow it to continue dominating the international arena. Through its economic and political might, the problems bedeviling beneficial collective action, and the problem of investing in creating norms while others wait and free ride on other states' efforts and investment is resolved since the hegemonic power leads on this aspect of cooperation. This conception has been applied on the role of hegemonic powers at the regional level. Miriam Prys, *Developing a Contextually Relevant Concept of Regional Hegemony: The Case of South Africa, Zimbabwe and "Quiet Diplomacy* (2008) German Institute of Global and Area Studies Working Paper 77/2008, Hamburg.

seeks to emulate.[27] For a legal transplant to be successful requires a fit with the context within which the transplant is made. A society's laws reflect and express its history and its cultural values. Savigny, the pioneer of historical jurisprudence posits that law emerges from the bottom-up in a society or country. It reflects a nation's custom and usage. This is what ends up being codified as legislation. The custom that becomes law reflects the character of the people. Thus, law is linked to the ways of the people the law purports to govern. It is in the common consciousness of the people that the positive law resides, and it proceeds from that general spirit which animates all the members of a nation.[28]

 Nonetheless, after being rejected in the 1960s, this model of unification has returned to capture the imagination of states including those that were hitherto wary of a strong and integrated continental political unit. However, we rely on history to show that radical African unification that copies other models confronts a far more complex process than was assumed in the early debates and advocacy.

Parsing the history of the attempts to create a united Africa reveals gaps in the literature on the subject. The current place of history in understanding the failure to unify the continent seems to be limited to the role of colonial empires in dividing Africa and thus complicating measures toward African unity. Furthermore, those interested in unifying the continent have pointed to successful instances of unification of independent states without fully appreciating the history of these

---

[27] I make this argument in Kofi Oteng Kufuor, *African Unification: Law, Problems and Prospects* (2016), Carolina Academic Press: Durham, especially chapters 3 and 4

[28] Friedrich Carl von Savigny, *Of The Vocation of Our Age for Legislation and Jurisprudence* (1831, 2010), translated from German by Abraham Hayward) Littlewood and Co: London, reprinted by The Lawbook Exchange Ltd: Clark, New Jersey.

processes. They have assumed them to be successful models of unification to be copied by Africa. This is a limited interpretation of their history and this limitation has created a gap in the literature on African unification.

PART II

Edward Blyden and his roadmap to a single African State

As noted above, Edward Blyden is the pioneer of African unification as he set the agenda in the 19th century for the gradual formation of a united Africa. Blyden argued for the merger of Liberia and an independent Sierra Leone as the nucleus of a West African state. Blyden began to press his ideas of unification in the 1870s. His claim was that the border between Liberia and Sierra Leone was artificial – separating people who had a common origin and destiny. This was a reflection of his position on unification; cultural similarities across West Africa are the path towards placing unification on a firm footing. He claimed that the European influence and rule in West Africa would end[29] and with this development a unification process between an already independent Liberia and a now independent Sierra Leone would begin.[30]

---

[29] See Lynch, "Edward W. Blyden: Pioneer West African Nationalist", supra, p.374. Blyden was happy to have the British presence in West Africa from a strategic viewpoint. Benevolent British rule could foster cooperation among, African chiefs and monarchs and out of this new dispensation would emerge a West African state. Hollis R. Lynch, *Edward W. Blyden, 1832-1912, and Pan-Negro Nationalism (1964)* PhD thesis submitted to the School of Oriental and African Studies, University of London, p.311.

[30] See Lynch, "Edward W. Blyden: Pioneer West African Nationalist", supra p.379. Blyden suggested that the unification of Liberia and Sierra Leone was a logical conclusion of the origins of their peoples and their destinies. Edward W. Blyden, *Christianity, Islam and the Negro Race* (1887), W.B Whittingham & Co: London, p.231.

This process, for Blyden, was to be driven by social forces in the region such as congregants at churches and mosques, and university graduates as his hoped for West African university was established.[31] These actors and the cohesion they would unleash as they interacted with each other across borders would lead to a sense of oneness spreading across the region and thus creating one large Anglicized West Africa as Britain's other possessions were drawn into the matrix of post-colonial unification. This union would be a joined by Francophone West Africa and thus creating a united West Africa. Blyden's goal was a united Africa that would spring out of West African unification.[32] Blyden's social dimension to unification is expressed in his concept of the African Personality that he espoused in the 1890s,[33] his insistence that a unified Africa will bestow dignity on its people, and the fact that he seemed to privilege cultural interactions over markets as drivers of unification.[34] Blyden's path to unification was influenced by his observation of 19th century nationalist currents in Europe. For instance, appeals to nationalism had played a role in German unification as German speaking states in Europe coalesced into a single political entity in 1871.[35]

Blyden did not completely disregard the role of a small group of elites leading African unification but he appeared to place far more stress on mass voluntary action as the best way forward and thus

---

[31] See Lynch, "Edward W. Blyden: Pioneer West African Nationalist", supra, p.382.

[32] Ibid., p.374, p.379 and pp.380-88.

[33] James L. Conyers jr., "Edward Wilmot Blyden and the African Personality: a Discourse on African Cultural Identity", in *Racial Structure and Radical Politics in the African Diaspora* (2009), James L. Conyers jr., (ed.) Routledge: Abingdon, pp.143-169.

[34] While he did not reject market activity completely, Blyden had a socialistic concept of unification based on his assertion that the African Personality was reflected in the African tendency to cooperate with one another. Jabez Ayodele Langley, *West African Aspects of the Pan-African Movements 1900-1945*, Thesis submitted for the Degree of Doctor of Philosophy (1968), University of Edinburgh , pp.393-394.

[35] One of the leading exponents of this cultural renaissance in the German speaking states was Johann Gottlieb Fichte. In propagating this position Fichte stressed that "The first, original, and truly natural boundaries of states are beyond doubt their internal boundaries. Those who speak the same language are joined to each other by a multitude of invisible bonds by nature herself, long before any human art begins…….; they belong together and are by nature one and an inseparable whole…." Johann Gottlieb Fichte: To the German Nation, (1806) available at https://sourcebooks.fordham.edu/mod/1806fichte.asp (last visited 5 April 2020)

for Blyden, elite power and influence was to be at the tail end of the unification process. Arguably therefore, Blyden's focus on social interaction across West Africa suggests he was drawing on social contract theory. The crux of social contract theory is that legitimate political power springs from agreements among individuals. Individuals are presumed to be instrumentally rational and therefore they appreciate how the fulfillment of their wants can be facilitated by cooperative social interaction. This is at the heart of Thomas Hobbes's theory of social and political order.[36] While life in Africa might not have been completely "solitary, poor, nasty, brutish and short", and while there is nothing to suggest that Blyden wanted the kind of absolutist ruler that Hobbes averred was necessary for peace and well-being, Blyden's view was that there were benefits in Africans contracting among themselves to produce some sort of regional, and then continental government and thus shed the bonds of their respective states.

In this vein however, we should note that Blyden did not draft a detailed plan, treaty or other instrument to provide a legal framework for his West African state (and later all of Africa). He therefore did not produce anything similar to the Grand Design of 1600s Europe that the Duke of Sully proposed for a confederation of states in Europe,[37] or a plan similar to the European

---

[36] Hobbes work was geared towards the political stability of states. They should avoid civil strife that could lead to the kind of collapse that plagued England during its civil war, 1642-1651. For Hobbes, no matter how oppressive civil government, it should not be subject to the kind of upheaval that will lead to civil strife and political disintegration. In this vein subjects should not dispute the ruler's sovereign power. Political stability depends on citizens acknowledging and accepting the power of the ruler. Thomas Hobbes, *Leviathan* (1651, 2014), Wordsworth edition, Hertfordshire.

[37] In the Grand Design, Sully proposed a confederation of Christian Europe to promote peace and check the power of the Spanish crown. Therefore in this plan Sully proposed the division of Europe equally among 15 powers in such a manner to secure a balance of power on the continent. As part of his arrangements he advocated for a council of Europe, a common army and a European court. David Ogg, *Sully's Grand Design of Henry IV from the Memoirs of Maximillien de Bethune duc de Sully* (1921), Sweet and Maxwell: London.

governance proposals put forward by the Quaker William Penn, also in the 1600s.[38] A likely explanation for this gap in Blyden's approach is the fact that a draft treaty, no matter how nebulous at its embryonic stage would have to assign roles to organs and individuals.[39] It would probably have to therefore take away from the critical mass the power to propel unification from the bottom-up and render the project an elite-driven one; this would contradict Blyden's conviction that non-state actors should be the primary movers for his unification agenda.

By the early 20th century a small group of actors began to develop further Blyden's concept of unity. For example, delegates to the Pan-African Congress adopted the London Manifesto which proclaimed, *inter alia*, that: The world must face two eventualities; either the complete assimilation of Africa with two or three of the great world states. . . or the rise of a great black African State….. a part of a great society of peoples in which it takes its place with others as co-rulers of the world. [40] Among this group was the Gold Coaster Joseph Casely Hayford[41] who was instrumental in establishing the National Congress of British West Africa (NCBWA) in 1917. While on the surface the NCBWA had as its main goals greater political and economic participation for British West Africans in colonial affairs, its aims also included "unity of purpose".[42] This echoed Blyden's route

---

[38] William Penn, "An Essay Towards the Present and Future Peace of Europe by the Establishment of an European Diet, Parliament, or Estates" in *William Penn: Political Writings* (2020), Andrew R. Murphy (ed), pp.344-362, Cambridge University Press: Cambridge, England.

