

NORMS OF SOLIDARITY AND REGIONALISM: THEORIZING STATE BEHAVIOR AMONG SOUTHERN AFRICAN STATES

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Despite many recognized ambivalences, “norms of solidarity” portrays a dominant picture of foreign policy practices of Southern African states. The central argument of this article is that norms of solidarity, state behavior among Southern African states, and regional integration arrangements are not only about material interests, but also social construction and turn to ideational concerns in the continent’s decolonization and emancipatory movements. Indeed material interests as Rational Choice scholars have successfully shown are relevant in understanding how states behave towards each other in the region. Nevertheless, interests and preferences are also constructed through ideational concerns. Therefore, among Southern African states, foreign policy is recognition of the relationship between ideational and material concerns in forming foreign policies, alternatively called norms of solidarity. Through time, the practice and consistency of norms of solidarity has been contested, constituted, and re-constituted. In the Southern African context, reconstitution of norms of solidarity happens through economic pressures. This article thus interrogates the relationship between economic pressures and norms of solidarity. It looks at European Union-Southern African states relations to analyze if states under dire economic situations follow the value and consistency of norms of solidarity. When economic pressures overshadow social emancipatory movements, the ideational concerns of norms of solidarity become historical triumphs without application. Nevertheless, self-identity of African statehood, or African-ness, persists beyond the confines of membership in regional integration schemes, legality and material ontology. This article does not claim to be the sole explanation of how and why states behave the way they do in Southern African integration schemes. Rather, it is an attempt to theorize norms of solidarity in relation to Southern African integration arrangements.

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INTRODUCTION

State behavior among members of regional integration schemes, for instance Southern African states, is not only about material interests, but also social construction and ideational concerns in the continent’s decolonization project. The central argument of this article is that relations among Southern African states are defined by norms of solidarity, which combine ideational and material concerns. Before

explaining theoretical approaches to understanding state behavior, it is relevant to explain “norms” and “norms of solidarity.” A norm is “a standard of appropriate behavior for actors with a given identity.”¹ Norms of solidarity form and regulate solidarity as logic of appropriateness among African states in general and Southern African states in particular. Alternatively, norms of solidarity are patterns of thought that establish state behavior by formulating concepts of the function and value of African-ness.² Through a process of socialization,

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1. There exist definitional problems that can be raised with the use of the word “norm” instead of “institutions” as sociologists more generally use. For sociologists, the distinction between “norm” and “institution” is that “norm” indicates “single standards of behavior” while “institution” is a collection of interrelated norms. Martha Finnemore & Kathryn Sikkink, *International Norm Dynamics and Political Change*, 52 INT’L ORG. 887, 891 (1998). This definitional problem is not, however, a problem for International Relations scholars in general and “constructivists” in particular. In addition, norms can be categorized into “regulatory norms,” “constitutive norms,” and “prescriptive norms.” *Id.* While the first “regulatory norms” and “constitutive norms” generally have a straightforward meaning, “prescriptive norms” are not always accepted as a third category, but rather as part of either “regulatory” or “constitutive” norms. *Id.*

2. See Leopold Sedar Senghor, President of Sen., Address at the 1963 African Summit (May 23, 1963), in CELEBRATING SUCCESS: AFRICA’S VOICE OVER 50 YEARS 1963–2013, at 85 (2013) [hereinafter CELEBRATING SUCCESS]. Senghor defines African-ness as the basis of African Unity beyond shared experiences. In his words:

Most of us feel that what brings us close to one another and must unite us is our position as under developed countries, formerly colonized. Nor is that wrong. But we are not the only countries in that position. If that could be said objectively to be whole truth, then African Unity ought one day to dissolve with the disappearance of under-development.

continental and regional norms of solidarity are internalized to establish the tenets of state behavior among African states.³ Norms of solidarity create identity of African-ness as a destiny of African states beyond the confines of geographic proximity.⁴ Thus, norms of solidarity based on

I am convinced that what binds us lies deeper; and my conviction is based on scientifically demonstrable facts. What binds us is beyond history: it is rooted in pre-history. It arises from geography, ethnology, and hence from culture. It existed before Christianity and Islam; it is older than all colonization. It is that community of culture which I call African-ness. I would define it as “the sum total of African civilized values: Whether it appears in its Arab-Berber aspect or its African Negro aspect, African-ness always shows the same characteristics of passion in feelings, and vigor in expression. I recognize an African carpet among those of all other continents. It is no mere chance that some mosaic in Bardo Museum resembles some Mali ‘pagne.’”

It seems to me Senghor’s passion to tie feelings of African-ness as scientific or biologically unity among Africans is a bit limited and actually flawed. For one, it dismisses and ignores Kenyan Indians from having feelings of African-ness and thereby declares them as non-African. Second, there is no scientific claim that shows that Africans—whether black, Arab or Berber—are genetically related, apart from Senghor’s “conviction.” Therefore, in this article my understanding of African-ness is that African-ness is a reactionary identity to colonial and racial oppression.

3. Norm socialization in this context is not used to signify the understanding of Thomas Risse and Kathryn Sikkink. For Risse and Sikkink, norm socialization is a “process by which international norms are internalized and implemented domestically.” Thomas Risse & Kathryn Sikkink, *The Socialization of International Human Rights Norms into Domestic Practices: Introduction*, in *THE POWER OF HUMAN RIGHTS: INTERNATIONAL NORMS AND DOMESTIC CHANGE* 1, 5 (Thomas Risse et al. eds., 1999). On the contrary, here it is used to signify how regional or continental norms of solidarity are internalized and domesticated by the African state.

4. For Nelson Mandela, South Africa was linked with other African states by “destiny.” Nelson Mandela, *South Africa’s Future Foreign Policy*, 72 *FOREIGN AFF.* 86, 89–90 (1993). He further emphasized that this “destiny” is “more than a mere geographical concept.” *Id.* at 90. Nelson Mandela’s chose the terminology “destiny,” instead of “future.” Although both can be synonymously used, “destiny” has more of a hidden force that controls the future, and this hidden force that exists among African states is what I refer to as “norms of solidarity” in this article.

unity and comradeship define “African-ness” as good and lack thereof as something bad.⁵

Norms of solidarity are incorporated in regional and sub-regional treaties. For instance, the African Union (AU) aspires to achieve “solidarity between the African countries.”⁶ Similarly, article 4(b) of the Southern African Development Community Treaty (SADC Treaty) prescribes that all members of SADC shall act in accordance with principles of solidarity.⁷ Although the AU charter and SADC Treaty encompass solidarity as objectives of both organizations, when it comes to how and when solidarity arrangements are to be invoked and/or implemented both organizations are silent.⁸ Which brings into question when, how, why, and by whom norms of solidarity are to be observed? Are states, even under dire circumstances, able and willing to stand in solidarity with each other? What consequences do economic pressures

5. The analysis and understanding of norms of solidarity in this article is a macro-state level analysis. I understand that solidarity arrangements can and do exist at individual and group levels. It can exist across sectors and minority groups. On the other hand, it can also exist among majority groups and political elites. For instance, Thomas Kwasi Tiekou analyzes solidarity arrangement among African political elites. *See, e.g.*, Thomas Kwasi Tiekou, *Solidarity Intervention: Emerging Trends in AU’s Interventions in African Crisis*, Address at the Chatham House Workshop: Africa International: Agency and Interdependency in a Changing World (Oct. 9, 2009), *available at* <http://www.open.ac.uk/socialsciences/bisa-africa/confpapers/solidarity-intervention.pdf>.

6. Constitutive Act of the African Union art. 3, para. a, *opened for signature* July 11, 2000, 2158 U.N.T.S. 33 (entered into force May 26, 2001) (stating “[t]he objectives of the Union shall be to: achieve greater unity and solidarity between the African countries and the peoples of Africa.”). Art. 3, para. a also identifies three strands of solidarity arrangements: (1) solidarity arrangements between and among African states, (2) solidarity arrangements between and among African people, and (3) solidarity arrangements between and among African states and people. *Id.* Understanding these possibilities, however, the focus of this article is on solidarity arrangements among states. Hence, the reference to African Union solidarity arrangements are, for the purposes of this article, limited to solidarity among members of the African Union.

7. Treaty of the Southern African Development Community art. 4, Aug. 17, 1992, 32 I.L.M. 116, 124 (enumerating “SADC and its Member States shall act in accordance with the following principles: a) sovereign equality of all Member States; b) solidarity, peace and security; c) human rights, democracy, and the rule of law; d) equity, balance and mutual benefit; e) peaceful settlement of disputes.”).

8. *See generally* Constitutive Act of the African Union, *supra* note 6, art. 3; Treaty of the Southern African Development Community, *supra* note 7, art. 4.

have for norms of solidarity? Under what circumstances do African states manage to observe norms of solidarity and on what grounds? This article attempts to theorize norms of solidarity in order to define and analyze foreign policy among Southern African states and in their relations with the European Union (EU).

Part I offers a brief introduction to rationalist and constructivist approaches to state behavior. I build on the works of constructivist scholars such as Martha Finnemore, Kathryn Sikkink, Amitav Acharya, and Jeffrey T. Checkel. With an emphasis on the relationship between ideational and material concerns, I attempt to explain the limitations and need for synergy of compartmentalized rationalist and constructivist understandings of state behavior. Part II analyzes the concept of norms of solidarity in intra-regional relations of Southern African states. Preconceptions of understandings, misunderstandings of constructive engagement and quiet diplomacy as the sole foreign policy tool of norms of solidarity challenge the character and function of African-ness. I further argue that African-ness does not prohibit sanctions nor does it advocate for constructive engagement. African-ness, as an identity of Southern African states and norms of solidarity as a collage of several norms, condemns “interference in internal affairs of member states.” After mapping the practice of norms of solidarity among Southern African states, Part III discusses the relationship between economic pressures and norms of solidarity by looking at EU-southern African relations. The central argument of Part III is that Southern African states lack a common foreign policy towards the EU. In addition, fear of market access to Europe, without any ideational concerns, shadows foreign policy-making among Southern African states.

I. RATIONALITY AND NORMS INTERTWINED?

To understand state behavior among Southern African states, rationalist and constructivist understandings of state behavior are discussed here.⁹ First, in explaining state behavior, rationalists as a

9. One might wonder why there is a limited focus on rationalist and constructivist approaches to state behavior. The focus on rationalism and constructivism in this article is not in any way intended to ignore the existence and value of other

liberal and social scientific enterprise, albeit limited and narrowly understood, focus on the power of reason.¹⁰ Conventionally, acting rationally means choosing the most feasible alternative, in other words, self-interest maximizing choice.¹¹ For instance, Switzerland's relationship with apartheid South Africa, although masked with the rhetoric of neutrality, was rather a preference of economic interests over ideational matters.¹² Switzerland's ideational concerns were limited to the domestic arena while self-interest maximization defined its relationship with Apartheid South Africa.¹³ In addition, global policies such as UN sanctions on Apartheid South Africa did not affect the

theories of state behavior, for instance, realism. However, there is a general conception that realists, just like rationalists, assume states to be rational actors. *See generally* Joe A. Oppenheimer, *Rational Choice Theory*, in *ENCYCLOPEDIA OF POLITICAL THEORY* 1150, 1150–59 (Mark Bervir ed., 2010) (discussing the conceptual understanding of rational choice). *Cf.* John J. Mearsheimer, *Reckless States and Realism*, 23 *INT'L REL.* 241, 241–56 (2009) (explaining how realists and rationalists share common assumptions of the state, Mearsheimer focuses on Kenneth Waltz's assumptions of the state. For Mearsheimer, Waltz's rejection of states as rational, self-interest, maximizing actors makes Waltz's conception of state behavior questionable.).

10. Jon Elster noted:

[R]ational choice theory appeals to three distinct elements in the choice situation. The first element is the feasible set, i.e., the set of all courses of action which (are rationally believed to) satisfy various logical, physical, and economic constraints. The second is (a set of rational beliefs about) the causal structure of the situation, which determines what course of action will lead to what outcomes. The third is a subjective ranking of the feasible alternatives, usually derived from a ranking of the outcomes to which they (are expected to) lead. To act rationally, then, simply means to choose the highest-ranked element in the feasible set.

Miles Kahler, *Rationality in International Relations*, 52 *INT'L ORG.* 919, 923 (1998) (quoting Jon Elster).

11. *See* Oppenheimer, *supra* note 9.

12. *See* Kahler, *supra* note 10.

13. *See generally* Peter Hug, *Aligning with the Apartheid Government against Communism: Military, Armaments Industry, and Nuclear Relations between Switzerland and South Africa and the UN Apartheid Debate of 1948-1994*, 42+ *NRP* 1 (2004) (showing how Switzerland secretly supported the apartheid regime until the abolition of apartheid in 1994).

materialistic consideration of Switzerland.¹⁴ Materialist ontology of rationalist understanding is one of the reasons Switzerland's foreign policy towards Apartheid South Africa was both feasible and logical behavior. Therefore, Switzerland maintained a self-interested maximizing policy—even if it meant collaborating with Apartheid South Africa.

Second, rational understanding, by adopting binary behavioral models—rational and irrational—lacks the capacity to explain the ideational realm, especially when rationale is associated with a self-interested maximizing goal. The Reagan administration, for instance, based on purely materialistic observations, supported the Apartheid Regime in South Africa.¹⁵ President Reagan summarized the basis of American support for Apartheid South Africa as “a country that stood by us in every war we have ever fought, a country that strategically is essential to the free world in its production of minerals.”¹⁶ Contrary to President Reagan's economic interests, the U.S. Congress acted on ideational anti-apartheid policies and imposed sanctions on apartheid South Africa.¹⁷ The role of domestic norms of equality, and its correlation to the civil rights movement in the U.S., not only changed U.S. policies towards apartheid South Africa, but is also a clear example of circumstances beyond the duality of rational and irrational

14. See generally Ibrahim J. Gassama, *Reaffirming Faith in the Dignity of Each Human Being: The United Nations, NGOs, and Apartheid*, 19 *FORDHAM INT'L L.J.* 1464 (1995) (discussing the UN's role in the anti-apartheid struggle from 1946-1990).

15. See Interview by Amy Goodman with Father Michael Lapsley, Dir., Inst. for Healing Memories, in New York, N.Y. (June 11, 2004) (quoting interview by Walter Cronkite with Ronald Reagan, President of the United States (Mar. 3, 1981)).

16. *Id.* See also Scott Bronstein, *Do Metal Sales Subsidize Apartheid*, *N.Y. TIMES* (Feb. 23, 1986), <http://www.nytimes.com/1986/02/23/business/do-metal-sales-subsidize-apartheid.html> (discussing how South Africa, next to the Soviet Union, is the second biggest producer of platinum and how politically and economically members of the Platinum Guild believed it is less costly for the U.S. to import platinum from South Africa even it meant supporting Apartheid in the latter).

17. Phillip I. Levy, *Sanctions on South Africa: What Did They Do?*, 89 *AM. ECON. REV.* 415, 417–18 (1999) (discussing the imposition of sanctions by the U.S. on apartheid South Africa and its impact).

narratives.¹⁸ This is not to stipulate that rational understanding does not consider ideational factors. Rather, when ideational concerns are entertained, it is fashioned in strictly materialistic scrutiny. The U.S. Civil Rights Act of 1964, passed under the Commerce Clause, prohibited segregation and the discrimination of African Americans.¹⁹ Instead of arguing for equality on principles of dignity, the focus on the Commerce Clause by Congress is a clear example of how ideational concerns, analyzed under materialistic lenses, could consequentially dehumanize concerns of equality.²⁰ Justice Robert H. Jackson eloquently summarized the dehumanizing effect of equality under the Commerce Clause as, “the migrations of a human being . . . do not fit easily into my notions as to what is commerce . . . [t]o hold that the measure of his rights is the commerce clause is likely to result eventually either in distorting the commercial law or in denaturing human rights.”²¹ In brief, ideational concerns could fall beyond the duality of rational and irrational narratives. The aim here is not to dethrone reason as a model for

18. See generally Audie Klotz, *Norms Reconstituting Interests: Global Racial Equality and U.S. Sanctions against South Africa*, 49 INT’L ORG. 451 (1995) (analyzing the role of norms in changing U.S. policies with regard to apartheid South Africa). See also William Minter & Sylvia Hill, *Anti-Apartheid Solidarity in United States – South Africa Relations: From the Margins to the Mainstream*, in THE ROAD TO DEMOCRACY IN SOUTH AFRICA 745 (SADET ed., 2008) (discussing the similarities and affinity between the civil rights movement in the United States and the anti-apartheid movement in South Africa).

