

# Re-reading W. E. B. Du Bois: the global dimensions of the US civil rights struggle\*

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## Abstract

*Drawing on the increasingly important insights of historians concerned with global and transnational perspectives, in this article I argue that Du Bois' international activism and writings on global oppression in the decades following the Second World War profoundly shaped the ways in which people in the United States engaged with race as a concept and social practice in the mid decades of the twentieth century. Du Bois' efforts to bring his insights on global racism home to the US domestic legal arena were to a large degree thwarted by a US foreign policy focused on Cold War politics and interested in pursuing racial equality not on the basis of universal human rights principles but as a Cold War political strategy. Nonetheless, I argue that Du Bois' writings, which were informed by a new rhetoric of global responsibility and universal citizenship, had unpredictable and significant consequences in shaping the direction of US racial politics in the civil rights era.*

**Keywords** anti-imperialism, civil rights movement, human rights, Second World War, W. E. B. Du Bois

## Introduction

The work and writings of W. E. B. Du Bois are central in the history of US racial politics and for providing analyses of the reconstruction and Jim Crow eras. Du Bois was the first African American to receive a PhD from Harvard University, in 1895, was a founding member of the National Association for the Advancement of Colored People (NAACP) in 1909, helped establish the Pan-African international movement, and was one of the first to write critically and accessibly – in *The souls of black folk* (1903) – about US race relations as seen through the eyes of a black person. A large body of literature exists on Du Bois' role in American race relations.<sup>1</sup> However, what is often eclipsed in this extant body of writing is that Du Bois was

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1 For outstanding commentaries on Du Bois, see David Levering Lewis, *W.E.B. Du Bois: the fight for equality and the American century 1919–1963*, New York: Henry Holt, 2000; idem, *W.E.B. Du Bois, 1868 – 1919: biography of a race*, New York: Henry Holt Paperbacks, 1994; idem, *W.E.B. Du Bois: a biography*, New York: Henry Holt Paperbacks, 2009.

also central in configuring racism as a global issue by drawing connections between black oppression and the victimization of others around the world. Moreover, Du Bois' understandings of the global dimensions of racial discrimination were vital in opening up new conversations in the United States about race. His growing appreciation that racism was driven by cultural, religious, and class differences underscored the limitations of essentialized racial categories based on skin tone alone. In this way, Du Bois helped to move the concept of race in American society beyond categories of pseudo-scientific distinction. At the same time, he mobilized a framework of universal human rights as a mechanism for political and civil domestic reform that was critical in the landmark decision *Brown v. Board of Education* (1954) and the unprecedented legislation in the Civil Rights Act and Voting Rights Act of 1964 and 1965.

Drawing on the increasingly important insights of historians concerned with global and transnational perspectives, particularly as they relate to constructions of race and nation,<sup>2</sup> in this article I argue that Du Bois' international activism and writings on global oppression in the decades following the Second World War profoundly shaped the ways in which people in the United States engaged with race as a concept and social practice in the mid decades of the twentieth century. I suggest that the atrocities perpetrated by German Nazis solidified Du Bois' interpretation of the history of the world within a wider system of interconnected global racism. Specifically, the Holocaust affirmed Du Bois' thinking that the same forces that created the oppression of African peoples in the colonial margins could also create oppression and genocide at the centres of Western imperial states, most notably the United States.

I am not suggesting that in the years preceding the Second World War Du Bois' focus had only been on blacks in US history. On the contrary, Du Bois had been involved in the Pan-African international movement from an early date, attending its first meeting of thirty delegates in London in 1900, and co-organizing the 1st Pan-African Congress, in 1919, in an effort to help shape the outcome of the Versailles Peace Conference.<sup>3</sup> In this context he began his mapping of a Marxist derived theory of a global solidarity of workers, articulated in his book *Black reconstruction in America*, which was published in 1935.<sup>4</sup> Du Bois was also very interested in the connections between Africa and Asia, and regarded the 'awakening of the yellow races' as a precursor to the 'awakening of the brown and black races'.<sup>5</sup> In short, he was acutely aware that black politics in the US was not an isolated phenomenon, or unconnected from the forces of global capitalism, imperialism, class oppression, and cultural discrimination of other African and Asian people around the world.<sup>6</sup> However, the events of

2 See Richard H. King, *Race, culture, and the intellectuals 1940–1970*, Baltimore, MD: Johns Hopkins University Press, 2004; Amy Kaplan, *The anarchy of empire in the making of US culture*, Cambridge, MA: Harvard University Press, 2005; Carol Anderson, *Eyes off the prize: the United Nations and the African American struggle for human rights, 1944–1955*, Cambridge: Cambridge University Press, 2003.

3 See Clarence G. Contee, 'Du Bois, the NAACP, and the Pan-African Congress of 1919', *Journal of Negro History*, 57, 1, 1972, pp. 13–28.

4 See Cedric J. Robinson, *Black Marxism: the making of the black radical tradition*, London: Zed Press, 1983, pp. 277–84.

5 From *Collier's Weekly*, 20 October 1906, p. 30, cited in David Levering Lewis, *W.E.B. Du Bois: a reader*, New York: Henry Hold and Company, 1995, p. 43. See also Bill V. Mullen and Cathryn Watson, eds., *W.E.B. Du Bois on Asia: crossing the world color line*, Jackson, MS: University Press of Mississippi, 2005.

6 See Kaplan, *Anarchy of empire*, pp. 171–245.

the Second World War were pivotal in challenging a centre/periphery model of European domination and consolidating Du Bois' understanding of a full circle of oppression such that centres of European imperialism were subject to mass racial violence analogous to the violence perpetrated at their colonial edges.

Moreover, the Second World War helped Du Bois to move beyond a schema of black, brown, yellow, and white races, and solidified his thinking that racism based on pseudo-scientific hereditary distinctions of skin-tone classification was empirically unsound. Du Bois, who was a long-standing friend of the German American anthropologist Franz Boas, shared with Boas a deep scepticism in social Darwinism and biological explanations of racial inferiority. Nonetheless, when Du Bois visited Germany in 1936 and became aware of the atrocities that the Nazis perpetrated on Jews, homosexuals, and other minorities who biologically looked exactly like themselves, he was deeply troubled. This realization forced Du Bois to think more imaginatively about the production of race, such that religion, cultural heritage, and socioeconomic status were folded into his understanding of the global dimensions of racism to involve blacks, Jews, Roma, and other cultural and religious minorities. In this process, Du Bois built upon his early pre-war writings that called for blacks to be equally treated to develop a more nuanced interpretation of racism that enabled him to frame the oppression of African Americans as a violation of universal human rights more generally. This understanding of human rights as a universal entitlement was brought home to the American public through his increasingly radical commentaries and activism in the 1940s and 1950s.

Unfortunately, the role that Du Bois played in these processes of reform is often glossed over by scholars. While his contribution to African American literature and his political activism before the Second World War is widely acclaimed, Du Bois' political writings in the post-1945 era are largely ignored.<sup>7</sup> One possible explanation is that these later writings explicitly supported socialism.<sup>8</sup> Du Bois visited the Soviet Union in 1926, 1936, 1949, and again in 1959 (Figure 1), and his views became increasingly radical despite his knowledge of the atrocities of Stalinist Russia.<sup>9</sup> After 'long and slow' deliberation, he joined the Communist Party in 1961 at the age of ninety-three. Dedicating his later years to fighting imperialism, and spurred on by the decolonization movements of the 1940s and 1950s, Du Bois became a vocal critic of the US government and its foreign policies. His commitment to socialism highlighted structural and material inequalities that he believed no amount of legislative reform and formal legal guarantees of individual equality could adequately address. In short, Du Bois recognized the limits of American liberalism to deal with systemic social inequalities and class disparities. As a consequence, his Marxist vision of global history, global exploitation, and global responsibility sits uncomfortably with more familiar – and parochial – interpretations of American race relations. Perhaps this accounts for why Du Bois' post-war writings are so consistently 'forgotten' by US scholars and analysts of race.

7 For a notable exception, see Eric Porter, *The problem of the future world: W.E.B. Du Bois and the race concept at midcentury*, Durham, NC: Duke University Press, 2010.

8 See Robinson, *Black Marxism*, pp. 289–324.

9 See Kate A. Baldwin, *Beyond the color line and the Iron Curtain: reading encounters between black and red, 1922–1963*, Durham, NC: Duke University Press, 2002.

**Figure 1.** W.E.B. Du Bois and Shirley Graham Du Bois in Leningrad, January 1959. Department of Special Collections and University Archives, W.E.B. Du Bois Library, University of Massachusetts Amherst, reference no. 641.



