

Columbia University
Graduate School of Arts & Sciences
Human Rights Master of Arts Program

To Be Human in A Dehumanizing World¹:
Black Lives Matter and the Human Rights Framework

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Submitted in partial fulfillment of the
requirements for the degree of
Master of Arts

February 2017

¹ The title of this project comes from an interview with Black Lives Matter co-founder, Alicia Garza: “*When [Opal Tometi, Patrisse Cullors and I] created Black Lives Matter, it absolutely was about: how do we live in a world that dehumanizes us and still be human?*” **See:** Smith, Mychal Denzel. “A Q&A with Alicia Garza, Co-Founder of #BlackLivesMatter”. *The Nation*. 24 March 2015. <http://www.thenation.com/article/qa-alicia-garza-co-founder-blacklivesmatter/>. Web. Accessed 6 January 2017.

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ABSTRACT

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Maria Rohani

This thesis explores the relationship between Black Lives Matter and the human rights regime. First, the thesis contextualizes the contemporary movement within the long and complicated historical relationship between racial justice struggles and the international human rights system. Second, the paper looks at the available human rights tools that could advance the goals of Black Lives Matter, with a focus on relevant international treaties, the Inter-American System, and the Universal Periodic Review. Third, the project studies the ways in which Black Lives Matter has, on its own, already engaged with human rights discourse. Here, a sample of Twitter content will be examined as well as a selection of literature drafted by Black Lives Matter's leaders. Lastly, the paper discusses the ways in which the human rights system, as it currently functions, may not support the vision and values of Black Lives Matter. This final section will rely on two key discussions: first, one that looks at the international system through the lens of critical race theory and second, one that complicates the role of the nation-state in the human rights regime. Ultimately, this thesis works to unpack the connection between Black Lives Matter and human rights and to interrogate the underlying complexities of this relationship.

Table of Contents

I.	Introduction.....	1
II.	A Note on Terminology.....	8
III.	Part 1: The Historical Relationship between Racial Justice and the Human Rights System.....	11
	A. From Civil Rights to Human Rights.....	12
	B. Historical Attempts to Engage with the Human Rights Regime by Racial Justice Movements.....	19
	C. Lessons from the Historical Relationship between Racial Justice Movements and the Human Rights Regime.....	24
IV.	Part 2: Applications of the Human Rights Framework to Black Lives Matter.....	27
	A. International Treaties.....	29
	B. The Inter-American System.....	33
	C. Universal Periodic Review.....	36
V.	Part 3: Black Lives Matter’s Relationship to Human Rights.....	40
	A. Twitter.....	42
	B. Literature from Black Lives Matter Leaders.....	52
	C. The Significance of Human Rights to Black Lives Matter.....	57
VI.	Part 4: Complicating the Relationship Between Black Lives Matter and Human Rights.....	62
	A. Black Lives Matter, the Human Rights System and Critical Race Theory.....	64
	B. From Person to Human and the Role of the State	69
VII.	Conclusion.....	77
VIII.	Bibliography.....	80

Acknowledgments

First, I want to thank all of the faculty members at Columbia University who provided tremendous support throughout my graduate program. A special thank you to Risa Kaufman, Thomas Keenan, Kendall Thomas, Harris Beider, Louis Bickford and Felicity Scott for allowing me to explore these concepts within their classroom and for also providing individualized guidance on my work.

To my advisor, Professor Fredrick Harris, for supporting this project, for delivering invaluable feedback and for trusting my process. I am truly thankful for your supervision.

Outside of Columbia: Thank you to Professor Frank Roberts of New York University for welcoming me into his weekly seminar “We Gon’ Be Alright: The Black Lives Matter Movement” in the Fall 2016 - it gave me a space to think deeper and engage more critically with the movement itself. Much gratitude to the staff of Race Forward for funding my participation as a scholar at the 2016 Facing Race Conference in Atlanta, Georgia. Lastly, my deepest appreciation to Professor Kathryn Abrams of Berkeley Law School for years of mentorship and for never faltering in her belief in my abilities and contributions.

I want to acknowledge the staff of the Institute for the Study of Human Rights, particularly Gergana Halpern and Christina Eberbach, for providing our cohort with the space and resources to learn and grow as scholars. Also at ISHR, a special thank you to Tim Wyman–McCarthy, for his incredible friendship and for lending his mind and his ears to my work, time and time again. To all the members of the HRSMA cohort: it was a gift to learn from and to be inspired by my own peers.

Community is a lifeline and I am truly indebted to mine. Imali and Carly, thank you for being my home in New York City and for providing an infinite amount of coffee and sisterhood. My community of friends and family in California, thank you for your unwavering support. My whole heart goes to my parents, Vida and Emmanuel, for teaching me all I know about justice and love, for never questioning my path, for thinking that what I am doing is *beest*, and for always being a safe place to land. There will never be enough words of gratitude.

Most importantly, this is for Black Lives Matter and for all of the social justice warriors that have come before it. To the activists who sacrifice so much for all of us: thank you. Let this project be the smallest token of gratitude and acknowledgment of what you have done and what you have given up for this struggle. As a woman-of-color in this country and as an American, I owe so much to you. In fact, we all owe so much to you. I am forever in solidarity.

In memory of every single Black person who was killed by police brutality: you are at the heart of the movement and of this project. There are tragically far too many names to list here but know that I say your name and carry your story.

And to end in the way that we always do - with the words of Assata Shakur:

*It is our duty to fight for our freedom.
It is our duty to win.
We must love and protect each other.
We have nothing to lose but our chains.*

I. Introduction

Zianna Oliphant stood on a stool to see over the podium and quietly looked into the crowd that had gathered at a city council meeting in Charlotte, North Carolina. It is a late September day in 2016 and Zianna is just nine years old. The video that would circulate globally of her speech shows a little girl with cartoon images on her shirt and a pink hairband in her hair.² The emotions of the room are turbulent, with community members arriving to speak about the uprising that had taken over the city after another police shooting of a Black man, this time 43-year-old Keith Lamont Scott. Within seconds of her speech, Zianna is overcome by her own emotions and stops abruptly. Coaxed by her peers and the adults in the room, Zianna starts back up and, speaking over her tears, says: “We are black people and we shouldn’t have to feel like this. We shouldn’t have to protest because y’all are treating us wrong. We do this because we need to...”. She continues: “I’ve been born and raised in Charlotte, and I’ve never felt this way ‘til now. And I can’t stand how we’re treated. It’s a shame that our fathers and mothers are killed, and we can’t even see them anymore. It’s a shame that we have to go to the graveyard and bury them. And we have tears, and we shouldn’t have tears.”³ Listening to a child speak of death, shame, racism, and rights had a profound impact on viewers. Her words would quickly go viral and be tweeted, retweeted, shared and posted repeatedly in various outlets and corners all over the internet.⁴ In a couple of minutes, Zianna became the latest voice at the forefront of Black Lives Matter, a movement which started three years prior and had already galvanized the nation.

² “WATCH: 9-Year-Old Girl's Testimony About Police Killings in Charlotte Goes Viral”. *Democracy Now*. 28 Sept., 2016. http://www.democracynow.org/2016/9/28/watch_9_year_old_girls_testimony Web. Accessed 6 January 2017.

³ Ibid.

⁴ “How Young Zianna Oliphant Spoke for Black Rights in Charlotte.” *BBC News*. 28 Sept. 2016. <http://www.bbc.com/news/world-us-canada-37499686> . Web. Accessed 6 January 2017.

From the streets of Ferguson to the podiums of the 2016 presidential campaign to United Nations chambers in Geneva, the Black Lives Matter movement is a presence in nearly every space discussing racial justice and police brutality. Launched in 2013, after the acquittal of George Zimmerman in the murder case of Trayvon Martin, Black Lives Matter evolved from a hashtag on Twitter into a full-fledged political movement. When the Zimmerman decision was announced, Alicia Garza, a community organizer in Oakland, California, wrote an impassioned Facebook post titled a “Love Note to Black People”, in which she called on her community to organize against systems of violent racism.⁵ She ended her commentary with the phrase “Our Lives Matter”. Patrise Cullors, a community organizer in Los Angeles, California, responded to the post with “#BlackLivesMatter”.⁶ In a single interaction, a hashtag was established and a movement was born. In fact, Black Lives Matter has been built by a succession of these single interactions – it is the reaction to brief moments between unarmed Black men or women and armed white individuals, where the former does not survive and the latter gets to walk away scot-free. The issue of police brutality harkens to the ever-present undercurrent of racial tension in the United States. While the impetus of the movement was police brutality throughout the United States, Black Lives Matter works on elevating other issues faced by Black community: including mass incarceration, poverty, voter disenfranchisement, and broken educational systems. A year after the hashtag was created, the deaths of Michael Brown in Ferguson, Missouri and Eric Garner in New York City in 2014 pushed Black Lives Matter out of the Twittersphere and

⁵ Cobb, Jelani. “Where Is Black Lives Matter Headed?”. *The New Yorker*. 14 March 2016. <http://www.newyorker.com/magazine/2016/03/14/where-is-black-lives-matter-headed>. Web. Accessed 6 January 2017.

⁶ Ibid.

mobilized thousands of people onto the streets.⁷ Black Lives Matter has joined a long history of racial justice struggle. The American story of racism and resistance is well-documented, with the Civil Rights Movement and the Black Power Movement of the 1960s and 1970s serving as the pinnacle of the racial justice struggles. However, it could be argued that the Black Lives Matter movement has been an unprecedented rendition of the racial justice tradition in America.

Declaring itself “not your grandfather’s civil-rights movement”, Black Lives Matter is centered on notions of radical inclusion, intersectionality, and a commitment to grassroots strategies.⁸ These strategies are a departure from historical Black movements that depended on leadership hierarchies and single-issue narratives.⁹ Soon after the movement’s inception in 2013, the words “Black Lives Matter” propelled to the front of the American conversation about race and equality. The rapid public acceptance of the movement – 43% of Americans polled by PEW Research Center in 2016 expressed support of Black Lives Matter - as well as its unconventional tactics has been discussed at length by commentators and academics alike.¹⁰ However, a critical and less often explored discussion is the positionality of Black Lives Matter within the human rights discourse. This discussion is significant because what distinguishes this effort from prior civil rights movements lies in the core demand of Black Lives Matter: that Black lives be recognized for their value and humanity. While the humanity of Black lives has, undoubtedly,

⁷ Baker, Al, J. David Goodman, & Benjamin Mueller, “Beyond the Chokehold: The Path to Eric Garner’s Death”. *The New York Times*. 13 June 2015, <http://www.nytimes.com/2015/06/14/nyregion/eric-garner-police-chokehold-staten-island.html>. Web. Accessed 6 January 2017.

⁸ Cobb, Jelani. “Where Is Black Lives Matter Headed?”. *The New Yorker*. 14 March 2016. <http://www.newyorker.com/magazine/2016/03/14/where-is-black-lives-matter-headed>. Web. Accessed 6 January 2017.

⁹ “11 Major Misconceptions about the Black Lives Matter Movement”. *Black Lives Matter*. <http://blacklivesmatter.com/11-major-misconceptions-about-the-black-lives-matter-movement/>. Web. Accessed 6 January 2017.

¹⁰ Horowitz, Juliana Menasce and Gretchen Livingston. “How Americans View the Black Lives Matter Movement.” *Pew Research Center*. 8 July 2016. <http://www.pewresearch.org/fact-tank/2016/07/08/how-americans-view-the-black-lives-matter-movement/>. Web. Accessed 6 January 2017.

been at the heart of all racial justice struggles, Black Lives Matter has articulated and centralized it in a whole new way. This demand is essentially a call for the right to life. As Fredrick Harris explains: “[Black Lives Matter]’s recognition that all black lives deserve humanity, regardless of their gender, class, or sexual orientation, has breathed new life into the legacy of the black freedom struggle. Today’s new—and much larger—movement is also articulating the national struggle for racial justice as a broader one for human rights.”¹¹ Black Lives Matter, the umbrella national organization, has also expressed this distinction: “When we say Black Lives Matter, we are broadening the conversation around state violence to include all of the ways in which Black people are intentionally left powerless at the hands of the state. We are talking about *the ways in which Black lives are deprived of our basic human rights and dignity*.”¹² Thus, Black Lives Matter has reframed the issue of racial justice within the context of a human rights movement.

By exploring Black Lives Matter through the human rights framework - that is, to identify human rights laws, norms and principles which could apply to the plight of African-Americans as understood by Black Lives Matter – this paper hopes to analyze two points. First, it will explore how this framework could advance the demands of the movement or assist it to meet some of its goals. In Part 1 of this analysis, I will introduce the historical and contentious relationship between the international human rights system and racial justice struggles in the United States. Then, in Part 2, I will explain the current available tools for the movement to utilize in the human rights system. The human rights regime is a large operation with various laws, mechanisms, norms and principles that are established at all levels of government and society. While most of these tools would be useful for Black Lives Matter, three instruments are

¹¹ Harris, Fredrick. "The Next Civil Rights Movement?" *Dissent*. 62.3. 2015, 34-40.

¹² “About: Black Lives Matter”. *Black Lives Matter*. www.blacklivesmatter.com/about . Web. Accessed 6 January 2017. *Emphasis added*.

the most beneficial to the movement's human rights advocacy: relevant international human rights treaties, the Inter-American system, and recommendations from the Universal Periodic Review. By understanding the details of these mechanisms and how they could advance the movement, Black Lives Matter may be able to bolster its claims and demands, advocate more effectively to American policymakers, and build stronger coalitions both domestically and internationally. The analysis will explore if there is potential for the movement to be strengthened by the use of the international human rights system.

The latter half of this project work to complicate this application and examine how the implementation of a relationship between Black Lives Matter and the human rights system could, in fact, undermine the objectives of the movement. The human rights system has long been criticized as a tool of Western supremacy and as a way to reinforce systems of oppression, most notably for its heavy reliance on the state-subject relationship.¹³ This last section will explore the question of what happens when a current system should - theoretically - secure the objectives of a movement but could - in practice - only be a disservice to the goals of the movement. This discussion relies on Black Lives Matter's insistence that Black persons deserve the fulfillment of their rights because of their inherent humanity rather than because of their political personhood. In other words, unlike the Civil Rights Movement which asserted that Black people were Americans and therefore deserved their rights under the law, Black Lives Matter is demanding the rights of Black people simply because they are human beings. However, this appeal based on one's humanity is not a simple demand. Thomas Keenan, critical theorist and human rights scholar, unpacks the question of humanity in the following way:

¹³ **See:** Mutua, Makau W. "Critical Race Theory and International Law: The View of an Insider-Outsider." *Villanova Law Review* 45 (2000). 841-854.

...We are not self-evidently human. Arguing for one's rights, or against their violations, is ultimately reducible to claiming that one belongs to the human community, that one's status is human. But that argument needs to be made – it does not go without saying. The human status appears to be rather uncertain, not secured by anything, subject to regular challenge and contest. It is not guaranteed by anything but other humans, and they are not good at guarantees.¹⁴

Keenan's analysis is particularly poignant in the context of racial justice in America, where the humanity of Black people has a history of being legally and constitutionally undermined. What does it mean to build a movement centered on "rehumanizing a dehumanized peoples" within the very nation that established a pattern of dehumanization?¹⁵ Does an appeal to humanity - to one's right within a human community as Keenan puts it - constitute a human rights movement? In Part 3, I will study the approach and connections that Black Lives Matter has made on its own to the human rights framework. Then lastly, in Part 4, I will unpack these critical and theoretical discussions that complicate the relationship between racial justice and human rights and discuss the specific implications and complications of applying the human rights discourse to the Black Lives Matter discourse. Ultimately, this thesis aims to interrogate the potential advantages and the nuanced difficulties of the relationship between the 21st century's rising racial justice movement and the international human rights system.

In the same month that Zianna took her podium, President Barack Obama took the podium in front of the United Nations for the last time in his presidency to address the 71st Session of the UN General Assembly. During his speech, he spoke strongly against systems of racism, stating: "We must reject any forms of fundamentalism, or racism, or a belief in ethnic superiority that makes our traditional identities irreconcilable with modernity. Instead we need to embrace the tolerance that results from respect of all human beings [...]I do not believe progress

¹⁴ Keenan, Thomas. *Forensis: The Architecture of Public Truth*. Berlin: Sternberg Press, 2014. 42.

¹⁵ Roberts, Frank. "Five Ways of Understanding Black Lives Matter". *Broadway for Black Lives*, 1 August 2016, Columbia University, New York, New York. **See the entirety of the speech at:** <https://www.youtube.com/watch?v=D7ERPOddqZw> . Web. Accessed 6 January 2017.

is possible if our desire to preserve our identities gives way to an impulse to dehumanize or dominate another group.” He continued: “Sometimes I’m criticized in my own country for professing a belief in international norms and multilateral institutions. But I am convinced that in the long run, giving up some freedom of action -- not giving up our ability to protect ourselves or pursue our core interests, but binding ourselves to international rules over the long term -- enhances our security.”¹⁶ Obama’s remarks suggest that international norms put forward by the United Nations, including human rights principles, are not only important for the American state but for the American people, especially those facing racism and intolerance. The protests of Black Lives Matter against police brutality cases and lack of justice are legitimate and the need for a people to continuously insist on their humanity and appeal to the “human community” is deeply troubling. The powerful surge of support the movement has accumulated in three short years is indicative of unrest in the United States and is truly an opportunity for social change. It is due time for the United States to reckon with its ugly and fatal story of racial injustices and state violence. However, the positionality of Black Live Matter as a human rights movement should not be accepted as an inevitable nor as a morally or politically sound decision. The human rights system and its para-discourse is not a neutral space. It is a system with its own set of power dynamics, implicit and explicit biases, and controversial politics. This analysis is the first step in a necessary conversation about what it means to be a human rights movement and if the human rights system is truly the space that will allow for Black lives to finally and absolutely be recognized for their humanity.