19. See *Commerce Clause*, LEGAL INFO. INST., http://www.law.cornell.edu/wex/commerce_clause (last visited Apr. 5, 2014) (discussing how the Civil Rights Act of 1964 was passed under the Commerce Clause). See also John Gerard Ruggie, *What Makes the World Hang Together? Neo-Utilitarianism and the Social Constructivist Challenge*, 52 INT’L ORG. 855 (1998) (discussing how at times ideational factors are examined in materialistic perspective).

20. See generally James Gray Pope, *The Thirteenth Amendment Versus the Commerce Clause: Labor and the Shaping of American Constitutional Law, 1921-1957*, 102 COLUM. L. REV. 1 (2002) (discussing how incorporating basic human rights under the commerce clause can limit the understanding of rights). In addition, Justice Jackson also summarized how incorporating concerns of equality under the Commerce Clause can be limiting. Chester James Antieau, *Equal Protection Outside the Clause*, 40 CALIF. L. REV. 362, 370 (1952) (quoting *Edwards v. People of the State of California*, 314 U.S. 160, 182 (1941) (Jackson, J., concurring)).

21. *Id.*

understanding state behavior among Southern African states, but rather to show that state behavior is not always based on reason.

Constructivists, in contrast, consider emotional and moral factors to achieve political goals.²² Constructivism is human consciousness at its international level.²³ Identities and interests of actors are therefore socially constructed and rest with other ideational factors.²⁴ Similar to the flaws of pure rationalism, constructivism also displays a degree of naiveté in ignoring material interests as defining factors in changing or forming logics of appropriateness.²⁵ In the African context, anti-apartheid foreign policy was driven by ideational concerns of the inhuman treatment of South African people.²⁶ For constructivists, therefore, ideational concerns of African anti-apartheid movements led to continental anti-apartheid policies. Such constructivist framing of foreign policy-making among African states, however, could create arguments for moral superiority of African states. In addition, constructivist engagement fails to capture calculated-materialist foreign policy-making among Southern African states. Malawi, for instance, established and maintained formal relations with apartheid South Africa based on rationalized materialistic calculations and contrary to the continental policy of isolation.²⁷

22. Ruggie, *supra* note 19, at 856 (discussing how constructivism rests on an irreducibly inter-subjective dimension of human action).

23. *Id.*

24. *Id.* (discussing how identities and interests are social constructs).

25. See generally Milja Kurki & Adriana Sinclair, *Hidden in Plain Sight: Constructivist Treatment of Social Context and its Limitations*, 47 INT'L POL. 1, 2–3 (2010) (discussing theoretical and empirical limitations of constructivist theory).

26. See Zdenek Červenka, *THE UNFINISHED QUEST FOR UNITY* 23, 41, 110–22 (1977) (discussing the position and reaction of members of the African Union towards Apartheid South Africa and Malawi's relationship with the latter and how, after learning that Malawi established and maintained relations with Apartheid South Africa, some members of African Union called for its expulsion from the union). See also Organization of African Unity, *Resolution on South Africa*, C.M. Res. 1019 (XLIII), CM/RES/1019(XLIII) (Mar. 1986) (African Union member states condemning Apartheid in South Africa).

27. See generally Robert Davies & Dan O'Meara, *An Analysis of South African Regional Policy Since 1978*, 11 J. S. AFR. STUD. 183, 187–88 (1985) (discussing the relationship between Malawi and Apartheid South Africa in the 1970s).

Understanding limitations of rationalist and constructivist approaches to state behavior, several rationalist and constructivist scholars concur that norms and rationality are intertwined.²⁸ The difficulty of measuring ideational phenomenon led to the correlation between “utility maximization” and “material terms,” which consequently led to material ontology in proponents of rationality.²⁹ For proponents of constructivism, on the other hand, the propensity to counter norms and rationality fails to capture “strategic social construction” where normative behavioral changes are driven by rationality.³⁰ Hence, to draw a binary division between rationality and norms is to ignore that “rational choice theory can easily accommodate nonmaterial or nonselfish [sic] interests.”³¹ In conclusion, in this article, the discussions on norms of solidarity are cognizant of the relationship between material interests and the power of ideas in defining and formulating state behavior.

A. Are Norms of Solidarity Specific to Southern African States?

Whether it is to claim superiority, exceptionality, or uniqueness, it is quiet common to hear claims of regional or national specificity of norms. At times a result of ignorance, not knowing whether the norm exists in other parts of the world, advocates of regional or national norm specificity repeatedly claim the uniqueness of their region or nation. Such claims lead one to inquire whether there is a relationship between norms and geographic specificity. Are there norms that are particular, for example, to Africa, Asia, or Europe? If so, what makes a norm or group

28. See generally Jeffrey T. Checkel, *International Norms and Domestic Politics: Bridging the Rationalist-Constructivist Divide*, 3 EUR. J. INT’L REL. 473 (1997) (Checkel, in this article, bridges the theoretical and methodical gap on the discourse of norms as constitutive and constraining of state behavior). See generally Finnemore & Sikkink, *supra* note 1; Kahler, *supra* note 10; and Ruggie, *supra* note 19 (also noting that norms and rationality are intertwined).

29. Finnemore & Sikkink, *supra* note 1, at 889 (discussing how norms and rationality intersect).

30. See *id.*

31. Jon Estler, *Rational Choice History: A Case of Excessive Ambition*, 94 AM. POL. SCI. REV. 685, 692 (2000) (reviewing ROBERT H. BATES ET. AL., *ANALYTICAL NARRATIVES* (1998)).

of norms African, Asian or European? And how does one identify regional specificity?

In the human rights field, advocates of Asian-values defense, for instance, Lee Kuan Yew, argue that Asian norms emphasize order and discipline over freedom and liberty.³² For Yew and his supporters, norms that advocate for freedom and liberty are western ideals that do not conform to Asian values.³³ Yew's reasoning is methodologically flawed and a monolithic interpretation of Confucian thought; the reasoning advances oppressive behavior under the guise of resisting European Hegemony.³⁴ Above all, it summarized "us" to mean ordered and

32. Lee Kuan Yew was the former Prime Minister of Singapore. The Asian values debate by challenging Human Rights discourse argues that Human Rights was western and not in conformity with Asian culture. *See generally* Fareed Zakaria, *Culture is a Destiny: A Conversation with Lee Kuan Yew*, 73 FOREIGN AFF. 109, 111, 114 (1994) (discussing his views Asian values and its relationship to freedom and liberty). *See also* Ian Taylor, *Sino-African Relations and the Problem of Human Rights*, 107 AFR. AFF. 63, 66 (2007). Notice how Ian Taylor's discussion of Human Rights took a dual dichotomy of how socio-economic rights are discussed as Chinese, and Civil and Political Rights as Western conceptions of Human Rights. Taylor noted, "China's current discourse on human rights is grounded in a communitarian focus on social solidarity and obligations towards others, coupled with an aspiration to advance societal concord." *Id.* at 65.

33. *See generally* Zackaria, *supra* note 32.

34. For Sen, the methodological claim with the Asian values defense research is that it tends to draw the conclusion of what the past was from what the present is today. Therefore, it emphasizes the idea of Europe as the moral compass of the world and European enlightenment at the center of norm entrepreneurship and diffusion of what is good in this world. Sen eloquently argued:

Authoritarian lines of reasoning often receive indirect backing from modes of thought in the West itself. There is clearly a tendency in the United States and Europe to assume, if only implicitly, the primacy of political freedom and democracy as a fundamental and ancient feature of Western culture—one not to be easily found in Asia. A contrast is drawn between authoritarianism allegedly implicit in, say, Confucianism and the respect for individual liberty and autonomy allegedly deeply rooted in Western liberal culture. Western promoters of personal and political liberty in the non-Western world often see this as bringing Western values to Asia and Africa. . . . Values spread by the European Enlightenment and other relatively recent

disciplined Asians and “them” to mean disordered and undisciplined others.

The idea of geographic norm specificity was also used to justify superiority of one group over another. For instance, by creating discourse of “us” (civilized Europeans) and “them” (savage Africans), historical records show how norm geographic specificity was used to justify colonial ambitions.³⁵ Similarly, and with a more contemporary setting, Ian Manners’s work on Europe as a normative power reinforces the idea of Europe’s normative superiority and its role as a global moral compass.³⁶ Manners’s contention of Europe’s normative power situates Europe as the global compass of what is good.³⁷ Here again, irrespective of its Eurocentric logic, Manners’s conception of European normative power creates discourse of norm superiority without analyzing the existence, or lack thereof, of said norm in non-European societies.

In the African context, Tore Nyhamar argues rather boldly that there are four norms in Africa.³⁸ These are: (1) African solutions for African

developments cannot be considered part of the long-term Western heritage, experienced in the West over millennia.

Amartya Sen, Human Rights and Asian Values, Address at the Carnegie Council on Ethics and International Affairs: Sixteenth Morgenthau Mem’l Lecture on Ethics & Foreign Policy 7, 15 (1997).

35. See Michael Adas, *Contested Hegemony: The Great War and the Afro-Asian Assault on the Civilizing Mission Ideology*, 15 J. WORLD HIST. 31 (2004) (discussing European norm superiority and how it disguised colonial ambitions as civilizing missions).

36. See Ian Manners, *Normative Power Europe: A Contradiction in Terms?*, 40 J. COMMON MKT. STUD. 235 (2002) (discussing the idea of Europe as a normative power).

37. Ian Manner’s argument for Normative Power EU has been subject to critique by several scholars as Eurocentric among others. See Thomas Diez, *Constructing the Self and Changing Others: Reconsidering ‘Normative Power Europe*, 33 MILLENNIUM J. INT’L STUD. 613 (2005) (critiquing the idea of Europe as a normative power, Diez in this piece calls for more reflexivity). Similarly, Storey and Durac by using the example of Europe-Morocco relationship show that the idea of Europe as a normative power is flawed. See Andy Storey & Vincent Durac, ‘Normative or Realist’ versus ‘Normative and Realist,’ (Apr. 23, 2009) (paper for presentation at EUSA Eleventh Biennial International Conference, Los Angeles), available at http://aei.pitt.edu/33141/1/storey_andy.pdf (last updated Mar. 16, 2013).

38. Tore Nyhamar, *How Do Norms Work? A Theoretical and Empirical Analysis of African International Relations*, 5 INT’L J. PEACE STUD. 27, 29 (2000). Nyhamar cites

problems; (2) African states have three primary goals, which are hierarchically ranked as independence, development and unity; (3) conquest of African states is outlawed; and (4) independence of all African states.³⁹ Nyhamar's question of which norms exist in Africa implies a list—which, in this case is incomplete—and limits the understanding of norms as standards of appropriateness in governing state behavior among and between African states. Such codification from Nyhamar limits his work on norms and international relations in Africa. His decision to make a list, which excluded norms of equality, could lead one to argue that norms of equality are un-African and, by that measure, are of European origin.⁴⁰ Nyhamar's list, irrespective of its limitations, and also as a result of its limitations, creates discourses of "us" vs. "them."

For Yew, Manners, or Nyhamar, such specification of which norms exist in particular geographic specificity, without examining its existence or lack thereof in other parts of the world, brings a discourse of "us" and "them" and thereby forms self-identity. It is far from the aim of this article to claim that norms of solidarity are solely African. On the contrary, the discussions on norms of solidarity in this article do not deny the existence or lack of norms of solidarity in other parts of the world. It is beyond the confines of this article to do such exploration. Therefore, this article, without claiming African exceptionalism, attempts to analyze the impact of norms in general, and norms of solidarity in particular, in framing foreign relations of Southern African states.

and refers to I. William Zartman. *Id.* However, it seems to me that Nyhamar misread Zartman's analysis of Africa's system and wrongfully attributes the codification of four African norms to Zartman. Zartman did not limit or codify African norms. See I. William Zartman, *Africa as a Subordinate State System in International Relations*, 21 INT'L ORG. 545, 558–61 (1967). In his work, without limiting or excluding the existence of other norms, Zartman described the workings of African subordinate system. *Id.*

39. Nyhamar, *supra* note 38.

40. See Klotz, *supra* note 18 (discussing norms of equality in South Africa).

B. Norm Recognition: Observance & Breach—Approval & Disapproval?

There are conceptual and empirical problems in norm recognition. Norms of solidarity are not always legislated in regional integration agreements. If and when they are promulgated, for instance among Common Market for Eastern and Southern Africa Treaty (COMESA) member states, solidarity is legislated as sets of governing principles.⁴¹ Yet, in positivist legal tradition, principles are not always justiciable and take the role of mere guidance of behavior.⁴² How does one thus recognize the existence of a particular norm or group of norms if its existence is not always explicitly adopted in a treaty? Furthermore, when norms are promulgated as principles without legal force, how does one recognize its observance or breach if it is not justiciable before courts? In this article, state behavior is used as a tool to recognize and understand how and why states behave in regard to certain normative

41. Common Market for Eastern and Southern Africa Treaty art. 6, Sept. 1, 1994, 33 I.L.M. 1067, 1076 [hereinafter COMESA],

The Member States, in pursuit of the aims and objectives stated in Article 3 of this Treaty, and in conformity with the Treaty for the Establishment of the African Economic Community signed at Abuja, Nigeria on 3rd June, 1991, agree to adhere to the following principles . . . solidarity and collective self-reliance among the Member States.

42. See Joseph Raz, *Legal Principles and the Limits of Law*, 81 YALE L.J. 823, 823 (1972) (discussing positivist assumptions that laws differ from principles and how such thinking draws limits of law and legality); see also Eric Christiansen, *Adjudicating Non-Justiciable Rights: Socio-Economic Rights and the South African Constitutional Court*, 38 COLUM. HUM. RTS. L. REV. 321 (2007) (discussing justiciable and non-justiciable laws. In addition, see how Christiansen discusses the African National Congress's Charter. Christiansen notes how incorporating the principles in the final constitution needed some form of formal process, in order for the principles to have legal enforceability.).

In this article, despite notable difference between principles and norms, preference is given to the use of 'norms;' since both set standards of appropriate behavior despite their legislation status. Stephen D. Krasner, *Structural Causes and Regime Consequences: Regimes as Intervening Variables*, 36 INT'L ORG. 185, 186 (1982) For Krasner, "norms" and "principles" are distinct. *Id.* "Principles are beliefs of fact, causation, and rectitude," while "'norms' are standards of behavior defined in terms of rights and obligations." *Id.*

commitments.⁴³ This article, in order to identify normative commitments of Southern African states, looks specifically at norm observance or breach and the reactions specific actions generate in Southern African communities.⁴⁴

Generally speaking, norm observance could generate praise or may lack public recognition, while norm breach could generate public condemnation. The former, norm observance, taken as the expected behavior of an actor, might be difficult to recognize if there was no public recognition. On the contrary, since norm breach generally generates disapproval it is easily recognizable. The next crucial question is whose approval or disapproval matters to render an act or failure to act as norm observance or breach? In today's globalized world, a set of norms could be shared at the sub-regional, continental, and global level. Therefore, a particular behavior could receive varied reactions at the sub-regional, continental, and global levels. Looking at norm observance and breach, or approval and disapproval of a particular behavior, could be the flip side of asking whose norms matter. Analysis on hierarchy of norms is, however, concerned with the relationship between global and domestic norms.⁴⁵ On the contrary, the focus in this section is not on norm superiority. Rather, in this article, approval and disapproval of norms are used as exploratory tools to identify the existence, or lack of existence, of a particular norm or group of norms.