By adopting a global history perspective and seeking ‘to explore connections between people, societies and events usually thought of as distinct and separate’,<sup>10</sup> this article urges the adoption of a longer time frame that seeks to re-read the writings and activities of Du Bois for their impact on the emerging civil rights era. This re-reading counters the dominant scholarly trend to engage primarily with Du Bois’ earlier pre-war writings and discuss these in the context of the late nineteenth- and early twentieth-century periods of reconstruction and Jim Crow.<sup>11</sup> This trend is reinforced more widely in historical analyses that temporally disconnect the eras before and after the Second World War, and even when exploring the post-war period tend not to link the interrelated impact of the Nuremberg trials, the formation of the United Nations, and the issuing of the Universal Declaration of Human Rights to the emerging civil rights movement. What is missing in most discussions of Du Bois, and what is stressed here, is how his pre-war writings and anti-colonial activities were in a sense reframed by the horrors of Nazi Germany to speak to the post-war advancement of an international human rights regime that had an impact, albeit limited, on the development of US domestic racial politics in the second half of the twentieth century.

## The impact of Nazi Germany on US conceptions of race

In the years running up to the outbreak of the Second World War, Du Bois had not been overly engaged with rumours emerging out of Europe of German persecution of Jews and

10 Ann Curthoys and Marilyn Lake, *Connected worlds: history in transnational perspective*, Canberra: Australian National University E Books, 2005, p. 7.

11 For example, see Robert Gooding-Williams, *In the shadow of Du Bois: Afro-American political thought in America*, Cambridge, MA: Harvard University Press, 2009. For notable exceptions, see Murali Balaji, *The professor and the pupil: the politics of W.E.B. Du Bois and Paul Robeson*, New York: Nation Books, 2007; Gerald Horne, *Black and red: W.E.B. Du Bois and the Afro-American response to the Cold War, 1944–1963*, Albany, NY: State University of New York Press, 1986.

other minorities. He found these activities abhorrent and unacceptable, but in his mind they did not compare with the injustices perpetrated by whites against blacks back home. In *The Crisis*, published in May 1933, he declared, 'It seems impossible in the middle of the twentieth century a country like Germany could turn to race hate as a political expedient. Surely, the experience of America is enough to warn the world ...'.<sup>12</sup> Moreover, Du Bois did not see the persecution of Jews in Germany and the persecution of blacks in America as analogous. Jews, argued Du Bois, were victimized because of their relatively high socioeconomic status in the interwar years, as well as for reasons of religion and community. In contrast, blacks in America were subject to colour prejudice that was justified in pseudo-scientific eugenics theory which sought to show that racial differences were biologically determined. As noted by Du Bois in 1920, 'for a century or more it has been the dream of those who do not believe Negroes are human that their wish should find some scientific basis'.<sup>13</sup> Moreover, as Du Bois remarked in a later chapter titled 'The concept of race', Americans needed this scientific basis because 'the economic foundation of the modern world was based on the recognition and preservation of so-called racial distinctions'.<sup>14</sup>

However, in 1936 Du Bois visited Nazi Germany and became aware of the scale and enormity of the anti-Jewish persecution promulgated under the eugenics-based 1935 Nuremberg Laws and other state policies. He began to draw comparisons between Nazi Germany and Western oppression of Africans, writing that Nazi anti-Semitism 'surpasses in vindictive cruelty and public insult anything I have ever seen; and I have seen much. ... There has been no tragedy in modern times equal in its awful effects to the fight on the Jew in Germany. It is an attack on civilization, comparable only to such horrors as the Spanish Inquisition and the African slave trade.'<sup>15</sup>

Karl Brandt was Hitler's personal doctor, responsible for the Nazi regime's policies on population control and racial hygiene. At the post-war Nuremberg trials that began in November 1945, Brandt's defence lawyer entered into evidence a book to mitigate his case by showing that Nazi racial policies were not unique to the Third Reich. The book, entitled *The passing of the great race*, had been written in 1916 by an American, Madison Grant, and had enjoyed considerable support in the United States throughout the 1920s and 1930s, though it was publicly condemned by many academics, including the economist Gunnar Myrdal and the anthropologist Franz Boas. In any case, the book was the first non-German book to be translated and published by the Nazi press and had clearly been influential in the shaping of Nazi racial policies. When it was entered into evidence, the US lawyers at Nuremberg were mortified. The book, arguably, had helped shape Nazi policies and was an

12 Cited in Harold David Brackman, "'A calamity almost beyond comprehension": Nazi anti-Semitism and the Holocaust in the thought of W.E.B. Du Bois', *American Jewish History*, 88, 1, 2000, p. 59.

13 From W. E. B. Du Bois, *The Crisis*, July 1920, cited in Lewis, *W.E.B. Du Bois: a reader*, p. 197. See also Carol M. Degler, *In search of human nature: the decline and revival of Darwinism in American social thought*, Oxford: Oxford University Press, 1981; Carol M. Taylor, 'W.E.B. Du Bois' challenge to scientific racism', *Journal of Black Studies*, 11, 4, 1981, pp. 449–60; Julia E. Liss, 'Diasporic identities: the science and politics of race in the work of Franz Boas and W.E.B. Du Bois, 1894–1919', *Cultural Anthropology*, 13, 2, 1998, pp. 127–66; Lee D. Baker, *From savage to negro: anthropology and the construction of race, 1896–1954*, Berkeley, CA: University of California Press, 1998, pp. 99–126.

14 W. E. B. Du Bois, *Dusk of dawn: an essay toward an autobiography of a race concept*, New York: Schocken Books, 1968, p. 103.

15 From the *Pittsburgh Courier*, 19 December 1936, cited in Brackman, "'Calamity'", p. 65.

uncomfortable reminder for many Americans back home of some of the similarities between German and US thinking on racial identification and management through programmes such as sterilization and segregation.<sup>16</sup>

More generally, the revelation of Grant's book at the trial brought into sharp focus the limits of racial equality in the United States.<sup>17</sup> While the US never went as far as the Nazis in applying eugenics to identify, manage, and ultimately exterminate racially and ethnically diverse people, there were indisputable similarities between German laws in the interwar and Second World War years and US laws of the Jim Crow period.<sup>18</sup> The revelation of these disquieting parallels at Nuremberg prompted post-war re-evaluations of US segregation,<sup>19</sup> and provoked some politicians, lawyers, civil rights activists, and ordinary Americans to rethink the country's legal and social relationship with its own racial minorities, and in particular the generally accepted institutionalized racism directed at blacks.

However, the Nuremberg trial did more than lead to comparisons being made between Germany and the United States; it also suggested that there was a need to rethink ideas about race itself. By drawing attention to the fact that many Jews looked indistinguishable from non-Jewish Germans, accounts revealed at Nuremberg of Nazi atrocities demonstrated that the concept of race needed to accommodate complex interconnections between religion, culture, and ethnicity that have no explicit correlation to skin tone or physical features. The categorization of race based on physical differences that prevailed in the United States under Jim Crow was simply inadequate to explain the practice of racial oppression experienced in Germany.

Moreover, the Nazi genocide of Jews as a mechanism of dealing with the 'Jewish question' invoked earlier conversations and public debates on European anti-Semitism, pogroms (millions of Jews came to the US fleeing persecution between 1880 and 1920), and the political emancipation of Jews in increasingly secular societies. The most famous and widely read of these discussions was Karl Marx's 1843 essay 'On the Jewish question', which was a response to Bruno Bauer's book *The Jewish question* published earlier that year. In his commentary, Marx criticized Bauer's argument that for Jews to be politically emancipated they must renounce their religion. On the contrary, argued Marx, "The consummation of the Christian state is a state that recognizes itself as a state and abstracts itself from the religion of its members."<sup>20</sup> Unlike Bauer, Marx saw religion as compatible with the Rights of Man and the modern liberal state, arguing that the political state 'makes its *universality* effective only in opposition to these, its elements'.<sup>21</sup> In turn, man 'emancipates himself from religion

16 See Paul A. Lombardo, "'The American breed': Nazi eugenics and the origins of the Pioneer Fund", *Albany Law Review*, 65, 2008, pp. 743–830; Victoria F. Nourse, *In reckless hands: Skimmer v Oklahoma and the near-triumph of American eugenics*, New York: W.W. Norton & Company, 2008.

17 C. Vann Woodward, *The strange career of Jim Crow*, Oxford: Oxford University Press, 2001 (commemorative edition with afterword by William S. McFeely); Jennifer Ritterhouse, *Growing up Jim Crow: how black and white Southern children learned race*, Chapel Hill, NC: University of North Carolina Press, 2006.

18 Stefan Kühl, *The Nazi connection: eugenics, American racism, and German national socialism*, New York: Oxford University Press, 1994; Lombardo, "'The American Breed'".

