

‘Hidden Motives’? African Women, Forced Marriage and Knowledge Production at the United Nations, 1950–62

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Abstract

The period following the Second World War saw much international debate around African marriage, especially practices believed by Western observers to be coercive, and the emergence of international instruments ostensibly designed to counter these practices. Drawing on feminist readings of governmentalities, this article explores United Nations debates around the 1956 Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, and the 1962 Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages. Despite the United Nations's preferred impression of benign universality, neither the international debates around forced and early marriage, nor the instruments they generated, were the product of neutral 'expertise'. Rather, they represented attempts to reframe and govern marriage and the family through knowledge production. The interventions produced did not – and were not intended to – produce tangible benefits in the lives of African women and girls. Instead, they served political ends in the adversarial atmosphere of the decolonization and Cold War-era United Nations, and also represented continuities with earlier colonial ideas. In the creation of these discursive framings, African women's voices were largely ignored, excluding them from debates that concerned them and minimizing their contributions to international 'knowledge'.

Keywords

child marriage, Cold War, decolonization, diplomatic history, forced marriage, United Nations

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The period following the Second World War saw a proliferation of debate around women's rights and political status, at both international and national levels. Among the contested issues were African marital practices, especially those believed to be coercive.¹ The newly emergent United Nations (UN), charged with 'reaffirm[ing] faith in...the equal rights of men and women', provided the stage for many of these debates, and oversaw the proliferation of several international instruments ostensibly designed to intervene in these practices.² However, despite the new intergovernmental body's preferred impression of benign universality, the international debates and instruments generated during this period were not the product of neutral 'expertise'.³ Examining these debates reveals how international discussions dealing with ostensibly coercive African marital practices represented an attempt to reframe and govern marriage and the family, defined in Article 16 of the Universal Declaration of Human Rights (UDHR) as the 'natural and fundamental group unit of society'.⁴ Historian Emily Burrill refers to the 'marriage legibility project' pursued by the French colonial administration in Mali: a means of gathering and generating knowledge about African marriage to better govern the colonized and to align marriage practices more closely with French ideas of civilization.⁵ Debates over marriage at the UN from the 1950s represented such a 'marriage legibility project' writ large, as interventions served to gather knowledge to understand marital practices, and to build hierarchies between those practices – and by extension populations – requiring interventions, and those which did not. As Egon Schwelb, the Deputy Director of the Division of Human Rights at the UN argued in 1963, the 1962 Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages sought to disseminate 'one of the basic institutions of Occidental civilization'.⁶

However, this article will argue that such interventions did not produce tangible benefits for African women and girls, for four key reasons. Firstly, the debates served politically pragmatic ends, allowing competing powers to co-opt discourses around gender and rights to claim moral superiority in the adversarial atmosphere of the decolonization and Cold War-era UN. This represented a continuation of the use of the figure of the 'abject African woman' to score political points in

1 For interesting earlier examples of such concerns, see Rhian Elinor Keyse, 'Imperial, international, and local responses to early and forced marriage in British colonial Africa, c. 1920-1962', unpublished PhD thesis, University of Exeter (2019), Chapter Four; Giusi Russo, 'Contested practices, human rights, and colonial bodies in pain: The UN's gender politics in Africa, 1940s-1960s', *Gender and History*, 30, 1 (2018), 196–213.

2 United Nations, (1945) *Charter of the United Nations*, 26 June 1945. Available at: <http://www.un.org/en/charter-united-nations/> (accessed 6 December 2017).

3 Tarja Väyrynen, 'Gender and UN peace operations: The confines of modernity', *International Peacekeeping*, 11, 1 (2004), 125–42; Audrey Reeves, 'Feminist knowledge and emerging governmentality in UN peacekeeping', *International Feminist Journal of Politics*, 14, 3 (2012), 348–69.

4 United Nations, (1948) *Universal Declaration of Human Rights*, 10 December 1948. Available at: <http://www.un.org/en/universal-declaration-human-rights> (accessed 3 December 2017).

5 Emily Burrill, *States of Marriage: Gender, Justice, and Rights in Colonial Mali* (Athens, OH 2015).

6 Egon Schwelb, 'Marriage and Human Rights', *American Journal of Comparative Law*, 12, 3 (1963), 340.

earlier periods.⁷ Interwar discussions of African marriage practices at the League of Nations (LoN) emphasized non-interference in 'customary' practices, and focused on the potential role of education as a solution to African women's status.⁸ These older ideas persisted in the postwar period, despite the new apparatus of human rights instruments, albeit with a shift in language from an emphasis on 'civilization' and 'slavery' at the LoN to an emergent focus on 'rights' at the UN. Secondly, debates over marriage practices at the UN formed part of a power-play between knowledge gatherers – imperial states versus international governmental bodies, as well as within the UN itself – as to who had the power to claim expertise about African marriage practices. Thirdly, the tensions between universality and local specificity rendered the provisions of the new international instruments vague, missing complexities about the realities of women's lives. Nuanced interpretations were eschewed in favour of a discourse constructing women as a global population, while dividing them into a binary between those who were free, and those who needed rescue. Women in 'developing countries' were more susceptible to being constructed as needing intervention, with the persistence of the view that they alone were victims of 'culture'.⁹ In the creation of these discursive framings, African women's voices were, largely, ignored. Finally, in a more practical sense, the two Conventions examined here lacked important definitions or enforcement mechanisms, thus rendering them largely paper exercises, as with earlier Conventions promulgated by the LoN.¹⁰

African marital practices had been a concern of the LoN, the UN's predecessor organization, in the interwar period and were discussed under the rubric of slavery.¹¹ These early discussions established marital practices as a legitimate subject of international knowledge-gathering, constructing distinctions between acceptable practices and those considered to require intervention. These debates were racialized and gendered, and assisted in what historian Ashwini Tambe has referred to as the 'ideological work' of building 'hierarchies between nations'. As this article argues, the UN's treatment of African marriage represented a continuity with this approach, forming part of a longer term 'biopolitical enterprise' engaging actors from, among others, colonial governments, feminist organizations, and

7 Reeves, 'Feminist knowledge'; Pamela Scully, 'Gender, history, and human rights', in Dorothy L. Hodgson (ed.) *Gender and Culture at the Limit of Rights* (Philadelphia, 2011), 17–31.

8 Keyse, 'Imperial, international, and local responses to early and forced marriage', 71–124.

9 Frances S. Hasso, 'Empowering governmentalities rather than women: The Arab Human Development Report 2005 and western development logics', *International Journal of Middle East Studies*, 41 (2009), 63–82; Uma Narayan, *Dislocating Cultures: Identities, Traditions, and Third World Feminism* (New York, 1997), 84; Inderpal Grewal, *Transnational America: Feminisms, Diasporas, Neoliberalisms* (Durham, 2005).

10 Keyse, 'Imperial, international, and local responses to forced and early marriage'.

11 The interwar genealogy of the debates examined in this article is elaborated more fully in Keyse, 'Imperial, international, and local responses to forced and early marriage'.

anti-slavery and humanitarian campaigners, to ‘conceiv[e] populations across the globe as knowable and governable’, and to influence the ‘conduct of conduct’ through governmental technologies in the colonies.¹²

Recent historiography examining the relationship between the postwar emergence of the UN and the promulgation of international human rights instruments provides vital context for this article. The June 1945 UN Charter, affirmed the ‘equal rights of men and women’, and the 1948 UDHR also included references to sex equality. These were significant as the first international agreements to proclaim sex equality as a human right. Yet recent scholarship has rightly cautioned against a triumphalist narrative of human rights, arguing instead that the universal application of rights was deeply contested rather than a self-evident truth.¹³ In particular, the UN’s role in colonial territories, and the application of universal rights to colonized peoples, were a subject of much debate. The notion of applying the proposed UDHR to colonized territories only emerged in the drafting committee in the winter of 1947, at the behest of the Soviet representative, a suggestion initially opposed by the British. These controversial issues were still not resolved by the early 1950s.¹⁴

Additionally, there was no consensus on the UN’s approach to women’s issues, or whether these should be dealt with outside of the main human rights structures. In Spring 1946, the new Commission on Human Rights established a Sub-Commission on the Status of Women to examine women’s issues. The Sub-Commission was quickly upgraded to a full Commission on the Status of Women (CSW) after lobbying from women’s groups, but its initial subordinate status illustrates that women’s issues were considered a side concern. The CSW’s work was subject to repeated attempts to narrow and curtail their scope, as well as hampered by a relative lack of power and resources compared to the more general human rights structures.¹⁵ As Offen has argued, the language used was

12 Ashwini Tambe, ‘Climate, race science, and the age of consent in the League of Nations’, *Theory, Culture, and Society*, 28, 2 (2011), 109–10; Michel Foucault, *Dits et écrits IV* (Paris 1994), 237.