43. State behavior in this article includes past actions, present actions, official and unofficial statements among others. One could argue that norm recognition through state behavior recognizes norms of the past and not necessarily of the future. Understanding such critique, however, the focus on state behavior is not limited to actions of the past, but also of the present. See Annika Björkdahl, *Norms in International Relations: Some Conceptual and Methodological Reflections*, 15 CAMBRIDGE REV. INT'L AFF. 9, 13 (2002) (discussing the empirical and conceptual challenges in norm recognition).

44. One might argue that using state practice—norm observance and norm breach—among Southern African states is in a way alleviating norms of solidarity to the status of customary international law. See Statute of the International Court of Justice, art. 38(1)(b), June 26, 1945, 59 Stat. 1031, 33 U.N.T.S. 993.

45. See generally Amitav Acharya, *How Ideas Spread: Whose Norms Matter? Norm Localization and Institutional Change in Asian Regionalism*, 58 INT'L ORG. 239, 242–43 (2004).

During the Arab Spring of Libya, one could notice varied and at times striking reactions among African states and global actors. Members of the African Union proposed a negotiated transition in Libya in contra to Western powers, which preferred armed intervention.⁴⁶ The central norms that members of African unity aspired to preserve include prohibition of foreign interference in domestic affairs of member states.⁴⁷ Global actors rejected the proposed solutions of the African Union and resulted in the rejection of a negotiated solution for Libya.⁴⁸ Although several questions could be raised on the relationship of the African Union with other international actors, the question that is relevant to this article is whose approval and disapproval matters in rendering a behavior either norm observing or norm breaking? In short, the disapproval of the African proposal for Libyan issues by global actors brings into question whose disapproval renders an act norm breach. Clearly, there existed a clash of normative proposals and priorities between African states and global actors. In analyzing norms of solidarity, its observance or breach, the exploratory task of this article is limited to the community of African states and their historical and contemporary solidarity arrangements. The next subsection, therefore, inquires within the community of Southern African states, whose approval or disapproval matters.

46. Alex Dewaal, *The African Union and the Libya Conflict of 2011*, WORLD PEACE FOUND., (Dec. 19, 2012), [http:// sites.tufts.edu/reinventingpeace/2012/12/19/the-african-union-and-the-libya-conflict-of-2011/](http://sites.tufts.edu/reinventingpeace/2012/12/19/the-african-union-and-the-libya-conflict-of-2011/); Paul D. Williams, *From Non-Intervention to Non-Indifference: The Origins and Development of the African Union's Security Culture*, 106 AFR. AFF. 253, 261 (2007) (generally discussing norms of non-interference in internal affairs of member states among the African Union).

47. See Organization of African Unity, *Declaration On The Framework For An OAU Response To Unconstitutional Changes Of Government*, AHG/Decl.5 (XXXVI) (Jul. 2000) (explaining that African Union member states condemn unconstitutional change of government); see also Constitutive Act of the African Union, *supra* note 6, art. 4, para. g (prohibiting interference in internal affairs of member states); see also African Union, *Communique of the 275th Meeting of the Peace and Security Council*, PSC/MIN/COMM.2 (CCLXXV), at 2 (Apr. 26, 2011).

48. Dewaal, *supra* note 46.

1. *Norm Recognition or Normative Shift among Southern African States*

Southern African states, by establishing the SADC Tribunal, set norms of justice as appropriate behavior among members of the community. The member states agreed that the breach of norms of justice needed to be rectified and penalized; hence, they created the Tribunal.⁴⁹ However, the Tribunal's de facto suspension and subsequent decision to limit its jurisdiction have certainly impacted access to justice of Southern African citizenry.⁵⁰ But do the actions of Southern African states and their decision to dissolve the Tribunal amount to a norm breach? If state behavior—which in this case is Southern African states—establishes the existence and/or breach of norms, does the dissolution of the Tribunal amount to a shift in normative stance rather than a norm breach?

Dissolution of the Tribunal was praised and criticized. Southern African states—the community that set the Tribunal as a tool for the enforcement of justice—approved the de facto dissolution of the Tribunal.⁵¹ Correspondingly, Julius Malema, party leader of the South African Economic Freedom Fighters, implicitly praised the Zimbabwean government and the dissolution of the Tribunal as a positive move towards redistributive justice.⁵² On the contrary, Ariranga G. Pillay,

49. See also Southern African Development Community Protocol on Tribunal and the Rules of Procedure Thereof (2000), available at http://www.sadc.int/files/1413/5292/8369/Protocol_on_the_Tribunal_and_Rules_thereof_2000.pdf.

50. See generally Michelo Hansungule, *The Suspension of the SADC Tribunal*, 35 STRATEGIC R. S. AFR. 135 (2013), available at <http://www.up.ac.za/media/shared/Legacy/sitefiles/file/46/1322/michelohansungulepp135145.pdf>.

51. See Franny Rabkin, *SADC tribunal judges say court's dissolution 'illegal'*, NEW ZIMBABWE (Jun. 28, 2011), <http://www.newzimbabwe.com/news-5453-SADC+tribunal+judges+fume+over+dissolution/news.aspx>.

52. Although not directly praising the dissolution of the SADC Tribunal, Julius Malema, by praising actions of the Zimbabwean government in relation to minority landowners, indirectly dealt with the SADC Tribunal's decision. See, e.g., *Malema Praises Mugabe*, YAHOO! NEWS (Jan. 10, 2014), <http://www.yahoo.com/malema-praises-mugabe-062950369.html>. Implicitly, it seems to me that Malema supports dissolution of the Tribunal because if the Tribunal's decision against Zimbabwe was enforced,

former president of the Tribunal, noted dissolution of the Tribunal as a missed opportunity “for the advancement of principles of human rights, democracy and the rule of law in the SADC region.”⁵³ Similarly, the SADC Lawyers’ Association condemned dissolution of the Tribunal as a setback in regional integration efforts and a “disregard for the rule of law.”⁵⁴

Taking it a step further, the Pan African Lawyers Union and the Southern Africa Litigation Center questioned the legality of the dissolution of the Tribunal in front of the African Human Rights Court (AHRC).⁵⁵ Similarly, Luke Tembani and Benjamin Freeth petitioned the African Commission for Human and Peoples’ Rights (the Commission) to declare the suspension of the Tribunal as a violation of the SADC Treaty.⁵⁶ In both cases, the claimant’s petitions and prayers were either dismissed or denied.⁵⁷ Indeed, neither the decision of the AHRC, nor the Commission, mean that both entities either approve or disapprove of the

Zimbabwe’s land policy would be nullified, which for Malema would mean Zimbabwe’s land policy will fail to address issues of redistributive justice.

53. Ariranga G. Pillay, *Reflecting on the SADC Tribunal: A Missed Opportunity?*, OPEN SOC’Y FOUND. FOR S. AFR. 7 (Mar. 2013), <http://osf.org.za/wp-content/uploads/2015/08/Reflecting-on-the-SADC-Tribunal-a-missed-opportunity.pdf>.

54. Kondwa Sakala-Chibiya, *Official Communiqué of the Fourteenth Annual General Meeting and Conference of the SADC Lawyers’ Association*, SADC LAWYERS’ ASS’N (Aug. 15, 2013), http://lawyersofafrica.org/wp-content/uploads/2013/08/Official-Communique-of-the-14th-SADCLA-AGM-Conference.pdf?utm_source=Original+Mailing+List&utm_campaign=0c38c932a8-14th+SADCLA+AGM+Communique&utm_medium=email&utm_term=0_7ac5a3e611-0c38c932a8-27188645 (“The suspension of the SADC Tribunal presents lacunae for the consolidation of regional integration efforts and facilitates the impugned disregard for the Rule of Law in the region, which should be minimized by SADC legal professionals through active and creative engagement of supranational courts and fora.”).

55. Suspension of SADC Tribunal, Advisory Op. 002/2012, Afr. Ct. H. & Peoples R. (Mar. 15, 2013) (discussing the decision of the African Court on Human and Peoples’ Rights on the request for an advisory opinion of the legality of the dissolution of the SADC Tribunal).

56. Freeth and Tembani also petitioned the court to rule that dissolution of the Tribunal was also a violation of the African Charter and general principles of international law. *See generally* Luke Tembani & Benjamin Freeth v. Angola & Thirteen Others, Afr. Comm’n H. & Peoples R., Communication No. 409/12, 54th Ordinary Session (2013).

57. *See id.*

dissolution of the SADC Tribunal. Rather, both the AHRC and the Commission gave legal analysis of the issues at hand from a purely legalistic approach.⁵⁸ This brings into question the relationship between courts and norm observance/breach. Alternatively, the question is: because the dissolution of the Tribunal was not found to be a violation of, for instance, the African Charter, does it warrant one to conclude there was no norm breach? What is the relationship between law and norms?

As indicated at the outset, a norm is defined as “a standard of appropriate behavior for actors with a given identity.”⁵⁹ Likewise, law sets standards of appropriate behavior for actors with a given identity. Norms, both legal norms and other norms, cohabit in the same space and govern the same community of actors—in this case, Southern African states.⁶⁰ The broader question of this article aspires to understand the influence of norms—including legal norms—in governing state behavior. In this context, it does not matter whether or not the norm is promulgated as law. It is not the legislation of the norm that matters, but its acceptance by Southern African states as a basis for interaction. The focus on norm observance/breach in this article is not only observance/breach of the SADC Treaty and its protocols, but also norms which were not promulgated by Southern African actors.

II. NORMS OF SOLIDARITY

“Norms of solidarity” is a general label for a variety of related normative approaches to state behavior among Southern African states. Norms of solidarity comprises a variety of beliefs that manifest themselves as behavioral norms which create regulatory or constitutive standards of appropriateness. Although the SADC treaty and other formal

58. *Id.* The AHRC concluded that it does not have jurisdiction to analyze the case as on the ground that a similar issue was being entertained before the Commission. *Id.* On the other hand, the Commission ruled on the merits of the case and concluded first and foremost that its lack of jurisdiction to interpret and apply SADC Treaty. *Id.*

59. Finnemore & Sikkink, *supra* note 1.

60. See generally Martha Finnemore, *Are Legal Norms Distinctive?*, 32 NYU J. INT'L L. & POL. 699 (1999).

treaty obligations among Southern African states create standards of appropriateness, norms of solidarity are agnostic to legality and to membership of an integration scheme. Therefore, norms of solidarity treat the SADC treaty as either endogenous or exogenous depending on the problem under consideration. In short, norms of solidarity are reflected in mutual solidarity arrangements that expand beyond the confines of law, legality, and regionalism.

Norms of solidarity among Southern African states are better understood as a part whose characteristics are determined by a larger continental project of African-ness.⁶¹ Continental feelings of African-ness define the internal structure and dynamism of norms of solidarity among Southern African states. This is not to claim that continental feelings of African-ness originated in one part of Africa and not the other. Rather, a shared experience of colonialism and racial domination is what led to the social construction of African-ness among all African states.⁶² Hence, to limit the era of Southern African norms of solidarity to the formalization of sub-regional anti-apartheid resistance—through SADC—is to ignore the continental context of norms of solidarity.⁶³

61. Unlike in colonial era conceptualization of Pan-Africanism, norms of solidarity in its post-colonial perspective is not mere replication; it is narrow and state level analysis. In its first phase (Garvey's and Du Bois's struggle for Pan-African unity) norms of solidarity transforms the social relations of African-ness without as yet altering the global order and state behavior at the international level. In the second phase (post-independence era of African states), formerly independent African states as the framers of African order behave and influence global order. The discussion of norms of solidarity in this article is, however, limited to the second phase of post-independence Africa.

62. Tiekü, *supra* note 5. See also Ali Mazrui, *Pan-Africanism: From Poetry to Power*, 23 J. OPINION 35, 35 (1995) (discussing solidarity among Africans to be the result of racial and colonial oppressions).

63. For norms of solidarity among Southern African states, if one was to limit the norm emergence era to the time when SADC was formalized—which was in 1980s—it looks like feelings of African-ness emerged in 1980s among Southern African states. Alternatively, it could also justify a possible argument—which argues that norms of solidarity actually started in other parts of the African continent and through the process of norm diffusion and localization—as theorized by Amitav Acharya—norms of solidarity were transplanted in Southern African states. See, e.g., Acharya, *supra* 45. In conclusion, by looking at Southern African norms of solidarity in its broader continental context it allows one to avoid debates and issues associated with identity of norm entrepreneurs in the construction and life cycle of norms of solidarity. *Id.*

Norms of solidarity, although a part in continental emancipatory project, is also a whole in its own right. Several norms (for instance racial equality, self-determination, equality of states, and equal access to a just and participatory global order, among others) interplay in building the underlying logic and path of norms of solidarity.⁶⁴ Larger continental norms of solidarity determine norms of self-determination and “norms of equality.”⁶⁵ Theoretically, “norms of racial equality” are in harmony with norms of solidarity, since the later was the platform that helped materialize norms of equality in the African continent.⁶⁶ Notably, African norms of solidarity, which provide an account of the natural destiny of being African, have a potentially narrow geographical application, unlike norms of equality, which have universal application.⁶⁷

Norms of solidarity have potentially reached a degenerative state. The genesis of feeling of African-ness is related to the process of decolonization and racial equality in the continent.⁶⁸ With the end of apartheid rule, the subsequent dissolution of the Organization of African Unity (OAU) Liberation Committee, and the beginning of independence for all African states from western colonization, feelings of African-ness have declined. This degeneration has two significant sources. First, the organic norms of solidarity were diluted and eventually put in a degenerative state through inorganic policies of global financial and

64. Borrowing from Audie Klotz, “a norm of racial equality defines discrimination based upon racial categories (as evident in racist language, personal actions, and/or social policies) as bad and individual equality (lack of discrimination) as good.” Klotz, *supra* note 18, at 451. For a definition of norms of “equal access to justice” see Deborah L. Rhode, *Access to Justice*, 69 *FORDHAM L. REV.* 1785, 1786 (2001) (“‘Equal justice’ is usually taken to mean ‘equal access to justice,’ which in turn is taken to mean access to law.”).

65. Mazrui, *supra* note 62, at 35 (discussing how solidarity was central to the struggles for self-determination and equality).

66. *Id.*

67. This could be interpreted as saying norms of solidarity are solely African. I have not explored the existence or lack of norms of solidarity in other parts of the world. Hence, I am not claiming African exceptionalism. In addition, the use of African-nature in this section, similar to the pan-Africanist movements, should be understood as the biological destiny of being black, a darker race, or non-Caucasian.

68. See generally Mazrui, *supra* note 62, at 35.

trade institutions, which favored marketization rather than African-ness.⁶⁹ Second, degeneration is the result of contradiction between regional and global norms. Laurie Nathan, for instance, reasons that conceptual degeneration of norms of solidarity led to the elevation of regional norms of solidarity over global norms of equality.⁷⁰ These degenerations of norms of solidarity could be intra-regional or intra-state.⁷¹ The aim and approach of this article, however, is not to assess the state of degeneration or renaissance of African-ness, but rather to explain the role “African-ness” has had in shaping state behavior among Southern African states and Southern African regional integration arrangements.