[39] Kenneth W. Abbott and Duncan Snidal, "Why States Act through Formal International Organizations", 42 (1) *Journal of Conflict Resolution* (1998), pp.3-32, pp.4-5.

[40] Pan African Congress, London Manifesto (1921), available at https://college.cengage.com/history/primary_sources/world/london_manifesto.htm (last visited 25 March 2021).

[41] In his book *Ethiopia Unbound*, Casely Hayford paid tribute to Blyden and his work. J.E. Casely Hayford, *Ethiopia Unbound: Studies in Race Emancipation,* (1911, 1969), Routledge: London, p.163.
[42] Constitution of the National Congress of British West Africa, 1923, article 18 in *Ideologies of Liberation in Black Africa, 1856-1970: documents on modern African political thought from colonial times to the present* (1979), J. Ayodele Langley (ed.) R. Collings: London. This was not surprising since Casely Hayford had been writing about a united West Africa as far back as 1913 and it also serves as

somewhat as the NCBWA called for the commercial and industrial intercourse of West Africans to attain this objective.[43]

Contact between market participants produces social consequences. Scholars in the field of economic sociology argue that market activity is not just about the propensity to truck, barter and exchange as Adam Smith put it;[44] rather markets are also buttressed by social interactions and the institutions that these social interactions produce. This is based on the position that market participants are not always anonymous, involved in one-shot relationships; instead a more expansive view of market activity suggests participants are also involved in day-to-day social relationships with one another, generating inter-personal trust, friendship, power, and dependence. [45] Thus one can presume that the cross-border relations the NCBWA hoped would intensify if their members had greater economic opportunities, would also contribute to the Blyden dream of a progressively united West African state through social contacts. The NCBWA's social aspiration from which West African (and African) unification is inferred is probably best reflected in a speech Casely Hayford delivered at its Fourth Session held in Lagos in December 1929, where he remarked that:

---

further proof of his connection to Blyden: Joseph Casely Hayford, *The Truth About the West African Land Question,* (1898, 1969) Routledge: London, pp.9-12.

[43] Among other goals, the NCBWA aimed to establish institutions of learning for the racial education and culture of the people and to promote commercial and industrial intercourse of the people in all British West Africa: see Constitution of the National Congress of British West Africa, 1923, available, in part at http://www.swarthmore.edu/SocSci/tburke1/8bsyllabus/nationalism.htm (last visited 8 April 2021), para 18.

[44] Adam Smith, *An Inquiry Into the Nature and Causes of the Wealth of Nations*, (1776, 1999), Liberty Classics: Indianapolis, Indiana, Book I, chapter II p.29.

[45] Jens Beckert, "The Social Order of Markets", 38 (3) *Theory and Society* (2009), pp.245-269.

In these days when there is a tendency among the races of men to come together in their natural groups, it will be insincere for us to pretend that African nationhood does not interest us. If the principle that brought the National Congress into being is sound, the corollary must hold good that we are concerned in the pursuit of African nationality which will tend to focus world opinion upon African interests generally.[46]

The NCBWA moved a step beyond Blyden's approach though by adopting a constitutive document and issuing resolutions and in this vein it spoke in vague terms of West African unification.[47] However, given that it saw cooperation with the British during the colonial era as essential for attaining its goals[48] the NCBWA machinery was nothing radical, the type within which post-colonial unity could be planned. If law served a role at all it had a very primitive role - simply setting out a framework for cooperation among its members. The NCBWA collapsed but its impact is that it had added to the process of West African unification as it had elaborated on Blyden's approach by giving some form to his plan. By the 1920s West Africans such as the Nigerian Ladipo Solanke, the Sierra Leonean Henry Lightfoot-Boston and the Gold Coaster, Joseph Boakye Danquah, had proposed a united Anglophone West African nation after the end of empire that would spring from Blyden's faith in cultural and social interactions.[49]

---

[46] J.E. Casely Hayford, "Presidential address delivered during the Fourth Session of the National Congress of British West Africa" (December 1929) in Magnus J. Sampson, *West African Leadership Public Speeches Delivered by J.E. Casely* Hayford (1969) Magnus J. Sampson (ed.) Cass: London, pp.86-91, p.88.

[47] See Constitution of the National Congress of British West Africa, supra, para.18.

[48] Ibid., para 19.

[49] Jinny Kathleen Prais, *Imperial Travelers: The Formation of West African Urban Culture, Identity, and Citizenship in London and Accra, 1925-1935*; a dissertation submitted in partial fulfillment of the requirements for the degree of Doctor of Philosophy (2008), in the University of Michigan, chapter 2.

PART III

The Casablanca group and the radical path to African unification

In the era of decolonisation Blyden's idea spread across Africa. The idea of unification led to a struggle between cautious and more radical factions in the new African states. Seemingly influenced by Blyden and the now defunct NCBWA, was a faction referred to as the Monrovia group which saw African unification through the lens of glacial change and conditioned on achieving domestic economic prosperity and political stability.[50] On the other hand there was a rival group, the Casablanca group led by Ghana's first president Kwame Nkrumah, which

---

[50] The Nigerian Prime minister at the time, Sir Abubakr Tafawa Balewa in setting out the grounds for a gradual approach to unity stated that, "There have been quite a lot of views on what we mean by African unity. Some of us have suggested that African unity should be achieved by political fusion of the different states in Africa; some of us feel that African unity could be achieved by taking practical steps in economic, educational, scientific and cultural co-operation, and by trying first to get the Africans to understand themselves before embarking on the more complicated and more difficult arrangement of p0litical union. My country stands for the practical approach to the unity of the African continent. We feel that, if this unity is to last, we must start from the begi nning". Sir Abubakar Tafawa Balewa in *Speeches & Statements Made at the First Organization of African Unity (OAU) Summit* (May 1963) .available at https://au.int/en/speeches/19630508/speeches-and-statements-made-first-organisation-african-unity-oau-summit-1963 (last visited 22 April 2022), pp.94-97, p.94

demanded immediate unification.[51] The two positions have been set out in the scholarship on the

Organization of African Unity (OAU) and thus there is no need to unpack in detail what was said.[52]

For the purposes of this paper though, we note that the moderates of the Monrovia group

acknowledged the importance of the role of law in their path to any future unification – but law

was not to be a tool for the instant dismantling state sovereignty. The OAU was to be an

intergovernmental body with no real power of its own and its decisions were not binding on its

---

[51] Nkrumah in his speech to the OAU justified radicalism on the following grounds:

> Above all, we have emerged at a time when a continental landmass like Africa with its population approaching three hundred million are necessary to the economic capitalization and profitability of modern productive methods and techniques. Not one of us working singly and individually can successfully attain the fullest development. Certainly, in the circumstances, it will not be possible to give adequate assistance to sister states trying, against the most difficult conditions, to improve their economic and social structures. Only a united Africa functioning under a Union Government can forcefully mobilize the material and moral resources of our separate countries and apply them efficiently and energetically to bring a rapid change in the conditions of our people. We have been too busy nursing our separate states to understand fully the basic need of our union, rooted in common purpose, common planning and common endeavour. A union that ignores these fundamental necessities will be but a sham. "We must therefore not leave this place until we have set up effective machinery for achieving African Unity. To this end, I now propose for your consideration the following:

> As a first step, Your Excellencies, a declaration of principles uniting and binding us together and to which we must all faithfully and loyally adhere, and laying the foundations of unity should be set down. And there should also be a formal declaration that all the independent African States here and now agree to the establishment of a Union of African States.

> As a second and urgent step for the realisation of the unification of Africa, an All-Africa Committee of Foreign Ministers be set up now, and that before we rise from this Conference, a date should be fixed for them to meet.

> This Committee should establish on behalf of the Heads of our Governments, a permanent body of officials and experts to work out a machinery for the Union Government of Africa.

Nkrumah also noted that:

> It is this popular determination that must move us on to a Union of Independent African States. In delay lies danger to our well-being, to our very existence as free states. It has been suggested that our approach to unity should be gradual, that it should go piece-meal. This point of view conceives of Africa as a static entity with "frozen" problems which can be eliminated one by one and when all have been cleared then we can come together and say: "Now all is well. Let us now unite". This view takes no account of external pressures. Nor does it take cognisance of the danger that delay can deepen our isolations and exclusive- ness; that it can enlarge our differences and set us drifting further and further apart into the net of neo-colonialism, so that our union will become nothing but a fading hope, and the great design of Africa's full redemption will be lost, perhaps, forever. H.E. Kwame Nkrumah President of the Republic of Ghana Ibid., pp.44-53, pp.49-52

[52] Wapmuk Sharkdam, "In Search of Greater Unity: African States and the Quest for an African Union Government", 1 (3) *Journal of Alternative Perspectives in the Social Sciences* (2009), pp.645-671, pp.646-47; Leila J. Farmer, "Sovereignty and the African Union", 4 (10) *Journal of Pan African Studies* (2012), pp.93-105, pp.96-97; and Paul G. Adogamhe, "Pan-Africanism revisited: Vision and reality of African unity and development", 2 (2) *African Review of Integration* (2008), pp.1-34, pp.10-11.

members. Thus, under no circumstances was the OAU to mimic the EU. On the other hand, and pointing to the US, the USSR and EU, the Casablanca radicals had in mind the unraveling of the new states – either through a swift surrender of sovereignty to an EU-style body or going further with the creation of a United States of Africa.