19 Norbert Ehrenfreund, *The Nuremberg legacy*, New York: Palgrave Macmillan, 2007, p. 131.

20 Karl Marx, 'On the Jewish question', 1844, in Eugene Kamenka, ed., *The portable Karl Marx*, New York: Penguin Books, 1983, p. 105.

21 *Ibid.*, p. 102.

*politically* by banishing it from the sphere of public law into that of private right', where religion becomes the 'essence of distinction'.<sup>22</sup> Marx argued that religion, by virtue of it becoming a private right, should be accommodated and ultimately protected by the state. For Du Bois, who was increasingly steeped in the writings of Marx, this line of argument was to have significant influence upon his thinking about the meaning of universal citizenship. As discussed below, conceiving religious toleration (like other social identifiers such as race and ethnicity) in terms of rights informed Du Bois' fight for the promulgation of the Universal Declaration of Human Rights a few years later.

Du Bois' thinking of race in the context of Jewish persecution took on new nuances and complexities. In 1952, three years after visiting Poland (and specifically the Warsaw ghetto), Du Bois wrote in the journal *Jewish Life* that the result of his visits:

was not so much clearer understanding of the Jewish problem in the world as it was a real and more complete understanding of the Negro problem. In the first place, the problem of slavery, emancipation, and caste in the United States was no longer in my mind a separate and unique thing as I had so long conceived it. It was not even solely a matter of color and physical and racial characteristics, which was particularly a hard thing for me to learn, since for a lifetime the color line had been a real and efficient cause of misery. It was not merely a matter of religion. I had seen religions of many kinds – I had sat in the Shinto temples of Japan, in the Baptist chapels of Georgia, in the Catholic cathedral of Cologne and in Westminster Abbey. No, the race problem in which I was interested cut across lines of color and physique and belief and status and was a matter of cultural patterns, perverted teaching and human hate and prejudice, which reached all sorts of people and caused endless evil to all men. So that the ghetto of Warsaw helped me to emerge from a certain social provincialism into a broader conception of what the fight against race segregation, religious discrimination and the oppression by wealth had to become if civilization was going to triumph and broaden in the world.<sup>23</sup>

Du Bois' reflections on a new understanding of race indicates that he – along with others such as those working in the NAACP and other anti-racist and progressive organizations – could no longer think of race in terms of civilization (white Christian civilization versus barbaric black or yellow civilizations) or in terms of race-as-nation (British society versus Polish society), as had been the case in the second half of the nineteenth century and the early decades of the twentieth. Moreover, anti-immigrant nativist thinking, which had been particularly virulent in the United States,<sup>24</sup> was increasingly seen as inappropriate. What was emerging was the concept of the 'idea of a nation as a community of citizens rather than a physical-geographical entity'.<sup>25</sup> In post-war America, a shift was occurring in thinking about

22 *Ibid.*, pp. 103–4.

23 W. E. B. Du Bois, 'The negro and the Warsaw ghetto', in Herbert Aptheker, ed., *Writings by Du Bois in periodicals edited by others*, vol. 4: 1945–1961, Millwood, NY: Kraus-Thomson, 1982, p. 175. See also Michael Rothberg, 'W.E.B. Du Bois in Warsaw: Holocaust memory and the color line, 1949–1952', *Yale Journal of Criticism*, 14, 1, 2001, pp. 169–89.

24 See John Higham, *Strangers in the land: patterns of American nativism, 1860–1925*, New Brunswick, NJ: Rutgers University Press, 1995.

25 Nicole Phelps, 'State sovereignty in a transnational world: US consular expansion and the problem of naturalized migrants in the Habsburg empire, 1880–1914', *GHI Bulletin Supplement*, 5, 2008, p. 42.

the relationship of race and nation, in turn developing new ideas about racial discrimination appropriate for the mid twentieth century. Radical organizations capitalized on the reframing of race as something akin to religion, as an individualistic particularity or difference to be recognized, tolerated, and protected by the liberal state (as was the case with the Jewish faith). As discussed below, Du Bois was actively involved in promoting these new ideas about universal citizenship.

## Global racism and a shift to a human rights discourse

Du Bois' linking of domestic racism with global racism, evident in many of his writings and explicit in a booklet titled *Africa: its place in modern history* (1930) and later in *The world and Africa* (1947), was a truly significant insight and contribution to the rethinking of racial discrimination. It provided the intellectual underpinning of his work in the Pan-African movement that took him to international conferences in London and elsewhere.<sup>26</sup> For Du Bois, the US history of slavery and racism was part of a global system of oppression that linked all Africans in a common community; hence 'the United States was living not to itself, but a part of the strain and stress of the world'.<sup>27</sup>

Du Bois viewed German anti-Semitism and American racism against blacks as emerging out of the same historical phenomenon.<sup>28</sup> Specifically, he located these racist practices in a historical continuum, and interpreted the German atrocities of the Second World War as an outcome of an earlier phase of European colonialism that witnessed the degradation and oppression of native peoples and gave rise to the modern theory of race. According to Du Bois, 'There was no Nazi atrocity – concentration camps, wholesale maiming and murder, defilement of women or ghastly blasphemy of childhood – which the Christian civilization of Europe had not long been practicing against colored folk in all parts of the world in the name of and for the defense of a Superior Race born to rule the world.'<sup>29</sup> For him, the pain and suffering imposed on others at the margins of empire set up the psychological and cultural conditions in which violence and suffering could re-emerge in the centres of Western power in Europe and the United States. As Du Bois remarked in a 1944 essay titled 'Prospect of a world without race conflict': 'The supertragedy of this war is the treatment of the Jews in Germany. There has been nothing comparable to this in modern history. Yet its techniques and its reasoning have been based upon a race philosophy similar to that which has dominated both Great Britain and the United States in relation to colored people.'<sup>30</sup>

To counter this global system of racial oppression, Du Bois increasingly turned to the growing conversations around universal human rights that erupted in the fifth and last

26 In a related way, C. L. R. James was making similar observations about transatlantic linkages and global processes of slavery; however, his work largely focused on the history of the eighteenth century and the connections between the Haitian and French revolutions. For a discussion of European manifestations of racism in the Americas, see the early chapters in James' most well-known book, *The black Jacobins: Toussaint L'Ouverture and the San Domingo revolution*, New York: Dial Press, 1938.

27 Cited in Kaplan, *Anarchy of empire*, p. 175.

28 See Christina Oppel, 'W.E.B. Du Bois, Nazi Germany, and the black Atlantic', *GHI Bulletin Supplement*, 5, 2008, pp. 99–122.

29 Cited in King, *Race*, p. 47.

30 Aptheker, *Writings by Du Bois*, vol. 4, p. 184.



Pan-African Congress, held in Manchester in 1945. At this historic meeting, the pan-African movement dovetailed with self-determination movements that had emerged throughout the 1940s to create a much wider front against Western imperialism. The Congress was symbolically and politically important: it involved not only black Africans but also Afro-Caribbeans and Afro-Americans in the common call for independence from imperial control and demands for recognition of human rights. It helped to develop 'pan-Africanism strategically as a political movement on three continents: Western Europe (especially Britain), the Americas (e.g. the Caribbean and the United States), and Africa (especially West Africa)'.<sup>31</sup> It is in this context that Du Bois and the NAACP played significant roles in leading the charge against European colonial regimes and arguing for the need to recognize universal human rights in order to secure lasting world peace.

It should be noted that, within the United States, the NAACP was not alone in viewing universal rights as the key to combat entrenched racism. For instance, the short-lived National Negro Congress (NNC) declared in its founding manifesto of 1936 that, while the 'fight for civil and political liberties had been brilliantly waged by the NAACP', it was clear that a new strategy was needed to fight the 'brutal capitalist order'. The NNC advocated a united front of labour, civil rights, and other progressive forces that would place 'human rights above property rights'.<sup>32</sup> The NAACP's turn to a rhetoric of human rights was more cautious than the NNC's, which was openly communist in its membership and perspective. However, NAACP leaders could no longer ignore the fact that their traditional strategy of fighting for political and civil equality in the law courts remained to a large degree ineffective. In contrast to the limited rhetoric of civil rights, the language of universal human rights as promoted by the UN, and 'the moral shock of the Holocaust', had the capacity to address a wide range of political, social, and legal inequalities.<sup>33</sup>

Underscoring the NAACP's sense of frustration about effecting real reform was the stalling of a federal anti-lynching bill that had been passed by the House of Representatives in 1922 but held up for years in the Senate, which was dominated by the interests of the white Southern Democrats. The number of lynching cases of African Americans had declined in the 1930s but the practice still remained a constant source of potential violence. Writing in 1932, Du Bois noted that 'once a month in the United States mobs have seized prisoners, who in every case but one were black, and have murdered them without any attempt to find out whether they were guilty or not'.<sup>34</sup> Public knowledge about the horrors of Southern lynching of blacks was heightened with the success of Billie Holiday's song 'Strange fruit'.<sup>35</sup> It was written by Abel Meeropol, a Jewish schoolteacher from the Bronx, after seeing a photograph of a lynching. Ironically, the song reached sixteenth place on the music charts

31 Barnor Hesse, ed., *Unsettled multiculturalism: diasporas, entanglements, transruptions*, London: Zed Books, 2000, p. 107.