A. Norms of Solidarity: Ambivalences of African-ness

In order to understand norms of solidarity one needs to recognize its nuances. First, norms of solidarity portray post-colonial African states as virtuous states, which share a common rhythm of African-ness. This characterization paints a popular picture of African-ness as altruistic, where concerns of other African states are overwhelmingly present. For instance, Nyerere noted how “the whole of Africa speaks with one sincere voice.”⁷² In the spirit of African-ness, Nelson Mandela promised

69. African states are more passive and less active in their trade negotiations. Sheila Page noted that a third of African bureaucrats surveyed believe that domestic economic policies of their respective countries are formulated by global financial and trade institutions with little or no say from African governments. See Sheila Page, *Developing Countries: in GATT/WTO Negotiations* 42–43 (Overseas Dev. Inst., 2002). Hence, with little or no say from the African states it could be rationalized that degeneration of African-ness is the result of marketization.

70. See generally Laurie Nathan, *Solidarity Triumphs Over Democracy – The Dissolution of the SADC Tribunal*, 57 DEV. DIALOGUE, 123, 123–38 (2011) (arguing that dissolution of SADC Tribunal amounts to norms of solidarity triumph over democratic and legal principles of the SADC).

71. For an example of degeneration of norms of solidarity, see David Hirschmann, *The Black Consciousness Movement in South Africa*, 28 J. MODERN AFR. STUD. 1, 1–22 (1990) (discussing the black consciousness movement in South Africa and how that has changed and weakened through time).

72. Julius K. Nyerere, President of the Republic of Tanganyika, Address at the 1963 African Summit (May 23, 1963), in CELEBRATING SUCCESS, *supra* note 2, at 100. For Nyerere, ‘one voice’ seems to represent solidarity against colonial and racial domination. *Id.*

that post-apartheid South Africa would restrain self-interested considerations for the benefit of its neighbors.⁷³ In *contra*, relations among African states are fraught with tensions and application of norms of solidarity has been inconsistent. Even during the liberation struggle, support and solidarity for the continents decolonization project was subject to contradictory and clashing interests of the OAU member states.⁷⁴ For instance, although the OAU's Liberation Committee channeled moral and material support to half of the states that achieved independence since its establishment, its early retirement failed to put an end to the question of Western Sahara.⁷⁵

73. Mandela, *supra* note 4, at 91 (noting post-apartheid South African foreign policy will "resist any pressure or temptation to pursue its own interests at the expense of the sub-continent."). Indeed, under apartheid rule South Africa had conflicting relations with its regional neighbors. Khabele Matlosa argues that South Africa's behavior with its neighbors was benign, noting South Africa's decision to renegotiate the Southern African Customs Union to create a more just compensation system for states like Lesotho and Swaziland. Khabele Matlosa, *Vulnerability and Viability of Small States in Southern Africa in a Post-Apartheid Era: Is South Africa Still "Big Brother?"*, 11 PULA J. AFR. STUD. 117, 117-31 (1997). Moreover, Matlosa also infers that South Africa's intervention to resolve domestic problems of Lesotho and Swaziland was based on South Africa's self-serving interests. *Id.* In short, for Matlosa, South Africa's relationship with its neighbors is composed of self-serving policies in the political arena and redistributive justice policies in its regional economic interactions with Lesotho and Swaziland. *Id.* To the contrary, Adam Habib argues that considerations for economic interests of other African states are romantic ideals of the African National Congress, which will have a detrimental impact on South African economy. Adam Habib, Address at the Center for Policy Studies and Open Source Foundation of South Africa, *Hegemon or Pivot?: Debating South Africa's Role in Africa 2-3* (Aug. 2003). Habib argues that South Africa should take a hegemonic role in the region. *Id.*

74. See generally Amare Tekle, *A Tale of Three Cities: The OAU and the Dialectics of Decolonization in Africa*, 35 AFR. TODAY 49, 49-60 (1988) (discussing the role of OAU and its member states in the decolonization movement of Africa).

75. The OAU Liberation Committee was formed in the first assembly of heads of states of Africa in May 1963. *Id.* at 49. Since its establishment and up to its dissolution in 1994, it helped eleven out of twenty two states gain their independence. OAU, *Dissolution of the OAU Liberation Committee*, Res. 228, pmb., AHG/RES/228 (June 1994). In dissolving the Liberation Committee, the OAU reasoned, "the mandate given to the Liberation Committee in 1963 has been satisfactorily accomplished." *Id.* at para. 2. The issues of the Saharawi Arab Democratic Republic and Morocco's invasion of the Western Saharan territory had not been resolved, yet the Liberation Committee was dissolved. Tekle, *supra* note 74, at 49.

Similarly, when it comes to multilateral negotiations, African solidarity is challenged. For instance, as a result of lack of resources, several African states do not have representatives in multilateral negotiations,⁷⁶ and it is common for states such as South Africa and Egypt to represent Africa in World Trade Organization (WTO) forums and negotiations.⁷⁷ However, when South Africa represents Lesotho in multilateral negotiations, it makes one wonder whether South Africa is concerned with the latter's welfare given that inflation in Lesotho is driven by prices in South Africa.⁷⁸ Likewise, when Ethiopia's late Prime Minister, Meles Zenawi, represented Africa in the Copenhagen negotiations, he was criticized for using the negotiating platform for Ethiopia's diplomatic considerations to the detriment of the continent he represented.⁷⁹ Similarly, Abdelkader Amara, Morocco's Minister of Industry, Trade and New Technologies, claimed Morocco will "defend the interests of the continent."⁸⁰ For Minister Amara, Morocco's status as a non-member of the African Union is irrelevant to its motive to defend the interests of the continent.⁸¹ This is not to argue that states outside of

76. See generally Page, *supra* note 69.

77. *Id.* at 43 (discussing how representation by big states such as South Africa is provoking other African states to participate as well).

78. Members of the S. Afr. Customs Union, *Trade Policy Review*, WT/TPR/G/222/Rev.1, at 16 (Dec. 8, 2009) ("Inflation in Lesotho is driven by prices in South Africa, which remains the main source for almost 95% of imports for final consumption.").

79. Jean-Christophe Hoste, *Where Was United Africa in Climate Change Negotiations?*, AFR. POL'Y BRIEF 4 (Egmont Royal Inst. for Int'l Relations Feb. 2010). The late Ethiopian Prime Minister Meles Zenawi led the African delegation in Copenhagen negotiations. *Id.* Several parties, including Sudan's chief negotiator Lumumba Di-Aping, accused Mr. Zenawi of betraying the African continent. *Id.* Some even suggested that Mr. Zenawi decided to use the opportunity to advance Ethiopia's self-interest. *Id.*

80. Abdelkadar Amara, *WTO Negotiations: Morocco Spares No Effort to Represent African Voice*, THE MAGHERB DAILY (July 9, 2013), http://www.lemag.ma/english/WTO-negotiations-Morocco-s pares-no-effort-to-represent-African-voice_a4639.html.

81. Morocco suspended its membership in the African Union as a result of the African Union's decision to recognize and admit the Sahrawi Arab Democratic Republic. Clifford D. May, *Morocco Quits O.A.U. Over Polisario*, N.Y. TIMES (Nov. 14, 1984), <http://www.nytimes.com/1984/11/13/world/morocco-quits-oau-over-polisario.html>.

Africa lack positive intentions towards the continent, but rather, it illustrates that altruistic state behavior is possible.

Second, solidarity arrangements could be motivated by self-interested considerations rather than ideational concerns. Explaining substantive solidarity arrangements, Milton Obote eloquently summarized that “[o]n no single issue has Africa ever been so solidly united as on the question of apartheid and colonialism.”⁸² But why were already independent African states united to fight racial and colonial domination? Could it be motivated by “the enemy of my enemy is my friend” politics? Understanding the normative and principled ideas that drove decolonization and anti-apartheid movements in the continent, it is theoretically possible for African states to stand in solidarity against colonial powers out of self-interested considerations. Kwame Nkrumah reasoned that in the post-colonial stage, an independent state does not and cannot exist except in the midst of other independent African states.⁸³ Clearly, living with a friendly neighbor has significant impact on the allocation of resources and development planning.⁸⁴ For these reasons, achieving independence in all African states reduces fear of re-colonization and thereby allows newly independent states to achieve other aspirations. In addition, one could argue that some states received material benefits as result of their normative stance. For instance, despite their principled anti-apartheid attitude, one could argue that because Southern African states amassed tons of foreign aid, the Southern African integration arrangements were the result of a materialistic policy disguised as an ideational anti-apartheid stance.⁸⁵

82. Milton Obote, Prime Minister of Uganda, Address at the 1963 African Summit (May 23, 1963), in *CELEBRATING SUCCESS*, *supra* note 2, at 108.

83. Kwame Nkrumah, President of Ghana, Closing Remarks at the 1963 African Summit (May 23, 1963), in *CELEBRATING SUCCESS*, *supra* note 2, at 126–27 (“As I have said over and over again, the independence of our separate States is meaningless, unless the whole of Africa becomes free and united.”).

84. See *Global Peace Index 2015*, *VISION OF HUMANITY*, <http://www.visionofhumanity.org/#page/indexes/global-peace-index/2015> (last visited Apr. 7, 2015).

85. Martin Adelman, *Fundraising or Common Foreign Policy? 30 Years of SADC Consultative Conference*, in *MONITORING REGIONAL INTEGRATION IN SOUTHERN AFRICA YEARBOOK 4* (Anton Bösl et al. eds., 2008) (showing that the anti-apartheid

Third, aspects of norms of solidarity have long been subject to criticism by scholars who noted that norms of solidarity have legitimized authoritarian states.⁸⁶ As a result of norms of solidarity, some African states enjoy membership in regional and sub-regional integration schemes, although the schemes may lack legitimacy within their domestic constituencies. For instance, without legitimacy from its actual citizenry, the Zimbabwean government enjoys regional support and membership in SADC.⁸⁷

Despite ambivalences, however, norms of solidarity play a central role in defining the foreign policy of African states in general, and Southern African states in particular. Specifically, in the anti-apartheid movement of Southern African states, the role, function, and value of norms of solidarity led to contemporary post-apartheid South Africa.⁸⁸ Nevertheless, the question remains whether norms of solidarity hold value in post-apartheid era. In the post-apartheid era, how do norms of solidarity work among Southern African states? How do South Africa's historical wrongs affect its current status in the region? How are norms of solidarity practiced? What foreign policy tools do Southern African states use in their solidarity arrangements? The next sections attempt to

movement of SADC states received over a billion US dollars between the years of 1980–1987).

86. See generally Tiekou, *supra* note 5. For a critique of how continental pan-African integration alienated the African people and failed to establish Pan-African solidarity, see also Tim Murithi, *African Approaches to Building Peace and Social Solidarity*, 6 AFR. J. CONFLICT RESOL. 9, 29 (2006).

87. Elias Mambo, *Irony of SADC's Mugabe Endorsement*, ZIM. INDEP. (Aug. 23, 2013), <http://www.theindependent.co.zw/2013/08/23/irony-of-sadcs-mugabe-endorsement/> (discussing the relationship between legitimacy and regional integration membership with particular focus on Zimbabwe and SADC). Similarly, despite popular protests in Kenya—"don't be vague, let's go to [t]he Hague" - the AU's decision on the relationship between Africa with the International Criminal Court (ICC) called for suspension of Uhuru Kenyatta's trial at the ICC. Gabrielle Lynch & Miša Zgonec-Rozej, *The ICC Intervention in Kenya*, 1 AFR./INT'L LAW 4-5 (2013); see also AU. EXT. ASS. DECL. 1-4 (Oct. 2013) (especially note how the justifications provided by the AU do not mention or put into consideration the popular protests in Kenya that called for ICC trials).

88. See Julius Nyerere, *Review of African Political Economy*, in AFRICA TODAY AND TOMORROW 149–52 (Mar. 1998) available at http://www.jstor.org/stable/4006369?seq=1#page_scan_tab_contents.

answer some of these questions in order to proffer why, when, and by whom norms of solidarity are practiced.

B. Is African-ness Penance for Apartheid?

The end of Apartheid is celebrated as a rebirth of African-ness in South Africa's foreign policy. South Africa's apartheid foreign policy was best summarized by John Barratt as "one of trying to ensure the security, status and legitimacy of the state within the international system against the background domestically of preserving a white-controlled state."⁸⁹ Additionally, apartheid South Africa resorted to "coercive hegemony" and power politics to influence behavioral shifts in majority black controlled Southern African region.⁹⁰ Therefore, the *pre*-post-apartheid era on foreign policy making of South Africa focused on making minor shifts in diplomatic relations of South Africa with the rest of Africa.⁹¹ Contrarily, in the post-apartheid period the need for re-immersion of South Africa into a pool of African states brought not only transference in racial equality policies of South Africa, but also a shift in its relationship with states and people of the African continent.⁹² This transformation was led by Nelson Mandela and his outline of South Africa's post-apartheid foreign policy pillars, which included: (1) human rights, (2) democracy, (3) justice and respect for international law, (4)

89. Graham Evans, *Myths and Realities in South Africa's Future Foreign Policy*, 67 ROYAL INST. INT'L AFF. 709, 712 (1991) (quoting John Barratt).

90. For instance, see Roger Pfister, *South Africa's Recent Foreign Policy Towards Africa: Issues & Literature*, 29 CTR. FOR INT'L STUD 1. (2000) (noting that during the apartheid era, South Africa, based on self-interested policies, focused on destabilizing other Southern African states; its foreign policy towards other African states was based on "coercive hegemony").

91. See generally Evans, *supra* note 72 (discussing the role of the pre-post-apartheid era on foreign policy making in South Africa). The then Director General of South Africa's Department of Foreign Affairs affirmed South Africa's commitment for "new diplomacy," but not necessarily for "new foreign policy." *Id.* Evans argues that this choice of phrase of "new diplomacy" over "new foreign policy" shows the limited shift one would see in post-apartheid South Africa. *Id.*

92. Pfister, *supra* note 90, at 12, 14.

peace and non-violence, (5) African-ness, and (6) regional and international economic cooperation.⁹³

In the economic policy sphere, the post-apartheid South African government focused on building consensus and asserting its African-ness through different foreign policy initiatives. For instance, South African politician Thabo Mbeki's African renaissance movement espouses South Africa's support of Pan-Africanism.⁹⁴ Similarly, despite historical intentions of incorporating Botswana, Lesotho, and Swaziland into the Republic of South Africa, post-apartheid South Africa chose to renegotiate the terms of Southern African Customs Union (SACU) to create better profit sharing mechanism in favor of Botswana, Lesotho, and Swaziland.⁹⁵ The hierarchy, relationship, and application of South Africa's pillars of foreign policy, however, is dubious and problematic.⁹⁶ Hence, in the next two sub-sections, the question of whether African-ness—alternatively, observance of norms of solidarity—is penance for South Africa's historical wrongs, will be analyzed by looking at two specific foreign policy incidents.

93. Mandela, *supra* note 4, at 87.

94. See generally Gerrit Olivier, *Is Thabo Mbeki Africa's Savior?*, 79 ROYAL INST. INT'L AFF. 815, 815 (2003) (discussing how Mbeki articulates his ideas for Africa as a continuation of Pan-Africanist movement and calls himself neo-pan-Africanist; whereas "the original pan-Africanists sought the 'political kingdom' for Africa, Mbeki casts himself as a neo-pan-Africanist, seeking the 'economic kingdom' for the ailing continent").

95. See Peter Robson, *Economic Integration in Southern Africa*, 5 J. MOD. AFR. STUD. 469, 469 (1967) (discussing how, historically, South Africa and Britain assumed that Botswana, Lesotho and Swaziland would ultimately be absorbed by the Republic of South Africa); see also Mandela, *supra* note 4, at 92–93.