¹⁶ “Address by President Obama to the 71st Session of the United Nations General Assembly”. *The White House, Office of the Press Secretary*. September 10, 2016. **Read transcript at:** <https://www.whitehouse.gov/the-press-office/2016/09/20/address-president-obama-71st-session-united-nations-general-assembly> .

II. A Note on Terminology

For the purpose of this analysis, some borders will be drawn around the movement known as “Black Lives Matter”. In the context of this discussion, Black Lives Matter will be defined as the movement initiated by the aforementioned activists and organizers: Alicia Garza, Patrise Cullors, and Opal Tometi. These leaders began the social media conversation tagged #BlackLivesMatter and have been positioned in the media and in the general American narrative as the leaders of the movement. By launching a Twitter page and eventually a national organization under the moniker of “Black Lives Matter”, these leaders built an organizational framework around the movement.¹⁷ Therefore, when referring to “Black Lives Matter”, this discussion will be on the actions or comments made or endorsed by members of this organization. Other organizations have arisen that are often conflated with Black Lives Matter: Black Youth Project 100 or Million Hoodies Movement for Justice, to name a few.¹⁸ A larger coalition of organization that identifies as The Movement for Black Lives has also been established.¹⁹ All of these organizations are important and irreplaceable actors in the fight for racial justice. This paper does not, in any way, aim to erase their contributions to the struggle. However, for the purpose of this study, Black Lives Matter will be used to refer to the contemporary racial justice movement that was first initiated in 2013 and the organization known as “Black Lives Matter” and its associated actors will be centralized.

In many ways, the act of drawing such strict boundaries around what is or is not Black Lives Matter is counterintuitive to the aim of the movement itself. From the beginning, Black Lives

¹⁷ Garza, Alicia. “Herstory”. *Black Lives Matter*. <http://blacklivesmatter.com/herstory/> Web. Accessed 6 January 2017.

¹⁸ **See:** Naasel, Kenrya Rankin. “Why It’s Dangerous to Lump All Black Activists Under the ‘Black Lives Matter’ Banner.”. *Colorlines*. 20 July 2016. <https://www.colorlines.com/articles/why-its-dangerous-lump-all-black-activists-under-black-lives-matter-banner>. Web. Accessed 6 January 2017.

¹⁹ **See:** The “About Us” page of the The Movement for Black Lives website. <https://policy.m4bl.org/about/> Web. Accessed 6 January 2017.

Matter has intentionally steered away from a hierarchical system, citing itself as “leader-full” and the inclusion of all communities as a driving force.²⁰ Many activists would not attribute the roles of leadership solely to Garza, Cullors and Tometi. In fact, while there is an official Black Lives Matter organization, countless actions attributed to the organization – such as the initial protests in Baltimore after the death of Freddie Gray or the San Francisco-Oakland Bay Bridge shutdown in 2016– were not under the guidance of Garza, Cullors, or Tometi and were not made privy to the Black Lives Matter organization before their inception.²¹ The nonclaimability of the movement is a purposeful choice of its organizers. As Garza stated: “Whether or not you call it Black Lives Matter, whether or not you put a hashtag in front of it, whether or not you call it the Movement for Black Lives is somewhat irrelevant, because there was resistance before Black Lives Matter and there will be resistance after it.”²² However, the objective of these boundaries is not to limit the conversation but rather to be an exercise which guides it. Black Lives Matter is still very much contemporary and without some sort of restraint against what it is or is not, the ability to produce a meaningful enquiry would wane.

Lastly, it should be noted that at the time of this writing Black Lives Matter is about three years into its progression. The scholarship and literature that will emerge on Black Lives Matter is just beginning and will certainly continue for years to come. In fact, the research for this project began in the Fall of 2015 and by the end of 2016, the number of books on the movement has increased from zero to a small handful. Noteworthy contributions to this emerging collection

²⁰ Cobb, Jelani. “The Matter of Black Lives.” *The New Yorker*. 14 Mar. 2016 Issue. <http://www.newyorker.com/magazine/2016/03/14/where-is-black-lives-matter-headed>. Web. Accessed 6 January 2017.

²¹ Ibid.

²² Garza, Alicia. “To Imagine What a Real Democracy Can and Should Look Like”. 5 June 2016. Personal Democracy Forum, New York, New York. Speech. <http://civichall.org/civicist/imagine-real-democracy-can-look-like> . Accessed 6 January 2017.

include *From #BlackLivesMatter to Black Liberation* by Keeanga-Yamahtta Taylor, *Nobody: Casualties of America's War on the Vulnerable, from Ferguson to Flint and Beyond* by Marc LaMont Hill, and *The Fire This Time: A New Generation Speaks about Race* by Jesmyn Ward. While relatively young, it is clear that Black Lives Matter has already begun to reshape the American narrative on race. It is impossible for this paper to properly capture all that Black Lives Matter is and has been for America in the last three years. It is also impossible for it to present a complete foundation that captures the whole narrative of the movement, its impact, and its struggles. However, the objective of this paper is not to retell the story of Black Lives Matter. Rather this project aims to question the ways in which the human rights system is engaging with one of the most critical human rights movements of the 21st century. The literature on Black Lives Matter will grow in the coming years, especially as the movement continues to participate in America's political and social landscape. This paper is just one small contribution to a much larger project. Hopefully, this project will begin the process of filling the critical gap in the current literature – one that lives at the nexus of racial justice, social movements, and human rights.

III. PART 1: The Historical Relationship between Racial Justice and the Human Rights System

In 1919, during the Paris Peace Conference, the Japanese delegation put the “Racial Equality Proposal” on the table for a vote.²³ As the only non-Western great power in attendance, Japan’s proposal for universal racial equality immediately faced controversy. From its initial introduction, Japan’s suggestion to include a racial equality clause in the Covenant of the League of Nations was met with opposition. Western powers swiftly spoke out against the document that boldly pushed against their notions of a world order. After all, the proposal “effectively challenged the status quo by making an important implicit claim that great power status should also explicitly include racial equality”.²⁴ In the end, the subject was debated for two months before being ultimately defeated.²⁵ This incident, beyond just a debate that is indicative of the political climate of the time, points to the longevity of the undercurrent of racial power dynamics in international law. Despite a notable evolution away from explicit racism in global politics, scholars continue to argue that contemporary international law nevertheless maintains racial oppression and exclusion.²⁶ Nearly a century later, these racial power dynamics are still under debate in international legal discourse. The historical struggle to introduce issues of racial justice into the human rights landscape is telling of the current obstacles that Black Lives Matter faces as it engages with the global system. In the process of reclaiming human rights as a core part of its ethos, the contemporary movement for Black lives is building on a long and complicated history between human rights and racial justice.

²³ Shimazu, Naoko. *Japan, Race and Equality: Racial Equality Proposal of 1919*. London, GBR: Routledge, 1998.1.

²⁴ *Ibid*, 89.

²⁵ *Ibid*, 10.

²⁶ Gordon, Ruth. “Critical Race Theory and International Law: Convergence and Divergence”. *Villanova Law Review* 45 (2000), 833.

A. *From Civil Rights to Human Rights*

The latter end of the 1960s saw the rise of the international human rights movements just as the Civil Rights Movement was coming to a close.²⁷ Around the world, social activists turned to human rights to address some of the same issues that the civil rights movement aimed to resolve including violent forms of discrimination and inequality.²⁸ At this time, the proclaimed leader of the Civil Rights Movement, Dr. Martin Luther King Jr., penned a report to the staff of the Southern Christian Leadership Conference, in which he wrote: “We have moved from the era of civil rights to the era of human rights, an era where we are called upon to raise certain basic questions about the whole society.”²⁹ Unlike the human rights framework, the notion of civil rights has long been accepted into the American value system and thus has a robust presence in American culture and society. As a result, the terms “human rights” and “civil rights” are often mistakenly conflated. Human rights are defined by the United Nations as “rights inherent to all human beings, whatever nationality, place of residence, sex, national or ethnic origin, color, religion, language, or any other status. [...]”³⁰ The only requirement for claiming human rights is that one be a human being. On the other hand, civil rights are understood to be the rights granted by virtue of one’s citizenship in a state and are the rights that allow one to participate in the political processes and civil society of a state without infringement.³¹ Civil rights exist within the parameters of the state, while human rights are meant to be guaranteed regardless of nations and borders. The key contribution of the human rights framework to the plight of African-

²⁷ Neier, Aryeh. *The International Human Rights Movement: A History*. Princeton, NJ: Princeton University Press, 2012, 3.

²⁸ *Ibid*, 2.

²⁹ King Jr, Martin Luther. “Report to the Southern Christian Leadership Conference”. May 1967.

³⁰ “What Are Human Rights?” United Nations, Office of the High Commissioner on Human Rights. **See:** <http://www.ohchr.org/EN/Issues/Pages/WhatAreHumanRights.aspx> Web. Accessed 6 January 2017.

³¹ Davis, Martha F., Johanna Kalb, and Risa E. Kaufman. *Human Rights Advocacy in the United States*. St. Paul, MN: West Academic Publishing. 2014. 433.

Americans (which is not granted by the civil rights discourse) is an investment in their humanity rather than in their American citizenship. While civil rights recognized the inability to vote or mandated segregation of schools as violations to U.S. citizens, human rights goes outside the state framework. Human rights recognize legal actions such as solitary confinement in prisons or ubiquitous poverty in communities-of-color as violations. Stated otherwise, civil rights are within the scope of human rights while human rights expand beyond civil rights.

It should be noted, however, that human rights and civil rights are “never so much neat binaries...than they [are] intertwined aspects of ongoing struggle”.³² In practice, human rights institutions have established the state as the sole duty-holder in the fulfillment of the human rights of persons. In this sense, both human rights and civil rights are based on a state-civilian relationship. Yet, by broadening the categories of rights, it allows the international community to hold the United States accountable for the violations it commits against the African-American community. This shift is significant: “This transformation of human rights as a label – from narrow and domestic ideas about civil rights to a broader and internationalized vision of fundamental freedoms – is an unusually clear example of how a conceptual change may be reflected in a rhetorical shift”.³³ This addition to the racial justice discourse could manifest into considerable transformations to social movements. However, despite the concurrency of civil rights and human rights movements and the ability of its leaders to draw similarities in their demands, in the scarce instances when human rights have been employed in the fight against racial inequality in the United States, these efforts have been largely unsuccessful. The

³² Jackson, Thomas F. *From Civil Rights to Human Rights: Martin Luther King, Jr., and the Struggle for Economic Justice*. Philadelphia, PA, USA: University of Pennsylvania Press, 2009. 365.

³³ Davis, 85.

shortcomings and failures of previous attempts reveal significant lessons that are useful to understanding Black Lives Matter and America, historically and contemporarily.

From the initial establishment of the modern human rights system, there was hesitation by the United States to allow the utilization of human rights in the fight for racial equality. While the account of human rights stretches far before the 1900s, it can be argued that the most pertinent aspects of the human rights system for the racial justice system start with the Universal Declaration of Human Rights (UDHR) in 1948. The Declaration was adopted by the United Nations General Assembly as a response to the atrocities experienced during World War II and echoed the values articulated by President Franklin D. Roosevelt during his famed “Four Freedoms” speech: freedom from want, freedom from fear, freedom of speech, freedom of religion.³⁴ The preamble of the UDHR states that the document is based on the “recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world”.³⁵ The Universal Declaration of Human Rights was drafted over the course of two years by the Commission on Human Rights, which was chaired by Eleanor Roosevelt.³⁶ Also a vocal supporter of racial equality and civil rights in the U.S., the leadership of Roosevelt within the United Nations allude to the shared set of values between the fight for human rights internationally and the fight for civil rights domestically. However, Eleanor Roosevelt maintained her position against the inclusion of a clause regarding discrimination by individuals and also spoke out against the clause on state-

³⁴ Davis, 436.

³⁵ UN General Assembly, *Universal Declaration of Human Rights*, Preamble. 1948.

³⁶ Anderson, Carol. *Eyes off the Prize: The United Nations and the African American Struggle for Human Rights, 1944-1955*. Cambridge, UK: Cambridge University Press, 2003. 130.

sanctioned racial discrimination.³⁷ She believed that if racial discrimination was prohibited in the UDHR, it would not gain the support of Southern senators.³⁸ Consequently, international delegates were quick to note the hypocrisy of American guidance on drafting the cornerstone document on human rights:

[Alexander E. Bogomolov, the Soviet ambassador] argued that a gaping defect in the Declaration was its silence on exactly *who* was protected by these noble, elegant rights. The Declaration, Bogomolov noted, did not outlaw racial discrimination, nor did it prohibit racially inflammatory language. As a result, he said [...] the ‘lynching of negroes will continue.’³⁹

With this initial approach to the Universal Declaration on Human Rights, Eleanor Roosevelt solidified the bifurcation between universal human rights and American civil rights.

This fear of venturing into racial territory has contributed deeply to keeping human rights at bay in the United States. Just as Eleanor Roosevelt hesitated to marry the two families of rights in 1948, the late 1960s and early 1970s saw a similar unwillingness. While the Civil Rights Era could have provided a window for engagement with human rights because of its emphasis on social justice and equality, the government kept the human rights discourse to international relations, fearing that bringing it into the American landscape would cause an uprising mirroring those of the Civil Rights era. However, this was not an indication that the United States was not in support of the international norms elsewhere. In 1975, Congress adopted the Foreign Assistance Act, in which it denies security assistance to governments “which deny to their people internationally recognized human rights and fundamental freedoms, in violation of international law”.⁴⁰ The attitude and policies of the American legislature has made it clear that human rights are important for others but not relevant to the American people.

³⁷ Ibid.

³⁸ Ibid.

³⁹ Ibid, 131.

⁴⁰ Neier, 94.

This division between domestic actions and international values left the racial justice movement bereft of human rights instruments that could assist their mission.

The proposition to expand the civil rights movement into the realm of human rights garnered support within the racial justice movement, most notably by two prominent African-American leaders: Dr. Martin Luther King Jr. and Malcolm X. Throughout his career, King frequently referred to the civil rights movement as just one expression of a larger human rights struggle.⁴¹ However, near the end of his life, King intentionally took on the cause beyond racial equality and launched the “Poor People’s Campaign” in 1968 to gain justice for America’s impoverished.⁴² The necessity of economic rights was clear to Dr. King after the gains of the Civil Rights Movement did not materialize tangible improvements in the daily lives of African-Americans. In 1966, King confessed to the congregation of the Ebenezer Baptist Church that “he had seen his dream of the 1963 March on Washington "shattered" by his witness to spreading poverty”.⁴³ Anti-racism efforts would not guarantee freedom for African-Americans in a nation where class and race was so closely tied. Civil rights would not ensure King’s dreams if essential human rights to economic security were absent for African-Americans. The discourse of human rights allowed King to argue for economic reform, which would further racial justice in the ways that civil rights had not been able to. The shift to human rights from civil rights was most clearly heard in King’s controversial speech, “Beyond the Vietnam War”, in which King spoke out against the war and the damages it caused to both the poor in Vietnam and the poor back home:

We have been repeatedly faced with the cruel irony of watching Negro and white boys on TV screens as they kill and die together for a nation that has been unable to seat them together in the same schools. So we watch them in brutal solidarity burning the huts of a

⁴¹ Jackson, 1

⁴² Ibid, 345.

⁴³ Ibid, 246.

poor village, but we realize that they would never live on the same block in Detroit. I could not be silent in the face of such cruel manipulation of the poor.⁴⁴

After a lifetime dedicated to the advancement of civil rights, King transitioned his leadership to human rights. The recognition of the importance of the human rights framework in the liberation of the poor globally and the advancement of racial justice domestically by a foremost civil rights leader exemplifies the ways in which this discourse could fill the discontinuities in the current movement for racial equality.

Unlike Martin Luther King Jr., Malcolm X's interest was less rooted in economic concerns and more in the universalism of human rights. Unlike civil rights, which could be annulled by legislation, the innate nature of human rights made them irrevocable. The leader stated: "We believe that our problem is not one of civil rights but a violation of human rights. Not only are we denied the right to be a citizen in the United States, we are denied the right to be a human being."⁴⁵ He advocated for the troubles of the Black community to be taken out of the United States government and into the United Nations. In 1964, Malcolm X gave a speech titled "The Ballot or the Bullet", which advocated strongly for this transition:

We need to expand the civil-rights struggle to a higher level -- to the level of human rights. Whenever you are in a civil-rights struggle, whether you know it or not, you are confining yourself to the jurisdiction of Uncle Sam. No one from the outside world can speak out in your behalf as long as your struggle is a civil-rights struggle. Civil rights come within the domestic affairs of this country. [...]. Civil rights mean you're asking Uncle Sam to treat you right. Human rights are something you were born with. Human rights are your God-given rights.⁴⁶

Malcolm X was articulating the limitations that can occur when the state and its policies are an individual's only source of rights. By opening up the struggle to human rights, Malcolm X hoped that it would garner new supporters on an international level. Additionally, he saw an

⁴⁴ King Jr., Martin Luther. "Beyond Vietnam". New York, New York. April 4, 1967.

⁴⁵ Malcolm X, "Front Page Challenge", January 5, 1965, CBC.

⁴⁶ Malcolm X. "The Ballot or the Bullet." *The Hutchinson Unabridged Encyclopedia with Atlas and Weather Guide*. Abington: Helicon, 2015.

opportunity to use international human rights as a tactic to gain justice for the wrongs done against African-Americans and to hold wrongdoers accountable. During his speech, he repeatedly mentioned bringing Uncle Sam to “the world court” and the power of African-Americans going to the United Nations with their complaints and of being met with the support and alliance of African, Asian and Latin American countries.⁴⁷ Malcolm X and other leaders of this time had hope that the United Nations would be a racially neutral and depoliticized forum where the violations of the United States could be aired and recognized as wrongs. When forming the Afro-American Unity, a pan-Africanist organization dedicated to the human rights of African-Americans and solidarity with Africans, Malcolm X established internationalization as a goal of the organization:

“One of [the Afro-American Unity’s] first programs is to take our problem out of the civil rights context and place it at the international level, of human rights, so that the entire world can have a voice in our struggle. *If we keep it at civil rights, then the only place we can turn for allies is within the domestic confines of America.* But when you make it a human rights struggle, it becomes international, and then you can open the door for all types of advice and support from our brothers in Africa, Latin America, Asia, and elsewhere.”⁴⁸

Malcolm X was critical of the obstacles created by the United States for African-Americans to present their complaints to other nations. He argued that the Civil Rights Act of 1964 as “a propaganda maneuver to keep African nations from condemning America’s racist practices before the United Nations as they had done for the same practices in South Africa”.⁴⁹ In fact, Malcolm X had planned to petition the United Nations charging the United States government with the genocide of 22 million people.⁵⁰ He understood human rights as not just as more

⁴⁷ Ibid.