13 Stefan-Ludwig Hoffman, ‘Introduction: Genealogies of human rights’, in Stefan-Ludwig Hoffman (ed.) *Human Rights in the Twentieth Century* (Cambridge 2011), 1–28; Kenneth Cmiel, ‘The recent history of human rights’, *American Historical Review*, 109, 1 (2004), 117–35; Mark Mazower, *No Enchanted Palace: The End of Empire and the Ideological Origins of the United Nations* (Princeton, NJ 2010); Samuel Moyn, *The Last Utopia: Human Rights in History* (Cambridge 2010). For examples of the teleological human rights narratives that Hoffman and others respond to, see Lynn Hunt, *Inventing Human Rights: A History* (New York 2007); Paul Gordon Lauren, *The Evolution of International Human Rights: Visions Seen* (Philadelphia, PA 1998).

14 Johannes Morsink, *The Universal Declaration of Human Rights: Origins, Drafting, and Intent* (Philadelphia, PA 1999), 97; Rhoda Howard-Hassman, *Human Rights in Commonwealth Africa* (Totawa, NJ 1986), 9; A.W. Brian Simpson, *Human Rights and the End of Empire: Britain and the Genesis of the European Convention* (Oxford 2001); Roland Burke, *Decolonization and the Evolution of International Human Rights* (Philadelphia, PA 2010).

15 These constraints worsened during the period under consideration here, as the work of the CSW was hampered by Cold War politics and a ‘backlash’ against feminist activism within the UN. Jo Ella Butterfield, ‘Gendering “universal” human rights: International women’s activism, gender politics, and the early Cold War, 1928–1952’, unpublished PhD thesis, University of Iowa (2012).

revealing: the UN was concerned with the 'status of women', and not 'women's rights'.¹⁶ Human rights were defined according to male norms and dealt predominantly with oppressions that occurred in the public sphere, often those committed by the state, whereas women's issues were considered private or cultural issues that did not warrant international and state intervention.¹⁷ While the inclusion of sex discrimination in the UDHR, and the constrained existence of the CSW, did not signal that women's rights were now an international priority, such instruments and organs provided a standard and a language with which women could begin to hold the UN and member states accountable.¹⁸ Nevertheless, the scope for action was limited by institutional structures. It is in the broader context of the marginalization of women's issues, and the debates over the application of universal rights to colonized territories, that the UN's approach to African women's status and needs must be considered.¹⁹

The framing of forced and early marriages as issues of slavery in the interwar period persisted at the postwar UN. In 1949, the UN General Assembly sought to action Article 4 of the UDHR – that 'slavery and the slave trade shall be prohibited in all their forms' – by requesting that the Economic and Social Council (ECOSOC) carry out a study of slavery. An Ad Hoc Committee of Experts on Slavery was appointed to investigate this question, meeting on two occasions between February 1950 and April 1951. The discussions of the Committee presaged later Cold War-influenced conflicts on this subject, given Soviet attempts to point to US racialized labour practices as potentially constituting slavery.²⁰ While scholars are divided over the impact of the Committee, its report – and the Supplementary Convention it inspired – defined a set of practices, including early and forced marriages, as 'similar' to slavery, thus widening the

16 Karen Offen, 'Women's rights or human rights? International feminism between the wars' in Patricia Grimshaw, Katie Holmes and Marilyn Lake (eds) *Women's Rights and Human Rights: International Historical Perspectives* (Basingstoke 2001), 243. Lila Abu-Lughod has argued that although the current human rights framework ostensibly includes women's rights, it struggles to 'do justice to the complexity of women's lives and suffering'. See Lila Abu-Lughod, 'Anthropology in the territory of rights – Human or otherwise', *Proceedings of the British Academy*, 167 (2010), 229.

17 Julie Peters and Andrea Wolper (eds) *Women's Rights, Human Rights: International Feminist Perspectives* (New York 1995); Marilyn Lake, 'From self-determination via protection to equality via non-discrimination: Defining women's rights at the League of Nations and the United Nations', in Grimshaw, et al. (eds) *Women's Rights and Human Rights*, 269; Riane Eisler, 'Human rights: Toward an integrated theory for action', *Human Rights Quarterly*, 9 (1987), 297; Marjorie Agosin, 'Introduction', in Marjorie Agosin (ed.) *Women, Gender, and Human Rights: A Global Perspective* (New Brunswick 2002), 1–11; Charlotte Bunch, 'Women's rights as human rights: Toward a re-vision of human rights', *Human Rights Quarterly*, 12 (1990), 486–98.

18 Devaki Jain, *Women, development, and the UN: A sixty-year quest for equality and justice* (Bloomington, IN 2005), 7.

19 Obioma Nnaemeka and Joy Ngozi Ezeilo, 'Introduction: Context(ure)s of human rights: Local realities, global contexts', in Obioma Nnaemeka and Joy Ngozi Ezeilo (eds) *Engendering Human Rights: Cultural and Socioeconomic Realities in Africa* (New York 2005), 4.

20 See 'Forced labor in the USA', *The Illinois Times* (12 May 1950).

category of slavery and slavery-like practices that came under the auspices of international concern.²¹

Several scholars have approached the study of the UN from the perspective of 'governmentality', and the establishment of an international 'conduct of conduct', locating this development in the post-Cold War context.²² However, an earlier iteration of this process can be seen in the UN's responses to slavery and marriage practices, which sought to generate 'self-evidences on which... knowledges, acquiescences, and practices rest'.²³ Reflecting the impetus to gather and create knowledge for governance purposes, the first task for the new committee was information collection. A questionnaire was to be sent to UN member states, to ascertain whether 'practices... restrictive to the liberty of the person' existed in the areas they administered, and to ask what measures had been taken since 1926 to check such practices. Discussions around the questionnaire's scope and reach revealed tensions over which viewpoints should be sought, and therefore who had authority to claim expertise on slavery. Bruno Lasker, the US representative, argued that ascertaining the veracity of non-official sources such as the press or non-governmental organizations (NGOs) could prove 'difficult', but that relying on governments would also be limiting. Charles Greenidge, the British delegate to the committee and Secretary of the Anti-Slavery Society, perhaps unsurprisingly stressed the expertise of NGOs and argued for the necessity of non-official sources of information. The Committee's only woman member, Jane Vialle, the French representative and elected Senator for Bangui in the Conseil de la République, warned against reliance upon government information.²⁴ Vialle argued that

21 Kevin Grant argues that the Committee's report was 'inconclusive', whilst Suzanne Miers brands the enterprise a 'disaster'. See Kevin Grant, 'Human rights and sovereign abolitions of slavery, c.1885-1956', in Kevin Grant, Philippa Levine and Frank Trentmann (eds) *Beyond Sovereignty: Britain, Empire, and Transnationalism, c.1880-1950* (Basingstoke 2007), 98; Suzanne Miers, 'The anti-slavery game: Britain and the suppression of slavery in Africa and Arabia, 1890-1975', in Keith Hamilton and Patrick Salmon (eds) *Slavery, Diplomacy, and Empire: Britain and the Suppression of the Slave Trade, 1807-1975* (Eastbourne 2009), 210. Joel Quirk, on the other hand, argues that the Committee was 'ground-breaking'. Joel Quirk, 'Defining slavery in all its forms: Historical inquiry as contemporary instruction', in Jean Allain (ed.) *The Legal Understanding of Slavery: From the Historical to the Contemporary* (Oxford 2012), 261.

22 Laura Zanotti, 'Governmentalizing the Post-Cold War international regime: The UN debate on democratization and good governance', *Alternatives*, 30 (2005), 461-87; Hans-Martin Jaeger, 'UN reform, biopolitics, and global governmentality', *International Theory*, 2, 1 (2010), 50-86; Wendy Larner and William Walters (eds) *Global Governmentality: Governing International Spaces* (London 2004); Inderpal Grewal, 'Foreword' in Wendy S. Hesford and Wendy Kozol (eds) *Just Advocacy? Women's Human Rights, Transnational Feminisms, and the Politics of Representation* (New Brunswick, NJ 2005), vii-xi; Annelise Riles, *The Network Inside Out* (Ann Arbor, MI 2000).

23 Michel Foucault, 'Governmentality', in Graham Burchell, Colin Gordon and Peter Miller (eds) *The Foucault Effect: Studies in Governmentality* (Chicago 1991), 76; Wendy Larner and William Walters, 'Introduction', in W. Larner and W. Walters (eds) *Global Governmentality: Governing International Spaces*, 1-20.

24 Vialle had only been included on the Ad Hoc Committee after vehement lobbying by the International Women's Council. Sarah Claire Dunstan, '"Une Nègre de Drame": Jane Vialle and the politics of representation in colonial reform, 1945-1953', *Journal of Contemporary History*, 55, 3 (2020), 645-65.

'governments might be interested in hiding the truth', so both governmental and unofficial sources were essential.²⁵ Ultimately, the Committee sought information from individuals, NGOs, members of UN agencies and the International Labour Organization (ILO).²⁶ Information gathering was, however, never intended to include those with lived experience of the practices concerned. In the Committee's second meeting, the Chair, Moises Poblete Troncoso, a Chilean professor of law who had worked with the ILO on labour questions, mooted the idea of investigating of 'conditions on the spot'; however, this was not seriously discussed.²⁷ The design of the intelligence-gathering structures ensured that the views of those affected were not consulted.