96. See generally James Barber, *The New South Africa's Foreign Policy: Principle & Practice*, 81 INT'L AFF. 1079 (2005). James Barber demonstrates the inconsistencies between South Africa's foreign policy principles and practice: he describes that in its post-apartheid era, South Africa's concerns were the pursuit of human rights and democracy, among other principles. *Id.* However, while South Africa's role in peacekeeping missions in the continent are consistent with the post-apartheid principles of promotion of human rights, democracy and the like, there is a clear shift in its foreign policy with regard to Zimbabwe's land policy. *Id.*

1. *Nelson Mandela's Presidency: African-ness & South Africa's relations with Nigeria*

During Nelson Mandela's presidency, the execution of Ken Saro-Wiwa (Nigerian environmental activist), was one of the major post-apartheid foreign policy contentions of African-ness for South Africa.⁹⁷ At the beginning of the Saro-Wiwa crisis, South Africa's policy towards Nigeria was based on 'constructive engagement,' which Mandela summarized as, "[m]y own approach is to be in direct contact with them . . . I do not think, from my own point of view, I can call for sanctions at this stage. If persuasion does not succeed, it will be time to consider other options."⁹⁸ South Africa's constructive engagement failed to halt Saro-Wiwa execution.⁹⁹ This led critics to draw similarities between South Africa's policy of constructive engagement and Margaret Thatcher's policies towards apartheid South Africa, where, during apartheid era, the term 'constructive engagement' became synonymous with lip service.¹⁰⁰ Unlike Thatcher's policy towards apartheid, South Africa's policy towards Nigeria took a major turn after the execution of

97. See generally Kenule Beeson Saro-Wiwa, *Final Statement from Nigeria*, 5 STANDARDS INT'L J. MULTICULT. STUD. (1996) available at <http://www.colorado.edu/journals/standards/V5N2/ESSAYS/wiwa.html>. Saro-Wiwa was arrested for his peaceful protests against multinational oil companies, such as Shell, which played a devastating role in damaging the ecology of the lands of the Ogoni people in Nigeria. Ed Pilkington, *Shell Pays Out \$15.5m Over Saro-Wiwa Killing*, GUARDIAN (June 8, 2009), <http://www.theguardian.com/world/2009/jun/08/nigeria-usa>. As a result of his activism he was condemned to death and executed on Nov. 10, 1995. Saro-Wiwa, *supra*.

98. Jack McKinney, *Mandela Missed a Chance to Save Nigerian Dissident*, PHILA. INQUIRER (Nov. 17, 1995), http://articles.philly.com/1995-11-17/news/25682842_1_ken-saro-wiwa-mandela-ogoni.

99. Howard W. French, *Nigeria Executes Critic Of Regime; Nations Protest*, N.Y. TIMES (Nov. 11, 1995), <http://www.nytimes.com/1995/11/11/world/nigeria-executes-critic-of-regime-nations-protest.html?pagewanted=all>.

100. James Barber, *The Commonwealth, Nigeria and South Africa*, 5 S. AFR. INST. INT'L AFF., 1, 2 (1997) (discussing constructive engagement of South Africa and its similarities with western policies towards apartheid South Africa); Gavin Evans, *Margaret Thatcher's Shameful Support for Apartheid*, MAIL & GUARDIAN (Apr. 19, 2013), <http://mg.co.za/article/2013-04-19-00-margaret-thatchers-shameful-support-for-apartheid> (discussing constructive engagement as practiced by Margaret Thatcher and Ronald Reagan in relation to apartheid South Africa).

Saro-Wiwa, when it advocated for sanctions against Nigeria.¹⁰¹ Nonetheless, South Africa's foreign policy towards Nigeria was subject to criticism; activists criticized 'constructive engagement' for its timidity while at the same time African states criticized South Africa's call for sanctions as defiant of African Solidarity.¹⁰² Several members of the African Union saw Nigeria as a continental leader and "accused Mandela of breaking African unity."¹⁰³ Even amidst Nigeria's reactions to Mandela's condemnation of Saro-Wiwa, incidents were mixed: for instance, Ken Saro-Wiwa Jr., spokesman for Nigerian President Goodluck Jonathan, noted how South Africa's foreign policy towards Nigeria was rather timid.¹⁰⁴ On the other hand, some Nigerians were not only dismayed by South Africa's position towards Nigeria, but even went further to identify South Africa as "a white state with a black head."¹⁰⁵

South Africa's experience with the Saro-Wiwa incident raises several descriptive accounts of norms of solidarity. First, South Africa as a "born-again" African state needs to constantly pledge its allegiance and observance of norms of solidarity. South Africa's African-ness is, in general, subject to more contestation. States that have lent a hand in the

101. Barber, *supra* note 96, at 1084 (discussing that, although all Nigeria received was suspension of its membership in the Common Wealth, Mandela called for more, including economic sanctions and diplomatic isolation as a result of Nigeria's defiance of international human rights norms).

102. *Id.* (discussing Liberia's criticism of how South Africa reacted against Nigeria).

103. *Id.* (discussing how other African states did not view Nigeria as a human rights abuser, but rather as a continental leader, supporter of liberation movements, and major contributor to OAU).

104. Heidi Vogt, *Mandela Leaves Divided Legacy in Africa*, WALL ST. J. (Dec. 6, 2013), <http://online.wsj.com/news/articles/SB10001424052702303497804579241800418069602> (speaking of Mandela, Ken Saro-Wiwa Jr. said, "[w]e felt he'd failed us"); *see also* Ken Wiwa, *We Nigerians are Celebrating Mandela as the Kind of Hero We've Never Had: There is No Doubt We Envy South Africa for Mandela's Iconic Profile and Global Status*, GUARDIAN (Dec. 7, 2013), <http://www.theguardian.com/commentisfree/2013/dec/08/ken-wiwa-on-nigeria-response-to-mandela> (discussing how Mandela was a paradox for human rights activists).

105. Barber, *supra* note 96, at 1084 (discussing Nigeria's reaction to South Africa's condemnation of Nigeria).

anti-apartheid struggle or decolonization projects of Africa maintain their African-ness despite their actions. For instance, calling for an audit of Zimbabwe's election, Botswana broke what Simon Allison calls the "unwritten rule of African diplomacy."¹⁰⁶ In the same way, Botswana has condemned several other African states and their leaders, including Libya's Muammar Gaddafi and Sudan's Omar Al-Bashir.¹⁰⁷ Unlike South Africa, however, Botswana's African-ness was not subject to examination.

A second possible explanation for the contestation of South Africa's "born-again" African-ness, is not the result of South Africa's historical wrongs, but rather the foreign policy tools - persuasion, constructive engagement, sanctions—it employed. But what are foreign policy tools of African-ness? How do 'norms of solidarity' effect behavioral changes among African states? Does African-ness condemn sanctions? Indeed, South Africa's initial policy of "constructive engagement," during the Saro-Wiwa incident, did not result in contestation of South Africa's African-ness. Criticisms against South Africa arose after South Africa called for economic and political sanctions against Nigeria.¹⁰⁸

So, does this mean that African-ness condemns sanctions? Certainly, South Africa is not the only country to call for sanctions against another African state. For instance, several African states, backed by the

106. Simon Allison, *Analysis: Ian Khama's Renegade Foreign Policy Makes Him a Lonely Figure in Africa*, DAILY MAVERICK (Aug. 8, 2013), http://www.dailymaverick.co.za/article/2013-08-08-analysis-ian-khamas-renegade-foreign-policy-makes-him-a-lonely-figure-in-africa/#.UzSeq17_seN (discussing Botswana breaking the unwritten rule of African diplomacy).

107. *Botswana condemns the African Union on Sudan's al Bashir*, FACE OF MALAWI (June 16, 2012), <http://www.faceofmalawi.com/2012/06/botswana-condemns-the-african-union-on-sudans-al-bashir/> (Botswana, standing in solidarity with Malawi, condemned the decision of the African Union to move the meeting site from Malawi to Ethiopia, since the former denied entry to Sudanese president Omar Al-Bashir. "Botswana condemns this action as it is inconsistent with the very fundamental principles of democracy, human rights and good governance espoused by the AU, and which Malawi upholds," reads the statement."); see also Wene Owino, *Botswana Seeks Gaddafi Departure, Welcomes Gbagbo Capture*, AFR. REV. (Apr. 13, 2011), <http://www.africareview.com/News/-/979180/1143582/-/hp9sqjz/-/index.html> (discussing how Botswana condemned Gaddafi's violence against peaceful protesters).

108. See generally Barber, *supra* note 96.

Intergovernmental Authority for Development (IGAD) and African Union (AU) called for sanctions against Eritrea for its support of *Al-Shabab* in Somalia.¹⁰⁹ The African-ness of the states that called for sanctions on Eritrea was not questioned. Therefore, African-ness does not restrict foreign policy tools and norms of solidarity accepts both persuasion and sanctions as a means of effecting change.

The third possible explanation for contestation of South Africa's African-ness is that African-ness prohibits interference in internal affairs of AU member states.¹¹⁰ The idea of a brother-hood of African states solidifies norms of non-interference, along with norms of racial equality and independence of states, as constituting norms of African solidarity.¹¹¹ Norms of solidarity provide for 'non-interference in internal affairs' as the latter meets the wants and accords of African-ness.¹¹² The debate is whether South Africa's reaction to the Saro-Wiwa incident and Eritrea's support for terrorist groups amounts to interference in internal affairs of Nigeria and Somalia, respectively. It seems that, for the African community, Eritrea and South Africa both breached norms of non-interference, leading African states to react within the realms of norms of solidarity. Alternatively, the use of sanctions as a foreign policy tool

109. See generally S.C. Res. 1907, U.N. Doc. S/RES/1907 (Dec. 23, 2009) (discussing the call of the AU and AU member states to impose sanctions on Eritrea for its role in Somalia and refusal to withdraw troops from disputed areas with Djibouti).

110. A.U. Charter art. 4, para. g ("The Union shall function in accordance with the following principles . . . non-interference by any Member State in the internal affairs of another."); see generally Paul D. Williams, *From Non-Intervention to Non-Difference: The Origins and Development of the African Union's Security Culture*, 106 AFR. AFF. 253 (2007) (generally discussing norms of non-interference in internal affairs of member states among African Union). See also A. Bolaji Akinyemi, *The Organization of African Unity and the Concept of Non-interference in Internal Affairs of Member States*, 46 BRIT. Y. B. INT'L L. 393, 394 (1972-73) (quoting Justice T. O. Elias's conception of non-interference as "the desire to be left alone, to be allowed to choose one's particular political, economic and social systems and to order the life of one's community in one's own way").

111. See, e.g., Charter of the Organization of African Unity, Sept. 13, 1963, 479 U.N.T.S. 39 ("Inspired by a common determination to promote understanding among our peoples and cooperation among our states in response to the aspirations of our peoples for brother-hood and solidarity, in a larger unity transcending ethnic and national differences.").

112. Constitutive Act of the African Union, *supra* note 6, art. 3 para. a.

appear to be permissible under norms of solidarity. In conclusion, South Africa's African-ness was questioned because it broke norms of non-interference in internal affairs as constitutive norms of solidarity among African states.

2. *Mbeki and Zuma: African-ness & South Africa's Relations with Zimbabwe*

In the post Saro-Wiwa period, South Africa's foreign policy choices towards other African states were based on 'norms of non-interference' as integral to norms of solidarity. Chris Alden and Millis Soko offer an alternative explanation, arguing that South Africa's policies following the Saro-Wiwa crisis are the result of South Africa's penance for its historical wrongs.¹¹³ Yet Alden and Soko failed to explain why other Southern African states, in accordance with South Africa, followed 'quiet diplomacy' against Zimbabwe.¹¹⁴ For example, while Zambia galvanized anti-apartheid stance in Africa, its contemporary policies towards Zimbabwe's land policy are not dramatically different from South Africa's.¹¹⁵

Others, for instance Ceila W. Dugger and Barry Bearak, reason that South Africa's foreign policy towards Zimbabwe, especially during Mbeki's presidency, was the result of Mbeki's personal relationship with Mugabe, rather than South Africa's sacrament for its historical mistakes.¹¹⁶ For Dugger and Bearak, "constructive engagement"

113. Chris Alden & Millis Soko, *South Africa's Economic Relations with Africa: Hegemony and its Discontents*, 43 J. MOD. AFR. STUD. 367, 379 (2005) (discussing South African regional diplomacy and how it has focused on building consensus to rectify historical wrongs).

114. See generally Victoria Graham, *How Firm the Handshake? South Africa's Use of Quiet Diplomacy in Zimbabwe from 1999 to 2006*, 15 AFR. SEC. REV. 114 (2006) (discussing the concept of 'quiet diplomacy' in relation to South Africa's foreign policy towards Zimbabwe).

115. *Lift Zim Sanctions – Chikwanda*, LUSAKATIMES.COM (Aug. 6, 2013), <http://www.lusakatimes.com/2013/08/06/lift-zim-sanctions-chikwanda/> (discussing Zambia's call for sanctions against Zimbabwe to be lifted).

116. See Ceila W. Dugger & Barry Bearak, *Complex Ties Lead Ally Not to Condemn Mugabe*, N.Y. TIMES (June 27, 2008), <http://www.nytimes.com/2008/06/27/>

stemmed from personal kinships and relationships of Southern African leaders, rather than from norms of solidarity or African-ness.¹¹⁷

Despite the personal relationships that exist between Mbeki and Mugabe, Mbeki's uncompromising reaction to western critics of Zimbabwe's election is a question of African integrity, where Africans have the ultimate power and responsibility to define their future. Mbeki argued, "[w]e have a common responsibility as Africans to determine our destiny and are quite ready to stand up against anybody else who thinks that, 'never mind what the thousand African observers say about elections in Zimbabwe, we sitting in Washington and London are wiser than they are.'"¹¹⁸ Moreover, Mbeki contended that Zimbabwe's land policy is an internal matter, which does not warrant South Africa's interference.¹¹⁹ In addition, post-Mbeki, South Africa has not only showed support for Zimbabwe, but also called for sanctions against the latter to be lifted.¹²⁰ For instance, Lindiwe Zulu, South African President Jacob Zuma's foreign policy advisor, noted, "It's not just Zimbabwe

world/africa/27mbeki.html?pagewanted=all&_r=0, (discussing the special bond between Mugabe and Mbeki).

117. *Id.*

118. Murithi Mutiga, *Why Zimbabwe Sanctions Boomerang*, N.Y. TIMES (Nov. 9, 2013), www.nytimes.com/2013/11/08/opinion/mutiga-why-zimbabwe-sanctions-boomerang.html (quoting Mbeki).

119. *Thabo Mbeki Blasts Mugabe's 'Chaotic' Land Reform*, BULAWAYO24 (Aug. 28, 2013), <http://bulawayo24.com/index-id-news-sc-national-byo-35298.html>. Mbeki noted,

The way the land reform was done offended other players in the world. I told them [Mugabe and Zanu-PF], they could not listen; they did what they wanted with their own country. They set a bad example which we don't want any country in Africa to follow. So they must pay a price. I think this is the reason why, apart from diamonds, there is too much attention on Zimbabwe.

Id. Mbeki did not publicly criticize Zimbabwe's land policy; rather, it was leaked documents that showed his personal frustration with Mugabe and ZANU-PF. See David Blair, *Zimbabwe: Robert Mugabe Warned by Thabo Mbeki at African Union Summit*, TELEGRAPH (June 30, 2008), <http://www.telegraph.co.uk/news/worldnews/africaandindianocan/zimbabwe/2223643/Zimbabwe-Robert-Mugabe-warned-by-Thabo-Mbeki-at-African-Union-summit.html>.