⁴⁸ Malcolm X, “After the Bombing/Speech at Ford Auditorium”. Detroit, Michigan. February 14, 1965. *Emphasis added.*

⁴⁹ Harris, Robert L. “Malcolm X: Human rights and the United Nations.” *The Western Journal of Black Studies*, 17(1), 1993, 2.

⁵⁰ Ibid, 1.

inclusive discourse for understanding the struggles of African-Americans but as also an accountability mechanism for the damages done by the United States to his community. Consequently, while King and Malcolm X saw different strengths in the use of the human rights discourse, they both recognized the role of the framework in advancing the African-American fight in the United States.

B. Historical Attempts to Engage with the Human Rights Regime by Racial Justice Movements

Prior to the Civil Rights movement and the camaraderie of prominent social leaders, the racial justice movement had forged two notably valiant efforts to bring the plight of African-Americans to the United Nations: the 1947 petition by the NAACP titled “An Appeal to the World” and the 1951 petition by the Civil Rights Congress titled “We Charge Genocide: The Historic Petition to the United Nations for Relief from a Crime of the United States Government Against the Negro People”. These two documents showcase rare instances in which the African-American community deliberately used international mechanisms to garner support against their conditions and to claim that they were, as a people, facing mass human rights violations. Additionally, these documents highlight the institutional failures of the United States. As mentioned, the United Nations only recognizes states as the protectors of human rights and consequently, as the only potential perpetrators of human rights abuse.⁵¹ The United Nations does not address human rights violations committed by one individual against another, especially if the perpetrator is not a state actor. Thus, claims of human rights violations address a failure by a state and its institutions to protect the rights of a citizen. As a result, the usage of human rights instruments is an institutional approach to racial justice. An examination of these two petitions

⁵¹ UN General Assembly, *The Charter of the United Nations*, 26 June 1945. San Francisco, California. Article 3.

and the reactions they garnered reveals the aspects of the African-American experience that qualify as violations of human rights. Moreover, these petitions shed light on the obstacles that exist when making the case that human rights violations occur in the United States.

“An Appeal to the World: A Statement on the Denial of Human Rights to Minorities in the Case of Citizens of Negro Descent in the United States of America and an Appeal to the United Nations for Redress” was drafted by W.E.B. DuBois as the lead author and sent to the United Nations in October 1947.⁵² The document labeled the treatment of African-Americans, from incidents of lynching to voting rights, as “not only indefensible but barbaric”.⁵³ The petition stated that there are “fundamental human rights [which] members of the United Nations are pledged to promote without distinction as to race” and that “it is clear that the Negro in the United States is the victim of wide deprivation of each of these rights”.⁵⁴ The petition was supported by startling figures about the position of the African American community, such as the fact that the United States had spent 111 percent more on white students than on Black students.⁵⁵ DuBois successfully painted a picture of the dismal situation for communities-of-color in the United States, one that the government was not keen on sharing. Unsurprisingly, the petition quickly gained global attention as outside observers read about the hypocrisy between the principles America preached and the actions it took against its own people. Domestically, the petition was widely discussed in the media and throughout the nation, leaving the federal government wary. Meanwhile, other nations feared that if the charges were investigated, it would open up all other nations for scrutiny under the same lens. The United Nations General Assembly

⁵² Dudziak, Mary L. *Cold War Civil Rights: Race and the Image of American Democracy*. Princeton, NJ: Princeton University Press, 2000. 45.

⁵³ Ibid.

⁵⁴ Davis, 90.

⁵⁵ Ibid.

had just condemned South African apartheid policies and urged South Africa to realign itself with the UN Charter.⁵⁶ The U.S. administration knew that “if the emerging system of apartheid was a violation of human rights, then certainly Jim Crow to be as well”.⁵⁷ Additionally, the rising tensions between the Soviet Union would ensure that the USSR would demand that the United States be taken seriously.⁵⁸ Ultimately, the petition was rejected by the United Nations.

The reasons for the rejection of the petition of 1947 expose key barriers faced by racial justice advocates when engaging the human rights framework into the United States. First and foremost is the risk of losing alliances within the American government by “naming-and-shaming” the United States on the international stage. For example, Eleanor Roosevelt, a board member of the NAACP and UN American delegate, did not allow the petition to be introduced to the United Nations because she believed it fueled the Soviet’s rhetoric about the United States.⁵⁹ Roosevelt discouraged the presence of a NAACP delegate at the United Nations and shortly after a meeting in Geneva in which the petition was discussed, she submitted her resignation from the NAACP board.⁶⁰ The reputation of the United States, in front of the world and in particular the Soviet Union, was the priority to her. This loss of a board member who was a key ally within the government and a famous figure who had promoted civil rights, was a huge blow to the NAACP and the racial justice movement as a whole. Eleanor Roosevelt’s cold reaction fragmented the leadership of the movement, specifically ostracizing W.E.B. DuBois for this failure of a “pet project”.⁶¹ Against the backdrop of the impending Cold War, the push for human rights by the NAACP did not stand a chance because the United States would not risk losing its position as the

⁵⁶ Anderson, 88.

⁵⁷ Anderson, 89.

⁵⁸ Dudziak, 46.

⁵⁹ Ibid, 45.

⁶⁰ Anderson, 112.

⁶¹ Ibid, 149.

self-appointed “good power” in the bipolar global power structure. “In [petitioning the UN] the NAACP made the disastrous error of overestimating its allies and underestimating its oppositions.”⁶² Discouraged and shaken by the reaction, the racial justice movement receded back into the civil rights framework and disengaged with the United Nations and the human rights framework.

Four years later, in 1951, the United Nations was presented with another petition about the abuse of African-Americans in the United States. This time, William Patterson and the Civil Rights Congress presented “We Charge Genocide: The Historic Petition to the United Nations for Relief from a Crime of the United States Government Against the Negro People” as charges under the Genocide Convention. The petition argued that it was incorrect to assume that genocide meant the total destruction of a people and that “the oppressed Negro citizens of the United States, segregated, discriminated against and long the target of violence, suffer from genocide as a result of consistent, conscious, unified policies of every branch of government”.⁶³ While the issues of segregation, housing, lynching, and the numerous other violations had been presented by “An Appeal to the World”, this petition went further by claiming governmental intent.⁶⁴ The CRC stated in the petition that the intent of this genocide was “the perpetuation of economic and political power by the few through the destruction of political power of many”.⁶⁵ It argued that Jim Crow left African-Americans with low quality services, including health care and housing, and that this was contributing to their oppression. By attacking Jim Crow, a policy that raised global doubt about America’s democracy, the CRC attacked the government’s key

⁶² Davis, 90.

⁶³ Patterson, William L and the Civil Rights Congress. *We Charge Genocide: The Historic Petition to the United Nations for Relief from a Crime of the United States Government Against the Negro People*. Paris, December 1951. 11.

⁶⁴ Anderson, 180.

⁶⁵ Patterson, 6.

weakness.⁶⁶ With a clear statement, “We Charge Genocide” seemed to have the makings for a more successful attempt at claiming human rights violations than its predecessor.

While this petition also faced incredible opposition this time it was not the United States government who halted its progress but rather the African-American movement itself. The petition gained wide media attention in the same way as “An Appeal to the World” but the authors were not as trusted as the NAACP. The CRC was backed by the American Communist Party and thus the media and government easily reframed the human rights argument of the petition as a ploy to introduce communism into American society.⁶⁷ The NAACP completely disapproved of “We Charge Genocide”, seeing the CRC as a communist party that threatened the American democratic system, the system within which civil rights operated. “Red Negro was pitted against American Negro so that no one articulated the comprehensive needs of African-Americans.”⁶⁸ In the face of mass fear of Communism, the petition was quickly delegitimized and ultimately ignored by the United Nations. The political opposition to communism overshadowed the legitimacy of the human rights issues raised and the result was devastating for the petition.

While neither petitions resulted in the charges against the United States, neither “An Appeal to the World” or “We Charge Genocide” could be considered a complete failure. The attempts succeeded in two key ways: first, they introduced the issues of the African-American community into the international sphere as human rights violations and were received as issues of concern by peer states and second, after the submission of the petitions to the U.N., the American government could not longer deflect the global scrutiny of the treatment of African-

⁶⁶ Anderson, 181.

⁶⁷ Ibid, 208.

⁶⁸ Ibid.

Americans. As scholar Carol Anderson explains, “the threat of “An Appeal to the World” was an omnipresent force that compelled the United States to maneuver and counter-maneuver against consistent international ‘criticism about the treatment of negroes.’”⁶⁹ In the attempts to file petitions, the racial justice community learned that African-Americans did, in fact, have a human rights case against the United States. Yet, despite global recognition of these violations as human rights abuses, the United States would not cooperate with raising these issues to the United Nations. However, the petitions were intended to criticize the United States for its treatment of African-Americans, to shed light on the circumstances of the Black community in the United States, and to define the violations as human rights abuses. In this sense, both “An Appeal to the World” and “We Charge Genocide” succeeded on all three accounts.

C. Lessons from the Historical Relationship between Racial Justice Movements and the Human Rights Regime

While the history of human rights engagement in racial justice has not been marked by overwhelming triumph, it does lend valuable insight on the mechanisms of racial inequality in the United States. Perhaps most importantly, the human rights framework highlights the institutional flaws of the state, that which promotes the disparities between races. As already discussed, the United Nations only recognizes states as members, as defined by the 1945 United Nations Charter that established the intergovernmental body.⁷⁰ Thus, all human rights instruments that are signed and ratified by the members are understood to be outlining obligations for the member states. When a country, such as the United States, is scrutinized for its human rights abuses through the lens of these instruments, the United Nations treaties are not analyzing its cultural pathology but rather its institutional shortcomings. The state is left

⁶⁹ Anderson, 150.

⁷⁰ UN General Assembly, *The Charter of the United Nations*, 26 June 1945. San Francisco, California. Article 3.

responsible for not providing the necessary opportunity for all its citizens to have their natural rights fulfilled. In other words, the myriad of human rights violations faced by African-Americans, in the past and in modern-day America, are understood to be at least partially, if not wholly, perpetuated by the American institution. With this recognition of the role of institutions in society, the human rights framework helps to validate accusations of institutional racism. Human rights exposes the plight of African-Americans to be not the cause of the culture of a people but rather the result of a state that does not promote nor protect their rights fully. The human rights framework also allows for an expansion of the racial justice discourse beyond its traditional borders. Both Dr. Martin Luther King Jr. and Malcolm X recognized this asset and thus promoted the transition of the civil rights movement into the human rights discourse. King stated that this differentiation was “the great distinction between a reform movement and a revolutionary movement.”⁷¹ This distinction and division between the camps of reformers and the revolutionaries also exists in Black Lives Matter, which may contribute to the lack of an established human rights strategy.⁷²

Unfortunately, both of the petitions filed to the United Nations in 1947 and 1951 outline atrocities that are still committed against African-Americans in the United State and protested by Black Lives Matter – arbitrary arrest, excessive use of force by law enforcement, unequal access to education, and so on. Police brutality was a key issue in the 1951 petition, foreshadowing the struggles of the contemporary movement: “Once the classic method of lynching was the rope.

⁷¹ Alexander, Michelle. *The New Jim Crow: Mass Incarceration in the Age of Colorblindness*. New York, NY: The New Press, 2010, 259.

⁷² McKesson, DeRay. “DeRay McKesson Joins NYU’s BLM Seminar”. *YouTube*. Uploaded by Frank Leon Roberts, 19 Sept. 2016. <https://www.youtube.com/watch?v=Y7xK-aVtTgc> . Accessed 6 January 2017. See more at: www.blacklivesmattersyllabus.com .

Now it is the policeman's bullet."⁷³ The engagement of the human rights framework in the racial justice discourse in the United States has had a complex history. However, the human rights framework is undeniably relevant to the issues faced by African-Americans in America. The story of American racial injustice has been marked by gross human rights violations for centuries and this framework recognizes these atrocities. A historical analysis of the attempts made to engage with the international system clearly reveals the advantages of the human rights framework in defining the issue of race as an institutional predicament. The human rights discourse is, at best, a catalyst for change and at the very least, a lens to help identify some of the vital changes necessary to finally resolve the racial disparities in the United States.

⁷³ Patterson, William L and the Civil Rights Congress. *We Charge Genocide: The Historic Petition to the United Nations for Relief from a Crime of the United States Government Against the Negro People*. Paris, December 1951.

IV. PART 2: Applications of the Human Rights Framework to Black Lives Matter

As aforementioned, Black Lives Matter fights to establish the humanity of African-Americans and secure their natural right to life.⁷⁴ For this reason, the Black Lives Matter movement is well positioned, much like the movements that came before it, to utilize the human rights framework to further its advocacy in the United States. The phrase “Black Lives Matter” is an assertion that the issue of race is now about the right to life.⁷⁵ However, as evident in the historical tensions exhibited by the United States, the American government has been remarkably uncooperative in allowing the international human rights system into its domestic politics. This resistance will create great impediments for Black Lives Matter, if it chooses to work within the global system. In order to understand the resistance of the United States to employ human rights within its borders (despite seeming to lead the global charge for human rights) requires a discussion of American exceptionalism, which has defined the United States in the global human rights discourse. American exceptionalism is the idea that the U.S. is inherently different, even superior, from other nation-states and thus that many global norms and principles do not apply in the same way or at all to the United States.⁷⁶ Scholar Michael Ignatieff outlines the three main manifestations of this theory.:

First, the United States signs on to international human rights and humanitarian law conventions and treaties and then exempts itself from their provisions by explicit reservation, nonratification, or noncompliance. Second, the United States maintains double standards: judging itself and its friends by more permissive criteria than it does its enemies. Third, the United States denies jurisdiction to human rights law within its own domestic law, insisting on the self-contained authority of its own domestic rights tradition.⁷⁷

⁷⁴ “About: Black Lives Matter”. *Black Lives Matter*. www.blacklivesmatter.com/about . Web. Accessed 6 January 2017.

⁷⁵ Ibid.

⁷⁶ Davis, 88.

⁷⁷ Ignatieff, Michael, ed. *American Exceptionalism and Human Rights*. Princeton, NJ, USA: Princeton University Press, 2005. 3.

All three elements of American exceptionalism have been to the detriment of the racial justice cause. This attitude has reduced human rights instruments from legally binding and substantial documents to symbolic gestures of international cooperation that carry no weight. Treaties that could be a great asset to the movement, such as the Convention on the Elimination of All Forms of Racial Discrimination, are rendered null. Compliance without liability simply gives the illusion of freedom.⁷⁸ It should be noted that this tendency to use different labels to classify the same struggles is just another variation of American exceptionalism. As scholar Harold Hongju Koh explained, “Refusing to accept the internationally accepted human rights standard as the American legal term thus reflect a quirky, nonintegrationist feature of our cultural distinctiveness [...] but differing labels don’t necessarily mean different rules.”⁷⁹ The hesitation to integrate the framework into the racial justice movement would be nullified if there was recognition that civil rights and human rights as intrinsically connected. By existing outside the laws that it promotes and even ratifies, the United States denies its citizens the opportunity to hold their country accountable for the violations committed against them.

Nevertheless, the human rights system still has the potential to be a useful device for racial justice movements in the United States. If used effectively, it would allow Black Lives Matter to discuss its claims in terms of human rights violations, to gain international allies, to connect with a global audience, and to advocate more effectively both domestically and internationally. This section will study the human rights tools that would be the most valuable to the movement. While a variety of them are applicable to Black Lives Matter, three instruments are most beneficial to the movement’s human rights advocacy: relevant international human rights treaties, the Inter-American system, and recommendations from the Universal Periodic

⁷⁸ Davis, 101.

⁷⁹ Ibid,100.

Review. These instruments could be integrated into the movement at all levels of engagement: international, regional, national, local/state, and grassroots. The following analysis will examine how these tools can support Black Lives Matter in advancing the rights of Black people in America.

A. International Treaties

As the twentieth century progressed, a barrage of international treaties outlining different families of rights and the obligations of states under these human rights instruments were created. The United States, invested in maintaining the soft power that was its moral leadership, assisted in the initial drafts of many of these documents only to later not ratify the same treaties.⁸⁰ However, there are three international treaties that are pertinent to the Black Lives Matter movement: the Convention on the Elimination of All Forms of Racial Discrimination (CERD)⁸¹, the Convention Against Torture and other Cruel, Inhumane, or Degrading Treatment or Punishment (CAT)⁸², and the International Covenant on Civil and Political Rights (ICCPR)⁸³. These treaties have all been signed and ratified by the United States, making them legally binding documents.⁸⁴ Each of these documents contain clauses related to issues of racial inequality and oppression and are tangible legal mechanisms to address the wrongs committed against African-Americans by the nation-state. Despite the obstacles presented by the United States towards effective litigation with these instruments, these documents do situate racial discrimination within the scope of human rights. While the contradiction of American leadership

⁸⁰ Davis, 88.

⁸¹ International Convention on the Elimination of All Forms of Racial Discrimination. United Nations. 21, Dec. 1965.

⁸² Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. United Nations. 10, Dec. 1984.

⁸³ International Covenant on Civil and Political Rights. United Nations. 19, Dec. 1966.