What seems to be missing in the literature is an explanation for belief and optimism in the far-reaching idealism of the Casablanca group at the time: that a fundamentally new entity would hopefully transform the lives of Africans was clearly set out by the Casablanca group, but the unanswered question is why did this collective conclude that state sovereignty could be easily re-configured and African states embedded into a giant monolithic federation or neo-federation? As I have pointed out above, this route to unification was not to be blocked by waiting for the economic and social development of Africa as African unification was primarily a political enterprise and thus rested on a political approach and not a socio-economic one.[53]

The Casablanca group therefore called on the delegates to the first OAU summit to commit to immediately making African unification a reality instead of adopting high-sounding resolutions.[54] The best concession they were prepared to make was a temporary multi-track unification if

---

[53] Zdenek Cervenka, *The Unfinished Quest for African Unity: Africa and the OAU* (1977), Julian Friedmann Publishers Ltd: London, p.6.

[54] Nkrumah articulated the Casablanca position when he called for the following: the establishment of Commissions (1) to frame a Constitution for a Union Government of African States; (2) to work out a continental plan for a unified or common economic and industrial programme for Africa, this plan to include proposals for setting up (a) a Common Market for Africa, (b) an African currency, (c) an African monetary zone, (d) an African central bank, and (e) a continental communications system; and (3) to formulate a common foreign policy and diplomacy; ibid. It should be noted here though that the Casablanca group exhibited some confusion. It did state that unity could be attained without surrendering its sovereignty but in the same breath its members advocated for a political union based on Defense, Foreign Affairs and Diplomacy, a Common Citizenship, an African Currency, an African Monetary Zone and an African Central Bank. *Speeches & Statements Made at the First Organization of African Unity (OAU) Summit*, supra, p.53.It is strange to suggest that a state can surrender control over its currency, forge a political union around defense, foreign affairs and diplomacy and yet still claim to be sovereign.

necessary and that some states could join the convoy to a single state at a later date; but the African constitutional framework replete with a bicameral parliament had to be created so the continent derived the benefits of unification.[55] So simple did the task seem to be that Ghana wrote into its 1960 constitution a commitment to surrender national sovereignty to achieve the goal of African unity.[56] This approach built upon previous attempts by members of the group at welding together independent states – although with virtually no success. Ghana, Guinea and Mali had established the Union of African States[57] with no record of any achievements. French Soudan had united with Senegal as the Mali Federation but this union was dissolved within a year[58] and some unions like the proposed Union of West African Socialist Republics never even materialized.[59] That these unions were never formed or had disintegrated shortly after being created still had no impact on the enthusiasm of the Casablanca group.

---

[55] See Nkrumah, *Africa Must Unite,* supra, pp.220-221.

[56] The 1960 Ghana Constitution stated that "In the confident expectation of an early surrender of sovereignty to a union of African states and territories, the people now confer on Parliament the power to provide for the surrender of the whole or any part of the sovereignty of Ghana": Article 2, *Constitution of the Republic Ghana* (1960), Government Printing: Accra. Nkrumah stated that Guinea, Mali, Tunisia and the United Arab Republic had made the same commitment in their constitutions to surrender sovereignty: see Nkrumah, *Africa Must Unite*, supra, p.149.

[57] The Union of African States sought to strengthen and develop ties of friendship and fraternal co-operation between Member States politically, diplomatically, economically and culturally and "to harmonize the domestic and foreign policy of its Members. G. Aforka Nweke, "The Organization of African Unity and intra-African Functionalism", 489 (1) *The Annals of the American Academy of Political andSsocial Science* (1987), pp.133-147, p.136.

[58] The Mali Federation was justified on economic grounds. As was noted at the time of its formation:

"Mali's great opportunity is the complementarity of the two economies, Senegalese and Sudanese, which, although both predominantly agricultural, are structurally different. Thus, the duality of structures, far from being a competitive factor, is therefore an element of association and a reason for cooperation", Katharina Wurzer, "The Mali-Federation: A Pan-African Endeavour? Reflections on Pan-Africanism and Nationalism in Times of Decolonization", 20 (38) *Vienna Journal of African Studies* (2020), pp.55-72, p.64.

[59] Gerardo Serra, *Continental Visions: Ann Seidman, Reginald H. Green and the Economics of African Unity in 1960s Ghana* (2014), CHOPE Working Paper No. 2014-08, Duke University, Center for the History of Political Economy Working Paper, Durham, North Carolina, p.3

A reasonable answer to the question posited as to why the Casablanca members assumed the road to unity was simple is in the deduction that members of this group were motivated by their power to command compliance with their domestic diktat with practically no resistance by any dissenters. With no constitutional moorings at home after their leaders had shredded civil liberties and virtually eliminated all political opposition, it is reasonable to make the assumption that Casablanca group members were convinced that a transition from sovereignty to some anti-sovereignty system was not problematic.[60] This was not limited to the Casablanca group as members of the Monrovia group had similar attitudes towards the virtually unrestrained exercise of state power. The difference between the two groups is that while the Monrovia group seemed to use law to preserve state power and state sovereignty, the Casablanca members took the opposite view that the absence of constraints on their power made easy the unraveling of states across Africa. Within their domestic jurisdictions, their word was law and thus they had faith that the pattern of behavior at the domestic level should be replicated at the African level – issue a command and a united Africa will come into existence – African leaders should be able to end state sovereignty at the stroke of a pen.

The role of law in the clash between the Casablanca and Monrovia groups can also be interpreted from the law and development standpoint. It does seem that the hope for a new political and economic milieu was through law as a purposive tool for social re-ordering. Law was to be an instrument through which radical transnational political goals were to be attained. By sheer

---

[60] Nic Cheeseman and Jonathan Fisher, *Authoritarian Africa: Repression, Resistance, and the Power of Ideas* (2021), Oxford University Press: New York.

political will a modernising elite could bring into being a new order that would unite Africa and thus sweep away the patchwork of states whose borders were created by the European powers. Law in this setting is viewed as something imposed from without. It is expressly recognized to be the exercise of coercion to achieve stated and highly-valued goals. Law is a tool by which behavior is to be molded in conformity with new, deliberately delineated standards.[61]

I have pointed out that the Casablanca group saw the US as a model for post-colonial African unity. With the end of its war of independence, the 13 colonies came together under the umbrella of the Articles of Confederation and later deepened this in the constitution of 1789. However, the Casablanca states overlooked the powerful economic interests that propelled the 13 colonies to a closer union under the umbrella of the 1789 constitution. Charles Beard has analysed private parties and their wealth-maximizing objectives as drivers behind the US. In his book *An Economic Interpretation of the Constitution of the United States*[62] Beard argues that the new order in the US was driven chiefly by the private economic interests of the "cohesive elite" that, according to Beard, took control of the drafting process and wrote a new constitution which secured their pecuniary interests and investments.

Beard identifies the aims of a range of actors including those interested in manufactures, in commerce, those with investments in lands; those holding money or loans that needed a strong federal government to replace the association of little states under the Articles of Confederation.

---

[61] David M. Trubek, "Toward a Social Theory of Law: An Essay on the Study of Law and Development", 82 (1) *Yale Law Journal* (1972), pp.1-50, p.29.

[62] Charles A. Beard, *An Economic Interpretation of the Constitution of the United States* (1913, 2004), Dover Publications: New York.

This was because the Articles of Confederation was a feeble arrangement that created a weak government with virtually no power of its own to maintain its own credit or to help trade and commerce. For instance, manufacturing interests had a stake in a strong government. Exposed to cheap imports from overseas on account of tariff reductions varying from state to state under the Articles of Confederation[63] a new nation with a powerful central government was a convenient tool for Boston shipbuilders that wanted protection to revive their industry that had declined since independence. Without what was in effect a customs union, imports could enter the Confederation where customs duties were low and then circulate nationwide to Bostonian anxiety. Similar discomfort was felt by manufacturing interests in Baltimore where the complaint was that it was to their advantage if the decline of industry and commerce was reversed through creation of a sole sovereign legislative body with the power to impose import duties.[64]

Another category of advocates for a stronger union were those who held public securities because the state governments under the Articles of Confederation were too weak to redeem these securities. A further group of wealth-maximizing advocates were those landowners who possessed the kinds of property which were immediately and directly increased in value or made more secure by the new constitutional order that brought the era of the Articles of Confederation to an end and produced the 1789 Constitution. They owned public securities and also had a stake in the appreciation of land values. Other interests saw a strong union as a tool with which to pull down

---

[63] Under the Articles of Confederation it was permissible for each state of the Confederation to have its own trade policy: Article IX expressly stated that "no treaty of commerce shall be made whereby the legislative power of the respective States shall be restrained from imposing such imposts and duties on foreigners, as their own people are subjected to, or from prohibiting the exportation or importation of any species of goods or commodities whatsoever". Articles of Confederation (1781) available at https://www.usconstitution.net/articles.html (last visited 5 August 2021).

[64] See Beard, *An Economic Interpretation of the Constitution of the United States,* supra, pp.42-43.

the barriers to intra-Confederation trade within the emerging nation. Tariffs and regulations hindered inter-state trade as goods from one state entering another were treated as if they were foreign imports.[65] A strong union was therefore required to uproot local protectionism and it was in this vein that the Constitution granted the regulation of interstate commerce to the federal government.[66] Influential interests saw the federal arrangement as essential to reaping the benefits of greater and more profitable commercial exchange.