120. See *Zimbabwe: South Africa Wants Anti-Zim Sanctions Lifted*, THE HERALD (June 15, 2012), <http://allafrica.com/stories/201206160268.html> (quoting Lindiwe Zulu).

that's saying the sanctions are not working. The entire continent is saying that."¹²¹

In short, foreign policy formation in South Africa is based on norms of solidarity. The actions and behavior of South Africa following the Saro-Wiwa incident show the value of norms of solidarity and its tenants, such as 'non-interference in internal affairs,' in shaping the ethos and formation of foreign relations in Africa. South Africa's policy towards Nigeria during the Saro-Wiwa incident and the major shift in its policy towards Zimbabwe are not penance for its historical wrongs. Rather, they are the result of acceptance of norms of solidarity and 'norms of non-interference.' In addition, if South Africa's behavior *is* an attempt to rectify its historical wrongs, one might wonder why allies of apartheid regime are free from paying penance for past wrongs? To be more specific, why was Malawi, which sympathized with apartheid South Africa, not required to prove its African-ness.¹²² In addition, why are South Africa-Zimbabwe relations similar to Zambia-Zimbabwe relations? Zambia, which was not only anti-apartheid, but also hosted and funded anti-apartheid movements, followed a similar, if not identical, policy as South Africa in its relations with Zimbabwe.¹²³ Therefore, what those examples show is that African-ness, or norms of solidarity, strongly prohibit interference in the internal affairs of other African states.

121. *Id.*

122. *See generally* Eugenio Njoloma, A Study of Intra-African Relations: An Analysis of the Factors informing the Foreign Policy of Malawi towards Zimbabwe (Nov. 2010) (unpublished M.A. thesis, Rhodes University). During the apartheid era Malawi defined its foreign relations in alignment with South Africa. *Id.* at 10. Deviating from the accepted norm of African states towards apartheid South Africa, which was deep-rooted condemnation, Malawi called for cooperation with white ruled South Africa. *Id.* at 10, 21. This led to a lot of bickering between the then President Banda of Malawi and his African counterparts. *Id.* at 22. Nevertheless, Malawi did not have to go through re-emersion or re-baptism in African-ness as South Africa did. *Id.* at 26. In its post-apartheid foreign policy Malawi's penance was, for instance, honoring President Mugabe by renaming a major road after him, which reflects Malawi's turn to solidarity as the unspoken rule of African foreign policy *Id.* at 60.

123. *Lift Zim Sanctions – Chikwanda*, *supra* note 115.

C. Norms of Solidarity and Regional Integration Arrangements

The discussions on norms of solidarity above mainly deal with the practice of individual member states rather than Southern African states as a group. This leaves lingering questions such as, how are norms of solidarity practiced at regional level? Are norms of solidarity, as organic practices of individual member states, entrenched in regional integration practices? Given the fact that Southern African states belong to three regional integration arrangements—SADC, COMESA and EAC—one might wonder how and where solidarity arrangements lie. For instance, since Tanzania is member of both SADC and EAC, Tanzania has multiple solidarity arrangements with both EAC and SADC member states.¹²⁴ In this context, Tanzania has solidarity arrangements with both Kenya and South Africa. So the question is whether this would translate into a solidarity arrangement between Kenya and South Africa, even though neither Kenya nor South Africa belong to SADC and EAC respectively.¹²⁵ To be specific, because Kenya belongs to the same regional arrangements as Tanzania, EAC, can one conclude that there is a solidarity arrangement between Kenya and member states of all regional integration arrangements that Tanzania is a member of?¹²⁶ Alternatively, what are the relationships between member states and the community regarding the application of norms of solidarity?

The historical background of regionalism in the African continent is rooted in emancipatory aspirations of its member states, which led to continental feelings of African-ness. Although regional integration involves solidarity arrangements among African states, one should note that the practice and existence of solidarity arrangements among African states exists beyond the confines of regionalism and membership in integration schemes. Fundamental to the relationship between norms of

124. See *SADC Member States*, SADC <http://www.sadc.int/member-states/> (last visited Apr. 7, 2016), and *EAC Member States*, EAC <http://www.eac.int/about/overview> (last visited Apr. 7, 2016) (showing that Tanzania has membership both in SADC and EAC).

125. *SADC Member States*, *supra* note 124 (showing that Kenya is not a signatory to SADC); *EAC Member States*, *supra* note 124 (showing that South Africa is not a member of EAC).

126. *EAC member states*, *supra* note 124.

solidarity and regional integration arrangements in Africa is, therefore, the emancipatory project of the continent.¹²⁷ As solidification of decolonization and anti-racial movements, therefore, norms of solidarity for Southern African states are agnostic to membership in regional or sub-regional grouping.

III. NORMS OF SOLIDARITY AND ECONOMIC RELATIONS

Although norms of solidarity are intensely ideational concerns, particularly in the anti-apartheid and de-colonization struggles of the region, material concerns and particularly economic pressures are pressing issues in governing EU-Southern African relations. The EU has been criticized several times for disintegrating regional integration efforts of Southern African states.¹²⁸ Looking at disintegration simplistically as members of Southern African community relinquishing their membership in SADC and joining COMESA is a practically and theoretically flawed measure of disintegration. First, with the ongoing negotiations for a tri-partite integration among SADC, COMESA and EAC, withdrawal from SADC does not have a long-term effect for regional and continental integration efforts.¹²⁹ Second, sub-regional integration as a means to continental integration does not prescribe where and with which sub-regional grouping a state should belong for continental aspiration of integration to manifest.¹³⁰ Third, theoretically

127. See generally Luwam Dirar, *Rethinking and Theorizing Regional Integration in Southern Africa*, 28 EMORY INT'L L. REV. 123 (2014) (discussing the relationship between continental and Southern African emancipation projects and regional integration arrangements).

128. See generally Stephen R. Hurt, *The EU-SADC Economic Partnership Agreement Negotiations: 'Locking-In' the Neoliberal Development Model in Southern Africa?*, 33 THIRD WORLD Q. 495 (2012) (arguing that the EU poses a threat to the coherence of regional integration policies of SADC).

129. See COMESA-EAC-SADC Tripartite Summit of Heads of State and Government, Kampala, Uganda, Oct. 22, 2008, *Final Communiqué*, art. 14(i) (discussing approval of the plan to form a tri-partite integration scheme among COMESA, EAC and SADC).

130. See *id.* at art. 11 (discussing the relationship between aspiration of the Tripartite Summit and African Economic Community). See also Treaty Establishing the African Economic Community art. 4(1)(d), June 3, 1991, 30 I.L.M. 1241 ("The

the conceptual understanding of regional integration is a continental emancipatory project that has origins and spirit beyond the confines of membership in integration schemes. In this context, among Southern African states, regional integration was nothing but a solidification of norms of solidarity for continental decolonization and racial equality movements.

This part attempts to understand how norms of solidarity fare under economic pressures. The welfare mentality of trade liberalization in European foreign policy is used as a test, which allows one to understand the function, and role of norms of solidarity in defining foreign relations of Southern African states towards the former. The central argument of this section is that economic pressures that threaten revenue, and market access for Southern African states leads to the degeneration of norms of solidarity. For Southern African states in EPA negotiations, issues of access to European markets have overshadowed concerns of Southern African states. This fear, and the end of white racial and colonial domination, resulted in lack of emphasis for common ideational concerns among Southern African states.

It is relevant to put some disclaimers before advancing further in substantive discussions of EU-Southern African states. From the 1960s until now, the narrative of EU-Africa trade relations, where the wealthy, developed Europe, and the poor, developing states of Africa entered into trade agreements, to the detriment of the latter, dominated scholarship.¹³¹ There exists structural economic inequality between the EU and African

objectives of the Community shall be . . . to coordinate and harmonize policies among existing and future economic communities in order to foster the gradual establishment of the Community.”). Likewise, apart from advocating for gradual continental integration and using sub-regional groupings as building blocks for continental community, there is no requirement that a state should belong to one integration scheme and not the other. *See id.* at art. 6 (discussing modalities for the establishment of the Community).

131. This discourse was part of the global discourse on North-South divide, where the North has framed multilateral, regional or bilateral trade deals to further its interests at the detriment of interests of developing South. *See THE CHALLENGE TO THE SOUTH: THE REPORT OF THE SOUTH COMMISSION 216 (1990)* (“[T]he negotiations that have taken place, notably the Uruguay Round on trade, have been called by the North, with an agenda devised to further its global interests. They have been imposed by the North on the South.”).

states, which if evaluated and compared to the current status of inequality gap, is higher than the gap that existed in the 1960s.¹³² However, the parameters of the North-South engagement in EU-Africa relations have changed slightly. To start with, the idea of a developed North in the context of the EU, particularly with its expansion from its original core-members, has created its own internal South.¹³³ Second, the idea of the South in the context of Southern-African states has changed and produced its own internal North.¹³⁴ Understanding these limitations of North-South discourse, the focus in this section is not to reintroduce North-South dialogue in the context of EU-Southern African states relations, but rather to test the relationship between economic relations and norms of solidarity.

To understand the relationship between economic relations and norms of solidarity, it seems relevant to explore current trends of trade flows between both trading partners and its impact on the global fair trade movement. New International Economic Order (NIEO) as a negotiation process represents the aspirations and goals of Southern African states in

132. Max Fisher, *The Hidden Cost of Inequality: Migrants Who Die on the Journey from Poor to Rich Countries*, WASH. POST (Oct. 7, 2013), <https://www.washingtonpost.com/news/worldviews/wp/2013/10/07/the-hidden-cost-of-inequality-migrants-who-die-on-the-journey-from-poor-to-rich-countries/> (“And of course these income gaps, historically, have risen tremendously, despite the fact that in the last 15 or 20 years, China and India have grown at very high rates. Still, the number of countries in Africa where income today is lower than in the 1960s [when they won independence] is large, I think about 15 countries. So, clearly, the gap between Africa and Europe has increased.” (quoting Branco Milanovic)).

133. See, e.g., Damjan Kukovec, *A Critique of the Rhetoric of Common Interest in the European Union Legal Discourse*, (Apr. 13, 2012) http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2178332 (using center-periphery discourse in this piece, Kukovec argues that although all are members of EU, states like Germany and France are examples of the center within the union and states like Portugal, Greece and Hungary make examples of states in the periphery of EU).

134. Here, a good example would be the economic disparity between, for instance, South Africa and Lesotho. Where if one was to use North-South, alternatively Center-Periphery discourse to understand economic relations among Southern African states. In other words, one would consider South Africa to be the north of Southern African states while states like Lesotho represent the south or the region.

unequal global economic order.¹³⁵ By creating a more equitable global economic order, the NIEO eases economic pressures through the creation of flexible mechanisms to accommodate policy spaces of developing states.¹³⁶ Historical relationships of third-world states with unequal global economic order, which failed to transform modes of production and global value chain relationships, led to third-world consensus for reform of global trade relations.¹³⁷ Reform of global economic order, a call for fair trade rules from third-world states, is exemplified in several examples, some of which include a call for flexibility in implementation of trade rules, and preferential treatment for goods originating from third-world states. The most recent round of negotiations for fair trade, Doha Development Round, with initiation of third-world states to negotiate more concessions and preferences in their favor, was a continuation of NIEO.¹³⁸ The current negotiations for EU-Southern Africa trade relations however, have the effect of eliminating preferential treatment for Southern-African products in EU markets. Therefore, one can argue that EPAs, if and when signed, have the power of sustaining

135. In this context, reference to NIEO is as a negotiation process. Robert W. Cox, *Ideologies and the New International Economic Order: Reflections on Some Recent Literature*, 33 INT'L ORG. 257, 258 (1979) ("[T]he NIEO is a negotiation process, broadly speaking, between countries of North and South but taking place through a variety of institutions and forums in which are represented wider or narrower ranges of functional and geographical interests. This negotiation process is concerned with the possibilities of agreement concerning both revised international policies and reformed or new institutions (including the power relationships governing these institutions)."). Cox noted that there are four levels of understanding of the NIEO and five opinion clusters. *Id.* at 259–65.

136. See generally Bernard Hoekman, *Operationalizing the Concept of Policy Space in the WTO: Beyond Special and Differential Treatment*, 8 J. INT'L ECON. L. 405 (2005) (discussing the role of special and differential treatment in allowing developing states to cope with the impact of WTO sponsored globalization).

137. This line of argument, a critique of the global trading system that has failed to transform modes of production and global value chain relationships, is similar to the historical materialist school of thought as analyzed by Robert Cox. For Cox, the school of historical materialist, which includes such scholars as Samir Amin, is an ideology of the NIEO movement. Cox, *supra* note 135, at 266.

138. As a result of third world states insistence for a more development oriented global economic order, global trade liberalization negotiations are at a stalemate at the moment. See Hoekman, *supra* note 136, at 419–21.

unequal global order and eroding the reforms and landmarks of NIEO, however limited NIEO's reforms might have been.¹³⁹

To prevent erosion of NIEOs, in contemporary trade negotiations between the EU and Southern African states, solidarity arrangements among the latter could play a positive role for sustaining and advancing concerns of fair trade. From a negotiation perspective, unlike the current fragmented approach, united Southern African states would benefit on regional and global fair economic order movements.¹⁴⁰ Nkrumah eloquently noted, how “[a] single representation, resting on the strength of a whole continent, would be more positive in its influence than all the separate representations of the African states put together.”¹⁴¹ Nkrumah's call for single representation for Africa is based on norms of solidarity,

139. For a similar argument but at a broader global economic order issue, see James Thuo Gathii, *International Law and Eurocentricity*, 9 EUR. J. INT'L L. 184, 203–05 (1998) (reviewing SURYA PRAKASH SINHA, *LEGAL POLYCENTRICITY AND INTERNATIONAL LAW* (1996); SIBA N'ZATILOULA GROVOGUI, *SOVEREIGNS, QUASI-SOVEREIGNS AND AFRICANS: RACE AND SELF-DETERMINATION IN INTERNATIONAL LAW* (1996) (discussing how third world aspirations for NIEO might have already died)). This statement implies that trade liberalization or eradication of NIEO is detrimental for development projects of developing countries. This view is held for multiple reasons. For instance, the global liberalization project has successfully limited developed states imposing liberalization on third world states while they themselves practice pick and choose protectionism. Hence, NIEO to a certain degree, by providing flexibility of global economic order regulations, left a birthing space for development policies among developing states.

140. See generally Gabriel Cepaluni, Manoel Galdino & Amâncio Jorge de Oliveira, *The Bigger, the Better: Coalitions in the GATT/WTO*, 6 BRAZ. POL. SCI. REV. 28 (2012) (arguing that since the WTO works through consensus, negotiating in numbers has a positive contribution in shifting or leveling unequal negotiating platform in international economic order). But see generally Peter Drahos, *When the Weak Bargain with the Strong: Negotiations in the World Trade Organization*, 8 INT'L NEGOTIATION 79 (2003) (arguing that the source of bargaining power in multilateral negotiations is eschewed towards the developed North and noting that the idea of strength in numbers does not always level the negotiation platform).