⁸⁴ Davis, 22 - 24.

in human rights and its ambivalence in implementation is an obstacle for those on the ground, these documents hold weight. By signing and ratifying these treaties, the United States government is, at the very least, acknowledging the international norms on issues of race and recognizing the corresponding obligations that the global community has set for member states.

The Convention on the Elimination of All Forms of Racial Discrimination was adopted on December 21, 1965, signed by the United States on September 28, 1966 and ratified on October 21, 1994.⁸⁵ The entirety of the documentation, which is the foremost treaty on issues of racism, is relevant to Black Lives Matter in that its articles address issues such as equality before the law, promotion of tolerance, prohibition of incitement, and so on.⁸⁶ Article 5 outlines the right that would address police brutality: “The right to equal treatment before the tribunals and all other organs administering justice; the *right to security of person and protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual groups or institution*”.⁸⁷ This Article can be interpreted to directly prohibit the use of excess force by law enforcement on bodies of color, the core claim that sparked Black Lives Matter. As a ratified member of this treaty body, the United States is obligated to forbid these incidents from occurring, along with the other forms of racial discrimination outlined by CERD.

The other two treaties, ICCPR and CAT, do not explicitly address racial discrimination in the same manner as CERD but they do both contain Articles that protect the same rights that the Black Lives Matter movement is drawing attention to. The International Covenant on Civil and Political Rights states in Article 9 that “Everyone has the right to liberty and security of person. *No one shall be subjected to arbitrary arrest or detention.* No one shall

⁸⁵ International Convention on the Elimination of All Forms of Racial Discrimination. United Nations. 21, Dec. 1965.

⁸⁶ Ibid.

⁸⁷ Ibid, Article 5. *Emphasis added.*

be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.”⁸⁸ Thus, all the extreme forms of racial profiling, excessive policing, and mass incarceration that the Black Lives Matter campaign frequently speaks out against, are considered violations under this Convention. Lastly, The Convention Against Torture and other Cruel, Inhumane, or Degrading Treatment or Punishment defines torture as “severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for [...] any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence.”⁸⁹ Here, police brutality is defined as a form of torture. Interestingly, CAT is the only treaty that Black Lives Matter has already engaged with. A delegation aligned with the movement – whose name “We Charge Genocide” is a nod to the movement’s historical human rights narrative- was sent to the Committee Against Torture hearing and presented a case citing the incessant murders of unarmed Black men by police officers as a form of torture.⁹⁰ The delegation, an activist group from Chicago, built on the legacy of the 1951 Petition by demanding that the United Nations investigate their charges of human rights violations by the United States government against African-Americans.⁹¹ The We Charge Genocide delegate submitted a report titled “Police Violence Against Chicago’s Youth of Color” to the United Nations Committee Against Torture, charging that the Chicago Police Department was in violation of Articles 2, 10, 11, 12, 13 and 14 of the Convention of Torture.⁹²

⁸⁸ International Covenant on Civil and Political Rights. United Nations. 19, Dec. 1966. Article 9.

⁸⁹ Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. United Nations. 10, Dec. 1984. Article 1. *Emphasis added.*

⁹⁰ Berlatsky, Noah. “At the United Nations, Chicago Activists Protest Police Brutality.” *The Atlantic* 17 Nov. 2014. <http://www.theatlantic.com/national/archive/2014/11/we-charge-genocide-movement-chicago-un/382843/>. Web. Accessed 6 January 2017.

⁹¹ *Ibid.*

⁹² “Police Violence Against Chicago’s Youth of Color: A Report Prepared for the United Nations Committee Against Torture on the occasion of its review of The United States of America’s Third

In doing so, the activists worked with the UN to access new accountability mechanisms and new solutions. These efforts, while they may not result in an indictment, are effective because they shift the conversation and allow innovative and internationalized tactics for resistance into the struggle. The language of this treatment reframes the conversation about criminal justice tactics as torture, which aligns directly with the pleas of Black Lives Matter to end excessive force and violence towards African-Americans by police officers.

While these treaties are exceptional tools for the Black Lives Matter movement because they address the issues facing the community, employing them can be very difficult. The United States has declared the human rights agreements as “non-self-executing”, arguing that “changes in U.S. laws will be effected only by “democratic processes” – there, by legislation not by treaty”.⁹³ This makes it impossible for judges to assess the human rights arguments by international standards and has greatly deflated the ability of advocates to use these treaties in courts and in the larger American discourse.⁹⁴ However, knowing that the United States government has agreed to these standards and understands them to be principles to hold themselves to is a critical asset to the movement. These treaties demonstrate that the government and the movement on the ground can have the same vision of justice. With that connection, activists have explicit principles to hold their government accountable to and, simultaneously, an entry point for fruitful conversations with decision-makers in order to build common ground.

The introduction of human rights into the Black Lives Matter movement could generate an inventive approach to justice. As an example, the introduction of these treaties into the fight for racial justice would be interesting in local courts. The integration of international law into in

Periodic Report to the Committee Against Torture”. We Charge Genocide. September 2014. **See:** <http://report.wechargegenocide.org/>. Web. Accessed 6 January 2017.

⁹³ Davis, 143.

⁹⁴ Ibid.

police brutality cases is unorthodox but would be a new entry point for Black Lives Matter into the human rights discourse. After all, a significant source of frustration in the Black Lives Matter movement is the consistent acquittal of police officers charged in police brutality related deaths. While the human rights framework may not change the sentencing pattern in these cases, bringing key human rights laws in court may create a useful precedent of thinking of these cases as human rights issues. In other words, by introducing human rights into the courtroom during these cases, litigators and advocates are ensuring that police brutality is reframed from “violence” to “violation”. With this change, claiming that police brutality is a form of torture under CAT or a violation of CERD is not an arbitrary statement because this language has been utilized in American litigation. The introduction of human rights in courts during these high profile cases as an exercise in norm building may be useful for the longevity of the movement and the eventual cessation of these violations.

B. The Inter-American System

Of all the intergovernmental systems, few have shown as much concern and interest in the persistent issues of racism in the United States as the Inter-American System. As a member of the Organization of American States (OAS), the American Declaration on the Rights and Duties of Man (“The American Declaration”) is applicable to the United States.⁹⁵ Article 1 of the Declaration reiterates the “right to life” principle essential to the human rights framework: “Every human being has the right to life, liberty and the security of his person”.⁹⁶ While the United States has not ratified the American Convention on Human Rights and is not under the jurisdiction of the Inter-American Court of Human Rights, the Inter-American System still provides principles and tools, such as the Inter-American Commission on Human Rights, which

⁹⁵ American Declaration of the Rights and Duties of Man, Organization of the American States. 1948.

⁹⁶ *Ibid*, Article 1.

Black Lives Matter can employ in their fight for justice.⁹⁷ The Inter-American System has specifically shown concern about the police brutality cases that sparked Black Lives Matter. In September 2015, the Inter-American Commission on Human Rights travelled to the United States to visit five cities, including Ferguson and Miami, to hear from communities affected by police brutality.⁹⁸ The following month, the Commission held a thematic hearing on “The Excessive Use of Force by Police Against African-Americans in the U.S.”⁹⁹ These efforts by this regional body itself to address the racial violence in the United States should highlight to Black Lives Matter and the United States government that these issues are recognized as human rights violations to the regional body.

Due to the resource restraint of movements, there is often a hesitation to engage in the spaces such as the Inter-American System if they do not have the jurisdiction to create any binding changes to the United States. However, the value of the Inter-American system and its various branches lies in the space that it provides for advocacy. First, the Inter-American system is a forum to “name and shame” human rights violators, which is a direct attack to the moral authority that United States claims over the rest of the international community.¹⁰⁰ Second, the system allows the movement to tease out the issues they face within the human rights framework - an opportunity not readily available within the U.S. - and then import those norms back to domestic territory. Lastly, and perhaps most importantly, the Inter-American system is a space for victims of racial violence, discrimination, and brutality to have their day in court. The racism

⁹⁷ Davis, 589.

⁹⁸ “Visit of Inter-American Commission on Human Rights to U.S.” United States Human Rights Network. Web. <http://www.ushrnetwork.org/events/visit-inter-american-commission-human-rights-us> . Accessed 6 January 2017.

⁹⁹“Explainer: The Inter-American Commission on Human Rights (IACHR)”. Inter-American Commission on Human Rights (IACHR), Center for Human Rights and Global Justice. <http://chrgj.org/wp-content/uploads/2015/10/Explainer-IACHR-Hearing-on-US-Police-Violence-against-African-American....pdf> Web. Accessed 6 January 2017.

¹⁰⁰ Davis, 454.

faced by African-Americans has a long history but has rarely been acknowledged. Providing the space for victims to speak about their experiences, build alliances with international partners, and gain acknowledgement that their experiences were nothing short of human rights abuses can be a powerful experience. Moreover, drawing connections between struggles can strengthen alliances abroad, which then creates an audience that is invested in keeping the United State accountable to international human rights principles and norms. As an example, these connections have already started to form, particularly between Ferguson and Palestine. Movement leaders in both communities referred to the erasure of histories and police violence as commonalities between these two struggles.¹⁰¹ These critical connections bring the Black Lives Matter movement onto the international stage as a human rights issue and as a key ally to similar movements while simultaneously reinforcing that police brutality and racial violence are human rights abuses. Movements run on people, and when individuals are empowered they can give back to the movement and more successfully advance it into its next phase.

The Inter-American system is arguably the most underutilized mechanism by Black Lives Matter. While some actions have been taken, the Black Lives Matter movement has not been the party to initiate this relationship with the American Commission. There are two critical steps that the Black Lives Matter movement can take to engage with the Inter-American system. First, the activists would need to strategize their advocacy with the body during the on-site visits, such as the one in Ferguson and Miami. These visits often result in in “comprehensive analyses and recommendation [on] a specific human rights issue” and these reports are useful advocacy materials for advocates to utilize.¹⁰² By engaging with the Commission while they are visiting,

¹⁰¹ Tamari, Sandra and Tara Thompson, “From Ferguson To Palestine: We See Us”. *Huffington Post*, Oct. 10, 2015, http://www.huffingtonpost.com/tara-thompson/from-ferguson-to-palestine_b_8307832.html . Web. Accessed 6 January 2017.

¹⁰² Davis, 597.

the movement can influence the recommendations outlined in the report. Secondly, the movement could consider soliciting an advisory opinion from the Inter-American Court on the issue of racial violence in the United States.¹⁰³ Even though the rulings from the Commission and the Court are not enforceable, the exposure and attention drawn by this forum can bolster the movement back home and help reframe it as a human rights issue. The United States government is generally unwilling to invite foreign officials into the country to observe the conditions, so by taking the initiative to build these relationships themselves, the movement organizers will be pioneering new and important human rights alliances for Black Lives Matter.

C. Universal Periodic Review

In 2006, the Universal Periodic Review was established by the United Nations' Human Rights Council as a "peer review" of sorts for all 193 member states.¹⁰⁴ The Review is considered an opportunity for member states to explain what they have done to improve the state of human rights in their respective nations and to share best human rights practices. After the review is done by the Working Group, which includes 47 members of the Human Rights Council but is open to all member states, there is an outcome report that is produced. This includes all the questions, comments, and recommendations made by nations to the country that is being reviewed as well as the country's responses.¹⁰⁵ The country under review has the chance "to make preliminary comments on the recommendations choosing to either accept or note them" and this is included in the outcome report. Importantly, there is time allotted for NGOs, civil society actors and other stakeholders to make general comments during the review.¹⁰⁶

¹⁰³ Ibid.

¹⁰⁴ "Basic Facts about the UPR". Office of the High Commissioner on Human Rights, United Nations. <http://www.ohchr.org/EN/HRBodies/UPR/Pages/BasicFacts.aspx>. Web. Accessed 6 January 2017.

¹⁰⁵ Ibid.

¹⁰⁶ Ibid.

The United States has undergone both of its reviews, in November 2010 and in May 2015.¹⁰⁷ During its sessions, the international community did not hesitate to criticize the United States for its treatment of African-Americans, particularly within the criminal justice system and by law enforcement.¹⁰⁸ During the first UPR, Recommendation 105 asked the United States to “ensure the end of police brutality, through human rights training and awareness-raising campaigns, especially to eliminate stereotypes and guarantee that the incidents of excessive use of force be investigated and the perpetrators prosecuted”.¹⁰⁹ The U.S. supported this recommendation, therefore agreeing to take actions to ensure that it is fulfilled.¹¹⁰ In the last UPR, dozens of recommendations explicitly called for the end of police brutality and to hold police forces accountable for any forms of excessive violence, many of which the United States supported. For example, Recommendation 214 asked the United States to “prevent the continued police brutality and excessive use of force by law enforcement officials, as well as analyze and eliminate its concrete reasons.”¹¹¹ Some of the recommendations, such as one from Pakistan, pointed out the issue of institutional racism in the United States, showed a keen understanding by other states of the interworking of racism in the United States.¹¹² Moreover, countries reminded the United States of its commitments under CERD, such as Recommendation 62 which asked the United States government to “review, reform and adequate its federal and state laws, in

¹⁰⁷ Davis, 539.

¹⁰⁸ G.A. Universal Periodic Review, United States 2nd Session, Recommendations, A/HRC/30/12, May 12, 2015. **See:** <http://www.ohchr.org/EN/HRBodies/UPR/Pages/USSession22.aspx> . Web. Accessed 6 January 2017.

¹⁰⁹ G.A. Universal Periodic Review, United States 1st Session, Recommendations, A/HRC/16/11, Nov. 5, 2010, rec. 62, **See:** <https://www.state.gov/j/drl/upr/recommendations/> . Web. Accessed 6 January 2017.

¹¹⁰ “Basic Facts about the UPR”. Office of the High Commissioner on Human Rights, United Nations. <http://www.ohchr.org/EN/HRBodies/UPR/Pages/BasicFacts.aspx> . Web. Accessed 6 January 2017.

¹¹¹ G.A. Universal Periodic Review, United States 1st Session, Recommendations, A/HRC/16/11, Nov. 5, 2010, rec. 214, **See:** <https://www.state.gov/j/drl/upr/recommendations/> . Web. Accessed 6 January 2017.

¹¹² Ibid, rec. 159, **See:** <https://www.state.gov/j/drl/upr/recommendations/> . Web. Accessed 6 January 2017.

consultation with civil society, to comply with the protection of the right to nondiscrimination established by the Convention on the Elimination of all Forms of Racial Discrimination (CERD)”.¹¹³ In short, the United States’ Universal Periodic Review session proved that the world was watching the racial conflicts unfold and were concerned about the abuses they were witnessing.

As explained, the UPR recommendations are particularly useful for Black Lives Matter because they provide direct proposals to which the United States has to provide a response. The UPR recommendations that align with the movement’s goals work to bolster the claims of Black Lives Matter and also add to the pressure on the government to actively amend the wrongs being committed. Additionally, the United States has been particularly committed to consulting with civil society through the UPR process, which is a good window for engagement for Black Lives Matter. For example, prior to each of its reviews, the government held town halls throughout the United States to hear from communities on issues of importance to them.¹¹⁴ Simultaneously, advocates have been involved in the process extensively, filing 103 stakeholder reports during the first UPR.¹¹⁵ The fact that this relationship between advocates and the government is already set up is ideal for a new actor, such as Black Lives Matter, to easily integrate into this process.

The utilization of a human rights framework into the movement would have to be a multifaceted effort, stretching from the grassroots organizers to the federal administration to the international governing bodies. It would be a time-consuming and resource-heavy effort. However, proponents of the human rights system would argue that such an effort would strengthen the claims and demands of Black Lives Matter, allowing the movement to advocate

¹¹³ Ibid, rec. 62. , **See:** <https://www.state.gov/j/drl/upr/recommendations/> . Web. Accessed 6 January 2017.

¹¹⁴ Davis, 539.

¹¹⁵ Ibid.

more effectively to American legislators and build stronger coalitions both domestically and internationally. Such a reading of the human rights regime assumes a neutrality that is not a safe assumption and should be properly interrogated. While there is undoubtedly a breadth of human rights tools for Black Lives Matter to utilize, the reality of engaging with the international system would be far more complicated for the social movement. The following section looks at how the movement has approached the topic of human rights thus far.

V. PART 3: Black Lives Matter's Relationship to Human Rights

In November 2014 - days before a grand jury in Ferguson, Missouri would decide not to indict Officer Darren Wilson on charges related to the death of their son - Michael Brown's parents arrived in Geneva to speak to the United Nations Committee Against Torture.¹¹⁶ The Brown family was there to share their experiences in hopes of gathering support against police brutality in the U.S. The Brown family's efforts were in conjunction with those of representatives from the We Charge Genocide delegation. These advocates saw the United Nations as a necessity to their vision of justice and the end of police brutality:

The UN's involvement is vital, according to the We Charge Genocide delegation, because local and national authorities have failed over and over again to take action. "The state has proven that it is violent against black people [...] We see the system as not just broken, but as fundamentally racist. The problems we see are not things that can be fixed or solved from within that system."¹¹⁷

The presence of the Brown family and the movement builders in front of the United Nations alluded to a potential shift in the American racial justice movement that welcomes the international human rights lens into its movement. The following will examine whether this shift is truly present within the movement and if so, what are the driving forces behind it.

The month after the death of Mike Brown by Darren Wilson, as protests still lingered on the streets of Ferguson and cities across the United States, Twitter user @COSetsthebar, a relatively unknown online presence with a little more than 550 followers, tweeted out: "Its virtual now & we need all the support we can get. Time for a human rights movement. The

¹¹⁶ Bever, Lindsey. "Michael Brown's parents take their case to United Nations torture panel". *Washington Post*, 12, Nov. 2014. <https://www.washingtonpost.com/news/morning-mix/wp/2014/11/12/michael-browns-parents-take-their-case-to-united-nations-torture-panel/>. Web. Accessed 6 January 2017.