Beard's interpretation of the US Constitution though influential[67] has not been embraced wholesale. Other approaches suggest that while an economic interpretation is appropriate, the constitution was not created just to satisfy the personal interests of post-colonial elites. Jonathan Macey has argued a "public-regarding" approach to understanding the union as expressly designed to impede the welfare-reducing wealth transfers described above. Thus, for Macey, the 1789 Constitution interpreted from an economic standpoint is more of an instrument to prevent powerful interests from snatching wealth created by the broader mass of society.[68]

Nevertheless, the economic interpretation of the nationalist struggle in Africa was not a struggle for opening markets up to foreign interests either to protect investments of a rising African elite or

---

[65] Brandon P. Denning, "Confederation-Era Discrimination against Interstate Commerce and the Legitimacy of the Dormant Commerce Clause Doctrine", 94 (1) *Kentucky Law Journal* (2005), pp.37-99, pp.45-48.

[66] Scott Lillard, *The Cement of Interest: Interstate Internal Improvements, Interstate Commerce, and the Transition from the Articles of Confederation to the Constitution*, 1783-1786 (2013), submitted in partial fulfillment for the requirements for the degree of Master of Arts Case Western Reserve University.

[67] Other scholars have adopted Beard's economic approach: Robert A. McGuire, "Constitution Making: A Rational Choice Model of the Federal Constitution of 1787", 32 (2) *American Journal of Political Science* (1988), pp.483-522; and Jac C. Heckleman and Keith L. Dougherty, "An Economic Interpretation of the Constitutional Convention of 1787 Revisited", 67 (4) *Journal of Economic History* (2007), pp.829-848.

[68] Jonathan R. Macey, "Competing Economic Views of the Constitution", 56 (1) *George Washington Law Review* (1987), pp.50-80.

to protect the mass of Africans from wealth transfers by an elite class that had the power to use the state apparatus for this purpose. On the contrary nationalists in Africa wanted to close markets off from outside competition. The NCBWA wanted the exclusion of Syrian and Lebanese traders from West African markets. In addition, the timber interests in the Gold Coast that were members of the first mass movement to demand independence, the United Gold Coast Convention (UGCC), were unhappy with economic regulations that gave advantage to overseas companies.

The views on economic opportunity espoused by the members of the UGCC capture the essence of the African nationalist struggle. By the end of the World War II the wealthy native businesses of the Gold Coast had reason to be discontented: they felt that they were being unfairly displaced by overseas firms. They were aggrieved because World War II restrictions were still in place and they also felt the colonial licenses that regulated economic activity favoured Europeans over and above Gold Coasters. Complicating this was ineffectual representation for their interests in the Gold Coast Legislative Council which made the kind of change they desired difficult to attain.[69]

The desire to protect national markets upon independence is reinforced by the dismantling of economic and financial unions across Africa. The East African Community (EAC) was first established in 1967 with its roots in British colonial rule.[70] The integration of British East Africa was so strong that Tanganyika was prepared to delay its demand for self-government so that it

[69] Dennis Austin, "The Working Committee of the United Gold Coast Convention", 2 (2) *Journal of African History* (1961), pp.273-297, p.274.
[70] Institutions for governance of Britain's East African colonies began to emerge in the 1920s. By the 1960s these early institutions had flourished to form structures for the post-colonial era of integration. Benjamin Ng'imor, *Economic Integration of the East African Community* (2020), A Thesis submitted in fullfilment of the requirements for the degree of Doctor of Philosophy Department of Economics University of Strathclyde pp.20-29. .

could have independence simultaneously with the other members of the EAC – Kenya and Zambia – with the aim of continuing the EAC as a single state.[71] However because of disagreements over tariffs and industrial policy, the EAC ground to a halt in 1977 and was revived in 2000 with new members outside the original group, which comprised Kenya, Tanzania and Uganda.[72]

In a similar vein with independence, Ghana took a position that reflected its desire to govern itself independently, notwithstanding its ostensible commitment to African unification. While Britain did not bring its West African colonies together as tightly as was the case in East Africa, there were some forms of close cooperation across the region such as West African Airways, and the British West African pound. However, none of these survived decolonization as its four colonies led by Ghana opted for their own monetary and commercial arrangements.[73] Thus it was a puzzling assertion for the Casablanca states to suggest the independent African states break down the newly erected regulatory fences and expose the triumphant nationalists to a new set of competitors that would flow from a single Africa.

Even if Beard's thesis is rejected as inapplicable for an interpretation for African unity and instead, Macey's public regarding approach is more tenable, there is still nothing in the literature to suggest that the aim of a single Africa was to prevent legislative wealth transfers to moneyed interests from

---

[71] Paul Bjerk, "Postcolonial Realism: Tanganyika's Foreign Policy under Nyerere, 1960—1963", 44 (2) *International Journal of African Historical Studies* (2011), pp.215-247, pp.232-233; and Agrippah T. Mugomba, "Regional Organisations and African Underdevelopment: The Collapse of the East African Community", 14 (2) *Journal of Modern African Studies* (1978), pp.261-272, p. 264.
[72] John A. Mgaya, *Regional Integration: the Case of The East African Community*; A sub-thesis submitted in partial fulfilment of the requirements for the degree of Master of Arts (International Relations) (1986) in the Department of International Relations, Research School of Pacific Studies, The Australian National University, chapter III.
[73] Thaddeus T. Ityonzughul and Akahi Johnson Bgbaji, "Historicizing the Patterns and Trends of Money in African Economies", 4(1) *International Journal of Economics and Finance Research and Applications* (2020), pp.26-39, pp.34-35.

taking place. Across Africa at the time, legislation was sold to the highest bidder resulting in "protection riddled economies".[74] Furthermore, preventing wealth transfers did not seem to feature in the Casablanca position and how with a large Africa-wide greater economic opportunities, would be open to all. Moreover, a distant authority capable of handing out economic favours is rather difficult to hold in check unless there are strong institutions to do so. Such institutions tended to be lacking in Africa at the time and, hence, it is doubtful if Macey's public-regarding interpretation applied to the search for a united Africa. The ingredients for wealth transfers including ignorance about public policies,[75] lack of secure property rights,[76] weak judiciaries and compliant legislative assemblies[77] were left untouched in the arguments for a united Africa.

Picking apart the Casablanca exuberance and faith in law as a tool to create an African political conglomerate it is obvious that this group of states misunderstood the creation of the US. The processes leading to the unification of the US hardly played out in Africa: African elites wanted closed markets so they could ward off any form of overseas competition and thus had no incentive to invest in a greater Africa and therefore they needed no powerful central African government to provide a solution to any economic woes they had. Second, there was hardly any space for citizen

---

[74] Robert Bates, *Markets and States in Tropical Africa: The Political Basis of Agricultural Policy* (1981), University of California Press: Berkeley

[75] Ilya Somin, "Rational Ignorance and Public Choice", (2019) in 2 *Oxford Handbook of Public Choice,* Roger D. Congleton, Bernard Grofman, and Stefan Voigt (eds), Oxford University Press: Oxford, pp.572-587. Ignorance about public policies is because it is too costly for voters to inform themselves about proposed or existing legislation or policy. This allows interest groups with a stake in the law to invest money and effort to secure outcomes they desire.

[76] John M. Lutz, "The Political Economy of Zaire-a Case of Predatory State", 27 (4) *Africa Insight* (1997), pp.247-252; Douglass C. North, John Joseph Wallis, Steven B. Webb and Barry R. Weingast, *Limited Access Orders in the Developing World: A New Approach to the Problems of Development* (2007), World Bank Policy Research Working Paper No.4359, The World Bank: Washington DC.
[77] At the time pressure for unification was at its peak African politics was marked by what is termed neo-patrimonialism. This feature of the African political landscape was rule where the executive maintains its power through personal patronage. In such states there was very little appetite for the rule of law. As such the courts and legislative bodies (when these legislative bodies actually existed existed) were no check on the power of the leader. Michael Bratton and Nicholas van de Walle, "Neopatrimonial Rule in Africa", in Michael Bratton and Nicholas van de Walle, *Democratic Experiments in Africa: Regime Transitions in Comparative Perspective*, (1997) Cambridge University Press: Cambridge, chapter 2.

participation in decision-making in Africa at any level, least of all in driving continental unification. Dotted with authoritarian regimes decision-making by national elites was rarely influenced by the ordinary citizens.

This was in contrast with the injection of local citizens' views into US unification, especially the transition away from the Articles of Confederation to the 1789 Constitution. The state delegates to the constitutional convention who redesigned the constitutional order were responsive to pressure from the American *demos*: they were under instructions by their constituents in the quest for closer economic and political union. The import of instructions was that US unification was not motivated only by the desire of wealthy classes to gain economic benefits.[78] Instructions were so significant that in some instances during deliberations, delegates had to return to their constituents to clarify whether their instructions allowed them to agree with proposals to strengthen the union.[79]

For its part, the Casablanca group seemed to have no idea of the role of citizens in the making of the US. In the speeches, draft documents and scholarly papers in support of a United States of Africa, there is no reference to the importance of civic participation in helping to bring about unification. This gap in the advocacy suggests a deficit on the part of the radical unificationists and their failure to fully digest and understand the complexities of the US process. There was

---

[78] Christian David Lear, *Planters, Merchants, and Revolution: Lobbying Power and the Economic Origins of Independence in South Carolina* submitted in partial fulfillment of the requirements for the degree of Master of Arts in History, (2017) College of Arts and Sciences University of South Carolina; and Forrest McDonald, *We the People: The Economic Origins of the Constitution* (1958, 1992) University of Chicago Press: Chicago (where the author expands the scope of economic actors and interests that took part in the making of the 1789 Constitution to include non-economic interests and thus agreeing and also disagreeing with Beard's thesis.)