Debates over the questionnaire also reveal contestations over how far marriage was the concern of the UN. While Greenidge insisted that 'payment' for women and girls – especially before birth – was ownership, Lasker called for the 'adoption of a category between slavery and iniquitous labour practices', arguing that institutions such as 'wife purchase' were 'slavery only in extreme cases', depending on the amount of money involved and the state of dependence it conferred.²⁸ Vialle called for nuance. Her efforts were aimed at representing the voices of African women, many of whom, she argued, 'would not report themselves as wronged' if their parents arranged their marriage, even without consent.²⁹ Similarly, she argued bridewealth was not considered 'reprehensible' in some societies.³⁰ The 'right of refusal' was the key point, as some women did consent to the kind of marriages discussed.³¹ Vialle, however, did believe that forced marriage warranted international investigation. When Lasker argued that, in some areas, women may be forced into marriage with a man from another group to maintain peace, and abolishing forced marriage would thus 'destroy an entire system of security ... and give rise to anarchy', Vialle was incredulous. Taking Lasker's argument to its extreme, she objected that if that were a bar to investigation, then all attempts to combat slavery should be abandoned, as slavery was the basis of whole economic systems in some areas. 'The question of forced marriage', Vialle argued, had been 'placed on the Committee's agenda at the request of women' and should

25 UN Archives, E/AC.33/9, United Nations Economic and Social Council (Henceforth ECOSOC), Ad Hoc Committee on Slavery (Henceforth AHCS), Report of the First Session of the Ad Hoc Committee on Slavery to the Economic and Social Council, 13 February–23 March 1950. I am grateful to Joel Quirk for sharing his copy of this report with me.

26 'UN Slavery Unit Elects Chilean', *New York Times* (14 February 1950); Suzanne Miers, *Slavery in the Twentieth Century: The Evolution of a Global Problem* (Walnut Creek, CA 2003), 324.

27 UN Archives, E/AC.33/SR.2, ECOSOC, AHCS, First session: Summary Record of the Second Meeting, New York, 13 February 1950.

28 UN Archives, E/AC.33/SR.37, ECOSOC, AHCS, Second session: Summary Record of the Thirty-Seventh Meeting, New York, 3 April 1951, 4–6. On Lasker's wider work, see Bruno Lasker, *Filipino Immigration to the Continental United States and to Hawaii* (Chicago, IL 1931); Bruno Lasker, *Human Bondage in Southeast Asia* (Chapel Hill, NC 1950).

29 UN Archives, E/AC.33/SR.37, ECOSOC, AHCS, Second Session: Summary Record of the Thirty-Seventh Meeting, New York, 3 April 1951, 5.

30 UN Archives, E/AC.33/SR.43, ECOSOC, AHCS, Second Session: Summary Record of the Forty-Third Meeting, New York, 10 April 1951, 3.

31 Ibid.

receive equal consideration with other practices, an argument with which Greenidge, and eventually the Committee as a whole, concurred.³²

Vialle's strongly worded report on slavery in African territories further demonstrated her desire to consider the situations of African women and girls. She equated many aspects of African marriage practices with slavery, stating that 'in most cases a woman is kept in servitude by marriage', given that she was married 'against her will and often too young', and was liable in many societies to be heritable by her husband's heir. However, despite her criticisms, her interpretation of African marriage practices was not entirely damning. She noted that at a 'social congress' in Boulou Territory, Cameroons, African women had discussed bride-wealth and 'did not once ask for the suppression' of the system as a whole, but wanted the exchange amount limited. Vialle's understanding of the issues at hand went beyond the binaries of 'sale' versus 'freedom' characterizing international debates in the League of Nations era, and which were typical of Greenidge's arguments. Crucially, although Vialle asserted the need for international attention to the challenges faced by African women and girls, and her recommendations went further than previous international discussions had, it is important to note that she saw the responsibility for ameliorating these issues as resting with national governments, and not the UN. She recommended education and training for both sexes, recalling the interwar reliance on education as a panacea, and called for national legislation to fix the age of marriage at 16, to ensure free and full consent, and to allow widows to be able to decide their futures. In this, Vialle's approach demonstrates continuity with her advocacy for women's rights within the French Union.³³ Most importantly, Vialle emphasized the context of the marriage practices she critiqued, in determining their objectionable elements. Rather than seeing bridewealth, child marriage, and forced marriage as 'primitive' or 'timeless' practices, she conceived of them as a dynamic product of social change.³⁴ Drawing attention to poverty and child labour, Vialle called for a fundamental change to the 'accepted standards of life and the economic conditions' of women, reflecting the shift towards developmentalism and welfarism in colonial and international policy.³⁵ The recognition of broader economic and social factors found its way into the final report of the Committee, demonstrating the strength of Vialle's argument for context.³⁶

32 UN Archives, E/AC.33/SR.42, ECOSOC, AHCS, Second Session: Summary Record of the Forty-Second Meeting, New York, 10 April 1951, 5–7.

33 UN Archives, E/AC.33/L.27, Jane Vialle, Memorandum on slavery in the African Territories, 16 April 1951, 9–10.

34 Jane Vialle, 'Femmes Africaines', *Civilisations*, 1, 4 (1951), 55–8; Lorelle Semley, 'Women citizens of the French Union unite! Jane Vialle's Post-War crusade', in Anne R. Epstein and Rachel G. Fuchs (eds) *Gender and Citizenship in Historical and Transnational Perspective: Agency, Space, Borders* (London 2017), 199.

35 UN Archives, E/AC.33/SR.3, ECOSOC, AHCS, First Session: Summary Record of the Third Meeting, New York, 14 February 1950.

36 UN Archives, E/AC.33/9, ECOSOC, AHCS, Report of the First Session of the Ad Hoc Committee on Slavery to the Economic and Social Council, 13 February–23 March 1950, 12.

Another controversy at the Committee, that over recommending a fixed chronological age of marriage, reflected well-worn debates over the appropriateness of universal international norms versus cultural relativism.³⁷ Greenidge suggested that the Committee's report should recommend legislation to prohibit sex with girls under 14 – whether within or outside of marriage – and to set minimum ages of consent to marriage at 18 for males and 16 for females. He also advocated legislation requiring that both parties consent to marriage in front of authorized authorities.³⁸ Lasker disagreed, stating that setting the age of consent too high might prompt worse abuses. Given the lack of opportunities for women's employment in some areas, he argued that if a father could not marry off his daughter, he may be tempted to 'sell' her instead. Furthermore, specifying an age might 'offend' countries like India where such practices were 'prevalent', and undermine the effectiveness of the report as a whole.³⁹ A specified age of consent to marriage was, then, 'impracticable and unlikely to be accepted'.⁴⁰ Greenidge and Vialle disagreed, pointing to legislation setting a minimum age of consent to marriage in Southern Rhodesia and the French African territories, as evidence that such legislation could be acceptable in contexts where the practices under consideration subsisted.⁴¹ While Greenidge reduced the ages he proposed – to 16 for males, 14 for females – later in the committee's meeting session, he maintained that the principle of laying out an age of consent went to the heart of the purpose of the international governance project. The UN, he argued, existed to make recommendations and norms, in the hope that governments would legislate.⁴² Despite Lasker's opposition, the Committee's report accepted Greenidge's revised proposal.⁴³ The debate over the inclusion of specified chronological ages of consent demonstrates how discussions at the Committee were suffused with the conflict between cultural relativism – and the longstanding policy position of gradual

37 Josiah A.M. Cobbah, 'African values and the human rights debate: An African perspective', *Human Rights Quarterly*, 9, 3 (1987), 309–31; Jack Donnelly, 'Cultural relativism and universal human rights', *Human Rights Quarterly*, 6, 4 (1984), 400–19; Brooke A. Ackerly, *Universal Human Rights in a World of Difference* (Cambridge 2008).

38 UN Archives, E/AC.33/SR.45, ECOSOC, AHCS, Second Session: Summary Record of the Forty-Fifth Meeting, New York, 11 April 1951, 5.

39 Ibid., 6.

40 UN Archives, E/AC.33/SR.55, ECOSOC, AHCS, Second Session, Summary Record of the Fifty-Fifth Meeting, New York, 27 April 1951, 7.

41 UN Archives, E/AC.33/SR.45, ECOSOC, AHCS, Second Session: Summary Record of the Forty-Fifth Meeting, New York, 11 April 1951, 5–6. For more on legislation to restrict child marriage in French African territories, see Burrill, *States of Marriage*; Charlotte Walker-Said, 'Wealth, law, and moral authority: Marriage and Christian mobilization in interwar Cameroon', *International Journal of African Historical Studies*, 48, 3 (2015), 393. For legal debates on Zimbabwean marriage, see Elizabeth Schmidt, 'Negotiated spaces and contested terrain: Men, women, and the law in colonial Zimbabwe, 1890–1939', *Journal of Southern African Studies*, 16, 4 (1990), 622–48; Michael O. West, *The Rise of an African Middle Class: Colonial Zimbabwe, 1898–1965* (Bloomington, IN 2002).