¹¹⁷ Berlatsky.

sleeping giant has been woken. #BlackLivesMatter”.¹¹⁸ In the pockets of the movement that ordinary supporters of Black Lives Matters existed within, the conceptualization of the struggle as a human rights struggle was not far-fetched. However, while there is the aforementioned assortment of human rights instruments that could support and reinforce the movement, Black Lives Matter has not taken an explicit stance on its relationship to the regime. This is not to say that the movement’s leaders have not evoked human rights discourse - that has been done so on numerous occasions. For example, in October 2016 when all three founders of Black Lives Matter were interviewed at the TEDWomen conference and asked why Black Lives Matter was important in the United States and for the world, Opal Tometi responded with the following: “Anti-black racism is not only happening in the United States. It’s actually happening all across the globe. And what we need now more than ever is *a human rights movement* that challenges systemic racism in every single context.”¹¹⁹ In these instances, Black Lives Matter is provisionally positioned by its leaders as a human rights movement. However, while the rhetoric has been conjured by movement leaders, the extent of the strategy behind the employment of human rights is unclear. There are many questions left unanswered: Does Black Lives Matter plan to use human rights institutions to advocate for their goals? Do activists consider the abuses they are fighting to be human rights violations? Is Black Lives Matter considered a human rights issue by its supporters?

The following section will study the ways in which Black Lives Matter has, as an autonomous entity, engaged with human rights thus far. Rather than just prescribing human

¹¹⁸ @COSetsthebar. ““Its virtual now & we need all the support we can get. Time for a human rights movement. The sleeping giant has been woken. #BlackLivesMatter”. *Twitter*. 1 Sept. 2014, 9:28 AM. <https://twitter.com/COSetsthebar/status/506478716776878080> . Web. Accessed 6 January 2017.

¹¹⁹ “An Interview with the Founders of Black Lives Matter”. TEDWomen 2016. San Francisco, Calif., USA. October 2016. **See:** https://www.ted.com/talks/alicia_garza_patrisse_cullors_and_opal_tometi_an_interview_with_the_founders_of_black_lives_matter/transcript?fa=en. Web. Accessed 6 January 2017. *Emphasis added.*

rights solutions to the movements, this discussion will reveal how the movement is, on its own, already approaching this global rights-based system. Two key sources will be studied: first, a sample of Twitter content posted around the Ferguson protests of fall 2014 and second, a sample of literature (speeches, articles, and list of demands) penned by Black Lives Matter leaders. These sources each represent various dimensions of the narrative around Black Lives Matter: the organic discussions happening online, the talking points of the movement's leadership, and the strategic asks of the activists. By seeing if and how human rights lives within each of these spaces, the role of the framework in Black Lives Matter can be unpacked. This section works to determine what the movement sees as the role of human rights and how it is engaging with the existing system.

A. Twitter

The significance of the social media platform known as Twitter in the growth and reach of Black Lives Matter cannot be understated. The Black Lives Matter movement found its initial success by utilizing Twitter as a tool for organizing its grassroots base, which allowed the movement to gain traction throughout the United States. Twitter has been the control center of Black Lives Matter's organizing, campaigning, resistance, and discussion. It is clear that racial justice in the United States is experiencing a reconstruction in a movement building, with the latest rendition introducing new actors and innovative strategies. This emerging symbiotic relationship between activism and technology has led to the rise of unexpected contributors, such as the online community known as "Black Twitter". Unfortunately, the impact of online activism is somewhat difficult to measure. There are two main obstacles in understanding the influence of online activists: the lack of explicit leaders in the community (Black Lives Matter is a self-proclaimed "leader-full" movement) and the absence of clear data to track the impact in an

accurate manner.¹²⁰ As a result, it is challenging to identify who is leading the conversation and how these conversations go viral. Unlike the movement builders of years past who have national chapters, local leaders, and strong spokespeople as their founders, online activists are voluntary and often fleeting. Accordingly, tangible data about the online community is virally nonexistent. The role of the online activists, at first glance, would appear to only survive as long as the hashtag and its correlating conversation remain relevant. The necessary analysis of the role of Twitter and other social media platforms on the success of social movements is just beginning to accumulate.¹²¹ Nevertheless, the substantial role of online activists in the movement cannot be negated.

Activism on Twitter is more than the sheer number of participants and the content that they tweet about – it is a practice of community and identity building through communication and collective action. In other words, there are technocultural factors at work on Twitter, particularly in communities such as Black Twitter. As DeRay McKesson, a prominent racial justice activist, explains: “What is powerful about Black Twitter is that it allows us to talk to each other in ways that was not mediated by dominant culture”.¹²² Black Lives Matter activists are not drawing attention to their cause via a letter-writing campaign or a sit-in the way its predecessors did. Now individuals are showing up on the streets, at sit-ins and engaging with other forms of direct action because of a call put out on and then reverberated throughout the interwebs. However, the

¹²⁰ Camp, Jordan T. and Christina Heatherton, ed. “#BlackLivesMatter and Global Visions of Abolition: An Interview with Patrise Cullors”. *Policing The Planet: Why the Policing Crisis Led to Black Lives Matter*. London: Verso Books. 2016. 38.

¹²¹ Demby, Gene. “Combing Through 41 Million Tweets To Show How #BlackLivesMatter Exploded.” *National Public Radio*. 2 Mar. 2016. <http://www.npr.org/sections/codeswitch/2016/03/02/468704888/combing-through-41-million-tweets-to-show-how-blacklivesmatter-exploded> . Web. Accessed 6 January 2017.

¹²² The New York Times. “They Helped Make Twitter Matter in Ferguson Protests.” *The New York Times* 10 Aug. 2015. http://www.nytimes.com/2015/08/11/us/twitter-black-lives-matter-ferguson-protests.html?_r=0 Web. Accessed 6 January 2017.

use of social media has stretched beyond online boundaries and has prompted physical-world consequences. The immediate impact of the online activists has been witnessed in their ability to spark attention and reactions to stories that are not being covered by the mass media. As Johnetta Elzie, a recognized Black Lives Matter activist, explained: “We became our own media. We became our own voices. We became credible in places where white media couldn’t go.”¹²³

This work has led to the social construction of hashtags as artifacts that carry meaning between the virtual and physical worlds.¹²⁴ Hashtags such as #BlackLivesMatter or #SayHerName works to demarcate more than just discourse that occur online. They influence a current narrative offline and also archive the nascent history of racial justice. Their contribution serves as a tool for preserving the voices of resistance in the movement. By upholding the memory of social injustices towards communities-of-color, online activists can provide a “new understanding of the past and an altered collective identity”.¹²⁵ McKesson explains: “This fight will also be a hearts and minds fight. The power of Twitter is the power of the story”.¹²⁶ Online activists are adding to the long-term success of the Black Lives Matter movement by contributing to the documentation of the narrative of the field and its natural, unhinged evolution as captured online. Thus, what is said Twitter about human rights by movement leaders and their supporters is a germane snapshot of the movement’s perspective on human rights. Twitter is not the spectator’s chatter about today’s racial justice movements, it is the epicenter of the

¹²³ Newkirk, Vann R. “The American Idea in 140 Characters.” *The Atlantic* 24 Mar. 2016. *The Atlantic*. <http://www.theatlantic.com/politics/archive/2016/03/twitter-politics-last-decade/475131/> Web. Accessed 6 January 2017.

¹²⁴ Clark, Meredith D. “To Tweet our Own Cause: A Mixed-Methods Study of the Online Phenomenon “Black Twitter”.” The University of North Carolina at Chapel Hill, 2014., 147.

¹²⁵ Blustein, J. (2012), Human Rights and the Internationalization of Memory. *Journal of Social Philosophy*, 43: 31.

¹²⁶ The New York Times. “They Helped Make Twitter Matter in Ferguson Protests.” *The New York Times* 10 Aug. 2015. http://www.nytimes.com/2015/08/11/us/twitter-black-lives-matter-ferguson-protests.html?_r=0. Web. Accessed 6 January 2017.

movement. As writer Rebecca Solnit states: “[You] do see counter-narratives and communities and organizing happening through social media. It’s a tool, and it’s a tool worth using”.¹²⁷ Twitter allows insight into questions about if this language, this system, and these tools rooted in human rights are meaningful to the activists themselves. By studying the reactions of Black Lives Matter activists on Twitter to human rights, the role of human rights not just as a strategy but also as a key value of Black Lives Matter could be revealed.

The relationship between Black Lives Matter and human rights has been a slow development on Twitter. For example, a search for the tweets marked by #BlackLivesMatter containing the words “human rights” in the month after the death of Michael Brown, a period in which protests in Ferguson grew and Black Lives Matter was gaining national attention, generates just 22 public tweets.¹²⁸ However, a search of tweets marked by #Ferguson that contain the words “human rights” within the same timeframe produces hundreds of results.¹²⁹ The reason for this is rooted in the evolution of #BlackLivesMatter. As aforementioned, “#BlackLivesMatter” the hashtag and “Black Lives Matter” are not the same entity. “For more than a year, #BlackLivesMatter was only a hashtag, and not a very popular one: it was used in only 48 public tweets in June 2014 and in 398 tweets in July 2014.”¹³⁰ The popularity of #BlackLivesMatter, grew substantially

¹²⁷ Delistrary, Cody. “We Have to Resist’: A Conversation with Rebecca Solnit.” *Longreads*. 22 Dec. 2016. <https://longreads.com/2016/12/22/we-have-to-resist-rebecca-solnit/> Web. Accessed 6 January 2017.

¹²⁸ **Note:** Results were pulled from Twitter’s built-in “Advanced Search” tool. The search generated results for all public tweets posted that including the full phrase “human rights” and were tagged with #BlackLivesMatter” during the time period of August 9, 2014 (the day of Michael Brown’s death) to September 9, 2014. Results were pulled in December 2016.

¹²⁹ **Note:** Results were pulled from Twitter’s built-in “Advanced Search” tool. The search generated results for all public tweets posted that including the full phrase “human rights” and were tagged with #Ferguson” during the time period of August 9, 2014 (the day of Michael Brown’s death) to September 9, 2014. Results were pulled in December 2016.

¹³⁰ Clark, Meredith D., Deen Freelon, and Charlton D. McIlwain. “Beyond the Hashtags: #Ferguson, #BlackLivesMatter, and the Online Struggle for Offline Justice”. Center for Media and Social Impact. School of Communication, American University. Web. 29, February 2016.

throughout the Ferguson protests and was particularly ubiquitous after the decision not to indict Darren Wilson was released. On that day, in the first 20 hours of it, #BlackLivesMatter was used on Twitter about 10,000 times; in the four hours of that day following the verdict, it was used 92,784 times.¹³¹ Black Lives Matter, the hashtag as well as the larger movement, began to evolve into what it is today during the protests in Missouri. Therefore, the use of human rights language on Twitter during the Ferguson protests (marked by #Ferguson) are still indicative of where the discourse sits in the ethos of Black Lives Matter.

The protests in Ferguson, Missouri in 2014, as documented on Twitter, saw a robust effort to engage between human rights and Black Lives Matter. In the days after Mike Brown's death, tens of thousands of protestors took the streets of Ferguson, and then other cities across America, to protest police brutality and the senseless killings of young Black men. Keeanga-Yamahtta Taylor explains:

In Ferguson, Missouri, in August 2014, people's exhaustion, sadness, frustration and anger at the dehumanizing trauma inflicted by racism finally boiled over. [...] The tens of thousands of people who poured into the streets...were drawing from the deep wells of exhaustion among African-Americans who had grown weary of the endless eulogizing of Black people.¹³²

While #BlackLivesMatter had already been underway for a year, it was the unrest in Ferguson that brought the issues to the mass American public and drew international attention to the deadly conditions facing Black bodies on American streets. The severity of the reaction by the police to the protests, captured by citizen journalists and instantly uploaded to Twitter and Facebook feeds, sent ripples of shock across the nation. Within days, the Ferguson Police Department had declared an unofficial war on the unarmed civilians. The Ferguson police – 95

<http://cmsimpact.org/resource/beyond-hashtags-ferguson-blacklivesmatter-online-struggle-offline-justice/>. Web. Accessed 6 January 2017.

¹³¹ Demby.

¹³² Taylor, Keeanga-Yamahtta. *From #BlackLivesMatter to Black Liberation*. Chicago: Haymarket Books, 2016, 13.

percent white and male – used unimaginable violence against the civilians.¹³³ The police force also “obscured their badges to hide their identities, wore wristbands proclaiming “I AM DARREN WILSON”, and pointed live weapons at unarmed civilians engaged in legal demonstrations”¹³⁴ In less than two weeks after Brown’s murder, 172 people were arrested by the Ferguson Police Department and the suburban town became a rogue state of sorts.¹³⁵ Tear gas and rubber bullets were used regularly by the law enforcement officers to disperse the crowd.¹³⁶ By August 14th – five days after Brown’s death - Ferguson police had introduced armored vehicles to the crowds and hordes of riot gear-clad officers joined the demonstrators and media on the street.¹³⁷ Then, in November 2014, ahead of the grand jury decision on the case, Missouri governor Jay Nixon issued a state of emergency that would allow the state to send in the Missouri National Guard against any reaction by the protestors.¹³⁸ This would be the second time that the National Guard would be in Ferguson, making their first appearance in the initial demonstrations in August.¹³⁹ The state of emergency order “gave responsibility to Missouri’s adjutant general to call ‘such portions of the organized militia as he deems necessary to protect life and property and assist civilian authorities.’”¹⁴⁰ With the collision of protestors and militarized police, the streets of Ferguson transformed into something resembling a warzone.

¹³³ Ibid, 155.

¹³⁴ Ibid.

¹³⁵ Ibid.

¹³⁶ Ibid, 156.

¹³⁷ Bouie, Jamelle. “The Militarization of the Police”. *Slate*. 13 Aug. 2014.

http://www.slate.com/articles/news_and_politics/politics/2014/08/police_in_ferguson_military_weapons_threaten_protesters.html. Web. Accessed 6 January 2017.

¹³⁸ Davey, Monica. “State of Emergency Declared in Missouri for Grand Jury’s Decision on Ferguson”, *The New York Times*. 17, Nov. 2014. Web. <https://www.nytimes.com/2014/11/18/us/missouri-governor-calls-out-national-guard-ahead-of-grand-jury-decision.html>. Accessed 6 January 2017.

¹³⁹ Ibid.

¹⁴⁰ Ibid.

On August 30, 2014, DeRay McKesson tweeted a video of protesters chanting “Human Rights Now!” in Ferguson which depicted protestors on the ground expressing their demands in terms of human rights.¹⁴¹ These actions and their surrounding discourse are a window to the connections between activists and human rights. However, there was one key event that sparked a noted increase of content marrying Ferguson and human rights: the historical decision by Amnesty International to deploy human rights observers for the first time onto American soil. A week after the protesters in Ferguson were met with militarized police presence on the street, Amnesty International deployed a 13-person delegation to Missouri to monitor the human rights violations occurring on the ground, marking the first time Amnesty’s observers had been sent to the United States.¹⁴² The executive director of Amnesty International USA, Steven Dawkins, commented on the decision: “Amnesty saw a human rights crisis in Ferguson, and it’s a human rights crisis that is escalating. We sent observers down because there was a need for human rights observers. Clearly there are violations of international human rights law and standards...”¹⁴³ With the decision came a burst of commentary on Twitter about the deployment and online conversations by activists started to incorporate the language of human rights. Most of the online activists seemed to find the decision to be a source of validation of both the severity of the situation and the legitimacy of the claims happening on the ground. The unprecedented presence of human rights experts was an indication that the situation in Ferguson was an atrocity that deserved unparalleled attention. As one user, @timhoiland, tweeted “Amnesty International

¹⁴¹ @deray, “Y’all. Human rights now. Uh. #ferguson”. *Twitter*. 30 August 2014, 8:22 AM. <https://twitter.com/deray/status/505737364581650433> Web. Accessed 6 January 2017.

¹⁴² “‘A Human Rights Crisis’: In Unprecedented Move, Amnesty International Sends Monitors to Ferguson.” *Democracy Now!*. 18, August 2014. https://www.democracynow.org/2014/8/18/a_human_rights_crisis_in_unprecedented#.U_Sm6UAC7f0.twitter. Web. Accessed 6 January 2017.

¹⁴³ *Ibid.*

has sent human rights observers into a suburb of St. Louis. Think about that. #Ferguson.”¹⁴⁴ Then, when Amnesty International’s staff faced threats from the police and were ejected out of Ferguson, human rights experts joined the virtual conversations by turning to Twitter to express their disdain and concern. “Police dispersal of media and human rights advocates often happens before use of disproportionate force #Ferguson #tgtwitter #protest” said one observer.¹⁴⁵ Others expressed frustration at silence shown by the federal government: “Hey @BarackObama – Amnesty International, bastion of human rights were kicked out of #Ferguson today. No big deal, just letting you know.”¹⁴⁶ The presence of a human rights giant in Ferguson and the attention that it brought to the movement was welcomed by activists on Twitter. The notion that an organization that usually went abroad to work on issues of human rights violations was now investigating a crisis on American soil resonated with activists. While human rights were mentioned before the presence of Amnesty, it was the participation of the organization that really shifted the discourse towards the human rights framework, which activists on Twitter took note of and then followed suit.

The framing of Ferguson on Twitter as a human rights issue also successfully positioned the movement within an international context. Amnesty’s presence in Ferguson produced a discussion about America’s human rights record in comparison to other nations. This was partially fueled by Amnesty International itself, who tweeted out: “US can't tell other countries to improve their records on policing and peaceful assembly if it won't clean up its own human

¹⁴⁴ @timhoiland. “Amnesty International has sent human rights observers into a suburb of St. Louis. Think about that. #Ferguson”. *Twitter*. 18, August 2014, 9:44 PM. <https://twitter.com/timhoiland/status/501590545509412864> Web. Accessed 6 January 2017.

¹⁴⁵ @amasays. “Police dispersal of media and human rights advocates often happens before use of disproportionate force #Ferguson #tgtwitter #protest”. *Twitter*. 18 August 2014, 11:32 PM. <https://twitter.com/amasays/status/501617779750223872> Web. Accessed 6 January 2017.