[79] Christopher Terranova, "The Constitutional Life of Legislative Instructions in America", 84 (5) *New York University Law Review* (2009), pp.1331-1373, p.1340.

nothing magical about the creation of the US – nothing to suggest it was willed into existence in a vacuum, disconnected from social and economic forces. From the Articles of Confederation to the 1789 Constitution, unification was pressed by economic and political forces that wanted a new political order. [80]

PART IV

Unification without law

If the radicals that have inherited the Casablanca agenda have failed to attain their objective through a grand and dramatic yet peaceful transformation of sovereignty then arguably, a path towards unification that has virtually no role for law needs to be explored. We do not make the case that this path is feasible in contemporary times however, our aim is to further peel away the simplistic romanticism of the Casablanca group with it its decades old call for African leaders to just muster political will to unify the continent. The extra-legal path is the unification of Africa by force, an assault on state sovereignty that violates international law and norms is the only other

---

[80] Before independence there were actually a number of plans to unite the American colonies: for instance under the Articles of Confederation of the United Colonies of New England (1643) the colonies entered a union for offence and defence, mutual advice, liberty preserving and propagating the truth and liberties of the gospel and for their mutual safety and welfare: The Articles of Confederation of the United Colonies of New England (1643) available at https://avalon.law.yale.edu/17th_century/art1613.asp (last visited 28 July 2021).Under the Albany Plan of Union (1754) the colonies proposed that by an act of the British parliament unite them under a single colonial authority. Albany Plan of Union available at https://avalon.law.yale.edu/18th_century/albany.asp (last visited 28 July 2021). The same was true of European unity that had a head start over African unity. This head start allowed the idea of a united Europe to develop, mature and embed itself in Europe. European unity really began with the ascendancy and hegemony of the Catholic Church over Europe, and its supply of public goods that led observers to conclude it was the first European Union. The idea of unification was a sluggish one, punctuated with brief periods of intense activity that failed to achieve the aim of a united Europe, and then resumed in its ever so slow path signposted with plans, conferences, books, etc: see Kufuor, *African Unification: Law, Problems and Prospects*, supra, chapter 3.

viable path left for the descendants of the Casablanca radicals - through military force, or the threat of military force, a powerful state or group of states has to compel African unification.

Espousing the ease of unification, the members of the Casablanca group stressed the point that the USSR, a multi-ethnic state,[81] began with a nucleus of four republics and expanded to 15 republics under a single constitution. This was an impressive feat after the Bolshevik Revolution and served as a model for their African unification project.[82] However our assertion here is that the Casablanca members understood Soviet unification from a very idealistic position. The USSR was never a voluntary organisation; the Bolsheviks who seized power in Russia devoured a host of independent republics from 1922 to 1940 to complete the USSR.[83] In effect the creation of the USSR was not a blissful episode of voluntary cooperation in which independent states embraced a radical political ideal and formed a super-state – rather it was an act of military conquest by ideologues who took control of Russia and used this state and its military apparatus to dominate parts of Europe and Asia.

As mentioned in the earlier parts of this paper, the EU is another of the models for the radical unificationists. The EU appeared from the ruins of the World War II when a small group of states

---

[81] CIA World Factbook (1989), available at https://theodora.com/wfb1989/soviet_union/soviet_union_people.html (last visited 29 March 2021)

[82] See Nkrumah, *Africa Must Unite*, supra, p.210.

[83] Richard Pipes, *The Formation of the Soviet Union*: *Communism and Nationalism, 1917–1923* Rev ed, (1997), Harvard University Press: Cambridge, chapters 3 and 5. The USSR only ended its conquest of independent states in 1940 when it annexed Lithuania, Latvia, Estonia and Moldova. For the annexation of Lithuania, Latvia and Estonia see Andres Kasekamp, *A History of the Baltic States*, (2010) Palgrave: London, pp. 128-131. For the annexation of Moldova see Igor Caşu, "Moldova under the Soviet Communist Regime: History and Memory" (2015) in *Remembrance, History, and Justice Coming to terms with Traumatic Pasts in Democratic Societies* Vladimir Tismaneanu and Bogdan C. Iacob (eds.), Central European University Press: Budapest, pp.347-372.

formed the European Coal and Steel Community (ECSC)[84] followed by the European Atomic

Energy Community and the European Economic Community. In their excitement to imitate the

EU, the radical pan-Africanists have ignored the significance of the Schuman Declaration which

contained the rationale for the creation of the EU. The Schuman Declaration captured the essence

of the military basis for European unity. The Declaration asserted that:

> …… the coming together of the nations of Europe requires the elimination of the age-old opposition of France and Germany…..With this aim in view, the French Government proposes that action be taken immediately on one limited but decisive point: it proposes that Franco-German production of coal and steel as a whole be placed under a common high authority, within the framework of an organisation open to the participation of the other countries of Europe. The pooling of coal and steel production should immediately provide for the setting up of common foundations for economic development as a first step in the federation of Europe …. The solidarity in production thus established will make it plain that any war between France and Germany be-comes not merely unthinkable, but materially impossible [and] …will lay a true foundation for their economic unification.[85]

Franco-German conflicts had played a major role in leading the world to its two most destructive

wars – World War I and World War II[86] and it was to avoid future turbulence caused by these two

countries that led to the creation of European institutions. From this position, scholars have

interpreted the EU primarily as an arrangement for constraining German power and preventing

another major war in Europe. The solution to preserve the peace in Europe after World War II was

the Schuman Plan – designed to check German power by placing under ECSC control the entire

Franco-German output of coal and steel as whichever state (France or Germany) controlled coal

---

[84] Treaty establishing the European Coal and Steel Community, ECSC Treaty (18 April 1951), available at https://www.cvce.eu/obj/treaty_establishing_the_european_coal_and_steel_community_paris_18_april_1951-en-11a21305-941e-49d7-a171-ed5be548cd58.html (last visited 5 August 2021).

[85] The Schuman Declaration (9 May 1950), available at https://europa.eu/european-union/about-eu/symbols/europe-day/schuman-declaration_en (last visited 30 July 2021).

[86] Geoffrey Wawro, *The Franco-Prussian War: The German Conquest of France in 1870-1871* (2003), Cambridge University Press: Cambridge; and David Wetzel, *A Duel of Giants: Bismarck, Napoleon III, and the Origins of the Franco-Prussian War*, (2003) University of Wisconsin Press: Madison.

and steel resources could exploit this advantage for military expansionist purposes. This militaristic interpretation reinforces the position taken by political theorists that war, or a major threat of war plays a role in compressing independent states into political unions.[87]

Thus it is this supranational structure that began the process of post-War European unification and was extended further, beyond the ECSC, to blanket all of EU relations when the European Court of Justice ruled in *Costa v ENEL*[88] that a collision between EU law and the laws of a member state will be resolved in favour of EU law.[89] The ECJ went further in *Internationale Handelsgesellschaft* [90] to state that the validity of a Community measure or its effect within a Member State cannot be affected by allegations that it runs counter to either fundamental rights as formulated by the constitution of that State or the principles of a national constitutional structure.[91]

In this vein therefore, our claim in this part of the paper is that post-colonial Africa never had the need to unify into a federal or neo-federal entity as it did not face the kind of threat that existed in post-War Europe. Further to this assertion, pre-colonial African history provides a setting within which to understand and appreciate military conflicts or the threats thereof for the mergers of

---

[87] Mancur Olson argues that the state emerges from the incentive of a roving bandit and his army of brigands to settle in a given area and become a stationary bandit. Roving bandits plundered defenseless communities with the result that overtime the communities took to producing just enough to consume, leaving nothing for the roving bandit to plunder on his periodic visits. Thus one roving bandit agrees a compact with his victims: he will settle, become a stationary bandit and protect the communities under his control from attacks by other roving bandits. The trade-off is that the now protected communities pay the stationary bandit tribute in the form of services, goods or money: Mancur Olson, "Dictatorship, Democracy and Development" 87 (3) *American Political Science Review* (1993), pp.567-576, especially pp.568-569. Martin van Creveld describes what Olson posits: see Martin van Creveld, *The Rise and Decline of the State* (1999), Cambridge University Press: Cambridge, especially chapter 2.
[88] *Flaminio Costa v ENEL* (1964) Case 6/64 European Court Reports, p.585.

[89] The ECJ in *Costa* opined that on the coming into existence of the European Community had the effect of limiting the sovereign rights the Members, albeit within limited fields, and have thus created a body of law which binds both their nationals and themselves. The terms and spirit of the Community are such that it is impossible for the States to act in a manner that would be inconsistent with the new legal order. The executive force of Community law cannot vary from one State to another in deference to subsequent domestic laws, without jeopardizing the attainment of the objectives of the Treaty.
[90] Case 11/70 *Internationale Handelsgesellschaft* (1970), European Court Reports, p.1126.
[91] Ibid., p.1134.

independent states. This should help guide the Casablanca radicals towards a clearer understanding of why independent states merge and why this was unlikely in post-colonial Africa. By ignoring the past, it does seem that they have shown that they are ahistorical in interpreting the failure to create a supranational African organisation that functions with the efficiency of the EU and that can progress to become a United States of Africa. They have been disparaging of those who see history as a prism through which the emergence of the EU should be construed. For this category of scholars there is nothing distinctive or complex about the creation of the EU and thus the case that it is a product of Europe's history is flawed.