141. KWAME NKUMAH, *AFRICA MUST UNITE*, 195 (1963) (For Nkrumah one of the positive outcomes of African Unity is the possibility of speaking with one voice instead of each African state having to fend for itself.). See also generally James Thuo Gathii, *The High Stakes of WTO Reform*, 6 MICH. L. REV. 1361 (2006) (reviewing FATOUMA JAWARA & AILEEN KWA, *BEHIND THE SCENES AT THE WTO: THE REAL WORLD OF TRADE NEGOTIATIONS/ THE LESSONS OF CUNCUN* (2004) (discussing how developing countries through unity could be effective in their WTO trade negotiations)).

where concerns of all African states are presented in the particular negotiating platform with the combined voting power of all African states. For instance, Nkrumah explains how the role of concerted pressure of African states elevated Africa's anti-colonization movement to the global platform.¹⁴² However, Africa's contemporary lack of common foreign policy resulted in fragmented negotiation syndrome, where African states negotiate individually and outside their regional groupings.¹⁴³ In the Southern African context, negotiations with the EU fall in four camps: under COMESA, EAC, CEMAC and SADC.¹⁴⁴ In addition to the fragmented sub-regional grouping in EPA negotiations, each Southern African state continues to guard its ability to conduct an independent foreign policy towards the EU.¹⁴⁵ This produces the

142. See Nkrumah, *supra* note 141, at 196–97. Nkrumah gives several examples of how the power of ideas of African states changed the atmosphere and moral stance of the UN in the anti-apartheid and decolonization project. *Id.* He summarized African role in spreading the power of ideas as the reason why the position of the great powers and UN has shifted towards colonialism. *Id.* He concluded, “[n]othing like this busy concern with the African surge for freedom could ever have happened without the concerted pressure of the newly independent states within the world organization of nations.” *Id.*

143. Fragmented negotiation syndrome is allowed under the SADC Treaty. Treaty of the Southern African Development Community, *supra* note 7., art. 24 para. 1 (“Subject to the provisions of Article 6(1), Member States and SADC shall maintain good working relations and other forms of cooperation, and may enter into agreements with other states, regional and international organisations, whose objectives are compatible with the objectives of SADC and the provisions of this Treaty.”).

144. The following states negotiated under SADC: Angola, Botswana, Lesotho, Mozambique, Namibia, Swaziland and South Africa. *Overview of EPA Negotiations*, EUR. COMM’N., available at http://trade.ec.europa.eu/doclib/docs/2009/september/tradoc_144912.pdf (last updated Feb. 2016). Tanzania and DRC negotiated under EAC and CEMAC respectively. *Id.* Zambia, Zimbabwe, Seychelles, Madagascar, Malawi and Mauritius negotiated under COMESA. *Id.*

145. This is particularly visible, in the case of Zimbabwe, with a possible mission of appeasing the West in general and the EU in particular although under sanctions from the EU, initialed interim EPA in September 2009. See *Zimbabwe, EU sign interim EPA treaty*, Forum on China-Africa Cooperation (Sept. 4, 2009), <http://www.focac.org/eng/fzsz/qyhz/t607835.htm>. Zimbabwe's initialization of EPA could also be the result of Zimbabwe's fear of losing access to EU markets as much as it is for sanctions to be lifted. *Id.* Like Zimbabwe, Botswana, Lesotho, Swaziland and Mozambique (BLSM), for similar reasons as Zimbabwe and obviously without a need to “appease” the EU, were among the early signatories to interim EPAs. *Id.* Nevertheless, despite the fear and need

lingering puzzles of the role and value of norms of solidarity in contemporary Africa in general, and Southern African states in particular.¹⁴⁶

A. Reality of EU-Southern African States Trade Relations

Evaluating contemporary trade between the EU and Southern African states gives four major perceptions of the impact and types of relationships that exists between both trading partners. First, Southern African states' trade deficit or surplus is not based on whether the particular Southern African state is a beneficiary of the EU's preferential treatment for developing states. Since some states benefit from the EU's Everything But Arms (EBA) and Generalized System of Preferences (GSPs) initiatives, one could argue that they have better opportunities in accessing European markets.¹⁴⁷ Several scholars, however, showed that the impact of preferential treatment for developing states in improving market access of those states is contestable.¹⁴⁸ For instance, among

to appease, what is common to all those five states (Zimbabwe, Botswana, Lesotho, Swaziland and Mozambique) is that in their respective EPAs all of them have not agreed on certain contentious issues such as: export taxes and extending most favored nation (MFN) treatment to the EU. *Id.*

146. The puzzle is not so much the result of negotiations in different regional and sub-regional integration agreements. On the contrary, as explained earlier, norms of solidarity are not dependent on membership to a particular integration scheme. The puzzle here is whether African states will be able to maintain their solidarity commitments compartmentalized to one sub-regional grouping or not. The question is should they keep their solidarity arrangements compartmentalized?

147. The EBA initiative of the EU is an arrangement for least developed states, which provides duty free and quota free access for all products except for arms. *See Everything But Arms (EPA) – who benefits?*, EUR. COMM'N. (Apr. 30, 2013), available at http://trade.ec.europa.eu/doclib/docs/2013/april/tradoc_150983.pdf. GSP initiatives allow developing states' exporters lower or no duty in order to facilitate their access to EU markets.

148. *See* Paul Brenton, *Integrating the Least Developed Countries into the World Trading System: The Current Impact of European Union Preferences under "Everything But Arms"* 20–21 (World Bank Policy Res., Working Paper No. 3018, 2003) (noting that although the impact of EBAs is state specific and with considerable variation, one could argue that its overall impact is relatively minor. This is partly because the EU has one of the highest liberalized tariff regimes and restrictive rules of origin laws). *See also*

Southern African states, Botswana, Lesotho, and Swaziland benefit from the EU's GSP initiative and all have surplus against the EU.¹⁴⁹ Similarly, Angola, DRC, Lesotho, Madagascar, Malawi, Mozambique, Tanzania, and Zambia are beneficiaries of EBA initiatives.¹⁵⁰ As shown in Table 1, out of these eight beneficiaries of EBAs in the region, only Tanzania and Zambia have trade deficit with the EU. Unfortunately, the existence of trade surplus by, for instance Angola against the EU, does not mean that EBAs have had a positive trade creation effect for Angola. On the contrary, as shown in Table 2, Angola's trade surplus is the result of increasing demand for oil from Europe. Moreover, since all beneficiaries of EBAs do not have trade surplus against the EU, one can conclude that for Southern African states, preferential treatment does not necessarily convert to trade surplus against the EU.

generally Lucian Cernat et al., *The EU's Everything but Arms Initiative and the Least-developed Countries* (World Inst. for Dev. Econ. Research, Working Paper No. 47, 2003) (by using a computable general equilibrium simulation model, the authors show that the impact of EBAs on the EU are minimal, and as a result of EBAs, the welfare of sub-Saharan African states increases to the detriment of other developing states). See also Marcel Adenäuer et al., *Impact of the "Everything but Arms" Initiative on the EU Sugar Sub-sector 27-28*, (CAPRI, Working Paper No. 05-03, 2003) (through the EBA initiative and its impact on sugar trade in EU, the authors of this piece argued that the EU's sugar imports from least developed states increased while its sugar exports decreased).

149. *EU Publishes Revised Preferential Import Scheme for Developing Countries*, EUR. COMM'N, <http://trade.ec.europa.eu/doclib/press/index.cfm?id=840> (last updated Oct. 31, 2012) (discussing the different system of preferences and list of beneficiaries).

150. Commission Delegated Regulation 1421/2013, Amending Annexes I, II and IV to Regulation 978/2012 of the European Parliament and of the Council applying a scheme of generalized tariff preferences, Annex III, 2013 O.J. (L 355) 1,13 (list of EBA beneficiaries).

	Total Trade	EU Imports	EU Exports	EU Trade Balance
South Africa	40023	15537	24486	8948
Angola	15518	9311	6207	-3104
Botswana	4406	3442	964	-2478
DRC	2197	1135	1062	-72
Mozambique	2166	1332	834	-499
Mauritius	1944	1086	858	-229
Namibia	1695	942	753	-188
Tanzania	1457	525	932	408
Madagascar	1273	738	535	-196
Zambia	1023	453	570	117
Zimbabwe	627	387	240	-147
Seychelles	610	294	316	22
Malawi	394	223	171	-53
Swaziland	253	230	23	-208
Lesotho	202	187	15	-172

Table 1: EU's trade balance with Southern African states in million Euros.¹⁵¹

Second, existent trade deficit could be the result of a liberalized trade relationship between South Africa and the EU.¹⁵² As shown in Table 1,

151. This table is constructed from data compiled by the European Commission that deals with Client and Supplier Countries of the EU28 in Merchandise Trade in Goods with African Countries (2013). *A deficit of 15 bn euro in EU28 trade in goods with Africa in 2013*, EUROSTAT NEWS RELEASE (Mar.28, 2014) available at <http://ec.europa.eu/eurostat/web/products-press-releases/-/6-28032014-AP>. Note that the EU's trade balance with Botswana was not available on the date. *Id.* Therefore, for the purposes of this study, the EU's trade balance with Botswana has been calculated by deducting EU's exports from imports.

South Africa, the biggest economy among Southern African states, has the highest trade deficit with the EU. All Southern African Customs Union (SACU) states, with the exception of South Africa, have trade surplus in their trade with the EU.¹⁵³ SACU member states as a group, in their total trade with the EU, have 5,902 million euros trade deficit. Several explanations are worth mentioning here. To start with, as a result of the free trade agreement between South Africa and the EU, the latter's produce receive liberalized access to the South African market.¹⁵⁴ Access to the South African market for European produce, indirectly extends beyond the confines of South Africa's territory to all SACU member states.¹⁵⁵ This is because South Africa is a member of the SACU, as a

152. EU–Southern African Trade is governed by the Trade and Development Cooperation Agreement. See Trade and Development Cooperation Agreement, EU–S. Afr., Oct. 11, 1999, O.J. (L 311).

153. For a history of SACU see generally P. M. Landell-Mills, *The 1969 Southern African Customs Union Agreement*, 9 J. MOD. AFR. STUD. 263 (1971) (discussing the colonial legacies of SACU agreement and its profit sharing modalities through time). SACU is comprised of South Africa, Swaziland, Namibia, Lesotho, and Botswana. *Id.* It is the oldest customs Union in the world. *Id.*

154. Catherine Grant, *Southern Africa and the European Union: The TDCA and SADC EPA 3–4* (TRALAC, Trade Brief No. 1, 2006) (discussing how South Africa is actually in the losing side as a result of the TDCA). As a result of trade liberalization of TDCA the EU and South Africa are required to eliminate tariffs on 95% and 86% of currently trade goods. *Id.* at 3. The impacts of such liberalization are “EU tariff changes affect only 25% of current trade goods and their weighted average tariff is only 2.7%. South African tariff changes affect 40% of currently traded goods in a context of a weighted average tariff of 10%.” *Id.*

155. Southern African Customs Union Agreement art. 2(a), Oct. 21, 2002, available at <http://wits.worldbank.org/GPTAD/PDF/archive/SACU.pdf> [hereinafter SACU Treaty] (stating that one of the objectives of the organization is free movement of goods between and among the member states). See also Trade Policy Review Body, *supra* note 78. Similarly see *Lesotho's Consumer Inflation: A Closer Look at Numbers*, CENTRAL BANK OF LESOTHO ECONOMIC REVIEW (Mar. 2012), <http://www.centralbank.org.ls/publications/MonthlyEconomicReviews/2012/March%202012%20ER.pdf> (discussing how South African economy affects economy of Lesotho). For a similar example on Swaziland see Christopher Vandome et. al., *Swaziland: Southern Africa's Forgotten Crisis*, (Sept. 2013), http://www.chathamhouse.org/sites/files/chathamhouse/home/chatham/public_html/sites/default/files/20130900SwazilandVandomeVinesWeimer.pdf (discussing the impact of Swaziland's dependence on SACU's profit sharing system and South African economy on Swaziland's economy).

result of which, there is free movement of goods between South Africa on the one hand, and Botswana, Lesotho, Namibia, and Swaziland on the other.¹⁵⁶

	FOOD & RAW MATERIALS		FUELS		CHEMICALS		MACHINERY		TEXTILE & CLOTHING		OTHERS	
	Imp	Exp	Imp	Exp	Imp	Exp	Imp	Exp	Imp	Exp	Imp	Exp
Angola	15	1265	8885	242	0	474	18	2317	0	114	392	1795
Botswana	22	5	37	1	0	14	1	68	0	1	3382	875
DRC	58	270	889	13	2	186	1	127	0	22	185	144
Lesotho	1	1	0	0	0	1	0	9	1	0	185	4
Madagascar	293	86	92	5	18	92	3	157	300	98	33	101
Malawi	219	16	0	6	0	77	1	34	0	1	3	36
Mauritius	617	216	31	6	15	94	14	247	278	37	130	262
Mozambique	232	107	1066	12	0	90	3	396	1	10	29	219
Namibia	370	32	356	233	104	24	5	393	0	2	106	69
Seychelles	288	131	1	3	0	8	3	114	0	4	2	60
South-Africa	2575	1524	4370	1049	734	3586	2742	12990	45	248	5078	5104
Swaziland	211	4	0	1	12	6	0	7	0	0	7	5
Tanzania	352	90	89	70	0	172	37	442	2	4	45	154
Zambia	115	26	228	1	0	68	3	370	0	2	107	102
Zimbabwe	221	15	20	2	0	25	1	156	3	2	143	41

Table 2: EU's Merchandise Trade with S. African states by product breakdown in million euros.¹⁵⁷

156. SACU Treaty, *supra* note 155.

Third, by looking at contemporary merchandise trade between Southern African states and the EU, one could conclude that it replicates classical narratives of North and South trade.¹⁵⁸ Table 2 elaborates and categorizes merchandise trade between the EU and Southern African states. The breakdown of merchandise trade between the EU and Southern African states shows two trends. First, generally speaking, the EU has a trade deficit in fuel, food, and raw materials trade. In fuel trade, all Southern African states except Malawi, Seychelles, and Swaziland have trade surplus against the EU. For instance, Angola—the biggest fuel exporter from the Southern African states—has surplus approximately amounting to 95% with the EU.¹⁵⁹ Likewise, the EU in food and raw materials trade has deficit against all Southern African states with the exception of Angola and DRC. Second, generally speaking when it comes to processed goods and sophisticated production of machinery and chemicals, the EU has surplus against Southern African states. For instance, in machinery trade, the EU has trade surplus against all

157. This table is constructed from data compiled by the European Commission on EU's Merchandise Trade with Southern African states. See *Statistics*, EUR. COMM'N, http://ec.europa.eu/trade/policy/countries-and-regions/statistics/index_en.htm (last visited Jan. 26, 2014). The product breakdown in this table is based on WTO categorization and Standard International Trade Classification. *Id.*

158. Classical trade in this section is understood as roles where states in the South are raw material exporters and states in the North export processed and manufactured material. It is also understood as what Paul Krugman's theory of product cycle theory takes for granted, "product cycle in which it is taken as given that there is continuous introduction of new products in the developed region, the North; at the same time the less developed region, the South, learns in each period to produce some of the goods formerly produced only in the North." David Dollar, *Technological Innovation, Capital Mobility, and the Product Cycle in North-South Trade*, 76 AM. ECON. REV. 177, 177 (1986). For Krugman, a state's terms of trade are improved when that particular state increases the range of products it can produce. Krugman's theory is consistent with the history of economic development of South East Asian Tigers. *Id.*

159. The calculation for the percentage of fuel trade was done by the author by looking at specific details of trade flows between Angola and EU. For the year 2013, EU's fuel import from Angola is 8,885 million Euros worth. Likewise, EU's trade deficit against Angola in fuel trade is -8,643 million Euros. See EUROPEAN COMM'N, *Angola*, http://trade.ec.europa.eu/doclib/docs/2006/september/tradoc_122071.pdf (last visited Jan. 28, 2015). In short, when the overall EU's imports from Angola are worth only 9,309 million Euros, it is easy to see lack of diversified industry on the Angolan side. *Id.*

Southern African states. Similarly, as shown in Table 2, the EU has surplus in trade in chemicals with all Southern African states except Swaziland.