32 Anderson, *Eyes off the prize*, p. 2.

33 *Ibid.*, p. 23.

34 From Du Bois, *The Crisis*, February 1932, cited in Lewis, *W.E.B. Du Bois: a reader*, p. 478.

35 'Southern trees bear strange fruit,  
Blood on the leaves and blood on the root,  
Black body swinging in the Southern breeze  
Strange fruit hanging from the poplar trees.'

Figure 2. Cartoon by Oliver Wendell Harrington, *The People's Voice*, 28 February 1942. Source: Oliver Harrington Papers, Berlin.



in July 1939, just weeks before the invasion of Poland by Germany and the outbreak of the Second World War. Horrific reports of lynching in the United States surfaced again in the 1940s with accounts of black veterans being brutally and systematically singled out by white Southern mobs.<sup>36</sup> Du Bois supported an anti-lynching crusade in Washington, DC in September 1946, and in the same year the NAACP also launched an anti-lynching movement, which brought together fifty organizations in the call for anti-lynching legislation.<sup>37</sup>

Explicit comparisons between blacks fighting in Europe for democracy and freedom, while concurrently being denied such rights at home, increasingly became a theme in NAACP forums and other anti-racist commentary and activism throughout this period. Graphically visualized in a political cartoon by Oliver Wendell Harrington in 1942 (Figure 2),<sup>38</sup> the parallels between US and German racial politics were brought starkly home to American audiences.<sup>39</sup> Harry Truman himself had to admit that ‘a lot of our Americans have a streak of Nazi in them’.<sup>40</sup> Against this backdrop of escalating racial violence at home and fears that Jim Crow laws would endure in post-war America, the NAACP’s executive secretary, Walter White, took a central role in leading the charge for universal human rights both at the 1944 Dumbarton Oaks Conference and at San Francisco’s United Nations Conference on International Organization (UNCIO) meeting the following year.

36 Anderson, *Eyes off the prize*, pp. 12–15, 58–63.

37 Herbert Aptheker, ed., *The correspondence of W.E.B. Du Bois: volume III: selections, 1944–1963*, Amherst, MA: University of Massachusetts Press, 1978, pp. 112–14.

38 See M. Thomas Inge, ed., *Dark laughter: the satiric art of Oliver W. Harrington*, Jackson, MS: University Press of Mississippi, 1993. See also Maria Höhn and Martin Klimke, *A breath of freedom: the civil rights struggle, African American GIs, and Germany*, New York: Palgrave Macmillan, 2010, ch. 7.

39 See also Paul Gordon Lauren, *The evolution of international human rights*, 2nd edn, Philadelphia, PA: University of Pennsylvania Press, 2003, pp. 139–71.

40 Cited in Anderson, *Eyes off the prize*, p. 25.

## Post-war international relations and the Universal Declaration of Human Rights

The United Nations was established as the post-war international organization that would replace the unsuccessful League of Nations set up after the First World War (and which the US never joined). Walter White recognized the opportunity that the UN charter presented and was determined that a black perspective be represented in the shaping of this new international organization. At the same time, White was anxious that the openly racist views of the Southern Democrats who dominated the Senate would influence President Roosevelt's negotiations to join the UN, and ultimately prevent Roosevelt from ratifying a treaty that sought to guarantee justice and racial equality.

In marshalling his resources, White knew that Du Bois would be an invaluable asset to the NAACP, owing to his ability to present the global dimensions of racial equality and frame American black interests in terms of world peace. Du Bois was extremely experienced in navigating international meetings, as well as being a major intellectual figure of international reputation. The central problem was that, while co-founder of the NAACP, Du Bois had, in his own words, 'resigned' from the Association in 1934 and the two men were long-standing enemies.<sup>41</sup> This animosity pivoted on Du Bois' resignation as editor of *The Crisis*, the official journal of the NAACP, after refusing to retract his statements about racial segregation. Du Bois argued that black educational institutions in themselves were not inferior to white institutions, and in certain circumstances could be valuable to the black community. This position went against the NAACP's fight against all racial segregation and brought him into direct conflict with White.<sup>42</sup> However, despite these tensions, White invited Du Bois to rejoin the NAACP to help him write 'such documents as he needed', appear for him on public occasions, and 'in general to act as ghost writer and representative'.<sup>43</sup> Du Bois, who had been forced to resign from Atlanta University, was pleased to accept, and joined the NAACP as Director of Special Research. He negotiated a deal that gave him offices and clerical assistance, as well as making him the second-highest paid employee of the NAACP.<sup>44</sup>

In 1944 a closed meeting of the Allied powers was held at Dumbarton Oaks to set up the structure of the UN. From the perspective of Du Bois and the NAACP, the meeting was a disaster, with the issue of colonialism and the plight of 750 million people of colour conveniently ignored by the British, American, and Soviet representatives. He wrote in *Color and democracy* (1945) that the problem of the Dumbarton proposal was that 'between one-fourth and one-half of the inhabitants of the world will have no part in it – no power of democratic control'.<sup>45</sup> More devastating still, the issue of human rights was promoted in

41 See W. E. B. Du Bois, *The autobiography of W.E.B. Du Bois: a soliloquy on viewing my life from the last decade of its first century*, New York: International Publishers, 1968, p. 326; Lewis, *W.E.B. Du Bois: a biography*, pp. 573–4.

42 Martha Minow, *In Brown's wake: legacies of America's educational landmark*, Oxford: Oxford University Press, 2010, pp. 13–14.

43 Du Bois, *Autobiography*, p. 327; Herbert Aptheker, ed., *The correspondence of W.E.B. Du Bois: volume II: selections, 1934–1944*, Amherst, MA: University of Massachusetts Press, 1976, pp. 409–10.

44 Aptheker, *Correspondence, volume II*, pp. 113–14.

45 W. E. B. Du Bois, *Color and democracy: colonies and peace*, New York: Brace and Company, 1945, pp. 14–15.

principle but the Allied powers ensured that the UN would not have the capacity to investigate violations or enforce human rights standards.<sup>46</sup> In response to the failings of the Dumbarton conference, Du Bois was determined to attend the UNCIO San Francisco meeting the following year to push an agenda that included colonial and African American interests.<sup>47</sup> The UNCIO meeting was to hammer out the wording of the UN Charter and was to be attended by representatives from fifty nations. Du Bois felt that this increased state representation would enhance the chances of bringing to the table a wider range of concerns. He applied to become a delegate on behalf of the NAACP, and the State Department, in a bid to build popular support for the UN, allowed the NAACP and another forty-two organizations to send representatives to serve as consultants to the US governmental delegation.<sup>48</sup> White was appointed the official consultant by the NAACP, and Du Bois and Mary McLeod Bethune attended as assistant consultants.

At the historic five-week-long UNCIO meeting, Du Bois, along with many others, forcefully argued that recognizing human rights around the world was essential for securing world peace.<sup>49</sup> He was concerned that the language of the proposed UN Charter should speak not only about nations and states but also to the rights of individuals and races of people.<sup>50</sup> He argued that the UN Charter must refer to the ‘essential equality of all races’ and help the millions of oppressed colonial subjects to have a voice in governmental processes.<sup>51</sup> Furthermore, Du Bois declared that the UN Charter should:

make clear and unequivocal the straightforward stand of the civilized world for race equality, and the universal application of the democratic way of life, not simply as philanthropy and justice, but to save human civilization from suicide. What was true of the United States in the past is true of world civilization today – we cannot exist half slave and half free.<sup>52</sup>

Du Bois’ concept of world civilization was important for underscoring the inclusivity of all peoples, both colonizers and colonized. Moreover, by calling for universal citizenship Du Bois highlighted the view that the enforcement of human rights should not be left to nation-states but protected through the mechanism of the international/transnational UN entity.

Du Bois’ anti-colonial and anti-racist rhetoric put him and his camp in direct conflict with the white Southern Democrats, who were led to a large degree by the Texas Senator Tom Connally. Connally was committed to the principle of states’ rights and the limiting of federal (and international) oversight over the Southern states’ institutionalized racism

46 *Ibid.*, pp. 13–16; Anderson, *Eyes off the prize*, pp. 35–8.