Their ahistorical approach is given shelter in their claim that the arc of human progress suggests ideas travel easily across borders. Therefore, questioning EU supranationalism for Africa "merely on the basis of difference in historical and social background" shows ignorance of how culture, language, ideas and technology have crossed borders. Human beings learn, and this makes it rather easy for them to adopt models of behavior, patterns of thought etc. from beyond their localities.[92] However, paradoxically, African history is a guide to the kind of unification the Casablanca supporters seek. Past instances of unification in the face of major external threats should help explain the difficulty in forging the kind of Africa that fits with the Casablanca agenda. Before the conquest of Africa by the European powers there were cases of unification which shore up the assertion that forcible unification – unification without law – is the most realistic path for radical pan-Africanists, assuming such military might exists in Africa. I highlight two cases of

---

[92]   Mkhululi Nyathi, *Exploring Shared Governance as an Alternative Institutional Model for the Southern African Development Community*, (2015) Doctoral Dissertation submitted to the University of Pretoria, p.134.

independent states in Africa collapsing themselves into greater political units on the grounds that they faced external military threats and thus they needed refuge in a more powerful political entity.

Freed slaves from the US established two colonies off the West African coast – Liberia and Maryland. Both became independent states with Liberia gaining its independence in 1847 and Maryland gaining its independence in 1854. By 1857 however, Maryland had ceased to exist as an independent country as it had merged with Liberia. The main reason for this was the regular clashes between Marylanders and rival ethnic groups and whose military potential continued to pose a threat to Maryland's existence. The increasing tensions led to a major war in 1857 which required the intervention of Liberia on the side of Maryland.[93] Realising that Liberia had the military wherewithal to ensure their citizens survival Maryland agreed to be incorporated in Liberia.[94]

Second, in the 1860s a group of states on the Gold Coast created the Fanti Confederation. This union of hitherto independent entities was forged in response to the changing political situation on the Gold Coast, the realignment of interests the two dominant European powers at the time, the British and the Dutch, and the possibility of this exposing the independent Fanti states to military attacks from powerful rivals. It is these political and military dynamics that gave birth to the Fanti Confederation and although it lasted for less than five years as changing circumstances on the Gold Coast rendered the Confederation unnecessary[95] the Fanti Confederation was not just a military

---

[93] Amos Sawyer, *The Emergence of Autocracy in Liberia*: *Tragedy and Challenge* (1992), ICS Press, San Francisco, p.134.
[94] Penelope Campbell, *Maryland in Africa: The Maryland State Colonization Society, 1831-1857*, Dissertation Presented in Partial Fulfillment of the Requirements for the Degree Doctor of Philosophy (1967) in the Graduate School of the Ohio State University, chapter IX.

[95] Francis Agbodeka, "The Fanti Confederacy 1865-69: An Enquiry Into the Origins, Nature and Extent of an Early West African Protest Movement", 7 *Transactions of the Historical Society of Ghana* (1964), pp.82-123. The concerns were largely on account of

alliance as it had the features of a state: Its apparatus consisted of a constitution, a legislative arm, an executive arm and judicial arm. It anticipated a coercive arm in the form of its planned army and it also had the intention to provide welfare-enhancing public goods such as education and road infrastructure.[96]

It is implausible to assume any post-colonial African state has the military might to collapse all other African states into a single political entity. There have been border conflicts entailing military clashes between states[97], there have been military incursions[98] to help topple governments[99] but there is only one case of an independent state swallowing another as the start of some path to unity based on "blood and iron" as was the path of 19th century German unification. German unification confronted decades of resistance by particularistic interests among the German-speaking states of Europe. Resistance to unification came also from came Denmark, Austria and France as they had their reservations about the creation of a powerful united entity on their respective borders. Thus, German unification was stuck at the stage of commercial unification in the form of the *Zollverein* — the customs union. It took wars with Denmark, Austria and France to move from the *Zollverein* to the establishment of the North German Confederation and finally to a united German empire.[100] The closest to this in post-colonial Africa (and which also mimics the creation of the USSR) is the

the Asante Empire to the north of the Confederacy; and Lennart Limburg, *The Fanti Confederation 1868-1872*, Doctoral Thesis submitted to the University of Gotenburg (1973). At the time Asante was arguably Africa's most influential and powerful political entity in the 18th and 19th centuries. Ivor Wilks, *Asante in the 18th and 19th Centuries: The Structure and Evolution of a Political Order* (1975, 1989) Cambridge University Press: Cambridge, England

[96] Article 8, Section 2 of the 1871 Fanti Constitution declared that one of the aims of the Confederation was "...to direct the labours of the Confederation toward the improvement of the country at large." Other sections referred to building a modern road system, improving agriculture, erecting school buildings, and compulsory education for all children. Provincial assessors were made responsible for enforcing the education law, and the national treasury responsible for financing the school system: "Constitution of the new Fanti Confederation, available at https://www.modernghana.com/news/123177/1/constitution-of-the-new-fante-confederacy.html (last visited 12 August 2021).

[97] Nicholas, K. Tarlebbea and Sam Baroni, "The Cameroon and Nigeria Negotiation Process over the Contested Oil Rich Bakassi Peninsula", 2 (1) *Journal of Alternative Perspectives in the Social Sciences* (2010), pp.198-210.

[98] George Roberts, "The Uganda-Tanzania War, the fall of Idi Amin, and the failure of African diplomacy, 1978-1979", *8 (4) Journal of Eastern African Studies* (2014), pp.692-709.

[100] The War against Austria in particular is important since with victory over Austria, Prussia dissolved the German Confederation of old and established the North German Confederation under Prussian domination. As the Franco-Prussian War came to an end German states that were outside of the North German Confederation agreed to join the proposed unified German entity. This was on account of pressure on by Prussia as it threatened them with military annexation, economic measures to cripple their economies or through subversion: see Wawro, *The Franco-Prussian War: The German Conquest of France in 1870-1871*, supra, p.302.

union of Tanganyika and Zanzibar to form Tanzania after the violent overthrow of the Zanzibar government.[101]

PART V

Conclusion

There was no need to defend Africa from a major external threat from any country or countries outside the continent.[102] Thus there was no pressure for Africa's new states to take refuge in a big political collective. Reinforcing this is the fact that the Casablanca members were detached from the domestic economic and political forces of their respective states. There were never any domestic forces pressing for unification. Furthermore, the nationalist struggle was about African economic elites enclosing markets and reaping domestic rents. There was no pressure for a wider single market administered by a continental government. Rather, the opposite was the case as new African post-colonial economic elites demanded their governments throw protective shields around their national economies.

---

[101] See Kufuor, *African Unification: Law, Problems and Prospects*, supra, chapter 5.
[102] Strangely however, the idea of a military force to protect Africa from outside attacks the continent has persisted since decolonization. This is in the face of the reality of rare organized external threats to independent African countries: the attacks on. Benin Equatorial Guinea, Guinea and the Comoros Islands: In these instances the attacks were by mercenaries seeking to alter the political balance in their respective targets. The forces were tiny and only succeeded in the case of the Comoros. The debates in the OAU from its founding included proposals for an African High Command primed and ready to come to the aid of any OAU member that was attacked by an outside power. That the High Command was never formed explains its irrelevance. What has happened is the formation by sub-regional integration bodies of military arms to resolve regional conflicts from within the respective sub-regions. A force for this purpose remains essential, but a body to protect African states in the event of Europeans returning to recolonize Africa will be redundant.

Edward Blyden did not seem to stress markets as a means of unification. Explanation for this as pointed out above lies arguably in his reservation about elite interests dominating his agenda. Moreover, again as noted above, Blyden encouraged cooperation and not the competition of the marketplace. In this mindset therefore it was not individualism of the market and the desire to have structures governing the movement of goods and services that would supply propulsion for deeper interaction across the continent.

Notwithstanding the accuracy of explanations for that gap in Blyden's work, this paper presses on with the assertion that markets provide a more realistic path to closer integration than the Casablanca group's dogged stance in which there is a revolutionary overturn of sovereignty across Africa. From this position and noting further that there is no sign of all of Africa being conquered and united by a powerful state or alliance of states, the creation of a single Africa along these lines is practically impossible. Therefore, my supposition is that markets are more likely to bring the continent together – unity by working together and not unification into a single unit as I have stressed elsewhere[103] - and market relationships could also help energize the cultural contacts that Edward Blyden wrote about.

Market integration has played a role in forging stronger relationships within states which, notwithstanding being constituted *de jure* as a single political entity in reality faced problems of *de facto* segmentation with internal barriers to domestic trade. These internal barriers helped foster a sense of localism with reservations, if not hostility, about existence as a unified state. For instance

---

[103] See Kufuor, *Africa Unification: Law, Problems and Prospects*, supra, chapter 6.

France before the French Revolution in 1789 existed not as one single integrated economy, but rather as a collection of separate economic regions, with multifarious internal barriers to trade in the form of tolls, tariffs and prohibitions. In addition to the economic burden these internal barriers caused, market segmentation was problematic for the sense of nationhood. It was the Revolution that pulled down the intra-national protectionist barriers and at the same time gave the country a sense of existence as a single political entity.[104]

There were similar barriers to trade within the US after it gained independence. These domestic barriers to trade led George Washington to state that this problem was preventing the development of a sense of oneness in the new country as local prejudices and policies persisted.[105] The new nation therefore needed to sweep away these barriers in the interest of forging a single polity[106] as post-independence internal barriers to trade helped keep alive the sense of an association of little states rather than the new nation the "United States".[107] This fourth pathway of markets and the law, currently set out in treaties such as the African Continental Free Trade Agreement,[108] ECOWAS and the EAC will not produce the agglomeration of states into a single entity that the

---

[104] Jeremy J. Whiteman, "Trade and the Regeneration of France, 1789–91: Liberalism, Protectionism and the Commercial Policy of the National Constituent Assembly", 31 (2) *European History Quarterly* (2001), pp.171-204.
[105] Paul T. Truitt, "Interstate Trade Barriers in the United States", 8 (2) *Law and Contemporary Problems* (1941), pp.209-222, p.211.