¹⁴⁶ @eoghanmcdermo. ““Hey @BarackObama – Amnesty International, bastion of human rights were kicked out of #Ferguson today. No big deal, just letting you know.” *Twitter*. 19 August 2014, 1:21 AM. <https://twitter.com/eoghanmcdermo/status/501645185143824384> . Web. Accessed 6 January 2017.

rights record”. This was quickly retweeted more than 14,000 times.¹⁴⁷ The fact that Ferguson was shedding light on America’s hypocritical policy of exceptionalism when it came to human rights spoke to those fighting the fight. As one user, @DrLSDPittman, posted: “#Ferguson first time Amnesty Intl deployed humanitarian workers in U.S. Don’t have to leave country for magnitude of human rights violations.”¹⁴⁸ This dynamic was further reinforced by the condemnation of police actions in Ferguson by some of America’s most critical adversaries: Russia, Egypt, Iran and North Korea. Interestingly, the criticism from these states was also captured on Twitter. For example, the Supreme Leader of Iran, Ayatollah Seyed Ali Khamenei tweeted “Today the world is a world of tyranny and lies. The flag of #HumanRights is borne by enemies of human rights w/US leading them! #Ferguson”.¹⁴⁹ While political pundits read the criticism as strategic political decisions, activists on Twitter reveled in the light being shed on America’s pretense.¹⁵⁰ As one Twitter user posted: “So North Korea, China, Syria, Egypt, and Iran have criticized America for violation of human rights – says it all really #Ferguson #MikeBrown”.¹⁵¹ Unlike the United States, where the distinction between civil rights and human rights lives at the border of the domestic and the foreign, these nations only had the human rights-based framework to view Ferguson within. Consequently, as Ferguson drew global

¹⁴⁷ @amnesty. ““US can’t tell other countries to improve their records on policing and peaceful assembly if it won’t clean up its own human rights record”. *Twitter*. 18 August 2014, 10:23 PM. <https://twitter.com/amnesty/status/501600372847575040> . Web. Accessed 6 January 2017.

¹⁴⁸ @DrLSDPittman. ““#Ferguson first time Amnesty Intl deployed humanitarian workers in U.S. Don’t have to leave country for magnitude of human rights violations.” *Twitter*. 18 August 2014, 11:31 PM. <https://twitter.com/DrLSDPittman/status/501617522446041088> . Web. Accessed 6 January 2017.

¹⁴⁹ @khamenei_ir. “Today the world is a world of tyranny and lies. The flag of #HumanRights is borne by enemies of human rights w/US leading them! #Ferguson”. *Twitter*. 15 August 2014, 1:37 AM. https://twitter.com/khamenei_ir/status/500350460122136576 . Web. Accessed 6 January 2017.

¹⁵⁰ Mackey, Robert. “Russia, Iran and Egypt Heckle U.S. About Tactics in Ferguson.” *The New York Times* 19 Aug. 2014. <https://www.nytimes.com/2014/08/20/world/europe/russia-iran-and-egypt-heckle-us-about-tactics-in-ferguson.html> . Web. Accessed 6 January 2017.

¹⁵¹ @keyboardmasher_. ““So North Korea, China, Syria, Egypt, and Iran have criticized America for violation of human rights – says it all really #Ferguson #MikeBrown”. *Twitter*. 1 Sept. 2014, 7:01 AM. https://twitter.com/keyboardmasher_/status/506441689427607552. Web. Accessed 6 January 2017.

attention to Black Lives Matter, the reactions came in through a lens that saw human rights violations in action. In order to participate in the global discussion, American organizers and activists were forced to reframe the events into the language of human rights.

In the two years since Ferguson's uprising, the hashtag #BlackLivesMatter has accumulated hundreds, if not thousands, of tweets that mention human rights.¹⁵² Fortunately, Black Lives Matter lives in a time and context that can engage in the human rights discourse with more ease than its predecessors. America's attachment to the civil rights framework as the path to justice has dwindled after decades of watching wrongs continue despite the successes of the Civil Rights Era. The internet led to the globalization of Black Lives Matter and thus, the human rights debate cannot be as easily controlled by policymakers as it was in the middle of the 20th century. In order to capitalize on the attention garnered globally, activists in Ferguson, online and throughout the movement, responded with terms that defined the claims as human rights issues. Twitter enabled the movement to understand itself in the realm of human rights and to situate itself in the larger context of international politics and the global system. Without the same differentiation between civil rights and human rights, the international audience witnessing the police brutality reads it as instances of human rights violations and thus judges the United States according to those principles. In other words, due to its foundation in the worldwide web, Black Lives Matter has inherently been a part of the international human rights system. The activists online and offline have recognized the value in been defined in human rights terms and have engaged with that discourse. Twitter showcased how the human rights discourse worked to broaden Black Lives Matter's claims and demands, bring attention the violations happening on the streets, and build stronger coalitions at home and around the world.

¹⁵² **Note:** Results were pulled from Twitter's built-in "Advanced Search" tool. The search generated results for all public tweets ever posted that including the full phrase "human rights" and were tagged with #BlackLivesMatter. Results were pulled in December 2016.

B. Literature from Black Lives Matter Leaders

On International Human Rights Day in 2015, Opal Tometi released a co-authored article in *TIME Magazine* titled “Black Lives Matter is Not a Civil Rights Movement.”¹⁵³ Alongside Gerald Lenoir, the founding director of Black Alliance for Just Immigration (the organization that Tometi now heads), Tometi argued that the current struggle was not just about police reform but also “about the full recognition of our rights as citizens; and it is a battle for full civil, social, political, legal, economic and cultural rights as enshrined in the United Nations Universal Declaration of Human Rights”.¹⁵⁴ The article positions the Black Lives Matter movement as about “the full acknowledgement of our breadth of human rights”.¹⁵⁵ Tometi and Lenoir cite human rights as an instrument that recognizes the institutional injustices occurring and not just the symptoms of a broken system. The article shows Black Lives Matter elevating human rights as a tool to address institutional racism and guarantee protection of the humanity of Black people. The publication of such an article was a strategic move by the leadership of Black Live Matter for several reasons. First, the decision to release this piece on International Human Rights Day acknowledges the celebration of a United Nations sanctioned day and creates a link between the domestic racial justice movement and the beacon of the international human rights system. Moreover, Tometi states clearly that the demands of Black Lives Matter ask for the rights that are preserved in the United Nations Declaration of Human Rights; thus recognizing the applicability of human rights instruments to the movement. Tometi also writes that the movement is committed to the success of a human rights agenda: “All of us who find ourselves unapologetic about our complexity are more committed than ever to champion the scope of the

¹⁵³ Tometi, Opal, and Gerald Lenoir. “Black Lives Matter Is Not a Civil Rights Movement.” *Time* 10 Dec. 2015. <http://time.com/4144655/international-human-rights-day-black-lives-matter/>. Web. Accessed 6 January 6, 2017.

¹⁵⁴ Ibid.

¹⁵⁵ Ibid.

human rights agenda that we deserve.”¹⁵⁶ In this sense, human rights are not a means to an end for Black Lives Matter. The acknowledgement of Black lives as human and thus, deserving “the breadth of human rights,” is the end in and of itself. The article unequivocally positioned the Black Lives Matter movement with the broader human rights framework by one of its foremost pioneers.

It should be noted that of the three leaders – Alicia Garza, Patrice Cullors, and Opal Tometi – Tometi has been the most intentional in employing the language of human rights. All of the leaders have made some connections to the human rights framework – Cullors was employed at the Ella Baker Center for Human Rights and Garza has spoken on the need for international coalitions of human rights movements.^{157 158} However, Tometi, who identifies as a human rights organizer, has been the undeniable leader of the human rights dimensions of the movement.¹⁵⁹ As the child of Nigerian immigrants, Tometi leads the Black Alliance for Just Immigration (BAJI), an organization that works with Black and African American immigrants to promote racial and social justice.¹⁶⁰ BAJI works to effectively connect the global migration issues to domestic racial struggles. This dedicated work to bridge the international and the national reflects the role that Tometi plays in the Black Lives Matter movement. As is, it is often Tometi who speaks at international forums or brings the movement to the world stage. In July 2016,

¹⁵⁶ Ibid.

¹⁵⁷ **See:** “Ella Baker Center for Human Rights.” Patrisse Cullors. <http://patrissecullors.com/ella-baker-center-for-human-rights/>. Web. Accessed 6 January 2017.

¹⁵⁸ “From Palestine to Black Lives Matter: Alicia Garza & Phyllis Bennis on Issues Ignored at the Debates.” *Democracy Now!* 20, Oct. 2016. https://www.democracynow.org/2016/10/20/from_palestine_to_black_lives_matter. Web. Accessed 6 January 2017.

¹⁵⁹ **See:** Opal Tometi’s Twitter page biography. @opalayo. “Believer, Writer, Strategist, Human Rights Organizer, Executive Director @BAJItweet, Co-founder @BlkLivesMatter (Requests? <http://opaltometi.com>)”. <https://twitter.com/opalayo>. Web. Accessed 6 January 2017.

¹⁶⁰ “About. Black Alliance for Just Immigration.”. Black Alliance for Just Immigration. <http://blackalliance.org/about/> Web. Accessed 6 January 2017.

Opal Tometi went to the United Nations to speak in front of the UN General Assembly in a session titled “Human Rights at the Centre of Global Agenda: United Nations Thematic Debate on Human Rights - Combating Discrimination and Inequalities”. In her speech, Tometi argued that “the international community faces three core challenges to advancing human rights. Those are: global capitalism; white supremacy and the suppression of democracy.”¹⁶¹ Drawing examples from Flint, Michigan’s water crisis, America’s mass incarceration atrocities, and lessons from leading the movement, Tometi claimed that Black Lives Matter identified issues that United Nations had yet to address as an organization. In this speech, Tometi places Black Lives Matter as a forward thinking human rights actor who was identifying issues that the United Nations had yet to engage with. Also, by contextualizing the movement beyond the borders of the United States, she presented the crisis in the United States as far more than just an American civil rights issues. The leadership of Tometi has demonstrated a strategic effort to bring Black Lives Matter to the international stage as well as to integrate human rights norms into the movement itself.

Lastly, also in 2016, a coalition of activists and advocates from the Movement for Black Lives released a detailed platform that outlined the policy demands of the movement. The Movement for Black Lives is an umbrella coalition of approximately 50 black-led organizations, including Black Lives Matter.¹⁶² The strategy paper, titled “A Vision for Black Lives: Policy Demands for Black Power, Freedom and Justice” tackles six core issues – Ending the war on Black people, Reparations, Political Power, Community Control, Economic Justice, and

¹⁶¹ “Opal Tometi: Human Rights at the Centre of Global Agenda United Nations Thematic Debate on Human Rights: Combatting Discrimination and Inequalities”. Black Alliance for Just Immigration. 16 July, 2016. http://blackalliance.org/opaltometi_unitednations/ . Web. Accessed 6 January 2017.

¹⁶² Newkirk.

Investment-Divestment.¹⁶³ The demands listed are numerous including: the end of the criminalization of Black people, reparations for past and present harm, investment in Black communities, divestment in exploitative corporations, and the ability to exercise full political power.¹⁶⁴ In the 22 page policy release, human rights are only mentioned explicitly twice and then only in the glossary section, where it is used to explain the terms “patriarchy” and “reparations”.¹⁶⁵ However, a closer look at the demands and literature released by the organization shows that the Movement for Black Lives is engaging with human rights with one specific end goal: to create international allies and to push the movement into a global context.¹⁶⁶

As Garza commented in a televised interview: “I think what we’ve seen through the Movement for Black Lives policy platform, certainly, is that there is a desire for social movements to connect to movements around the world”.¹⁶⁷ The policy demands created grounds to form international alliances because it uses terms translatable to both the international human rights system and the domestic social justice field. This then not only facilitates the connection between movements on the ground but also broadens Black Lives Matter’s audience which, in turn, increase the pressure put on the American government to amend its violations. As scholar Fredrick Harris writes:

A movement will also need allies beyond black communities...And in the best tradition of the civil rights movement, allies should be sought abroad. Highlighting human rights abuses in the United States on the world stage — as Paul Robeson, W.E.B. Du Bois, Malcolm X and

¹⁶³ **See:** “A Vision for Black Lives: Policy Demands for Black Power, Freedom and Justice”. The Movement for Black Lives. <https://policy.m4bl.org/>. Web. Accessed 6 January 6, 2017.

¹⁶⁴ Ibid.

¹⁶⁵ Ibid.

¹⁶⁶ **See:** The “Economic Justice section” of the website for the Movement for Black Lives (<https://policy.m4bl.org/economic-justice/>) for a discussion of “human rights budgeting”.

¹⁶⁷ “From Palestine to Black Lives Matter: Alicia Garza & Phyllis Bennis on Issues Ignored at the Debates.” *Democracy Now!* 20 Oct. 2016. Web. https://www.democracynow.org/2016/10/20/from_palestine_to_black_lives_matter. Web. Accessed 6 January 2017.

Martin Luther King Jr. did during the Cold War — will put more pressure on America to live up to its professed ideals of freedom and equality.¹⁶⁸

In order to build these alliances, the Movement for Black Lives has worked to stand in solidarity with struggles happening outside of the United States. The clearest example lies in the investment-divestment demands. One of the policy demands stated in the document is for the federal government to build “invest/divestment campaigns that ends US Aid to Israel’s military industrial complex and any government with human rights violations”.¹⁶⁹ The movement to divest from Israel’s military, which Black Lives Matter attributes human rights violations to, mirrors the movement’s promotion of divestment from American prisons.¹⁷⁰ By closely aligning itself with the Palestine struggle against a settler-nation, the movement has clearly indicated where its alliances are. In these efforts, activists have also called on each other to work transnationally to “coordinate direct actions of solidarity with South Africa, Palestine, Columbia and liberation movements across the globe”.¹⁷¹ While the demands may not reference human rights directly, it identifies the key issue its allies face as human rights issues and then draws connections between that struggle and the ones faced by Black Lives Matter.¹⁷² These critical connections places the Black Lives Matter movement on the international stage as a human rights issue and as a key ally to similar movements while simultaneously reinforcing police brutality and racial violence as human rights abuses.

¹⁶⁸ Harris, Fredrick. Will Ferguson Be a Moment or a Movement?” *The Washington Post* 22 Aug. 2014. https://www.washingtonpost.com/opinions/will-ferguson-be-a-moment-or-a-movement/2014/08/22/071d4a94-28a8-11e4-8593-da634b334390_story.html?utm_term=.c39d2ea3a531. Web. Accessed 6 January 6, 2017.

¹⁶⁹ **See:** The “Invest-Divest” section of the Movement for Black Lives website. <https://policy.m4bl.org/invest-divest/>. Web. Accessed 6 January 2017.

¹⁷⁰ Camp, 37.

¹⁷¹ Ibid.

¹⁷² Tamari.

C. The Significance of Human Rights to Black Lives Matter

Unlike the attempts of the mid-20th century discussed in Part 1, human rights are not simply one option in an arsenal of social justice tools for Black Lives Matter. Rather, the movement is completely shifting the dialogue into this space with its call for humanity. What is known is that Black Lives Matter has firmly and strategically situated itself as a separate and unique entity to its predecessor, the Civil Rights Movement. At a rally in Ferguson, Missouri, Jesse Jackson – an aide to Dr. Martin Luther King Jr. and a notable figure of the Civil Rights era – was booed off the stage by Black Lives Matter activists, allies and supporters.¹⁷³ More than a generational divide, the differences between the movements highlight a theoretical shift, with dissimilarities in how the movement understands change to occur and what should catalyze this change. While the movement does espouse many of the values of the Civil Rights era and does recognize the importance of the legacy established by previous struggles, Black Lives Matter has also identified specific characteristics of the Civil Rights Movement that it will not emulate. These include but are not limited to: the hierarchal leadership model, the presence of respectability politics, and the prioritization of engagement with the political system.¹⁷⁴ First, Black Lives Matter has moved away from the hierarchical leadership structure that existed during the movement of the 1960s. BLM members argue that leadership comprised of mostly cisgender older men misrepresents and even excludes the beneficiaries of the movement. As Garza stated in an interview: “The model of the black preacher leading people to the promised

¹⁷³ Cobb.

¹⁷⁴ **See:** Houston, Shannon M. “Respectability Will Not Save Us: Black Lives Matter Is Right to Reject the ‘dignity and Decorum’ Mandate Handed down to Us from Slavery.” *Salon*. 25 August 2015. http://www.salon.com/2015/08/25/respectability_will_not_save_us_black_lives_matter_is_right_to_reject_the_dignity_and_decorum_mandate_handed_down_to_us_from_slavery/ Web. Accessed 6 January 2017.

land isn't working right now."¹⁷⁵ Black Lives Matter has stressed that the movement is about more than just one person and cannot advance its vision of change if it is centered on a martyr. Rather, Black Lives Matter has pronounced itself as a "leader-full" movement: composed of a network of local organizations and spearheaded by Black people of all sexualities, gender identities, ages, and socioeconomic backgrounds.¹⁷⁶

Second, Black Lives Matter has denounced the "respectability politics" of the previous movement. Respectability politics emphasize "reform of individual behaviors and attitudes both as a goal in itself and as a strategy for reform of the entire structural system of American race relations".¹⁷⁷ The Civil Rights movement grappled with this concept, with some leaders calling for Black people to adjust their action in order to help advance the community. The current struggle discards the notion that Black individuals should have to change their behavior in order to be entitled to their human dignity.¹⁷⁸ This comes with a more pronounced focus on institutional racism or "the policies, programs, and practices of public and private institutions that result in greater rates of poverty, dispossession, criminalization, illness and ultimately morality of African Americans".¹⁷⁹ By understanding racism to be cultivated by systems rather than individuals, the idea that one's behavior would change the course of racism is futile. Black Lives Matter itself states: "There is a clear rejection of the respectability politics ethos of the civil rights era [...] All people should be treated with dignity and respect, regardless of how one

¹⁷⁵ Cobb.