47 See Brenda Gayle Plummer, *Rising wind: black Americans and US foreign affairs, 1935–1960*, Chapel Hill, NC: University of North Carolina Press, 1996, pp. 132–9.

48 Aptheker, *Correspondence, volume III*, p. 8; Anderson, *Eyes off the prize*, p. 40; Dorothy B. Robbins, *Experiment in democracy: the story of US citizen organizations in forging the Charter of the United Nations*, New York: Parkside Press, 1971, pp. 34–56 and 81–99.

49 Lauren, *Evolution*, pp. 177–98.

50 Elizabeth Borgwardt, *A new deal for the world: America’s vision for human rights*, Cambridge, MA: The Belknap Press, 2005, p. 193.

51 Aptheker, *Correspondence, volume III*, p. 11.

52 Paul Gordon Lauren, ‘First principles of racial equality: history and the politics and diplomacy of human rights provisions in the United Nations charter’, *Human Rights Quarterly*, 15, 2, 1983, p. 21.

through Jim Crow laws. Significantly, his domestic concerns and determination to resist wording about human rights being put into the UN Charter dovetailed with the federal government's foreign policy towards anti-colonialism. Emerging Cold War tensions with the Soviet Union made it an imperative that the US maintained control over its Pacific island colonies as strategic military outposts. Hence conversations about anti-colonialism and support for independence movements raised by many of the attending state representatives were quickly shelved by the US delegation, and authority over US Pacific colonies moved to the veto-protected Security Council.<sup>53</sup>

Despite the US agreeing to the establishment of a UN Commission on Human Rights, the San Francisco conference was regarded by many nations, as well as by all the attending associations, as a grave disappointment. Rayford Logan, a pan-African activist and advisor to the NAACP, 'angrily denounced the UN Charter as a "tragic joke"'.<sup>54</sup> Du Bois summed up his disappointment in a letter to the editor of the journal *Foreign Affairs*, stating, 'while the San Francisco Conference took steps to prevent further wars in certain emergencies they did not go nearly far enough in facing realistically the greatest potential cause of war, the colonial system'.<sup>55</sup> In a private telegraph Du Bois further commented, 'We have conquered Germany but not [its] ideas. We still believe in white supremacy, keeping negroes in their places and lying about democracy, when we mean imperial control of 750 million human beings in colonies.'<sup>56</sup> Publically, he railed against the failings of the UN Charter for perpetuating the paternal oppression of the European nations, writing in the *New York Post*:

What guarantees ought to be set up by international action to safeguard human rights? So far as the mass of civilized men are concerned, such guarantees have been repeatedly stated but only in part realized. So far as the majority of human beings are concerned, they have for the most part not even been initiated. The usual reason given is that colored folk, colonial peoples, lower classes, have no conception of 'rights', could not use them if they had them, and naturally do not have them. We greater folk will guide and guard them when once we get our own rights. But is it not barely possible that one of the reasons human rights are not realized in Germany, England and the U.S. is just because they can be flouted at will in Nigeria, Java, Fiji and among the natives of South Africa?<sup>57</sup>

Upon the passing of the UN Charter, groups such as the NAACP, the NNC, the Pan-African Congress, and the Indian Rights Association immediately called for action. Amid heated philosophical and moral debate among UN delegates about the implementation of the Charter there developed a common purpose – the establishment of an international bill of rights. Over the next two years, hundreds of meetings and discussions took place to thrash out the terms and methods of developing such a bill of rights. Eleanor Roosevelt was a

53 For a fascinating discussion of the complex role of human rights rhetoric in post-war anti-colonial and decolonization processes in Asia and Africa, see Jan Eckel, 'Human rights and decolonization: new perspectives and open questions', *Humanity*, Fall 2010, pp. 111–35.

54 Anderson, *Eyes off the prize*, p. 55.

55 Aptheker, *Correspondence, volume III*, p. 16.

56 Cited in Anderson, *Eyes off the prize*, p. 51.

57 Aptheker, *Writings by Du Bois*, vol. 4, pp. 2–3.

central figure in this endeavour, working with the UN Commission on Human Rights to draft a document acceptable to all parties. She also worked closely with the NAACP and was on its board of directors. As part of this process, in 1947, Du Bois, on behalf of the NAACP, presented to the UN a petition titled 'An appeal to the world: a statement on the denial of human rights to minorities in the case of citizens of negro descent in the United States of America and an appeal to the United Nations for redress'.<sup>58</sup> In this document, Du Bois argued that discrimination against blacks in the US cannot be 'persisted in, without infringing upon the rights of the peoples of the world'.<sup>59</sup>

The petition received a great deal of national and international publicity.<sup>60</sup> The Soviet delegation immediately pounced upon it as an opportunity to attack the US by exposing American racial hypocrisy and moral failings. The NAACP in turn was smeared as siding with the enemy and supporting communism. Eleanor Roosevelt publically declared her lack of support for the petition, and threatened to resign from the NAACP's board of directors.<sup>61</sup> These troubling events were not anticipated by the NAACP. However, while the petition did not have had the immediate impact that Du Bois and other NAACP leaders had hoped for, it was nonetheless crucial in highlighting the universal dimensions of racial discrimination and in turn building international support for the UN's Universal Declaration of Human Rights, which was issued the following year. Importantly, in this immediate post-war period, Du Bois' notion of a globally interconnected system of racism and oppression resonated with the increasingly intense self-determination and independence movements appearing in European colonies such as British-governed India, Burma, Egypt, Iraq, and Malaya; French-governed Algeria, Lebanon, Syria, and Indochina; and Dutch-governed Indonesia. This put the NAACP in an extremely awkward position with respect to the US government, and throughout 1947 and 1948 White was forced to scale back his attack on US foreign policy and to position the NAACP more firmly within the Truman administration. Du Bois was furious, declaring that siding with the US government was a 'tragic mistake'.<sup>62</sup>

In the immediate post-war period, the UN Charter and the UN Universal Declaration of Human Rights represented a new understanding of the interconnections between nations across the world. The thrust of this new understanding was twofold. It qualified both the concept of state sovereignty and the concept of peace. With respect to sovereignty, both world wars had demonstrated that the domestic problems of any one country affected its neighbouring nations and regions. Countries could not prevent their internal problems spilling out across geopolitical boundaries. This appreciation of the artificiality of state boundaries altered, at least in theory, the long-standing international doctrine that a government holds prerogative sovereign control over its domestic populations.

The second major development in international relations was a newfound appreciation that, in order to secure world peace, fundamental basic human rights must be protected.

58 Aptheker, *Correspondence, volume III*, pp. 178–84. See also Lauren, *Evolution*, pp. 218–19; Lewis, *W.E.B. Du Bois: the fight for equality*, pp. 522, 528–31; Plummer, *Rising wind*, pp. 179–84.

59 W.E.B. Du Bois, *An appeal to the world*, prepared for the NAACP, New York, 1947, p. 13.

60 Aptheker, *Correspondence, volume III*, p. 186.

61 *Ibid.*, pp. 188–9.

62 Lewis, *W.E.B. Du Bois: a biography*, p. 676.

In other words, peace could not be secured simply by dividing up the spoils of war between victorious allies. As early as 1936 Du Bois had appreciated that the failings of the Treaty of Versailles and the League of Nations were in part due to the victorious allied powers forcing Germany to accept full responsibility for the financial and moral costs of the First World War.<sup>63</sup> Determined not to repeat this failing, the victorious nations were forced to broaden the concept of peace away from national interest to include a ‘people’s peace’, in which human rights – including the protection of civil and political rights and rights to self-determination – featured prominently. In the famous opening lines of the Charter, it was declared that the UN was ‘to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women of nations large and small’. This sentiment was further promoted through the 1948 Universal Declaration of Human Rights, to which (it should be noted) Poland, the Soviet Union, South Africa, and the United States all objected, to varying degrees. Interestingly, in the same year that the Declaration was issued, Du Bois wrote an essay titled ‘The case for the Jews’ in the *Chicago Star*, which defended Jewish rights of self-determination and the establishing of an independent state.<sup>64</sup>

## Resistance to the UN Universal Declaration of Human Rights

Initially, political momentum in the wake of the passing of the Declaration of Human Rights was strong, and the European Convention on Human Rights was declared in 1950. However, despite this significant victory in international law, the implementation of the Declaration itself was increasingly stalled, mainly because of the growing tension between the Soviet Union and the United States, as well as US opposition to the growing demand from newly independent nations in Asia, Africa, and the Middle East to be involved in human rights discussions.<sup>65</sup>

In the United States, widespread attempts were made to stop the US participating in an international human rights regime.<sup>66</sup> The American Bar Association, conservative in its political leanings, defender of American corporate interests, and prejudiced against African Americans (who were not allowed at this time to become members),<sup>67</sup> aligned itself with the Republican Party’s open antagonism to any concessions to US sovereign control made under international law. The politics of the Cold War brought what has been called the ‘Deep Freeze’ to discussions about universal principles of an international human rights regime.