[106] See Denning, "Confederation-Era Discrimination against Interstate Commerce and the Legitimacy of the Dormant Commerce Clause Doctrine" supra, pp.45-66.
[107] The tensions over US import tariffs indicated that attachment to the new nation was not that strong. Anti-tariff sentiment was so high in the South that its leading politicians sounded an alarm over the union remaining intact: Douglas A. Irwin, "Sectional Conflict and Crisis, 1816–1833" in *Clashing over Commerce: A History of U.S. Trade Policy*, (2017) University of Chicago Press: Chicago, p.154.
[108] An argument has been made that the peaceful transition to independence, especially around the time African unification was proposed in the form the Casablanca states wanted was such that it did not destroy existing domestic forces in the new states. With structures left intact, decolonization was just the removal of European elites and their replacement by African elites who saw were strong enough to defend the beneficial orders they had inherited. It was not just powerful economic interests who inherited the fruits of the struggle, but also the bureaucratic forces who took over the positions the Europeans had vacated. Furthermore, the AU has to compete with strong regional bodies such as ECOWAS in the supply of public goods like peace, trade liberalization and human rights protection. These bodies are so entrenched and have had successes in peacekeeping for example, that they are deeply entrenched and thus unraveling them will be difficult, if not impossible: see Kufuor, *African Unification: Law, Problems and Prospects*, supra, chapters 4 and 5.

Casablanca radicals still hope for but this route will still allow Africa to derive benefits from economic relationships.

Bibliography

BOOKS, BOOK CHAPTERS AND JOURNAL ARTICLES

Paul G. Adogamhe, "Pan-Africanism revisited: Vision and reality of African unity and development", 2 (2) *African Review of Integration* (2008), pp.1-34

Dennis Austin, "The Working Committee of the United Gold Coast Convention", 2 (2) *Journal of African History* (1961), pp.273-297

John Austin, *The Province of Jurisprudence Determined* (1832, 1995), Wilfrid E. Rumble (ed.), Cambridge: Cambridge University Press

George. B. N. Ayittey, "The United States of Africa: A Revisit", 632 (1) *Annals of the American Academy of Political and Social Science*, (2010) pp.86-102

Robert Bates *Markets and States in Tropical Africa: The Political Basis of Agricultural Policy* (1981), Berkeley: University of California Press

Charles A. Beard, *An Economic Interpretation of the Constitution of the United States* (1913, 2004), Dover Publications: New York

Jens Beckert, "The Social Order of Markets", 38 (3) *Theory and Society* (2009), pp.245-269

Redie Bereketeab *Self-Determination and Secessionism in Somaliland and South Sudan Challenges to Postcolonial State-building*, (2012) Nordiska Afrika Institutet, Uppsala Discussion Paper 75

Paul Bjerk, "Postcolonial Realism: Tanganyika's Foreign Policy under Nyerere, 1960—1963", 44 (2) *International Journal of African Historical Studies* (2011), pp. 215-247

Michael Bratton and Nicholas van de Walle, "Neopatrimonial Rule in Africa", in Michael Bratton and Nicholas van de Walle, *Democratic Experiments in Africa: Regime Transitions in Comparative Perspective* (1997), Cambridge University Press, Cambridge

Edward W. Blyden, *Christianity, Islam and the Negro Race* (1887), W.B Whittingham & Co: London, p.231

Penelope Campbell, *Maryland in Africa: The Maryland State Colonization Society, 1831-1857*, Dissertation Presented in Partial Fulfillment of the Requirements for the Degree Doctor of Philosophy in the Graduate School of Degree Doctor of Philosophy in the Graduate School of the Ohio State University, (1967)

Igor Caşu, "Moldova under the Soviet Communist Regime: History and Memory" (2015) in *Remembrance, History, and Justice Coming to terms with Traumatic Pasts in Democratic Societies* Vladimir Tismaneanu and Bogdan C. Iacob (eds.) Central European University Press: Budapest, pp.347-372

CIA World Factbook (1989), available at https://theodora.com/wfb1989/soviet_union/soviet_union_people.html

Zdenek Cervenka, *The Unfinished Quest for African Unity: Africa and the OAU* (1977) Julian Friedmann Publishers Ltd: London

Nic Cheeseman and Jonathan Fisher, *Authoritarian Africa: Repression, Resistance, and the Power of Ideas* (2021) New York: Oxford University Press

Irwin L. Collier jr. and Horst Siebert, "The Economic Integration of Post-Wall Germany", 81 (2) *American Economic Review* (1991), Papers and Proceedings of the Hundred and Third Annual Meeting of the American Economic Association, pp.196-201.

Martin van Creveld, *The Rise and Decline of the State* (1999) Cambridge University Press: Cambridge

Brandon P. Denning, "Confederation-Era Discrimination against Interstate Commerce and the Legitimacy of the Dormant Commerce Clause Doctrine", 94 (1) *Kentucky Law Journal* (2005), pp.37-99

Leila J. Farmer, "Sovereignty and the African Union,", 4 (10) *Journal of Pan African Studies* (2012), pp.93-105

Johann Gottlieb Fichte: To the German Nation, (1806) available at https://sourcebooks.fordham.edu/mod/1806fichte.asp

J.E. Casely Hayford, *Ethiopia Unbound: Studies in Race Emancipation* (London, 1911)

Joseph Casely Hayford, *The Truth About the West African Land Question* (1913, 1969) Routledge

J.E. Casely Hayford, "Presidential address delivered during the Fourth Session of the National Congress of British West Africa" (December 1929) Held in Lagos in Nigeria in Magnus J. Sampson, *West African Leadership Public Speeches Delivered by J.E. Casely.*Hayford pp.86-91

Jac C. Heckleman and Keith L. Dougherty, "An Economic Interpretation of the Constitutional Convention of 1787 Revisited", 67 (4) *Journal of Economic History* (2007), pp.829-848

Douglas A. Irwin, "Sectional Conflict and Crisis, 1816–1833" in *Clashing over Commerce: A History of U.S. Trade Policy*, (2017) Douglas A. Irwin (ed.) University of Chicago Press: Chicago

Thaddeus T. Ityonzughul and Akahi Johnson Ogbaji, "Historicizing the Patterns and Trends of Money in African Economies", 4 (1) *International Journal of Economics and Finance Research and Applications* (2020), pp.26-39

Erick Kabendera "Zanzibar: CUF populism raises stakes around secession" (2014) available at https://africanarguments.org/2014/06/zanzibar-cuf-populism-raises-stakes-around-secession-by-erick-kabendera/.

Andres Kasekamp, *A History of the Baltic States* (2010), London: Palgrave.

Kofi Oteng Kufuor, *The Institutional Transformation of the Economic Community of West African States* (2006), Ashgate: London.

Kofi Oteng Kufuor, *African Unification: Law, Problems and Prospects* (2016) Carolina Academic Press: Durham: North Carolina.

Jabez Ayodele Langley, *West African Aspects of the Pan-African Movements 1900-1945*, Thesis submitted for the Degree of Doctor of Philosophy, University of Edinburgh (1968).

Christian David. Lear, *Planters, Merchants, and Revolution: Lobbying Power and the Economic Origins of Independence in South Carolina* (submitted in partial fulfillment of the requirements for the degree of Master of Arts in History, College of Arts and Sciences University of South Carolina 2017.

Scott Lillard, *The Cement of Interest: Interstate Internal Improvements, Interstate Commerce, and the Transition from the Articles of Confederation to the Constitution*, 1783-1786, (2013) submitted in partial fulfillment for the requirements for the degree of Master of Arts Case Western Reserve University

Lennart Limburg, *The Fanti Confederation 1868-1872* (1973) Doctoral Thesis submitted to the University of Gotenburg

John M. Lutz, "The Political Economy of Zaire-a Case of Predatory State" 27 (4) *Africa Insight* (1997), pp.247-252

Hollis R. Lynch, "Edward W. Blyden: Pioneer West African Nationalist", 6 (3) *Journal of African History* (1965), pp.373-388, p.374

Hollis R. Lynch, *Edward W. Blyden, 1832-1912, and Pan-Negro Nationalism (1964),* PhD thesis submitted to the School of Oriental and African Studies, University of London

Forrest McDonald, *We the People: The Economic Origins of the Constitution* (1958, 1992), University of Chicago Press: Chicago

Robert A. McGuire, "Constitution Making: A Rational Choice Model of the Federal Constitution of 1787", 32 (2) *American Journal of Political Science* (1988) pp.483-522

Jonathan R. Macey, "Competing Economic Views of the Constitution", 56 (1) *George Washington Law Review* (1987), pp.50-80

John A. Mgaya, *Regional Integration: the Case of The East African Community*, A sub-thesis submitted in partial fulfilment of the requirements for the degree of Master of Arts (International Relations) in the Department of International Relations, Research School of Pacific Studies, The Australian National University (1986)

Janet Sylvia Mitamita, *Compliance and Rebellion: An Assessment of the EACJ Supranational Authority (2005–2018)* A Thesis Submitted to the School of Humanities and Social Sciences at the United States International University – Africa (2009) in Partial Fulfillment of the Requirement for the Award of Degree of Master of Arts in International Relations , United States International University-Africa