42 UN Archives, E/AC.33/SR.55, ECOSOC, AHCS, Second Session: Summary Record of the Fifty-Fifth Meeting, New York, 27 April 1951, 7.

43 Ibid.; UN Archives, E/AC.33/13, ECOSOC, AHCS, Report of the Ad Hoc Committee on Slavery (Second Session), 4 May 1951, 20–3.

intervention in marriage practices – and the universalizing international norm-setting impetus of the UN. The controversies outlined here are clear indications of the ways that competing claims to knowledge and authority about African marriage practices – between Western men and black African women – played out at the UN.

The final report of the Ad Hoc Committee proved to be anti-climactic. Responses to the Committee's questionnaire were limited, and the work of the group was subjected to diplomatic attacks by certain Latin American states, notably Peru, whose delegates were incensed by the inclusion of peonage as an institution considered analogous to slavery. The group as a whole had failed to reach consensus as to the next steps, with Greenidge authoring a minority report.⁴⁴ Nonetheless, the Committee's recommendations that the UN take over responsibility for the 1926 Convention, and that a Supplementary Convention be considered to include practices not explicitly set out under that previous treaty, were taken forward.

Following the Ad Hoc Committee's recommendation that the UN should take over responsibility for the 1926 Slavery Convention, the UN General Assembly passed a Protocol to this effect on 23 October 1953.⁴⁵ The Protocol entered into force on 7 December 1953, passing to the UN all of the League's functions concerning the international regulation of slavery.⁴⁶ Greenidge drafted a supplementary slavery convention to ECOSOC, which was circulated to 20 member states for comment. The British delegation to ECOSOC submitted an alternative draft, which was revised and amended by UN offices, NGOs and governments, before the final drafting session in 1955.⁴⁷ The Convention was adopted by the UN Conference of Plenipotentiaries on a Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery, on 7 September 1956, entering into force on 30 April 1957.⁴⁸

Mazower has cautioned against the triumphalist 'morality tales' inherent in the historiography of human rights, arguing that the emergence of an international human rights regime was 'imbued with its fair share of cynicism', and reflected a

44 Miers, *Slavery in the Twentieth Century*, 325–26; United Nations, *Yearbook of the United Nations*, 1951 (New York 1952), 502.

45 United Nations, Protocol Amending the Slavery Convention Signed at Geneva on 25 September 1926, 23 October 1953. Available at: http://www.un.org/en/genocideprevention/documents/atrocities-crimes/Doc.14_protocolslavery.pdf (accessed 5 December 2017).

46 Jean Allain, *The Slavery Conventions: The Travaux Préparatoires of the 1926 League of Nations Convention and the 1956 United Nations Convention* (Leiden 2008).

47 Grant, 'Human Rights and Sovereign Abolition'; Miers, *Slavery in the Twentieth Century*, 326–7.

48 United Nations, 'Supplementary convention on the abolition of slavery, the slave trade, and institutions and practices similar to slavery'. Available at: https://treaties.un.org/pages/ViewDetailsIII.aspx?src=TREATY&mtdsg_no=XVIII-4&chapter=18&Temp=mtdsg3&clang=_en (accessed 3 December 2017).

'triumph for state interest' as much as for lofty humanitarian ideals.⁴⁹ This is the case for the discussions about the 1953 Protocol and 1956 conventions, which were, from the outset, beset by machinations resulting from Cold War geopolitical concerns as well as an increasingly vocal anti-colonial nationalism. Such issues were evident as early as August 1953, when panicked Belgian diplomats, concerned about the proposed Protocol to transfer the functions of the 1926 Convention to the UN, wrote to the Acting Foreign Secretary of the United Kingdom, the Marquess of Salisbury, seeking support for a proposal to delay the Protocol until the 'anti-colonial' countries had adhered to the 1926 Convention.⁵⁰ Foreign Office officials noted Belgian concerns that anti-colonial countries may otherwise use the Protocol 'to beat the colonial countries', but were largely unconcerned, given that the powers transferred related to Secretariat functions and were therefore unlikely to provide an opportunity for embarrassment.⁵¹ The Colonial Office was consulted and responded that, although sympathetic to Belgian concerns, broader political issues were at stake in the face of 'anticolonial' feeling at the General Assembly.⁵² Supporting the Belgian proposals could be construed as a demonstration of fear on the part of the colonial powers, and a statement of intent to wreck negotiations and avoid their responsibilities under the 1926 Convention and any further treaty. This would likely prompt a counter-attack by the 'anti-colonials', who would seek to make the Supplementary Convention 'very objectionable' by calling for the immediate abolition of bridewealth, child marriage and debt bondage and for the institution of enforcement machinery, which would be the 'worst possible outcome', in the opinion of the Colonial Office.⁵³ The fact that the example practices drawn upon to illustrate Colonial Office concern were mainly ones affecting African women demonstrates that these issues were important sources of anxiety. Over the previous three decades, much ink had been expended, and anxieties expressed, over concerns that the continued existence of these practices could embarrass the imperial government, and it is clear that such anxieties persisted into the postwar era of human rights, demonstrating the importance of political pragmatism in negotiations over international agreements.

Such political pragmatism was also embedded in negotiations over the proposed Supplementary Convention. In its response to Greenidge's draft Supplementary Convention, the British Government agreed in principle with the need to abolish

49 Mark Mazower, 'The Strange Triumph of Human Rights, 1933-1950', *Historical Journal*, 47, 2 (2004), 380-1. Adetoun Ilumoka has also noted that human rights regimes prop up and seek to perpetuate existing power relations. See Adetoun O. Ilumoka, 'African women's economic, social and cultural rights: Towards a relevant theory and practice', in R.J. Cook (ed.) *Human Rights of Women: National and International Perspectives* (Philadelphia 1994).

50 TNA, FO 371/107161: Belgian Embassy to Salisbury, 13 August 1953; E.M. West to H.P. Bartlett, 21 August 1953.

51 TNA, FO 371/107161: H.P. Bartlett, Minute, 18 August 1953; J.A.C. Gutteridge, Minute, 19 August 1953.

52 Ibid.: J.S. Somers Cocks, Minute, 15 August 1953; E.M. West to H.P. Bartlett, 21 August 1953.

53 Ibid.: E.M. West to H.P. Bartlett, 21 August 1953.

‘as soon as possible’ practices affecting women and children such as marriage without consent or child marriage. However, reflecting their longstanding policy of non-intervention in custom, the British Government cautioned that speedy abolition would lead to the ‘disintegration’ of local social structures.⁵⁴ Any action, therefore, needed to be taken gradually, and education should be at the forefront of this. This caution, the British delegation to the UN warned the Secretary-General, ought to be enshrined in the new convention, and states parties ought only to be obliged to undertake ‘practical measures’, to abolish the customs concerned ‘progressively and as soon as possible’. In particular, fixing an age of consent to marriage should be resisted, as nothing should be enshrined in law unless it was enforceable, and in any case, marriage law was considered to be a matter for domestic legislation and not international intervention.⁵⁵ Engle Merry has argued that, in the international human rights system, there is a ‘collision’ between protecting women from violence, and ‘preserving marriages’.⁵⁶ This is evident in the discussions around the Slavery Convention.

The cautious attitude to any new provisions was shaped by tensions between Colonial Office and Foreign Office priorities, highlighting that international diplomatic positions adopted by the British government were a result of careful negotiation between colonial and imperial concerns. Mr West of the Colonial Office set out their negotiating position in a February 1954 letter to E.R. Warner of the UN (Economic and Social) Department of the Foreign Office. The Colonial Office, he stated, opposed the UN taking on any kind of supervisory or enforcement role with regard to the proposed convention. The proposed system of annual reporting would, he argued, open the British up to unfriendly international scrutiny. This would be damaging, West argued, because practices ‘akin to slavery’, such as ‘child marriage’ still existed in colonial territories to varying degrees. While the Colonial Office would therefore have preferred ‘not to undertake new obligations in this field’, and especially not under the UN, he did appreciate the need for the Foreign Office to be seen to take a ‘positive and strong lead’ on anti-slavery issues, in keeping with the British tradition of leadership in abolition that they were keen to promote on the international stage.⁵⁷

Colonial Office concerns reflected anxieties about women’s rights being used to critique colonialism across UN structures. Before the 1953 meeting of the CSW, the British delegate was briefed by the Foreign Office to reject any anti-colonialist suggestions that problems facing women in non-self-governing or Trust territories

54 TNA, FO 371/112512: Draft letter, Permanent Delegation of the United Kingdom to the United Nations to Secretary-General, 10 February 1954. On the idea of international intervention into women’s issues as disruptive to the social structure of the colonies, see Helen Laville, “‘Woolly, half-baked, and impractical’?” British responses to the Commission on the Status of Women and the Convention on the Political Rights of Women 1946–67’, *Twentieth Century British History*, 23, 4 (2012), 481.

55 TNA, FO 371/112512: Draft letter, permanent delegation of the United Kingdom to the United Nations to Secretary-General, 10 February 1954.

56 Sally Engle Merry, ‘Women, violence, and the human rights system’, in Marjorie Agosin (ed.) *Women, Gender, and Human Rights: A Global Perspective* (New Brunswick 2001), 83–97.