63 Lewis, *W.E.B. Du Bois: a reader*, pp. 734–7.

64 Aptheker, *Writings by Du Bois*, vol. 4, pp. 56–8.

65 Tony Judt, *Postwar: a history of Europe since 1945*, New York: Penguin Press, 2005, pp. 213–37. See also Roland Burke, *Decolonization and the evolution of international human rights*, Philadelphia, PA: University of Pennsylvania Press, 2010.

66 See Mark Weston Janis, *America and the law of nations 1776–1939*, Oxford: Oxford University Press, 2010, pp. 194–220; Antony Anghie, ‘Rethinking sovereignty in international law’, *Annual Review of Law and Social Science*, 5, 2009, pp. 291–310.

67 In 1925 African Americans formed the National Bar Association (NBA) because the ABA refused to accept their membership. See Elmer C. Jackson and Jacob U. Gordon, *A search for equal justice by African-American lawyers: a history of the National Bar Association*, New York: Vantage Press, 1999.

American business entrepreneurs were afraid of a communist takeover through radical labour organizations and unions; media outlets were fearful of communist propaganda infiltrating social relations; and ordinary white Americans, especially those from the Midwest and South, were afraid that their world based on racial segregation and oppression of minorities would be challenged. McCarthyism and the blacklisting of communist sympathizers whipped up public anxiety about godless and violent Russians insidiously infiltrating the 'American way of life'.<sup>68</sup> As the historian Mary Dudziak has noted, as talk of a communist threat increased in the late 1940s there was a concurrent narrowing of the sphere of acceptable civil rights politics.<sup>69</sup> Fear ruled the domestic arena, giving rise to McCarthyism and the labelling of discussions about anti-colonialism, anti-racism, and rights reform as subversive and un-American. As a result, 'Civil rights activists had to walk a fine line, making it clear that their reform efforts were meant to fill out the contours of American democracy, and not to challenge or undermine it.'<sup>70</sup>

In this climate of anxiety and finger-pointing, Du Bois' insight that racism was a globally interconnected system of oppression (which had been affirmed by the events in Nazi Germany) was silenced or ignored by a US government anxious not to displease Western colonial powers and US allies in the emerging Cold War.<sup>71</sup> According to Richard Falk, a leading international legal scholar, in the post-1945 period the US government was preoccupied by the challenge of Soviet expansion:

To the extent that the Holocaust was considered by those involved in the inner circles of foreign policy, it was viewed as either irrelevant to the future because it was an anomaly of pathological politics or inconvenient in relation to 'the new thinking' about Germany, not as a defeated enemy, but as a divided country that was the most dangerous potential flashpoint for the onset of World War III.<sup>72</sup>

In an environment of mounting conflict, both the Soviet Union and the United States – ironically – shared a fear of UN intervention into their domestic affairs and resented any qualification of their national sovereignty. The US was not interested in the UN as a platform on which to build a conceptual frame for universal rights, but rather considered the UN important for its founding of 'a new body to sanction war – the UN Security Council'.<sup>73</sup> For some anti-racist activists, however, this conceptual framework supplied a new language and a new set of opportunities and venues for confronting domestic discrimination and the colonial agendas of imperial states.

68 See Albert Fried, *Nightmare in red: the McCarthy era in perspective*, Oxford: Oxford University Press, 1990; Ellen Schrecker, *Many are the crimes: McCarthyism in America*, Boston, MA: Little, Brown, 1998.

69 Mary L. Dudziak, *Cold War civil rights: race and the image of American democracy*, Princeton, NJ: Princeton University Press, 2000. See also Thomas Borstelmann, *The Cold War and the color line: American race relations in the global arena*, Cambridge, MA: Harvard University Press, 2003.

70 Dudziak, *Cold War civil rights*, p. 11. See also Manning, *Race*, pp. 19–31.

71 Dudziak, *Cold War civil rights*, p. 11; Penny M. Von Eschen, *Race against empire: black Americans and anticolonialism, 1937–1957*, Ithaca, NY: Cornell University Press, 1997, pp. 112–21.

72 Richard Falk, *Achieving human rights*, New York: Routledge, 2009, pp. 90–1.

73 Mary L. Dudziak 'Making law, making war, making America', in Christopher Tomlins and Michael Grossberg, eds., *The Cambridge history of law in America*, Cambridge: Cambridge University Press, 2008, pp. 680–717.



## Constraining rights rhetoric in the United States

Nuremberg's legacy as seen in the creation of the rhetoric of human rights hit a roadblock in the immediate post-war decade as the Universal Declaration became entangled in the politics of the Cold War. As mentioned above, talk about a universal system of human rights was not welcomed in US domestic politics. Such talk lent itself to nurturing anti-colonial sentiment and promoting rights of self-determination that were not conducive either to American interests or to shoring up ties between Western colonial nations against communist Russia. As a result, Cold War politics and McCarthyism confined civil rights talk to a narrow sphere, as civil rights activists tried to avoid being labelled un-American and traitors to the nationalist agenda. In this period of constrained civil rights activism the landmark legal decision *Brown v. Board of Education* (1954) – in which the US Supreme Court unanimously upheld the rights of blacks by declaring racial segregation in public schools unconstitutional and in violation of the Fourteenth Amendment – seems a rather incongruous anomaly.

*Brown* was not the first case to argue against segregation, but it is widely regarded as the case that launched the civil rights movement and that ultimately ushered in the Civil Rights Act of 1964 and the Voting Rights Act of 1965, which technically ended African American disenfranchisement.<sup>74</sup> There has been much debate about the effectiveness of the *Brown* decision in changing racial relations.<sup>75</sup> Especially in the South, there was bitter and at times bloody resistance to the bussing of black students into white neighbourhoods. Such resistance included shutting down white schools rather than having them accept black students, and in some cases politicians personally blocked black students' access to schoolrooms. Despite the widespread unenforceability of the desegregation doctrine and the limits of formal legal reform guaranteeing equality, the *Brown* case nonetheless helped to unleash a sequence of public demonstrations, such as the bus boycott in 1955, the lunch-counter sit-ins in 1961, and the Birmingham civil rights demonstrations in 1963.

How are we to understand the concurrent events of Cold War-driven McCarthyism, which grossly violated people's individual political and civil rights, and the *Brown* decision, which ruled illegal long-standing and deeply entrenched educational practices premised on scientific racism and blacks' status as inferior, second-class citizens? Mary Dudziak offers a key. She argues that, instead of narrating these events as separate and unconnected, it is important to read the *Brown* decision as part of a wider set of US foreign policy concerns and Cold War strategies.<sup>76</sup> Throughout the 1940s and the Cold War, the US claimed the role of world leader in bringing democracy and equality to people oppressed by Nazi Germany and godless communism. However, this self-promoted national image sat uncomfortably

74 See generally Michael J. Klarman, *Brown v. Board of Education and the civil rights movement*, Oxford: Oxford University Press, 2007; Martha Minow, *In Brown's wake*.

75 James T. Patterson, *Brown v. Board of Education: a civil rights milestone and its troubled legacy*, Oxford: Oxford University Press, 2002; Richard Kluger, *Simple justice: the history of Brown v. Board of Education and black America's struggle for equality*, New York: Vintage, 2004; Anders Walker, *The ghost of Jim Crow*, Oxford: Oxford University Press, 2009.