Tomasz P. Milej, "What is Wrong About Supranational Laws", The Sources of East African Community Law in the Light of the EU's Experience", 75 ZaoRev (2015), pp.597-617

Agrippah T. Mugomba, "Regional Organisations and African Underdevelopment: The Collapse of the East African Community" 14 (2) *Journal of Modern African Studies*, (1978), pp.261-272

Benyamin Neuberger, "The African Concept of Balkanisation" 14 (3) *Journal of Modern African Studies*, (1976), pp.523-529

Kwame Nkrumah, *Africa Must Unite* (1963) Heinemann: London

Douglass C. North, John Joseph Wallis, Steven B. Webb and Barry R. Weingast, *Limited Access Orders in the Developing World: A New Approach to the Problems of Development*, World Bank Policy Research Working Paper No.4359 (2007), The World Bank: Washington DC

Mkhululi Nyathi, *Exploring Shared Governance as an Alternative Institutional Model for the Southern African Development Community* (2015), Doctoral Dissertation submitted to the University of Pretoria, South Africa

David Ogg, *Sully's Grand Design of Henry IV from the Memoirs of Maximillien de Bethune duc de Sully,* (1921) Sweet and Maxwell: London, England

Michael P. Okom, "Sovereignty Versus Supranationalism: The ECOWAS Conundrum,", 12 (23) *European Scientific Journal* (2016), pp.289-297

Mancur Olson, "Dictatorship, Democracy and Development" 87 (3) *American Political Science Review* (1993), pp.567-576

Francisco K.N. Olympio, *Transformation of the Organisation of African Unity (OAU): A New Vision for the 21st Century, or Political Rhetoric*? A Dissertation submitted to the Department of Political Science, (2004) Universität Trier, Germany, in partial fulfilment of the Requirements For the award of Doctor of Philosophy (PhD)

William Penn, *An Essay Towards the Present and Future Peace of Europe by the Establishment of an European Diet, Parliament, or Estates* in Andrew R. Murphy (Ed), William Penn: Political Writings (Cambridge Texts in the History of Political Thought (2020) pp.344-362, Cambridge, Cambridge University Press

J. Peter Pham, "Somalia: Where a State Isn't a State", 35 (2) *Fletcher Forum of World Affairs* (2011), pp.133-151

Richard Pipes, *The Formation of the Soviet Union*: *Communism and Nationalism, 1917–1923*, Rev ed, Harvard University Press: Cambridge, Massachusetts (1997)

Jinny Kathleen Prais, *Imperial Travelers: The Formation of West African Urban Culture, Identity, and Citizenship in London and Accra, 1925-1935* (2008), a dissertation submitted in partial fulfillment of the requirements for the degree of Doctor of Philosophy in the University of Michigan

Miriam Prys, *Developing a Contextually Relevant Concept of Regional Hegemony: The Case of South Africa, Zimbabwe and "Quiet Diplomacy"" (2008)* German Institute of Global and Area Studies Working Paper 77/2008

George Roberts, "The Uganda-Tanzania War, the fall of Idi Amin, and the failure of African diplomacy, 1978-1979", *8 (4) Journal of Eastern African Studies* (2014), pp. 692-709

Joseph Rwagatare, *Lack of Political Will and Hypocrisy are Holding Africa Back: they are the same*, The New Times (November 26, 2018)

Amos Sawyer, *The Emergence of Autocracy in Liberia*: *Tragedy and Challenge* (1992), ICS Press, San Francisco: California

Gerardo Serra, *Continental Visions: Ann Seidman, Reginald H. Green and the Economics of African Unity in 1960s Ghana* (2014), CHOPE Working Paper No. 2014-08

Wapmuk Sharkdam, "In Search of Greater Unity: African States and the Quest for an African Union Government", 1 (3) *Journal of Alternative Perspectives in the Social Sciences* (2009), pp.645-671

Issa G. Shivji, "Pan-Africanism or imperialism? Unity and struggle towards a new democratic Africa" 10 (1) *African Sociological Review/Revue Africaine de Sociologie* (2006), pp.208-220

Adam Smith, *An Inquiry Into the Nature and Causes of the Wealth of Nations*, (1776, 1999), Liberty Classics: Indianapolis, Indiana, Book I, chapter II

Ilya Somin, "Rational Ignorance and Public Choice", (2019) 2 *The Oxford Handbook of Public Choice,* Roger D. Congleton, Bernard Grofman, and Stefan Voigt (eds), Oxford University Press: Oxford, pp.572-587

Selamawit Tadesse. *Political Unification before Economic Integration: a Critical Analysis of Kwame Nkrumah's Arguments on the United States of Africa*. (2018) submitted in accordance with the requirements for the degree of Master of Arts in the subject International Politics at the University of South Africa

Nicholas, K. Tarlebbea and Sam Baroni, "The Cameroon and Nigeria Negotiation Process over the Contested Oil Rich Bakassi Peninsula", 2 (1) *Journal of Alternative Perspectives in the Social Sciences* (2010), pp.198-210

Christopher Terranova, "The Constitutional Life of Legislative Instructions in America", 84 (5) *New York University Law Review* (2009), pp.1331-1373

Blessing E.N.Thom-Otuya, "Strengthening African Union for African Integration: An African Scholars Perspective", 8 (2) African Research Review (2014), pp.353-365

Gordon Tullock. "The Welfare Costs of Tariffs, Monopolies and Theft", 5 (3) *Western Economic Journal* (1967), pp.224-232David M. Trubek, "Toward a Social Theory of Law: An Essay on the Study of Law and Development", 82 (1) *Yale Law Journal* (1972), pp.1-50

Paul T. Truitt, "Interstate Trade Barriers in the United States", 8 (2) *Law and Contemporary Problems* (1941), pp.209-222

Francesca Vasallo, "A European Federalism from Altiero Spinelli to the EU Constitutional Treaty" (2009) *The Ashgate Research Companion to Federalism* Ann Ward and Lee Ward (eds.) pp.351-366, pp.354-355, Ashgate: Surrey, England.

Gary M. Walton and James F. Shepherd, *The Economic Rise of Early America* (1979), New York: Cambridge University Press

Geoffrey Wawro, *The Franco-Prussian War: The German Conquest of France in 1870-1871* (2003), Cambridge University Press: Cambridge, England

David Wetzel, *A Duel of Giants: Bismarck, Napoleon III, and the Origins of the Franco-Prussian War* (2003), University of Wisconsin Press: Madison, Wisconsin

Jeremy J. Whiteman, "Trade and the Regeneration of France, 1789–91: Liberalism, Protectionism and the Commercial Policy of the National Constituent Assembly", 31 (2) *European History Quarterly* (2001), pp.171-204

Ivor Wilks, *Asante in the 18th and 19th Centuries: The Structure and Evolution of a Political Order* (1975, 1989), Cambridge University Press

Katharina Wurzer, "The Mali-Federation: A Pan-African Endeavour? Reflections on Pan-Africanism and Nationalism in Times of Decolonization", 20 (38) *Vienna Journal of African Studies* (2020), pp.55-72

PRIMARY DOCUMENTS

Accra Declaration on the Union Government of Africa Accra, Ghana, (03 July 2007) Assembly/AU/Decl.2 (IX) available at
https://archives.au.int/bitstream/handle/123456789/1225/Accra%20Declaration_E.pdf?sequence=1&isAllowed=y

Albany Plan of Union (1754) available at https://avalon.law.yale.edu/18th_century/albany.asp

Articles of Confederation (1781) available at https://www.usconstitution.net/articles.html

Articles of Confederation of the United Colonies of New England 1643) available at https://avalon.law.yale.edu/17th_century/art1613.asp

 Constitution of the new Fanti Confederation, available at https://www.modernghana.com/news/123177/1/constitution-of-the-new-fante-confederacy.html

Constitution of the National Congress of British West Africa, 1923, in *Ideologies of Liberation in Black Africa, 1856-1970: documents on modern African political thought from colonial times to the present* (1970) J. Ayodele Langley (ed) R. Collings London

Constitution of the Republic Ghana, (1960) Government Printing: Accra, Ghana

ECOWAS Revised Treaty (1993), available at https://www.ecowas.int/wp-content/uploads/2015/01/Revised-treaty.pdf

Grand Design of Henry IV from the Memoirs of Maximillien de Bethune duc de Sully (1559-1641)

Pan African Congress, London Manifesto (1921) available at https://college.cengage.com/history/primary_sources/world/london_manifesto.htm

Schuman Declaration (9 May 1950) available at https://europa.eu/european-union/about-eu/symbols/europe-day/schuman-declaration_en

Treaty establishing a Monetary, Economic and Social Union (Bonn, 18 May 1990)
https://www.cvce.eu/en/obj/treaty_establishing_a_monetary_economic_and_social_union_bonn_18_may_1990-en-9847e49d-43c7-4c0e-b625-ff732673a06e.html

Treaty establishing the European Coal and Steel Community, ECSC Treaty (18 April 1951) available at https://www.cvce.eu/obj/treaty_establishing_the_european_coal_and_steel_community_paris_18_april_1951-en-11a21305-941e-49d7-a171-ed5be548cd58.html

CASES

Case 11/70 *Internationale Handelsgesellschaft* (1970) European Court Reports p.114

Flaminio Costa v ENEL (1964) Case 6/64 European Court Reports p.585

Rashid Salim Adiy & 39,999 Others v The Attorney General of the Revolutionary Government of Zanzibar & 2 Others available at https://www.eacj.org/?cases=rashid-salim-adiy-39999-others-v-the-attorney-general-of-the-revolutionary-government-of-zanzibar-2-others