57 TNA, FO 371/112512: E.M. West to E.R. Warner, 19 February 1954.

were due to their dependent status, or that they only existed in dependent territories.⁵⁸ Similarly, a 1954 resolution, introduced to the Third Committee of the General Assembly by Minerva Bernardino of the Dominican Republic, called on powers administering Trust and non-self-governing territories, as well as the UNTC, to abolish customs considered 'not consistent' with the UN Charter and the UDHR. Bernardino had been instrumental in the inclusion of specific reference to women in the UN Charter and the UDHR, and was concerned with the extension of human rights to all women.⁵⁹ Bernardino noted that, in certain areas, women were subject to customs and practices affecting their 'human dignity', including early and forced marriages and child betrothals, which 'prevented women from enjoying the fundamental rights which should be theirs.'⁶⁰ This proposed resolution received warm support from Franc Kos, the Yugoslav delegate, demonstrating that Eastern bloc states supported proposals relating to women in non-self-governing territories.⁶¹

In this context, West noted that child marriage was a potential touch-paper for controversy. With the Colonial Office still smarting from the riots in Singapore in late 1950 over the case of Maria Hertogh, the 13-year-old daughter of a Dutch colonial army officer and his Eurasian wife who had been raised by a Muslim family friend and married to a 21-year-old, West warned that he 'need hardly stress the dangerous consequences which would have followed from giving the UN a chance to intervene in the ... Hertogh case'.⁶² So, West argued, any convention would need to recognize the need for progressive abolition, and include a colonial application clause to limit the impact on colonial governance.⁶³ Colonial Office concerns over intervention into child marriage persisted into 1956. In a nod to concerns over detribalization and the need to protect the social order in African societies, the Colonial Office was reluctant to intervene in issues relating to marriage and the family, and wished to insert a loophole that states were only

58 W.R. Louis, 'Public enemy number one: The British empire in the dock at the United Nations, 1957–71', in M. Lynne (ed.) *The British Empire in the 1950s: Retreat or Revival* (New York 2006), 186–213; Simpson, *Human Rights and the End of Empire*.

59 Ellen DuBois and Lauren Derby, 'The strange case of Minerva Bernardino: Pan American and United Nations women's rights activist', *Women's Studies International Forum*, 32 (2009), 43–50.

60 United Nations General Assembly Third Committee, 'Official Records: Ninth Session, Six-Hundred-and-Twentieth Meeting, New York, 14 December 1956, United Nations Online Official Document System. Available at: <https://documents.un.org> (accessed 5 December 2017); United Nations, *Yearbook of the United Nations*, 1954 (New York 1955), 252.

61 United Nations General Assembly Third Committee, 'Official records: Ninth Session, Six-Hundred-and-Twenty-First Meeting', New York, 15 December 1954, United Nations Online Official Document System. Available at: <https://documents.un.org> (accessed 5 December 2017).

62 TNA, FO 371/112512: E.M. West to E.R. Warner, 19 February 1954. For background on the Hertogh case, see Sarah van Walsum, *The Family and the Nation: Dutch Family Migration Policies in the Context of Changing Family Norms* (Newcastle 2008); Syed Muhd Khairudin Aljunied, 'Rethinking riots in colonial South East Asia: The case of the Maria Hertogh Controversy in Singapore, 1950–54', *South East Asia Research*, 18, 1 (2010), 105–31; Syed Muhd Khairudin Aljunied, *Colonialism, Violence and Muslims in Southeast Asia: The Maria Hertogh Controversy and its Aftermath* (Abingdon 2009); Jialin Christina Wu, 'Private lives, public spheres: Contesting child marriage at the age of independence in British Malaya, 1950', *Gender and History*, 29, 3 (2017), 658–74.

63 TNA, FO 371/112512: E.M. West to E.R. Warner, 19 February 1954.

obligated to legislate 'where appropriate'. This would allow them to retain the policy of non-interference in native law and custom, since customary law in some instances already prohibited marriage before puberty, and it was believed that outlawing marriages under a certain age would 'encourage clandestine marriages'.⁶⁴

Colonial application clauses, whereby the Convention would not be applied automatically to all territories under colonial administration, but rather would be applied if appropriate following consultation with local administrations, were the cornerstone of British efforts to ensure the continuation of a longstanding policy of gradualism in interventions around forced and early marriages.⁶⁵ They were also a source of great controversy at the UN in the 1950s and early 1960s, and provided a battleground for the pursuit of Cold War and anti-colonial politics, as West and East jockeyed for primacy as global moral authorities, and to form alliances with newly independent countries.⁶⁶ Such issues played out at the Drafting Committee for the Supplementary Convention, which met for three weeks from 16 January 1956. The Committee was made up of 10 delegates, including the United Kingdom and three other administering powers: Australia, France and the Netherlands. The British delegate to the Committee had hoped that the Committee would be able to come to a 'sensible' conclusion in support of gradual abolition despite the presence of delegates from the USSR and Yugoslavia, given the inclusion of colonial powers, and Turkey, which was considered a 'loyal ally', as well as Ecuador, Egypt and India where some of the practices concerned persisted. However, in practice, the Committee was split down the middle, with the administering powers and Turkey facing a 'pretty solid anti-colonial bloc' of global South and communist countries which, according to the British delegation, stuck together on every point, 'irrespective of merits'.⁶⁷ Cold War politics, and particularly competing claims by both Western and Soviet blocs to be the guardians of human rights, and particularly the rights of women and children, also shaped the debates over slavery.⁶⁸ The British delegation won their principal arguments – for progressive abolition, and a territorial application clause – in negotiations, but

64 TNA, FO 371/123803: Minute by Miss M. Mackie, 24 July 1956; Minute by Miss Joyce Gutteridge, 1 August 1956; O.H. Morris to Miss M. Mackie, 15 August 1956; TNA, FO 371/123801: Committee on slavery: Draft brief prepared by the Foreign Office, 7 January 1956; Miers, 'The anti-slavery game', 210.

65 On colonial application clauses more generally, see Simpson, *Human Rights and the End of Empire*.

66 On the complexities of Cold War debates over human rights, see Jennifer Amos, 'Embracing and contesting: The Soviet Union and the universal declaration of human rights, 1948-1958', in Stefan-Ludwig Hoffman (ed.) *Human Rights in the Twentieth Century* (Cambridge 2011), 147-65.

67 FO 371/123802: 'Report on the Committee on the Drafting of a Supplementary Convention on Slavery and Servitude, January 16 to February 6 1956'.

68 Catriona Kelly, 'Defending children's rights, "In defence of peace": Children and soviet cultural diplomacy', *Kritika: Explorations in Russian and Eurasian History*, 9, 4 (2008), 711-46; Adrienne Edgar, 'Bolshevism, patriarchy, and the nation: The "emancipation" of Muslim women in Pan-Islamic perspective', *Slavic Review*, 65, 2 (2006), 252-72; Kristen Ghodsee, 'Revisiting the United Nations decade for women: Brief reflections on feminism, capitalism, and Cold War politics in the early years of the international women's movement', *Women's Studies International Forum*, 33, 1 (2010), 3-12; Karen Garner, *Shaping a Global Women's Agenda: Women's NGOs and Global Governance, 1925-1985* (Manchester 2010), 179-92.

were anxious that the final text could be altered by hostile members of the General Assembly. Thus, they urged that the final text should not go to the Assembly, but instead should be adopted at a plenipotentiary conference, which would likely be poorly attended especially if held at Geneva, and would potentially exclude hostile nations.⁶⁹

At the Plenipotentiary Conference, which opened on 13 August 1956, the Soviet delegation continued their opposition to both progressive abolition and the territorial application clause, positioning the Eastern bloc as the ally of former African colonies.⁷⁰ The British response to these attacks was to frame the principle of territorial application in the language of the right of territories to self-government. Keen to stave off anti-colonial and Soviet criticisms that the colonial powers sought to avoid action on slavery, the British delegate, R.D.J. Scott-Fox made a speech at the conference admitting 'sincerely and openly' that practices covered by the convention existed in colonial territories 'to an extent', and that the British government sought to end them 'as soon as possible'. To do so, the final form of the Supplementary Convention needed to be one to which the British government could adhere. Scott-Fox argued that many territories had a measure of self-government, including elected assemblies, and therefore they ought to be consulted per the principles of democracy. Failing to do so, and legislating for them without their consent, would fly in the face of the progression towards self-government and independence that the UN wished to see.⁷¹ This argument fits with the notion of trusteeship and tutelage underpinning many of the justifications for continued imperial rule in this period. The colonial application clause, then, was presented as a manifestation of 'freedom' in colonial territories, in contrast to the 'reactionary anti-colonialism' which was trying to force the British government's hand. Given that, if the dependent territories were the 'chief repositories' of slavery that the Soviets and anti-colonialist bloc claimed, then adherence to the Convention should be the goal of all seeking to improve the lot of people under British rule. As the Soviet and anti-colonial delegates' proposals worked in opposition to this, he questioned whether they had 'some other objective'.⁷²

The 1956 UN Conference of Plenipotentiaries to discuss the adoption of the Slavery Convention, on the initiative of the Portuguese delegate, Franco Nogueira, recommended that ECOSOC consider undertaking a study of consent in marriage, and age of marriage. Nogueira's resolution suggested that ECOSOC consider whether establishing a minimum age of marriage of no less than 14 would

69 TNA, FO 371/123802: 'Report on the Committee on the Drafting of a Supplementary Convention on Slavery and Servitude, January 16 to February 6 1956'.