76 Mary L. Dudziak 'Brown as a Cold War case', *Journal of American History*, 91, 2004, pp. 32–42. See also Derrick Bell, *Silent covenants: Brown v. Board of Education and the unfulfilled hopes for racial reform*, Oxford: Oxford University Press, 2005, pp. 49–68; Kevin Gaines, 'The civil rights movement in world perspective', in Gary Reichard and Ted Dickson, eds., *America on the world stage: a global approach to US history*, Urbana, IL: University of Illinois Press, 2008, pp. 189–207.

with the obvious racial discrimination existing within the US domestic arena. Other democratic nations and individual activists began to question the US's racial hypocrisy and commitment to democracy. For example, Mohandas Ghandi wrote to Roosevelt in 1942, pointing out that the US's assertion in the Atlantic Charter that it was making the world safe for people 'sounds hollow, so long as India, and for that matter, Africa are exploited by Great Britain, and America has the Negro problem in her own home'.<sup>77</sup> Throughout the 1940s and early 1950s, the US State Department became increasingly aware 'that racial problems in the United States harmed US relations with particular nations and compromised the nation's Cold War efforts'.<sup>78</sup> A landmark case such as *Brown* was important in order for the US to declare to the world that it did not practise racial discrimination and was morally superior to communism. Hence, argues Dudziak, *Brown* should not be read as furthering a universal human rights discourse begun a decade earlier at Nuremberg; on the contrary, it should be interpreted as 'the product of converging domestic and international developments, rather than an inevitable product of legal progress'.<sup>79</sup>

## Compromising labour issues

The concept of universal human rights was not the only topic marginalized in the pre-*Brown* years. Demands by a majority of blacks for economic equality and recognized labour rights were also marginalized or silenced in the developing post-war civil rights rhetoric. As the historian Risa Goluboff powerfully argues in her book *The lost promise of civil rights*, NAACP lawyers made strategic calculations in the run-up to *Brown* as to what demands to promote and what to silence.<sup>80</sup> The issue of school segregation was championed at the cost of dropping labour demands. This political move was considered necessary, given that labour rights were a politically sensitive topic in the mid twentieth century and often associated with communist agitators and radicals. For instance, Truman's order in March 1947 for a full-scale 'loyalty investigation' spilled over into legislation regulating labour, and under the Taft-Hartley Act union officials were forced to swear that they did not have any communist affiliations. This strategy worked well for employers and the economic elite, who could raise doubts about a labour reformer's communist allegiance and so dismiss his or her claims.<sup>81</sup> In this political climate, it is understandable why NAACP lawyers made calculated decisions in an effort to avoid being labelled communist, prevent a drop in their public support, and escape financial ruin through losing their tax-exempt status.

Du Bois was frustrated by the NAACP's abandonment of labour issues, which he regarded as a key in the creation of black equality. He had a long-standing involvement in fighting for labour equality, writing throughout the 1920s and 1930s on the problems involved in the joining of black and white working classes to form a collective front against capitalist exploitation.<sup>82</sup> His frustration with the NAACP for abandoning labour rights in

77 Elizabeth Borgwardt, *New deal*, pp. 8–9.

78 Dudziak, 'Brown', p. 34.

79 *Ibid.*, p. 40.

80 Risa L. Goluboff, *The lost promise of civil rights*, Cambridge, MA: Harvard University Press, 2010.

81 Eve Darian-Smith, *Religion, race, rights: landmarks in the history of modern Anglo-American law*, Oxford: Hart, 2010, pp. 174–5. See also Donna T. Harvey-Stacke, *America's forgotten holiday: May Day and nationalism 1867–1960*, New York: New York University Press, 2009.

82 *The Crisis*, June 1921 and September 1931, cited in Lewis, W.E.B. *Du Bois: a reader*, pp. 555, 583–93.

the immediate post-war era so as to avoid being labelled communist soured his relationship with the organization and hardened his views on the importance of a collective labour movement in fighting institutionalized racism. In 1950, Du Bois ran for the US Senate on the American Labour Party ticket in New York. The next year, at the height of the Cold War and McCarthyism, he was indicted under the Foreign Agents Registration Act for his involvement in the Peace Information Center and his association with Soviet-affiliated peace efforts.<sup>83</sup> After being acquitted, Du Bois went on a speaking tour and gave public talks such as that before an audience of 15,000 in the Coliseum of Chicago. There he declared – in language as applicable today as it was then – the need to disentangle corporate interests from governmental power and to socialize the economy:

Big business in the United States is forcing this nation into war, transforming our administration into a military dictatorship, paralyzing all democratic controls and depriving us of knowledge we need .... There is no way in the world for us to preserve the ideals of a democratic America, save by drastically curbing the present power of concentrated wealth; by assuming ownership of some natural resources, by administering many of our key industries, and by socializing our services for public welfare. This need not mean the adoption of the communism of the Soviet Union, nor the socialism of Britain, nor even the near-socialism of France, Italy or Scandinavia; but either in some way or to some degree we socialize our economy, restore the New Deal, and inaugurate the welfare state, or we descend into military fascism which will kill all dreams of democracy ...<sup>84</sup>

Despite many supporters, Du Bois was increasingly marginalized by both black and white activists and political organizations and the ‘NAACP essentially abandoned him’.<sup>85</sup> In the context of the Cold War his views were seen as highly problematic, and for some even traitorous.<sup>86</sup> This distancing from Du Bois by black and white activists correlated to the US government’s targeting as ‘communist’ anybody who linked domestic racial struggles with the international anti-colonial movement.<sup>87</sup> As his marginalization and disillusionment mounted, Du Bois became more and more active in overseas political organizations and communities focused on self-determination, such as the small expatriate community that existed in Ghana.<sup>88</sup>

## **Brown in international context**

While conceding the truncating of the civil rights agenda to avoid being smeared with communist associations, I suggest, contrary to Falk and Dudziak, that the events of the

83 Lewis, *W.E.B. Du Bois: a biography*, pp. 687–92.

84 Du Bois, *Autobiography*, pp. 377–8.

85 Emmanuel Akyeampong, ‘Introduction’, in W. E. B. Du Bois, *Africa: its geography, people and products; Africa: its place in modern history*, ed. Henry Louis Gates Jr, Oxford: Oxford University Press, 2007, p. xxi.

86 See Manning Marable, *Race, reform, and rebellion: the Second Reconstruction and beyond in black America, 1945–2006*, 3rd edn, Jackson, MS: University Press of Mississippi, 2007, p. 21.

87 See Von Eschen, *Race against empire*, pp. 107–14.

88 See Kevin K. Gaines, *American Africans in Ghana: black expatriates and the civil rights era*, Chapel Hill, NC: University of North Carolina Press, 2007.

Nuremberg trials profoundly influenced the trajectory of US racial politics. Despite Cold War politics and the pressures exerted by the US State Department and McCarthyism, a new consciousness about race was brought to the nation's attention through media surrounding the Nuremberg trials and political activists such as Du Bois. Arguably, the *Brown* decision approximately a decade after the Nuremberg trials can be interpreted as a formal articulation of this growing public awareness.<sup>89</sup> It should be remembered that the explicit parallels suggested by the German defendants at Nuremberg between a eugenics-based treatment of Jews in Europe and one of blacks in the United States was an uncomfortable moment for many ordinary Americans. Widespread support of eugenics theory in the pre-war period began to lessen after the war. The Supreme Court's citing in *Brown* of the work of the social scientist Gunnar Myrdal, whose book *An American dilemma* (1944) had been deeply influenced by the earlier writings of Du Bois and Franz Boas, underscored the growing unacceptability of a eugenics-based theory, at least with respect to supporting segregation.

Another factor that should be considered in the *Brown* decision was the rise within the United States of what the historian Noah Feldman has called 'legal secularism'. By this term Feldman refers to the Supreme Court's emerging reluctance to affirm conservative political, nationalist, or religious views, or to 'force citizens to confess by word or act their faith therein'.<sup>90</sup> This disinclination to follow governmental direction is clearly evidenced in the earlier case of *West Virginia State Board of Education v. Barnette* (1943). In this case, the Supreme Court held that Jehovah's Witnesses could not be forced to salute the American flag or sing the Pledge of Allegiance since it violated their religious code. According to the court, 'Public education' must be 'faithful to the idea of secular instruction and political neutrality', and therefore 'will not be partisan or enemy of any class, creed, party or faction'.<sup>91</sup>

The Supreme Court's decision-making in *Barnette* was in part informed by the growing Jewish community in the United States, many of whom had fled Europe in the 1930s. This growing community forced a shift in mainstream American attitudes to Jews and Judaism. By the 1950s, Jews were no longer seen as poor, immigrant slum-dwellers, as they had been in the latter half of the nineteenth century. In the post-war era Jews had a substantial presence in industry and financial sectors, in elite universities, and in the production of popular culture through music, film, and literature. This was particularly the case in major cities such as New York, Los Angeles, and Chicago.

One result of the emerging respectability of American Jews was that the US 'heritage was reinvented as inclusive: America had been built, it was now increasingly said, on Judeo-Christian roots'.<sup>92</sup> The growing tolerance in the US for non-Christian religious faiths

89 Note that Robert Jackson, the chief US prosecutor at Nuremberg, was also one of the presiding judges in the Supreme Court in the unanimous *Brown* decision. See Library of Congress, Robert H. Jackson Papers, *Brown* file, 'Memorandum by Mr. Justice Jackson', 15 May 1954; Mark Tushnet and Katya Lezin, 'What really happened in *Brown v. Board of Education*', *Columbia Law Review*, 91, 8, 1991, pp. 1867–1930.

90 Cited in Noah Feldman, *Divided by God: America's church-state problem – and what we should do about it*, New York: Farrar, Straus and Giroux, 2006, p. 157.