¹⁷⁶ "11 Major Misconceptions about the Black Lives Matter Movement". *Black Lives Matter*. <http://blacklivesmatter.com/11-major-misconceptions-about-the-black-lives-matter-movement/>. Web. Accessed 6 January 2017.

¹⁷⁷ Higginbotham, Evelyn Brooks. *Righteous Discontent: The Women's Movement in the Black Baptist Church, 1880-1920*. Cambridge, Mass: Harvard University Press, 1993. 187.

¹⁷⁸ "Civil Rights Activism: From Martin Luther King to Black Lives Matter." *National Public Radio*. 18 January 2016. <http://www.npr.org/2016/01/18/463503838/civil-rights-activism-from-martin-luther-king-to-black-lives-matter> Web. Accessed 6 January 2017.

¹⁷⁹ Taylor, 8.

looks or speaks.”¹⁸⁰ In this sense, the departure from respectability politics exists alongside the commitment to the protection and fulfillment of the human dignity of all Black persons.

The third key difference between Black Lives Matter and the Civil Rights Movement is the significance placed on engagement within the American political system. In February 2016, several Black Lives Matter activists turned down an invitation to meet with President Obama at the White House. The cofounder of Chicago’s Black Lives Matter chapter, Aislinn Pulley, wrote in an op-ed titled “Black Struggle Is Not A Sound Bite: Why I Refused to Meet With President Obama”: “We assert that true revolutionary and systemic change will ultimately only be brought forth by ordinary working people, students and youth - organizing, marching and taking power from the corrupt elites. No proponent of this system - Democrat or Republican - will upend the oppressive structures that maintain it”.¹⁸¹ Black Lives Matter does not elevate the political system as the only or even as a central instrument for the advancement of racial justice. This is a notable shift from the strategies of the Civil Rights era, which focused on working with the political system and its leaders to guarantee that legislation was passed recognizing African-Americans as Americans and confirming their rights were ensured – all of which to fulfill their vision of a revolution. This is not to conflate the myriad of strategies evoked during the Civil Rights Movement but to highlight the difference in the prioritization of the political structure in each respective movement. The demotion of the political by Black Lives Matter could be the result of ongoing racial violence and systemic oppression despite the election of a Black president or the successful passage of Civil Rights legislation. Whatever the reason, distrust of

¹⁸⁰ 11 Major Misconceptions about the Black Lives Matter Movement”. *Black Lives Matter*. <http://blacklivesmatter.com/11-major-misconceptions-about-the-black-lives-matter-movement/> . Web. Accessed 6 January 2017.

¹⁸¹ Pulley, Aislinn. “Black Struggle Is Not A Sound Bite: Why I refused to Meet with President Obama”. *Truthout*. 18 February 2016. <http://www.truth-out.org/opinion/item/34889-black-struggle-is-not-a-sound-bite-why-i-refused-to-meet-with-president-obama>. Web. Accessed 6 January 2017.

the political system has developed into a withdrawal from the discourse about citizenship and a move into a conversation about rights. Black Lives Matter has become something that resembles less its precursors and more of a human rights movement.

These key differences amount to the significance of the human rights framework for Black Lives Matter. The movement is asking for something more than before because it trusts the recognition of oneself as a human to be more important and more powerful than the identification as a citizen. The Black Lives Matter movement has made undeniable attempts to engage with the international human rights regime and its associated norms and principles. It has framed its claims and struggles as human rights claims and struggles. It has turned to Twitter to applaud human rights experts for taking note of the crisis happening in Ferguson, to demand for Black people's human rights to be recognized by policymakers and law enforcement officers, and to back international critique of America's human rights records. The movement's thought-leaders have given speeches and drafted literature that position human rights as a tool for international alliances and global advances for justice. It has renounced the label of civil rights in exchange for human rights, citing a broadening of internal goals and external coalitions. As Cullors stated:

It is completely and absolutely necessary that, as Black people in the United States, we do not center the struggle around a domestic fight for our "civil rights." [...] It's essential that we center this conversation and also our practices in an international frame. If we don't have those critical dialogues, if we don't have that praxis around internationalism, we won't have a movement that is about all Black lives.¹⁸²

In short, the notion that human rights matter to Black Lives Matter is not far-fetched. The attempts explored here have shown that when human rights have been employed, the assumption

¹⁸² Camp, 38.

is that they are a set of values and norms that could strengthen and validate the claims of the activists.

Yet, there is a clear absence of a tactical engagement with the United Nations and other entities that embody the human rights framework. Leaders like Cullors have acknowledged this:

I don't think we are fully integrated around this. The focus on the U.S. is so intense and hyper-vigilant. It doesn't allow for Black Americans to see ourselves as part of a global movement. We have a #BlackLivesMatter chapter in Toronto. They see themselves as part of the movement in ways that I don't think we see them as part of the movement. I think we need a shift.¹⁸³

Human rights are important to Black Lives Matter because it is a framework that could allow for that critical shift that Cullors is calling for. The reasons for why the engagement with human rights has yet to occur are numerous and nuanced: from the complicated history between racial justice movements and the global human rights system (as seen in Part 1) to a lack of resources and capacity to extend the Black Lives Matter activism between domestic borders. Despite being a movement that speaks of its peoples' human rights and that does have a myriad of human rights instruments to utilize if it chooses to, Black Lives Matter has not fully employed the international system. At the same time, the international human rights system has not made a valiant effort to support and promote the movement. Yet, it could be argued that this hesitation to engage with the human rights system could be in the best interest of the racial justice movement. The following and final section of this paper will explain why this relationship is complicated and the ways in which the human rights system could fail to advance the goals of Black Lives Matter.

¹⁸³ Ibid.

VI. Part 4: Complicating the Relationship between Black Lives Matter and Human Rights

Proponents of the United Nations and the entire human rights regime would argue that the movement and the international system should engage because the tools available to Black Lives Matter through the human rights framework are invaluable. The following and final section of this paper will interrogate this assessment and outline the complications of a Black liberation movement working within human rights. The human rights system, like most systems constructed in the context of a neoliberal world with an orientation to the West, is deeply entrenched with its own systems of oppression and racial biases.¹⁸⁴ Frequently, the conversation around human rights carries the assumption that human rights are free of state influence or live outside of a state-civilian relationship. In reality, when it comes to human rights, one's humanity lives alongside one's national personhood. Individuals only know their rights when they are confirmed, protected, and fulfilled by the state.¹⁸⁵ This runs in contradiction with Black Lives Matter as a movement that challenges the notion of America and the inclusive security of American citizenship, especially as citizenship currently exists.¹⁸⁶ Human rights and its affiliating system is a political project that, like all political projects, is engrossed in issues of

¹⁸⁴ **See:** Volume 45, Issue 5 of *Villanova Law Review*, published in 2000. The issue pulls a selection of key texts on critical race theory, including a number that address the interaction between the theory and international law.

¹⁸⁵ United Nations General Assembly, *Universal Declaration of Human Rights*, 10 June 1948. Paris, France.

¹⁸⁶ **See:** Garza, Alicia. "To Imagine What a Real Democracy Can and Should Look Like". 5 June 2016. Personal Democracy Forum, New York, New York. "*And yet, what [civics class] didn't teach me was that my citizenship is conditional. This is the harsh reality for Black people in America—we are expected to participate in democracy, without receiving the full benefits of citizenship. Democracy is increasingly hard to define, especially in today's political context. Not everyone agrees on what democracy is but one thing we do know is that democracy has always excluded Black people.*" Speech. <http://civichall.org/civicist/imagine-real-democracy-can-look-like> . Accessed 6 January 2017.

power and subjugation, bias and alliances, bodies and persons, and nation-states and globalization. Wendy Brown explains:

...If [human rights] reduce suffering, what kinds of subjects and political (or antipolitical) cultures do they bring into being as they do so, what kinds do they transform or erode, and what kinds do they aver? What are the implications of human rights assuming center stage as an international justice project, or as *the* progressive international justice project? Human rights activism is a moral-political project and if it displaces, competes with, refuses, or rejects other political projects, including those also aimed at producing justice, then it is not merely a tactic but a particular form of political power carrying a particular image of justice, and it will behoove us to inspect, evaluate, and judge it as such.¹⁸⁷

If the human rights system sees justice being realized through one path (that involves a centralization of the state) and if Black Lives Matter sees its realization through a different path (one that decentralized and disempowers the state as a power), then human rights may not be the right framework for Black Lives Matter. The forms of political power in the name of a particular image of justice vary considerably for the activists on the ground and the human rights system as an institution. As is the case, using the human rights system to hold the United States accountable in ensuring the rights of Black people may be counterintuitive to the claims of the movement.

Without the mechanisms of the international human rights system to guarantee inalienable rights, labelling Black Lives Matter as a human rights movement becomes far more convoluted. There are two critical discussions to unpack some of the obstacles in assuming a harmonious relationship between Black Lives Matter and human rights. First, an examination of the human rights system through critical race theory, which reveals some of the ways that international law upholds systems of power and oppression. Second, this section will study the ways in which the current human rights system is dependent on the reification of nation-states and how that may, in fact, destabilize Black Lives Matter's attempts to disengage with notions of citizenship in a move

¹⁸⁷ Brown, Wendy. "The Most We Can Hope For...": Human Rights and the Politics of Fatalism". *The South Atlantic Quarterly*. 103.2 (2004), 453.

towards humanity. In short, this final part of the project is a consideration of the ways in which the rights regime would not only be unsupportive of the aims of Black Lives Matter but could also be actively working *against* the vision of justice that the movement has outlined. Which leaves us with a set of difficult but necessary questions: What could it mean to be a human rights system that cannot safely house a human rights movement? And, what could it mean to be a human rights movement that cannot and should not engage with the human rights system?

A. Black Lives Matter, the Human Rights System and Critical Race Theory

Critical race theory provides a unique lens on the complications between Black Lives Matter and human rights. Often, “human rights take their shape as a moral discourse centered on pain and suffering rather than political discourse of comprehensive justice”.¹⁸⁸ However, by being dependent on political systems for the fulfillment of rights and by being singularly critical of human rights abuses committed by states and political entities, the human rights system indisputably engages with the political and, more importantly, *is* a political project. This leaves the query of what exactly that project shapes up to be. Critical race theory gives a analytical insight into the workings of the project known as human rights: “[Critical Race Theory] may be a potent tool for reconstructing international law, with the emancipatory goal of alleviating human suffering by broadening the analysis to include all the variables that produce powerlessness and subordination”.¹⁸⁹ Critical race theory addresses many of the systemic issues of inequality and bias that Black Lives Matter is also advocating against. By looking at the international system through the perspective of critical race theory, it is no longer seen as a neutral or morally sound space. As scholar Hope Lewis explains, “Critical Race Theory must engage international law and

¹⁸⁸ Brown, 454. **See also:** Ignatieff, Michael Ignatieff, *Human Rights as Politics and Idolatry*. Princeton University Press: 2001.

¹⁸⁹ Aoki, Keith. "Space Invaders: Critical Geography, the Third World in International Law and Critical Race Theory." *Villanova Law Review*. 45.5 (2000), 916.

politics because racism itself is international and domestic, global and local”.¹⁹⁰ This theoretical framework shows that the political project of human rights may be a disservice to Black Lives Matter because it is built on the structures that the movement is adamantly working to deconstruct.

Critical race theory (CRT) was initially introduced within the American legal scholarship in the late 1980s as a tool to reveal the inherent racial biases in the American legal system.¹⁹¹ It works to contribute to what Edward Said labeled “antithetical knowledge, [which is] the development of counter-accounts of social reality by subversive and sub-altern elements of the reigning order”.¹⁹² Critical race theory has different implications based on the field in question, but at the most rudimentary level the theory argues that the law plays a role in the maintenance and cultivation of white supremacy and racial dynamics of power and subordination.¹⁹³ Legal scholars developed this framework to contest the assumed wins of the Civil Rights Movement, which were proving to be more ceremonial than substantial, and to provide a framework to understand some of the shortcomings faced by the civil rights litigation.¹⁹⁴ By unpacking the underlying racial biases of the legal system that favor white supremacy, the school of critical race theory means to help establish a neutrality within the legal system that their scholars argue never existed: “once we consider the possibility that existing social practices might reflect the

¹⁹⁰ Lewis, Hope. "Reflections on Blackcrit Theory: Human Rights." *Villanova Law Review*. 45.5 (2000), 1076.

¹⁹¹ Andrews, Penelope E. "Making Room for Critical Race Theory in International Law: Some Practical Pointers". *Villanova Law Review*. 45.5 (2000), 871.

¹⁹² Crenshaw, Kimberlé, Neil Gotanda, Gary Peller and Kendall Thomas, eds. *Critical Race Theory: The Key Writings That Formed the Movement*. New York. 1995, 1.

¹⁹³ Caldwell, Victor F. "Reviewed Work: *Critical Race Theory: The Key Writings That Formed the Movement* by Kimberlé Williams Crenshaw." *Columbia Law Review*, vol. 96, no. 5, 1996, pp. 1363–1374. **See also:** *Critical Race Theory: The Key Writings That Formed the Movement* by Kimberlé Williams Crenshaw. New York, New York: The New Press, 1995.

¹⁹⁴ Mutua, Makau W. "Critical Race Theory and International Law: The View of an Insider-Outsider." *Villanova Law Review* 45 (2000), 848.

domination of particular racial groups, those practices can no longer provide a neutral ground.”¹⁹⁵ In the past four decades, critical race theory has provided a tool to reshape notions of power, privilege and racial tensions within the American legal structure. Thus, in its mission to challenge the historical so-called “wins” of racial justice’s past, the work of critical race theorists as academics parallels the work of Black Lives Matter as activists. In fact, many of the scholars who established critical race theory are involved in current Black Lives Matter action. For example, Kimberlé Crenshaw, the scholar who coined the term “intersectionality” and is a leader of the critical race theory school, started the #SayHerName campaign, which shed light on the number of black women being harmed at the hands of the police.¹⁹⁶ This hashtag quickly became integrated into the general Black Lives Matter conversation.¹⁹⁷ While the roots of critical race theory are found in the American system and its historical emphasis has been on anti-racism and civil rights, the application of critical race theory on the global system can be vastly illuminating.

An interesting case for this application has been presented by Makau Mutua, who contests the popular notion that international law is universal while critical race theory is specific.¹⁹⁸ Mutua argues that the reverse – the universality of critical race theory and the specificity of international law - is more accurate.¹⁹⁹ Mutua suggests that critical race theory questions the authority of the dominant powers - that is, Western powers - as the gatekeepers to

¹⁹⁵ Pellar, Gary. “Race Consciousness” in *Critical Race Theory: The Key Writings That Formed the Movement*. The New Press. New York (1995). 143..

¹⁹⁶ Khaleeli, Homa. “#SayHerName: Why Kimberlé Crenshaw Is Fighting for Forgotten Women.” *The Guardian*. 30 May 2016. <https://www.theguardian.com/lifeandstyle/2016/may/30/sayhername-why-kimberle-crenshaw-is-fighting-for-forgotten-women> Web. Accessed 6 January 2017.

¹⁹⁷ Clark, Meredith D., Deen Freelon, and Charlton D. McIlwain. “Beyond the Hashtags: #Ferguson, #BlackLivesMatter, and the Online Struggle for Offline Justice”. Center for Media and Social Impact. School of Communication, American University. Web. 29, February 2016.

¹⁹⁸ **See:** Mutua, Makau W. “Critical Race Theory and International Law: The View of an Insider-Outsider.” *Villanova Law Review* 45 (2000). 841-854.

¹⁹⁹ *Ibid*, 845.

human rights norms and standards.²⁰⁰ The top-down approach of the human rights system can be identified as an indication of the underlying specificity of international law under the guise of universalism.²⁰¹ In fact, “attempts to craft a truly universal regime of rights, one that reflects the complexity and the diversity of all cultures, have generally been viewed with indifference or hostility by the official guardians of human rights”.²⁰² Mutua attests that critical race theory allows us to question the existing international human rights system and identify some of its major fault lines. He asserts that while international law is global in reach and application, it is “Eurocentric in that it issues from European thought, cultural and experience. This specificity denies international law universality.”²⁰³ Mutua reasons that if critical race theory is examined beyond its particular national context, it is clear that “its instincts and goals are universal in that they aim to universally advance and protect human dignity without regard to the category/identity under attack. Thus, CRT is currently an inclusive method.”²⁰⁴ Mutua’s application of critical race theory to international law furthers “antithetical knowledge” by reversing the popular and established notions of the global system of international law. The examination of the international legal system by critical race theory not only questions the validity of the structure but also of the myriad of instruments it has produced. It also positions the human rights system, with an emphasis on its laws and conventions, as tools of white supremacy. This understanding of the human rights regime has, of course, deep implications for its potential role for Black Lives Matter.

²⁰⁰ Ibid.

²⁰¹ Ibid.

²⁰² Mutua, 851.

²⁰³ Ibid, 844.

²⁰⁴ Ibid, 848.

Many of Mutua's claims harken to the classic argument by cultural relativists of the hypocrisy of universalism and the unspoken "cultural imperialism" of the West.²⁰⁵ In order for a document such as Convention on the Elimination of All Forms of Racial Discrimination to deliver its mission and be considered a neutral and legitimately universal resource, it cannot engage in these power politics of the West and the rest. Under a critical race lens, it is impossible for a truly racially neutral document to be produced within the racially biased system of international law. The application of critical race theory to international law forces a reconsideration of the global legal order. Just as critical race theory in the United States pushes back on the qualification of a legal system as "national" if it only considered the perspective of the white majority, critical race theory internationally challenges the qualification of a legal system as "international" if it has only rooted itself within Western thought. In short, the theory challenges the human rights regime because it is a body of thought ruled by Western (and consequently, white thinkers') scholarship. This is important to Black Lives Matter because it has repeatedly challenged the power entity that is America and the movement has worked to make itself an ally to struggles around the world, especially with other Afro-descent communities.²⁰⁶ Critical race theory was developed to comprehend why the gains of the civil rights legislation proved to be more symbolic than viable and understand the inadequacies of the legal system. By examining the international legal system and its instruments within this school of thought, similar shortcomings and gaps on an international level could be identified. The recognition of the internal biases of the human rights system is vital to the success of Black Lives Matter's engagement with it. Black Lives Matter may have explicitly separated itself from civil rights and entered the sphere of human rights; however, the human rights system, as it

²⁰⁵ Alston, Philip and Ryan Goodman, *International Human Rights*. Oxford University Press: 2013, 532.