70 TNA, FO 371/123804: R.D.J. Scott Fox to I.T.M. Pink, 17 August 1956; Miss J.A.C. Gutteridge to H.L.M. Oxley, 15 August 1956.

71 TNA, FO 371/123804: Speech made by Mr. Scott Fox, 23 August 1956.

72 Ibid.

be desirable.⁷³ Responsibility for this area was delegated to the CSW.⁷⁴ Discussions around a proposed Convention on Consent to Marriage, Minimum Age of Marriage and Registration of Marriages emerged into a context of continuing discussions over slavery and marriage practices. The Anti-Slavery Society continued to raise awareness of the issue and to lobby the Foreign Office, as it was concerned that slavery would increase when African countries became independent, due to a lack of authority on the part of the new governments – a fear whipped up in part by concerns raised about child slavery in Nigeria in 1959.⁷⁵ In his book, *Slavery*, published in 1958, Greenidge discussed the ‘degenerat[ion]’ of bridewealth in African societies since the Second World War and alleged that ‘many million’ African women were subject to ‘degradation’ in marriage.⁷⁶ Greenidge’s successor as Secretary of the Anti-Slavery Society, Thomas Fox-Pitt, wrote to the Foreign Office, stating that if newly independent states were to act against slavery, they would need the support of ‘an authority they respect’, which could only be the UN.⁷⁷ In this way, the Anti-Slavery Society constructed the issue of servile marriage – along with other forms of slavery – as one that could only be solved through international co-operation.

At the UN, too, discussions over the place of marriage practices as a subject of international human rights instruments continued. Specifically, the inclusion of provisions relating to consent in marriage was mooted in early discussions over the embryonic Draft Covenants on Economic and Social Rights, and on Civil and Political Rights.⁷⁸ Continuing her activism in discussions of the Draft Covenant on Civil and Political Rights, Bernardino highlighted to the Third Committee of the General Assembly that ‘any international instrument should ... contain explicit provisions concerning women’s rights’.⁷⁹ Singling out bridewealth and child marriage, Bernardino claimed that these practices were ‘contrary to the very principle of equal rights’.⁸⁰ Thus, Bernardino staked a claim for African women to be legitimate subjects of human rights provisions.

73 TNA, FO 371/123806: Telegram from UK Delegation to Conference of plenipotentiaries, 10 September 1956; Allain, *The Slavery Conventions*.

74 TNA, FO 371/161040: United Nations, ‘Draft convention and draft recommendation on Consent to Marriage, Minimum Age of Marriage, and Registration of Marriages: Working Paper by the Secretary General’, 5 May 1961.

75 TNA, CO 554/2103: T. Fox Pitt to permanent under-secretary, Foreign Office, 21 July 1959; Anti-Slavery Society, ‘Slavery in Nigeria: News items’; Lord Winster to Lansdowne, n.d. Such concerns mirror earlier anxieties over child prostitution in West Africa, as discussed in Saheed Aderinto, ‘“The girls in moral danger”: Child prostitution and sexuality in colonial Lagos, Nigeria, 1930-1950’ *Journal of African History*, 1, 2 (2007), 1–22.

76 Ibid.

77 TNA, FO 371/145443: T. Fox-Pitt to E.J.F. Scott, 22 July 1959.

78 United Nations General Assembly: Third Committee, ‘Official Records: Seven-Hundred-and-Thirty-Seventh Meeting’, New York, 22 January 1957, United Nations Online Official Document System. Available at: <https://documents.un.org> (accessed 5 December 2017).

79 United Nations General Assembly: Third Committee, ‘Official Records: Eight-Hundred-and-Fifty-Ninth Meeting’, New York, 21 October 1958, United Nations Online Official Document System. Available at: <https://documents.un.org> (accessed 5 December 2017).

80 Ibid.

There was, however, debate over how far such provisions ought to go. In 1958, the UN Secretary-General was asked by the CSW to prepare a draft convention providing for a minimum age of marriage of not less than 16. While the ECOSOC argued in the same year that a non-binding recommendation would be more appropriate than a convention, continued CSW lobbying forced a reconsideration. Consequently, in 1959 both a recommendation and a convention were drafted and circulated to governments for comment on which of the instruments would be preferred.⁸¹ Thirty governments responded, split evenly between those who favoured the convention and those who supported a recommendation.⁸² Proponents of a binding convention were more vocal when the issue was discussed in the Third Committee of the General Assembly. The Greek and Polish delegates were concerned that giving governments a choice between the instruments was inappropriate, arguing that governments would be 'inclined to prefer the less binding' instrument.⁸³ Most African delegations agreed that the convention rather than the recommendation was 'essential' to 'social progress', a viewpoint also supported by the USA.⁸⁴

The content of both the draft convention and draft recommendation were hotly debated. The question of defining childhood was central to these deliberations. The observations on the drafts received from governments, and some NGOs, highlighted that the proposed minimum age of 15 conflicted with the domestic law of many states.⁸⁵ The CSW concluded that it would be difficult to fix a minimum age of marriage that would be universally accepted within a legally binding convention.

The solution adopted was to enshrine in the convention the principle that governments should legislate to fix a minimum age, and include such an age in the recommendation.⁸⁶ The minimum chronological age for the recommendation

81 TNA, FO 371/161040: United Nations, 'Draft convention and draft recommendation on Consent to Marriage, Minimum Age of Marriage, and Registration of Marriages: Working Paper by the Secretary General', 5 May 1961.

82 Ibid.: Report of the status of women commission, draft brief prepared by the Foreign Office, 28 June 1961.

83 UN General Assembly: Third Committee, 'Official records: Nine-hundred-and-eighty-third meeting', New York, 7 October 1960, United Nations Online Official Document System. Available at: <https://documents.un.org> (accessed 5 December 2017); UN General Assembly: Third Committee, 'Official Records: Nine-Hundred-and-Ninetieth Meeting', New York, 14 October 1960, United Nations Online Official Document System. Available at: <https://documents.un.org> (accessed 5 December 2017).

84 The Nigerian delegate, on the other hand, argued that any text must take into account 'ancient customs' such as polygamy, and therefore withdrew his country's initial support for the Convention. See TNA, FO 371/161041: UK Permanent Mission to the United Nations, New York, 'United Nations General Assembly Sixteenth Session: Report on Debate', 11 October 1961.

85 TNA, FO 371/161040: United Nations, 'Draft convention and draft recommendation on Consent to Marriage, Minimum Age of Marriage, and Registration of Marriages: Working Paper by the Secretary General', 5 May 1961; TNA FO 371/161039: United Nations Commission on the Status of Women, 'Report to the economic and social council on the fifteenth session of the Commission held in Geneva from 13 to 30 March 1961'.

86 TNA, FO 371/161040: United Nations, 'Draft convention and draft recommendation on Consent to Marriage, Minimum Age of Marriage, and Registration of Marriages: Working Paper by the Secretary General', 5 May 1961.

was debated, with the USSR preferring a higher minimum age of 16, but voting in favour of the lower limit to facilitate agreement on the text of the recommendation. In contrast, the USA delegate suggested a lower age of 14, contending that international standards should be within the reach of 'developing' countries, and stating that achievable standards were the accepted practice of the ILO.⁸⁷ The eventual stipulation in the recommendation split the difference, with 15 adopted as the suggested minimum age.⁸⁸

In all of these debates, the voices of African women were conspicuously absent, but they were being raised and consulted elsewhere, providing valuable evidence on – mostly educated – African women's views on marriage. In December 1960, a Seminar on the Participation of Women in Public Life was held in Addis Ababa, bringing together women from 31 African territories, as well as observers from other countries, UN agencies and representatives of NGOs.⁸⁹ Delegates at the Seminar argued for freedom of choice in marriage, with the concomitant 'maintenance of a happy home', as essential requirements for the 'balanced development' of children.⁹⁰ Interestingly, this argument contrasts with those made by British and American feminists, who argued for freedom of choice in marriage as an important step in the self-fulfilment of women.⁹¹ Rather, delegates to the seminar focused primarily on benefits to the children of a consensual marriage. They also argued that girls' education was frequently curtailed by early marriages.⁹² Such arguments were conceivably influenced by the priorities of development and welfare work sanctioned by UN technical agencies and colonial governments, which focused on education and maternal and child welfare work.⁹³ Arguing that marital happiness led to well-developed children was perhaps considered to be a more convincing argument – particularly at a UN-sponsored Seminar – than arguments for individual contentment.

Seminar attendees spoke 'forcibly' against child betrothal, where 'small girls' aged between two and eight were betrothed by their parents to prospective husbands. Illiterate girls, they argued, 'might be passive and accept her spouse without question', but educated girls often 'resisted', and were then forced into marriage.