EU Exports		EU Imports	
	Million Euro		Million Euro
USA	289.4	China	280.1
Switzerland	169.1	Russia	206.9
China	148.2	USA	199.6
Russia	119.5	Switzerland	94.6
Turkey	77.7	Norway	89.6
Japan	54	Japan	56.6
Norway	50.1	Turkey	50.7
U.A.E.	44.6	India	36.8
South Korea	39.9	South Korea	35.8
Brazil	39.9	Brazil	33.3

Table 3: EU-28 trade in goods leading trade partners, 2013 (million EUR)¹⁶⁰

Fourth, from the EU perspective, Southern African states are not significant trading partners. The EU's main goods, supplies, and destinations are mostly found outside the Southern African hemisphere. As shown in Table 3, for the EU, USA, and China are the main export destinations, and import sources respectively. Although Southern African states are not the main trading partners for the EU, the EU remains the main trading partner for Southern African states. Between the years of

160. Data for this table is extracted from, EUROPEAN COMM'N, *EU Trade in the World-Trade Statistics*, http://trade.ec.europa.eu/doclib/docs/2006/september/tradoc_122532.pdf (last visited Jan. 26, 2014).

2000-2009, SADC exports to the EU represent an average of 26.3% of SADC's exports to the world.¹⁶¹ For the same period, for EAC states with a slight increase from SADC records show an average export of 30.2% to the EU.¹⁶² Similarly for COMESA member states, half of all of their exports are destined for European markets.¹⁶³ When it comes to imports, SADC states have the highest share of imports from the EU—an average of 31.8% of total world imports.¹⁶⁴ In conclusion, given current realities of trade between both trading partners, do Southern African states have equal partnership with the EU? Or is the idea of partnership just customary platitude?

1. *EU-Africa Relations: Partnership or Customary Platitude?*

The existence of historical ties between both Africa and the EU, no matter how unequal, oppressive, and exploitative it was, resulted in divergent views of contemporary relationship of both continents. From the European perspective, José Manuel Barroso, President of European Commission, argues that the EU and Africa are equal partners.¹⁶⁵ In a more uncertain tone, Hage Geingob, Namibia's Minister for Trade and Industry, skeptically notes, “[a] partnership means that all partners are equal. Why else would you include the word partnership in the EPA?”¹⁶⁶

161. Econ. Comm'n for Africa, *Assessing Regional Integration in Africa V: Towards an African Continental Free Trade Area*, June 2012, at 19–20 (showing direction of trade among regional integration arrangements). See also Dirar *supra* note 127, at 136 (Particularly see table 2.2.2, which shows trade between and among major regional integration arrangements of Africa and the European Union, US and China. It shows how extra-regional trade is bigger than intra-regional trade.).

162. Econ. Comm'n for Africa, *supra* note 161, at 19.

163. *Id.*

164. *Id.* at 20.

165. See José Manuel Barroso, *EU and Africa Enjoying 'Partnership of Equals'*, PARLIAMENT, May 12, 2014 (“This was my third summit as president of the European commission and I can confirm that it was one of the most successful summits ever held between our two continents, illustrating the shared commitment to maintain and deepen relations as equal partners.”).

166. Jo-Maré Duddy, *Namibia: Geingob Lays Into EU*, NAMIBIAN, <http://www.namibian.com.na/index.php?id=53897&page=archive-read>. (June 1, 2009)

Minister Geingob's skepticism of partnership with the EU is a critique that highlights the existent power gap in the negotiations platform for EPAs.

Controversies surrounding the idea of equal partnership were also manifest in the recent EU-Africa summit.¹⁶⁷ The EU took the sole power of defining who should and should not be invited to participate from Africa.¹⁶⁸ As a result, the idea of equal partnership between both continents became controversial. Jacob Zuma, President of the Republic of South Africa, eloquently summarized the African critique of the EU's role in defining who can and cannot represent Africa.¹⁶⁹ He said,

(quoting Minister Geingob). *See also* Clair Gammage, *(Re)conceptualizing International Economic Law: A Socio-legal Approach to Regionalism*, in *SOCIO-LEGAL APPROACHES TO INT'L ECONOMIC LAW* 64, 71 (Amanda Perry-Kessaris ed., 2013) (discussing Minister Geingob's comments on the issue of partnership with EU questions the motives of the Minister. Gammage noted that the Minister's comments are not based on ideological anti-neoliberalism rather a possible maneuver to get election votes. Minister Geingob's critique and skepticism of the EU negotiation platform and style address broader concerns of power—which could be normative, military or economic—between the EU and Southern African states and its impact on the negotiation platform.).

167. The Fourth EU-Africa Summit was held at Brussels in April of 2014. *See generally Fourth EU-Africa Summit Declaration* (Apr. 2–3, 2014), <http://www.consilium.europa.eu/en/press/press-releases/2014/04/pdf/fourth-eu-africa-summit-eu-africa-declaration-on-migration-and-mobility/>.

168. In the fourth EU-Africa summit, the EU barred Eritrea and Sahrawi Arab Democratic Republic (SADR). *See*, Abayomi Azikiwe, *Several African States Boycott the EU Summit in Belgium*, GLOBAL RESEARCH (Mar. 31, 2014), <http://www.globalresearch.ca/several-african-states-boycott-the-eu-summit-in-belgium/5376073>. The EU barred Eritrea for its human rights records. *See id.* In the case of the SADR, the justification was based on the result of its territorial dispute with Morocco. *See id.* It is interesting that the EU chose to invite Morocco, which is not a member of African Union, and bar SADR. *See id.* Similarly, the AU suspended Egypt as a result of the unconstitutional overthrow of elected government. *See id.* Nevertheless, without Egypt settling its affairs with the AU, the EU not only recognized the new military government in Egypt but also invited the latter to participate in the EU-Africa summit. *See id.* In short, without consideration of AU's membership and AU's concerns the EU decided the list of attendees. *See id.*

169. Gillian Pillay, *SA Joins Other African Countries in Boycotting EU-Africa Summit*, SABC (Mar. 30, 2014), <http://www.sabc.co.za/news/a/b7aefa80437527288db98da64eba5fdc/SA-joins-other-African-countries-in-boycotting-EU-Africa-Summit>.

I think that time must pass wherein we are looked as subjects, we are told who must come, who must not come, we have not attempted to decide when we meet Europe; who must come and who must not come. It is wrong and causes this unnecessary unpleasantness. I thought the AU and EU are equal organisations representing two continents but there is not a single one of them who must decide for others.¹⁷⁰

In conclusion, African skepticism on the idea of equal partnership is a multi-faceted complexity of EU-Africa relations that has deep-rooted ideological and historical motivations. Historically, the memory and effect of a long history of colonial and racial-oppression perpetuated by European colonists is still felt. Ideologically, the debate is centered on the EU's interest in promoting neoliberalism across the African continent. For African states in general, and Southern African states in particular, borrowing Kingsley Ighbor's phrase, the focus on partnership is nothing but "customary platitude."¹⁷¹

2. Negotiations for EPAs and Global Trade Liberalization

The EU's multilateral trade liberalization policies are the heart of EPA negotiations with Southern African states. EPAs, not only fit the WTO model of trade liberalization, but also narrow the policy space of African states, by promoting WTO plus liberalization agendas.¹⁷² In its foreign relations, the Treaty of Lisbon mandates the EU to aspire for free and fair trade.¹⁷³ Unfortunately, however, pursuit of free trade policies

170. *Id.*

171. Kingsley Ighbor, *Trade Between Two Unequal Partners: Africa and Europe Search for an Elusive Agreement*, 28 AFR. RENEWAL, Aug., 2014, at 3 (discussing how sixty one heads of government and top level officials both from Africa and Europe in their discussion of EU-Africa relations came out with "customary platitudes," one of which was "[w]e take particular pride in the breadth and depth of our *partnership*") (emphasis added).

172. Hurt, *supra* note 128, at 495–504 (discussing how negotiations for trade liberalization between EU-Africa could lead to shrinking of policy space of African states).

173. Treaty of Lisbon Amending the Treaty on European Union and the Treaty Establishing the European Community art. 2(5), Dec. 13, 2007, 2007 O.J. (C 306) 1, ("In its relations with the wider world, the Union shall uphold and promote its values and

has shadowed initiatives for fair-trading arrangements between Southern African and EU states.¹⁷⁴

Trade liberalization with the EU—is the biggest trading destination for Southern African products—has a significant impact on African states' position on global trade liberalization efforts. Africa's position, reluctance, and timely stalemate on global trade liberalization, would lack consistency both in terms of value and substance if African states liberalize trade with their major trading partner.¹⁷⁵ In other words, it would be difficult for African states to argue against liberalized global economic order if and after they have liberalized the trade arrangement with their biggest trading destination. Of course, when one presumes that it could pave the way for African states signing into multilateral liberalization, in a way, one is assuming that African states are not capable of negotiating their stance at the multilateral level. Second, one is also assuming that African states will never be able to renegotiate EPAs once they sign into the agreement. On the contrary, no such assumption is made here, although the possibility of one or both of the assumptions coming into reality is possible.

interests and contribute to the protection of its citizens. It shall contribute to peace, security, the sustainable development of the Earth, solidarity and mutual respect among peoples, *free and fair trade*, eradication of poverty and the protection of human rights, in particular the rights of the child, as well as to the strict observance and the development of international law, including respect for the principles of the United Nations Charter.”) (emphasis added).

174. See generally Alasdair R. Young & John Peterson, *We care about you, but ... : the politics of EU trade policy and development*, 26 CAMBRIDGE REV. INT'L AFF. 497 (2013) (discussing the complex trade policy of the EU. Young and Peterson argue that the EU's approach on trade as a tool for development shows a paradox between promoting development on the one hand and promoting global neoliberal market policies.).

175. See Michael Friis Jensen & Peter Gibbon, *Africa and the WTO Doha Round: An Overview*, 25 DEV. POL'Y REV. 5, 5 (2007) (discussing how preference erosion will lower Africa's competitiveness in European market).

B. Norms of Solidarity and Trade Relations with the EU

Given the dependence of Southern African exporters in European markets and the unequal negotiation platform, loss of preferential access to European markets has a consequential impact for revenues of Southern African states.¹⁷⁶ How do fears of loss of revenues and market access affect norms of solidarity among Southern African states? Historically, norms of solidarity are a reactionary construction of identity to European racial and colonial domination.¹⁷⁷ Now that white colonial and racial domination has ended in the Southern African hemisphere, how influential are economic pressures in constituting or re-constituting solidarity arrangements of the region? Among Southern African states, are ideational concerns of norms of solidarity limited to decolonization and anti-apartheid aspirations?

Norms of solidarity, among Southern African states are a culmination of the recognition of the relationship between ideational and material concerns. The history of SADC shows that in their anti-apartheid struggle, Southern African states emphasized ideational concerns at the multilateral level and limited material concerns to the state level. In other words, Southern African states galvanized global condemnation of

176. San Bilal & Vincent Roza, *Addressing the Fiscal Effects of an EPA*, 2007 EUR. CTR. FOR DEV. POL'Y MGMT. 10 (2007), <http://ecdpm.org/wp-content/uploads/2013/11/Addressing-Fiscal-Effects-EPA-2007.pdf> (showing that as a result of trade liberalization with Europe, it is estimated that Tanzania and Zambia would lose revenue amounting to 32.5% and 15.8%, respectively). See also Phillip Oladunjoye, *Nigeria Rejects EPA over U.S. \$1.3tr Revenue Loss –Man*, DAILY INDEP. (LAGOS), Aug. 15, 2014 (discussing how trade liberalization with the EU would cost Nigeria over a trillion U.S. dollars).

177. Mazrui, *supra* note 62. See also Samir Amin & Cherita Girvan, *Underdevelopment and Dependence in Black Africa – Their Historical Origins and Contemporary Forms*, 22 SOC. & ECON. STUD. 177, 177 (1973) (discussing how interaction with other culture—for instance European colonialism—did not break African united identity. In his words, “[t]he image of an ancient, isolated and introverted Africa no longer belongs to this age: isolation—naturally associated with so-called ‘primitive’ character—only corresponded to an ideological necessity born out of colonial racism. But these exchanges with other cultures did not break the unity of the African personality. On the contrary, they helped to assert and enrich it. The colonial conquest of almost the whole of the continent strengthened this feeling of unity of Black Africa.”).

apartheid practices, while at the same time forged agreements with Apartheid South Africa.¹⁷⁸ Most of these agreements concern economic relations. Zimbabwe, for instance, despite its concerns for equality of majority South Africans, forged trade relations with Apartheid South Africa.¹⁷⁹ In short, Southern African states, although advocating ideational concerns for equality of all races in South Africa, constantly checked and re-checked material or self-interest maximizing policies as well.

In the context of relations with the EU, Southern African states fragmented negotiation syndrome—where each states attempts to advance its concerns individually and as a member of a group—is a balancing act of norms of solidarity. However, what is not clearly defined in EPA negotiations is a common ideational concern of Southern African states. Review of current negotiations seems to focus on maintaining access to European markets rather than normativity. In

178. All Southern African states with the exception of Malawi severed formal relations with South Africa. Despite lack of formal relations, however, several Southern African states maintained unofficial relations with the apartheid regime. *South Africa's Foreign Relations During Apartheid 1948*, SOUTH AFR. HIST. ONLINE, <http://www.sahistory.org.za/20th-century-south-africa/south-africas-foreign-relations-during-apartheid-1948> (last visited Feb. 16, 2015) [hereinafter *South Africa's Foreign Relations*]; see also Zimbabwe, DEP'T OF INT'L RELATIONS & COOPERATION, <http://www.dfa.gov.za/foreign/bilateral/zimbabwe.html>, (last visited Feb. 16, 2015) (discussing the history of relations between South-Africa and Zimbabwe). [hereinafter *Zimbabwe*]. Botswana, Lesotho, and Swaziland, as members of SACU, had formal trade relations with Apartheid South Africa while at the same time condemning the latter's discriminatory policies. See *South Africa's Foreign Relations supra*; *Zimbabwe supra*. All Southern African states, with the exception of Malawi, severed formal relations with South Africa. See *South Africa's Foreign Relations supra*; *Zimbabwe supra*. Despite lack of formal relations, however, several Southern African states maintained unofficial relations with the Apartheid regime. See *South Africa's Foreign Relations supra*; *Zimbabwe supra*. Botswana, Lesotho, and Swaziland, as members of SACU, had formal trade relations with apartheid South Africa while at the same time condemning the latter's discriminatory policies. See *South Africa's Foreign Relations supra*; *Zimbabwe supra*.

179. See generally Timothy Scarnecchia, *Rationalizing "Gukurahundi": Cold War and South African Foreign Relations with Zimbabwe, 1981-1983*, 37 KRONOS 87, 87 (2011) (discussing how in 1983 Zimbabwe's ruling party (ZANU-PF) colluded with apartheid South Africa to limit support for ANC's anti-apartheid operations from Zimbabwe).

conclusion, EPAs and trade liberalization are not capable of uprooting continental identity of African-ness. Nevertheless, as a result of a lack of common ideational concerns, in their negotiations with the EU, the value of norms of solidarity in framing foreign relations is in an actual state of degeneration.

CONCLUSION

Norms of solidarity define the way Southern African states behave towards each other. Norms of solidarity, by establishing identity of African-ness, harnessed support for decolonization and anti-apartheid movements. As a result of norms of solidarity, African states successfully triumphed over racial and colonial oppression. Norms of solidarity, now that white colonial and racial domination has ended in economic relations with the EU, emphasized material concerns. Indeed, Africa's emancipation movement has changed and moved beyond the struggles against white racial and colonial oppression, and includes new forms of social emancipatory movements. However, the role and application of norms of solidarity in changing faces of African emancipatory movements has been overshadowed by concerns of maintaining access to European markets. Future re-constitution of norms of solidarity has the force to bring social emancipatory and global fair trade movements to light without challenging feelings of African-ness. To date, however, the ideational concerns of norms of solidarity has become of past triumphs. In conclusion, this Article is an attempt at theorizing norms of solidarity among Southern African states.