²⁰⁶ Camp, 38-39.

currently stands, could just reproduce many of the same failures seen by Black Lives Matter's predecessor. One of the most remarkable aspects of Black Lives Matter is the ways in which it has meticulously challenged all paradigms of power and oppression. The human rights system is not void of those dynamics. It is necessary that Black Lives Matter recognizes these undercurrents before engaging with the human rights regime or the movement risks undermining its own goals and vision.

A. From Person to Human and the Role of the State

As aforementioned, Black Lives Matter demands the rights of Black people not because they are citizens of the United States but simply because they are human beings. While this transition, from rights as a citizen to rights as a human, may seem pronounced, it is actually one that is difficult to articulate under the current human right regime. This entire system of human rights is buttressed by the nation-state. This foundational pillar renders the differentiation between citizen and human nearly null to the rights regime. Hannah Arendt's theory of the "right to have rights", a highly influential principle of the current system, provides insight on this tension.²⁰⁷ For Arendt, as outlined in her classic essay "The Decline of the Nation-State and the End of the Rights of Man", citizenship (or the "mask of personhood") is a precursor to humanity.²⁰⁸ Masks, as understood by Arendt, are the legal personhoods that equalizes beings without destroying their individuality.²⁰⁹ The mask, provided by the state, is what persons speak through and the instrument through which persons are heard. To be stateless, according to Arendt, is to be rendered just human and "the world found nothing sacred in the abstract nakedness of being

²⁰⁷ **See:** Arendt, Hannah. "The Decline of the Nation-State and the End of the Rights of Man". *The Origins of Totalitarianism*. New York: Meridian Books, 1951.

²⁰⁸ Kesby, Alison. "The Right to Have Rights as Humanity." *The Right to Have Rights*. Oxford: Oxford University Press, 2012.

²⁰⁹ Gündođlu, Ayten. *Rightlessness in an Age of Rights*. Oxford: Oxford University Press. 2015, 102.

human”.²¹⁰ Black Lives Matter’s call for human rights (rights given to humans) rather than civil rights (rights given to citizens) lies in direct opposition to Hannah Arendt’s arguments that to be statelessness is the most vulnerable and unfortunate status that one can occupy. It could be argued that Black Lives Matter is calling for a removal of the Arendtian masks of personhood. It is working towards this rendering of “just human”; the movement is insisting on being seen as human (and simultaneously Black) as the first step to gaining their rights. To have been African-American, to have been American, and to have been a citizen, has proven insufficient.²¹¹ The mask that is legal personhood and “statefulness” does not protect the Black community in the ways that human rights theorists maintained that it would. Arendt insists that “the fundamental deprivation of human rights is manifested first and above all in the deprivation of a place in the world which makes opinions significant and actions effective”.²¹² The current human rights system, with its emphasis on the nation state as the duty holder of the rights, works to reinforce that notion. However, what occurs when the place exists, the persons are considered due members of that place and yet, they are still deprived of their rights? That is the question Black Lives Matter is working within and by posing that very question, the movement is probing a core tenant of the human rights system: the centralization of the state. Black Lives Matter is a human rights movement that challenges the notion of political personhood (conceptualized here as citizenship to a nation-state) as a form of security. Even more, it challenges the notion of political personhood as the entryway to human rights.

²¹⁰ Arendt, Hannah. “The Decline of the Nation-State and the End of the Rights of Man”. *The Origins of Totalitarianism*. New York: Meridian Books, 1951, 299.

²¹¹ Tometi, Opal, and Gerald Lenoir. “Black Lives Matter Is Not a Civil Rights Movement.” *Time* 10 Dec. 2015. <http://time.com/4144655/international-human-rights-day-black-lives-matter/>. Web. Accessed 6 January 6, 2017.

²¹² Ibid, 296.

Supporters of the current human rights system, as it is aligned with the Arendtian approach, would denounce these revolutionaries for not comprehending that such action would render all inhabitants of a society vulnerable and without any form of protection.²¹³ Arendt theorizes that worthwhile struggles aim to “to win civil rights as a condition of possibility for an authentic politics oriented to the actualization of freedom”.²¹⁴ The humanness that exists outside of the artificial barrier that is the mask of legal personhood only marks a “politically irrelevant being”.²¹⁵ Legal personhood allows for meaning and depth to a subject’s words, demands and actions that bare humanity lacks.²¹⁶ Here, the human can only be understood and realized within a political structure; without this structure, humans are left in their primal and absolute differences.²¹⁷ Therefore, the right to be part of and claimed by a political community is paramount to any other human right. It is the foundational base for what Arendt identifies as the principal human right: the “right to have rights”.²¹⁸ The retreat from state-centered politics into humanity in a movement like Black Lives Matter is, by Arendt’s reading, a rejection of one’s primary human right. The current human rights regime may witness Black Lives Matter’s removal of the mask not as a call for human rights protection but an invitation for human rights violations.

This Arendtian reading of human rights reflects how the current human rights system operates. Even if every actor or supporter of the human rights regime does not firmly believe that human rights are entrenched in one’s citizenship, all the mechanisms of the framework are

²¹³ Arendt, Hannah. *On Revolution*. New York, NY: Penguin, 1963, 108.

²¹⁴ Schaap, Andrew. “Enacting the Right to Have Rights: Jacques Rancière’s Critique of Hannah Arendt.” *European Journal of Political Theory* 10.1 (2011), 24.

²¹⁵ Gündoğlu, 100.

²¹⁶ *Ibid*, 99.

²¹⁷ Arendt, Hannah. “The Decline of the Nation-State and the End of the Rights of Man”. *The Origins of Totalitarianism*. New York: Meridian Books, 1951, 302.

²¹⁸ *Ibid*, 296.

dependent on the state. The preamble of the Universal Declaration of Human Rights states it clearly:

THE GENERAL ASSEMBLY proclaims THIS UNIVERSAL DECLARATION OF HUMAN RIGHTS as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, *both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.*²¹⁹

Here it is clear that human rights are only ensured as long as there are national territories and boundaries. It leaves no room for those who have won the struggle for civil rights but have yet to ensure their human rights. Fortunately, due to the emergence of narratives like that of Black Lives Matter, the existing limitations of these arguments are magnified. Jacques Rancière appropriately critiqued Arendt's model for being an "ontological trap": one that either equates rights to citizenship rights, which is a redundant act of giving rights to those with rights or one that provides rights for the human, which is fruitless because Arendt reduces the "human" and its rights outside of the political community to nothing.²²⁰ Black Lives Matter is challenging the trap by inquiring if rights may exist in the space between the citizen and the nothing. African-Americans historically traversed from the space in which Black bodies are excluded and brutally barred from society and its politics (slavery) to a space in which Black bodies are litigiously valid and recognized under the law (post Civil Rights era). Yet, in a conundrum unfathomable to the current system, Black persons are still making claims of being *right-less* despite being *state-full*. This act of transcendence, which simultaneously provided access to the lauded mask of personhood, did not manifest the fulfillment of rights. It should be noted here that Rancière's

²¹⁹ United Nations General Assembly, *Universal Declaration of Human Rights*, 10 June 1948. Paris, France. *Emphasis added.*

²²⁰ Schaap, 29.

construction of human rights is centered on a differing concept of the “human” in human rights: unlike Arendt, Rancière’s human is not deprived of politics but rather an entity that politicizes the division between those capable to participate in politics and those who cannot.²²¹ Black Lives Matter is situated – in the context of the temporality of the history of racial justice - within that division. Black Lives Matter is willingly rejecting their political community, which has deprived them of the rights the human rights regime promised it would grant, and is choosing to rely on the humanity of its people as the core of the demand for their rights to be met.

However, in its shift away from civil rights and into human rights, Black Lives Matter is doing the current regime’s unthinkable. The rallying call of the current racial justice movement, Black Lives Matter makes no reference to personhood and is completely concerned with the fragility of living. It is a simple – or in actuality, complicated - matter of life and death. Rather than *person*, the marker is *life* - Black Lives Matter is an appeal to the right to life. The Black experience shows a division in the status of personhood from the status of life. Black Lives Matter is a plea to recognize Black beings as human and alive and to let that humanness and aliveness matter or count. As Garza asks: “How do we live in a world that dehumanizes us and still be human?”²²² The movement has successfully drawn attention to the fact that despite the acquirement of civil rights, life is still precarious for Black America. Black Lives Matter demonstrates that citizenship does not protect an individual from the state’s exercise of power over life and death. Consequently, to be a Black person in America who dons a mask of personhood does not result in the protection of Black lives.

²²¹ Schaap.

²²² Smith, Mychal Denzel. “A Q&A with Alicia Garza, Co-Founder of #BlackLivesMatter”. *The Nation*. 24 March 2015. <http://www.thenation.com/article/qa-alicia-garza-co-founder-blacklivesmatter/>. Web. Accessed 6 January 2017.

The simultaneous acceptance of a political being with the denial of that subject's humanity was not calculated by the human rights regime as it currently stands. Proponents of the nation-centric approach may argue that legal personhood is crucial because it "allows one to appear in public without the pervasive fear of arbitrary violence".²²³ However, Black Lives Matter is firmly disproving that. The inescapable fear of racialized violence is not only present for African-Americans but it also exists concurrently to their personhood. As activists have said, "Having laws in place doesn't make [America] any more thoughtful about lives."²²⁴ Perhaps this is the ultimate shortcoming of citizenship- it may equalize beings before the law, it may allow them spaces in which to speak and to be heard but it does not and cannot provide the power to keep its subjects alive. Working actively against the order established by the human rights system, Black Lives Matter has no choice but to reject the mask of personhood (civil rights) because it is the giver of the mask – the state – that is depriving them of their rights. By baring themselves and moving from civil to human rights, Black Lives Matter is not just revealing themselves and all their brutal humanness but it is also revealing the state in all its brutality. As Tometi explains:

We know that the system was not designed for justice for us. [...] That really puts Black Lives Matter in a different space. The reality is we deserve to live in a world where we are not murdered. We deserve to live in a world where there's no impunity, but beyond this question of impunity there are all these structures that are actually doing a disservice to our people.²²⁵

²²³ Gündoğlu, 18.

²²⁴ Casper, Monica J. "Black Lives Matter / Black Life Matters: A Conversation with Patrisse Cullors and Darnell L. Moore." *The Feminist Wire*. 1 Dec. 2014. <http://www.thefeministwire.com/2014/12/black-lives-matter-black-life-matters-conversation-patrisse-cullors-darnell-l-moore/> Web. Accessed 6 January 2017.

²²⁵ Smith, Mychal Denzel. "A Q&A with Opal Tometi, Co-Founder of #BlackLivesMatter". *The Nation*. 2 June 2015. <http://www.thenation.com/article/qa-opal-tometi-co-founder-blacklivesmatter/>. Web. Accessed 6 January 2017.

Perhaps at the very root of Black Lives Matter's rejection of the American state and the masks of personhood is the inability to reconcile the mask with the existence of the unsafe citizen. The movement would argue that to be a citizen with no human rights is as unsafe, if not more unsafe, than to be stateless. Black Lives Matter shows that a person can wear the mask, stand on the stage that is America and continue to be unseen. This invisibility of the visible subject makes it impossible for it to claim rights.

For Black Lives Matter, the state (the United States of America) is the violator of the abuses and yet, simultaneously, the physical boundaries which host the movement. The removal of the state in the human rights regime or in Black Lives Matter is impossible because it is intricately and intimately involved in the existence of both the system and the movement. The move to human rights undoubtedly complicates the role of the state in relation to the rights of Black people. This is not to say that Black Lives Matter does require the complete absence of a framework of laws or of legal personhood. What Black Lives Matter does require is a reconceptualization of the role of the state and of the law in the advancement of rights. Human rights discourse has been understood by scholars to "introduce new forms of power, hegemony, domination, and violence, and it [can amount] to nothing less than an *anti-politics* undermining democratic practices and institutions".²²⁶ However, on the other hand, this reading overlooks the ways in which the introduction of human rights can "turn challenging problems of injustice into common concern [and] expose the violent exclusion of existing institutional orders".²²⁷ By resisting the notion of citizenship as a safety net, Black Lives Matter is stimulating necessary questions about the ways in which the state works towards the fulfillment of human rights. The role of the state is not as stable when personhood is rejected and civil rights are passed over but

²²⁶ Gündoğlu, 88.

²²⁷ Ibid, 89.

perhaps this instability is the objective. It is unveiling the paradox that scholar John Vincent says is at the core of human rights: that they are upheld by the state but that the whole point of the existence of rights is to protect against the tradition of the nation-state.²²⁸ Black Lives Matter is decoupling of personhood and state (and state violence) from human and rights. This separation, while resulting in a temporarily precarious relationship between the state and the person, could result in a more sustainable fulfillment of rights. The demands of the movement showcase the fact that human rights atrocities can happen to persons of a state within and by the state. As African-Americans continue to lose their lives at the hands of the state, it has become evident that the mask of political personhood is not enough to protect Black lives. As long as the human rights system relies on the state to fulfill the rights of all human beings, Black Lives Matter may have to exist as a human rights movement outside of the human rights system.

²²⁸ **See:** Vincent, John. *The Politics of Human Rights*. Oxford University Press, Oxford, UK: 2010.

VII. Conclusion

Less than two months after Zianna Oliphant took the stage at her city council meeting, America elected a new leader. With the victory of Republican candidate's Donald Trump's campaign - a campaign that has been supported by Ku Klux Klan and that has reenergized a political ideology that sits on the far right - the future of racial justice movements is as uncertain as ever.²²⁹ Moreover, the election of Trump has already flared up tensions with the United Nations, mostly due to his widely publicized plans to create a registry for Muslims.²³⁰ These policies suggested by the administration, UN officials have argued, would come in direct violation with the Convention on the Elimination of All Forms of Racial Discrimination.²³¹ It is clear that this incoming administration will pose new and difficult challenges for the Black Lives Matter movement, both in terms of the movement's domestic success and also in regards to any potential relationship it has with the international human rights movement. The historical obstacles in bringing human rights to the United States do not seem likely to dissipate in the coming years.

Regardless of what is to come, it is evident is that Black Lives Matter has emerged as one of the most important racial justice movements in American history. Its birth on social media as a hashtag has been eclipsed by effective organizing tactics that positioned Black Lives Matter as a critical conversation in the United States, for citizens and policymakers alike. Black Lives

²²⁹ Begley, Sarah. "The KKK's Newspaper's Has Endorsed Donald Trump." *Time*. 2 Nov. 2016. <http://time.com/4554829/trump-campaign-denounces-kkk-newspapers-support/> Web. Accessed 6 January 2017.

²³⁰ Sengupta, Somini, and Rick Gladstone. "Donald Trump and the U.N.: Signs of Clashing Views on Many Issues." *The New York Times* 19 Nov. 2016. http://www.nytimes.com/2016/11/20/world/americas/united-nations-trump-climate-change-iran-cuba.html?_r=0. Web. Accessed 6 January 2017.

²³¹ International Convention on the Elimination of All Forms of Racial Discrimination. United Nations. 21, Dec. 1965. **See:** Article 2 Section C: "*Each State Party shall take effective measures to review governmental, national and local policies, and to amend, rescind or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination wherever it exists.*"

Matter has tirelessly reminded America that a large majority of its citizens are living their daily lives in fear of facing human right violations. The hope is that, in a country that has for so long erased their struggles and belittled their suffering, the human rights framework would validate the claims of Black Lives Matter and define the experiences of the African-Americans in the United States as a series of human rights violations. By engaging with the human rights framework, Black Lives Matter would hopefully be taking a critical step towards ending systems of racial violence and ensuring the human rights of Africans-Americans.

Yet, as this thesis has discussed, that engagement with the human rights framework is not straightforward. The current human rights system relies on many dynamics that the Black Lives Matter vehemently disagrees with – including racialized power structures and nation-state-centric tactics. For now, Black Lives Matter is a human rights movement that cannot engage in the human rights system without some careful consideration. The distance between what constitutes a human rights movement and a human rights system has been articulated by some scholars as “human rights” and “Human Rights” (capitalized”).:

I capitalise [the Global Human Rights Regime”] to illustrate the distinction I want to make between the vast array of local human rights struggles that use various strategies (sometimes including violence and also other languages of dissent and justice such as fairness, toleration, respect, religious obligation, duty, and national, or ethnic, identity) to advance demands for protection and progress. There is, I maintain, a significant difference between this less institutionalised, more flexible, more diverse and multi-vocal level, where social movements operate, and the embedded Global Human Rights Regime where law, courts, money, and access to power in New York and Geneva are more familiar terrain.²³²

Black Lives Matter shows the real complications that exists for human rights movement when working with “Human Rights”, as Hopgood labels it above. The centralization of the nation state – which Black Lives Matter seems as a primary violator of rights – and the presence of racial bias in the framework delegitimizes the notion that human rights system as a neutral and

²³² Hopgood, Stephen. “The Endtimes of Human Rights” in *Debating The Endtimes of Human Rights*, Doutje Lettinga and Lars van Troost, ed. Amnesty International Netherlands: July 2014, 13.

welcoming space for racial justice movements. The prospect of racial justice in America is uncertain and the success of the human rights system as a tool for justice is not at all guaranteed. However, what is certain - and what Black Lives Matter has made painfully clear to the American public throughout its resistance - is that the human rights of African-Americans in the United States are long overdue. Black Lives Matter is, if nothing else, creating an opportunity for America to finally address its ugly past and move towards the fulfillment of human rights for Black people in the United States. Perhaps this time – finally - we will see racial justice and human rights come to America.

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