87 TNA, FO 371/161039: United Nations Commission on the Status of Women, 'Report to the Economic and Social Council on the fifteenth session of the commission held in Geneva from 13 to 30 March 1961.

88 TNA, FO 371/161040: United Nations, 'Draft convention and draft recommendation on Consent to Marriage, Minimum Age of Marriage, and Registration of Marriages: Working Paper by the Secretary General', 5 May 1961.

89 Attendees included women with particular interests in education and social welfare, such as Senedu Gebru of Ethiopia, who had become the first woman elected to the Ethiopian Parliament in 1957, the white Rhodesian liberal MP Muriel Rosin, and Kofo Ademola of Nigeria, the first black African woman to earn a degree from the University of Oxford.

90 United Nations, *1960 Seminar on Participation of Women in Public Life: Addis Ababa, 12 to 23 December 1960* (New York 1961), 10.

91 Keyse, 'International, imperial, and local responses to early and forced marriage', Chapter Four.

92 United Nations, *1960 Seminar on Participation of Women in Public Life: Addis Ababa, 12 to 23 December 1960* (New York 1961), 11.

93 TNA, FO 371/161040: United Nations, 'United Nations assistance for the advancement of women in developing countries: Preliminary report by the Secretary General', 11 May 1961.

Bridewealth was 'condemned' by several participants who railed against the 'undesirable commercialism' which had replaced the more meaningful symbolic nature of the practice. Critiques of polygamy were more nuanced. While recognizing that the practice provided for women and allowed them to avoid the 'stigma of spinsterhood', as well as fostering a feeling of solidarity between co-wives and assistance with agricultural labour, it could also result in a situation where 'rivalry, deceit, and distrust flourished', creating a 'harmful atmosphere for the children'. Participants bemoaned the 'tragic' results of such practices, particularly early marriage, arguing that they had deleterious physical and mental health consequences, as young women often died in childbirth or 'develop[ed] abnormal psychology'.⁹⁴ Such medicalization of concerns over marriage increased from the 1950s.⁹⁵ Seminar participants thus presented a range of arguments in favour of legislation to amend marriage practices, although it ought to be noted that, as nominees of their (predominantly colonial) governments, the women present were educated, elite and often politically active.⁹⁶ The perspectives of the wider majority of women and girls, who were perhaps most likely to experience coercive marriages, were not included. It is unclear how these wider perspectives would have informed debates, but in the light of varied responses to issues such as female genital cutting (FGC) and bridewealth, which some women historically defended, it is plausible that a far more complex picture would have resulted.⁹⁷

Despite these strongly worded statements in favour of legislative reform, the opinions of the African women who participated at Addis had little impact on UN discussions of marriage and evoked little more than a passing mention at the CSW's March 1961 session.⁹⁸ This is in contrast to the amount of debate generated by the Addis Seminar participants' views opposing FGC, which were discussed at length at the CSW, prompting resolutions lobbying of the World Health Organization to provide evidence on the implications of these practices.⁹⁹ FGC,

94 United Nations, *1960 Seminar on Participation of Women in Public Life: Addis Ababa, 12 to 23 December 1960* (New York 1961), 19–21.

95 Aloisia Wörgetter, 'Gender issues in the United Nations' in Franz Cede and Lilly Sucharipa-Behrmann (eds) *The United Nations: Law and Practice* (The Hague 1999), 177–93.

96 For example, Jemimah Gecaga, the Kenyan delegate and first woman to serve on Kenya's Legislative Council, had founded *Maendeleo Ya Wanawake* in 1952, a women's organization co-opted by the colonial government in order to counter women's participation in the Mau Mau uprising. See Cora Ann Presley, 'The Mau Mau Rebellion and Social Change', *Canadian Journal of African Studies*, 22, 3 (1988), 502–27; Firoze Manji and Carl O'Coill, 'The missionary position: NGOs and development in Africa', *International Affairs*, 78, 3 (2002), 567–83; Phoebe Musandu, 'Tokenism or representation? The political careers of the first African women in Kenya's Legislative Council (LEGCO), 1958–1962', *Women's History Review*, 28, 4 (2019), 587–606.

97 See, for example, Brett L. Shadle, *'Girl cases': Marriage and colonialism in Gusiiland, Kenya, 1890–1970* (Portsmouth, NH 2005); Lynn M. Thomas, *Politics of the womb: Women, reproduction, and the state in Kenya* (Berkeley, CA 2003).

98 TNA, FO 371/161039: United Nations Commission on the Status of Women, 'Report to the Economic and Social Council on the fifteenth session of the Commission held in Geneva from 13 to 30 March 1961'.

99 TNA, FO 371/161039: Celia Gimpel to Lord Home, 1 May 1961; United Nations Commission on the Status of Women, 'Report to the Economic and Social Council on the Fifteenth Session of the Commission held in Geneva from 13 to 30 March 1961'.

as an exoticized form of violence, had attracted a long history of condemnation by Western campaigners seeking to end the practice.¹⁰⁰ As an intimately corporeal form of violence, it appeared as an unambiguous harm, which was worthy of action. By contrast, coercive marital practices, particularly those not resulting in egregious physical harm, occupied a far more ambiguous space within colonial definitions of harm. The very notion of marriage, as Lawrance has noted, can have positive connotations at odds with the lived experiences of those who are coerced into it.¹⁰¹ Additionally, violence within marriage was not yet a recognized international issue. Although spousal violence had been the subject of campaigns since the 1850s, explicit legislation against domestic violence was not enacted in Britain – or other countries – until much the 1970s.¹⁰² Given the lack of acknowledgement of marital or familial violence in metropolitan and international debates in the 1950s and early 1960s, as well as the tendency of colonial administrations to only intervene in cases of extraordinary violence, it is unsurprising that forced marriages remained outside of the realms of intervention.¹⁰³

The Addis Seminar, however, attracted more attention from the UN than other, more explicitly politicized fora in which African women articulated their views. From 15 to 25 July 1960, independent Ghana hosted a Conference of Women of Africa and African Descent in Accra, bringing together women from African countries and the diaspora.¹⁰⁴ Delegates heard from the prominent Ghanaian lawyer, Annie Jagge, about marriage and the family in Africa. The conference passed a resolution ‘appealing for an improvement in the social welfare of women’, noting the ‘primitive and abject conditions’ of the ‘majority’ of African women, and drew particular attention to ‘old and archaic institutions, ancient and inimical customs and traditions which involve slavery and traffic in women and children... plurality of wives and concubinage’. The resolution called upon ‘the

100 Thomas, *Politics of the Womb*.

101 Benjamin N. Lawrance, ‘Asylum courts and the “Forced marriage paradox”: Gender-based harm and contemporary slavery in forced conjugal associations’, in Annie Bunting and Joel Quirk (eds) *Contemporary Slavery: Popular Rhetoric and Political Practice* (Vancouver 2017), 97–126.

102 A.J. Hammerton, *Cruelty and Companionship: Conflict in Nineteenth-Century Family Life* (London 1992); Gill Hague and Claudia Wilson, ‘The silenced pain: Domestic violence 1945–70’, *Journal of Gender Studies*, 9, 2 (2000), 157–69.

103 On the limits of acceptable violence, see Steven Pierce, ‘Punishment and the political body: Flogging and colonialism in Northern Nigeria’, *Interventions: International Journal of Postcolonial Studies*, 3, 2 (2001), 206–21; Stacey Hynd, ‘Fatal families: Narratives of spousal killing and domestic violence in murder trials in Kenya and Nyasaland, c.1930–1956’, in Emily S. Burrill, Richard L. Roberts and Elizabeth Thornberry (eds) *Domestic Violence and the Law in Colonial and Postcolonial Africa* (Athens, OH 2010), 159–78.

104 TNA, FCO 141/17846: Conference of Women of Africa and African Descent: Names and Addresses of Delegates. For more information on the Conference, see Wilhelmina Donkoh, ‘Nkrumah and His “Chicks”: An examination of women and organisational strategies of the CPP’, in Charles Quist-Adade and Vincent Dodoo (eds) *Africa’s Many Divides and Africa’s Future: Pursuing Nkrumah’s Vision of Pan-Africanism in an Era of Globalization* (Newcastle 2015).

potential leaders of Mother Africa' to dedicate themselves to 'stamping out anything that degrades a woman, the jewel of any nation'.¹⁰⁵

However, this appeal for improved social conditions was also accompanied and overshadowed by some resolutions which the High Commissioner to Ghana, Arthur Snelling, decried as 'highly political'.¹⁰⁶ The Conference condemned the 'suffering' of men, women and children in Algeria, the 'wanton destruction of lives and the spilling of blood' in the Congo, and racial discrimination in South Africa and the USA.¹⁰⁷ According to Snelling, delegates had been 'thrust willy-nilly on board the Pan African band-wagon' through manoeuvres by Kwame Nkrumah's ruling Convention People's Party, but he noted that the Conference had attracted little attention, owing to coverage of the Congo situation.¹⁰⁸ Clearly, only certain women's voices could be considered at all – those of 'respectable' educated women attending a UN-sanctioned seminar such as that at Addis in 1960. Concerns expressed by women in more overtly political arenas were not acknowledged, despite their temporal proximity to the Addis Seminar, and their similar analysis of marriage.