91 Cited in *ibid.*, p. 157.

92 *Ibid.*, p. 166. See also Jon Butler, Grant Wacker, and Randall Balmer, *Religion in American life: a short history*, Oxford, Oxford University Press, 2008, pp. 342–4; Will Herberg, *Protestant–Catholic–Jew: an essay in American sociology*, Cambridge: Cambridge University Press, 1960; Arthur A. Cohen, *The myth of the Judeo-Christian tradition*, New York: Harper & Row, 1970; Jacob Neusner, *Jews and Christians: the myth of a common tradition*, New York: Trinity Press International and SCM Press, 1991.

(that is, Judaism) helped to give rise to legal secularism, characterized by the Supreme Court shedding its mantle of protector of the Protestant Christian faith and taking up the role of defender of the rights of certain religious minorities. According to Feldman, legal secularism was driven primarily by issues of religion. Nonetheless it was a movement essential for the Court's arrival at its subsequent decisions on race. The Court's emerging sense of its role as defender of religious liberties translated into it being the defender of political and civil liberties too – as reflected in the overriding sentiment of the Court in *Brown*.<sup>93</sup> This slippage between issues of religion and race echoes Du Bois' earlier insight of their interconnectedness, which forced him to move beyond essentialized racial categories in his analysis of race relations.

Connections between the reconfiguration of racial meanings and the secularization of religion are significant in the emerging civil rights movement of the 1950s and 1960s. Within political and legal circles the emerging rhetoric about individuals as rights-bearing citizens posited a concept of race as being comprised of personal distinction rather than one of race as a conflict between civilizations. The evolving public consciousness that began to think about race as a 'particularity' to be protected in civil society – much like religion – underscored the political and legal strategies of the NAACP's efforts to dismantle segregation and Jim Crow laws. Thus, despite the NAACP's rejection of the radical left and Marxist-inspired activists such as Du Bois, it is possible to see the influence of such discussions in the way that domestic racial politics took shape in the post-war period. Such politics informed legal reform in the United States and its promotion of a liberal legal model that champions formal protection of difference.

## Concluding thoughts

Thinking about the *Brown* decision as a Cold War case and desegregation as a Cold War imperative is important for highlighting that US racial politics in the 1950s and 1960s should be understood in the wider context of US international relations and security policies. As Mary Dudziak, Elizabeth Borgwardt, and other historians note,<sup>94</sup> it is vital to break down the long-standing division between international and domestic jurisdictions, and to see these arenas of political, legal, economic, and social activity as interconnected and mutually constitutive. That being said, it is also important that historical interpretations do not become constrained by the conventional demarcation of temporal historical periods. The Cold War officially started in 1947, but Britain and the US were rethinking their relationship to the Soviets well before this. It should be remembered that Winston Churchill delivered his famous 'Iron Curtain' speech in March 1946 in Fulton, Missouri, while the first Nuremberg trial was still in process. In this context, it seems somewhat odd that Mary Dudziak, in her ground-breaking book *Cold War civil rights*, does not mention Nazi Germany, the Holocaust, Jewish immigration, or the Nuremberg trials (except once in a brief footnote) in her analysis of race and the image of American democracy in the post-1945 era.

I have suggested in this article that, despite the US State Department focusing on Cold War politics and actively opposing the discourse of universal human rights, the racial

93 Cited in Feldman, *Divided by God*, p. 183.

94 See Thomas Bender, 'Introduction: historians, the nation, and the plenitude of narratives', in Thomas Bender, ed., *Rethinking American history in a global age*, Berkeley, CA: University of California Press, 2002, p. 2.

dimensions of the Second World War, as played out in the establishing of the United Nations and the subsequent Universal Declaration of Human Rights, did have enduring legal, political, and social consequences in mainstream American society. This can be seen in the emerging, albeit constrained, agitation for civil rights around issues of segregation. And it can be seen in a shift in American attitudes about religious pluralism and the embracing of a Judeo-Christian heritage that, among other things, played out in an increasingly secular judiciary receptive to seeing 'race', like 'religion', as a particularity of individual difference that calls for equal treatment and state protection.

Du Bois actively supported the language of universal human rights and the opportunities provided by meetings such as the Dumbarton Oaks Conference in 1944 and the San Francisco UNCTO meeting the following year. They also provided opportunities publically to attack US imperialism, colonialism, and the enduring legacy of slavery. However, for Du Bois, the structural inequalities built into a global exploitative system meant that there were intrinsic limits to the rhetoric of human rights and the logic of legal liberalism premised on state protection of individual rights. Echoing Marx's writings 'On the Jewish question', Du Bois ultimately critiqued the concept of liberal rights as not adequately dealing with capitalism's constraints on personal freedom.<sup>95</sup> Because of his increasingly radical attack on capitalism, coupled with his open praise of and affiliation with the Soviet Union, Du Bois, like his colleague Paul Robeson, could not be tolerated by the NAACP or associated with by many intellectuals and activists.<sup>96</sup>

In contrast to Du Bois' escalating political and social marginalization within the United States, he was often treated as a hero in international circles. He was well received in Britain, and when he was travelling for ten weeks in China in 1959 the occasion of his ninety-first birthday was given national celebration and his plea for the unity of China and Africa widely broadcast.<sup>97</sup> In his later writings Du Bois mused on the injustices of American imperialism, writing sadly that the United States 'is still a land of magnificent possibilities. It is still the home of noble souls and generous people. But it is selling its birthright. It is betraying its mighty destiny ... Today we are lying, stealing, and killing. No nation threatens us. We threaten the world.'<sup>98</sup> Disillusioned and marginalized, Du Bois left the United States for Ghana in 1961 to join a small expatriate community.<sup>99</sup> He became a Ghanaian citizen and died there in 1963.

Through his writings and activism and his global vision of interrelated histories of colonialism, violence, and slavery, Du Bois played a role in bringing home to an American audience the significance of the first Nuremberg trial, making it meaningful in the process. Specifically, he was important in highlighting the similarities and analogies that could be drawn between Nazi Germany and Jim Crow America. Over the years, he returned

95 On the limits of a liberal legal logic, see Kimberlé Williams Crenshaw, 'Color blindness, history, and the law', in Wahneema Lubiano, ed., *The house that race built: original essays by Tony Morrison, Angela Y. Davis, Cornel West, and others on black Americans and politics in America today*, New York: Vintage, 1998, pp. 280–8. See also David Carroll Cochran, 'Liberal political theory's multicultural blind spot and race in the United States', in Curtis Stokes and Theresa Meléndez, eds., *Racial liberalism and the politics of urban America*, East Lansing, MI: Michigan State University Press, 2003, pp. 51–74.

96 See Baldwin, *Beyond the color line*, pp. 202–51.

97 Du Bois, *Autobiography*, p. 405.

98 *Ibid.*, pp. 419, 415.

99 See Gaines, *American Africans*.

again and again to this theme, writing mockingly in 1958 ‘that the best punishment for Hitler would be to paint him black and send him to the United States’.<sup>100</sup> Moreover, Du Bois was crucial in talking about race and racism in more complicated and nuanced ways, incorporating into his understanding of oppressive dimensions that did not necessarily turn upon differences in people’s external physical features. In his willingness to see Jews as a racial group, Du Bois argued for Jewish self-determination in the post-1945 era, and characterized the trial of Ethel and Julius Rosenberg in 1951 as dominated by ‘an atmosphere of race prejudice’.<sup>101</sup>

Perhaps most importantly, Du Bois’ global perspective helped international law’s embracing of universal human rights to emerge as a platform for race critique that travelled between nations and ultimately lent a new language for the sustained resistance to black apartheid in the United States. After the Nuremberg trials it was no longer acceptable in the US to be openly anti-Semitic or supportive of eugenics-based racism. So, while US governmental support for an international human rights regime would not be evident until the late 1980s, nonetheless the events that led to the establishment of the modern institutions of international humanitarian law did affect mainstream cultural attitudes and behaviours decades earlier. It is important to acknowledge Du Bois’ role in translating the racial politics of the Second World War and the UN Declaration of Human Rights for an American audience, and to reflect upon the unpredictable ways in which these events were the impetus for shifting the country’s cultural and social values with respect to religious and racial minorities. Moreover, such an acknowledgement reinforces the point that analyses of US racism – in whatever period – should always be interpreted against international and transnational political, legal, and economic contexts.

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*She is also on various editorial boards and is a former associate editor of American Ethnologist and Law & Society Review.*

100 Cited in Lewis, *W.E.B. Du Bois: a reader*, p. 798.

101 Aptheker, *Writings by Du Bois*, vol. 4, p. 187.