As with the 1956 Slavery Convention, Foreign Office representatives were anxious that Britain should become a party to any Convention, 'in accord with our own policy and traditions', and to stave off criticism from metropolitan campaigners.¹⁰⁹ However, as before, accession would be dependent on a satisfactory territorial application clause.¹¹⁰ With the memory of the controversies over such clauses in the 1950s likely in mind, the British delegation at the UN warned the Foreign Office that this issue could be problematic.¹¹¹ Additionally, the character of the General Assembly had changed significantly since 1956. Newly independent African states had taken up membership, and the USA was no longer as 'solid' in their support of such clauses as in the past.¹¹² The influence of anti-colonialism and Cold War politics was therefore on the rise at the UN, and the Foreign Office Draft Brief to the British delegation cautioned that there would be strong opposition from the Soviet bloc, and other 'countries which cannot bring themselves to accord recognition, in an international convention, to what they regard as

105 TNA, FCO 141/17846: Resolution appealing for an improvement in the social welfare of women, July 1960. It is perhaps significant that the resolutions did not explicitly mention forced or early marriages, however due to the patchy nature of archival documents relating to the Conference, it is difficult to ascertain whether or not these issues were explicitly discussed at the Conference as specific issues, given that only the resolutions and not the minutes of discussions or a full conference report survive in the files at TNA.

106 TNA, FCO 141/17846: Snelling to Alport, 10 August 1960.

107 Ibid.: Resolution on Algeria, July 1960; Resolution on the Situation in the Congo, July 1960; Resolution on South Africa, July 1960; Resolution on racial discrimination in the United States of America, July 1960.

108 Ibid.: Snelling to Alport, 10 August 1960.

109 TNA, FO 371/161042: J.G. Tahourdin, 'Marriage convention', 30 November 1961; FO 371/166941, J.F. Wearing, 'Marriage convention', 10 October 1962.

110 TNA, FO 371/161042: J.G. Tahourdin, 'Marriage convention', 30 November 1961.

111 TNA, FO 371/161041: W. Bentley to George Marshall, 12 October 1961.

112 Ibid.

“colonialism”, despite the reiteration of arguments that territorial application clauses were supportive of the development of self-government.¹¹³

On the strength of opposition, the Third Committee of the General Assembly rejected the territorial application clause in October 1962.¹¹⁴ The British delegation railed against this decision, contending that while it had ostensibly been taken on ‘humanitarian’ grounds, it had the opposite effect by curtailing the extension of the Convention to the colonies. They argued that it had been taken on ‘emotional political grounds’, with the raging controversies over Southern Rhodesia likely contributing.¹¹⁵ Once again, then, the rights and welfare of women – especially African women – were subordinated to political point-scoring. Ultimately, the 1962 Marriage Convention did not contain a territorial application clause, despite lobbying by British diplomats in various capital cities, reflecting the shifting balance of power at the UN.¹¹⁶

The British delegation once again opposed calls for monitoring or supervision, or for concrete actions such as a proposed time limit for bringing the recommendation to the attention of the colonies. The Colonial Office ‘object[ed] strongly’ to reporting on actions taken, as this could precipitate ‘considerable embarrassment’ if some territories decided to do ‘little or nothing’ about the recommendation.¹¹⁷ However, the Foreign Office took a more pragmatic view, arguing that Britain had been ‘lucky to get away with’ an initial report due in three years, to be followed by reports at five-yearly intervals.¹¹⁸ Resentment of international interference in colonial affairs still reigned, although the Foreign Office viewpoint demonstrates that the British government were aware that the geopolitical scene was changing, and more scrutiny would occur as an ever-increasing number of independent nations took up their places in the international community.

Shifts resulting from the new international order were also apparent. Much of the internal British debate relating to the Marriage Convention was concerned with domestic marriage law rather than colonial issues. In October 1961, the Foreign Office Legal Adviser had examined the text of the draft convention and found incompatibilities with British law. This was an embarrassment, as the UK had proposed the text of the draft convention, and was now unable to support its own proposals.¹¹⁹ Here, too, the realities of Cold War geopolitics framed debates. African delegations were broadly in favour of intervention in marriage, and with the support of the Soviet bloc, alleged ‘hidden motives’, charging that Britain

113 Ibid.: Draft Brief by Foreign Office on Draft Convention and Draft Recommendation on Consent to Marriage, Age of Marriage, and the Registration of Marriage, 5 October 1961.

114 TNA, FO 371/166941: J.F. Wearing, ‘Marriage convention’, 10 October 1962.

115 Ibid.: UK permanent mission to the United Nations, New York to Foreign Office, 9 October 1962.

116 Ibid.: J.F. Wearing, ‘Marriage convention’, 10 October 1962; Foreign Office to UK Permanent Mission to the United Nations, New York, 10 October 1962.

117 TNA, FO 371/161040: A.R. Titchener to E.E. Key, 16 May 1961.

118 Ibid.: E.E. Key to A. Titchener, 1 June 1961.

119 TNA, FO 371/161041: Minute by G.T. Marshall, 4 October 1961; G.T. Marshall to Lady Tweedsmuir, MP, 3 October 1961.

sought to 'emasculate' the Convention.¹²⁰ This was especially uncomfortable in the context of 'damaging issues' being considered contemporaneously by the UN.¹²¹ Patrick Dean, the Permanent Representative of the United Kingdom to the UN wrote to the Foreign Office in protest, as suggested amendments to the convention had not been accepted, causing 'a considerable loss of face'.¹²² Given the controversies over 'colonialism...Katanga, and so on', which left the British delegation open to Soviet attack, 'we really do need the maximum goodwill'.¹²³ Political concerns were central to discussions, and the Marriage Convention proved to be a fertile battleground for these.

The Marriage Convention was opened for signatures and ratification on 'Human Rights Day', 10 December 1962. The symbolic choice of date was intended to 'signify that the Convention is part of the [UN's] effort to promote respect for...human rights and fundamental freedoms for all'.¹²⁴ It entered into force on 9 December 1964.¹²⁵ The provisions of the Convention in its final iteration did not establish reporting procedures. When the General Assembly adopted the Recommendation three years later, it decided to establish machinery to monitor the implementation of its provisions, through an initial set of reports to the Secretary-General in 1968, and at five-yearly intervals thereafter, for the CSW to consider and report on. However, in the event, only the 1968 set of reports were submitted before the reporting procedures were subsumed under those relating to the Declaration of the Elimination of Discrimination Against Women issued by the General Assembly in 1967. The 1968 reports demonstrate that, despite the universalizing pretensions of the Convention and Recommendation, there was no agreement as to the interpretation of the Recommendation, with several reports admitting to discriminatory practices against women, and only six states expressing the intention to align their domestic law with the Recommendation's principles.¹²⁶ Additionally, by January 1969 only 18 member states had ratified or acceded to the Convention.¹²⁷ The Convention and Recommendation lacked

120 Ibid.: W. Bentley to George Marshall, 12 October 1961; Schwelb outlines in detail the support of sub-Saharan African delegates for intervention and notes that only the South African and Nigerian representatives expressed reservations. See Schwelb, 'Marriage and human rights', 349–50.

121 TNA, FO 371/161042: P. Dean to A.D. Wilson, 31 October 1961.

122 TNA, FO 371/161041: P. Dean to A.D. Wilson, 13 October 1961.

123 TNA, FO 371/161042: P. Dean to A.D. Wilson, 31 October 1961.

124 Schwelb, 'Marriage and human rights'.

125 United Nations, 'Convention on Consent to Marriage, Minimum Age for Marriage, and Registration of Marriages', 9 December 1964. Available at: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/MinimumAgeForMarriage.aspx> (accessed 16 November 2017).

126 Noreen Burrows, 'Monitoring compliance of international standards relating to human rights: The experience of the United Nations' Commission on the Status of Women', *Netherlands International Law Review*, 31, 3 (1984), 332–54.

127 United Nations Commission on the Status of Women, 'Report on the twenty-second session', 27 January–12 February 1969, 55. United Nations Online Official Document System. Available at: <https://documents.un.org> (accessed 5 December 2017); United Nations, 'Convention on Consent to Marriage, Minimum Age for Marriage, and Registration of Marriages', 9 December 1964. Available at: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/MinimumAgeForMarriage.aspx> (accessed 16 November 2017).

impact and popularity. It failed to adequately define the problems of coercive or early marriage, and therefore could not effectively intervene. Additionally, the discussions around the Convention were hijacked by broader political concerns emerging with decolonization, and marriage practices served as a battleground for Cold War and anti-colonial ideological conflicts. However, it was an attempt – if noncommittal – to articulate universal standards of conduct relating to marriage, and African marriage practices such as bridewealth, early and forced marriage, more specifically. In this way, the 1962 Convention can be seen as an attempt to reframe and govern marriage and the family, bringing them within the purview of international, rather than domestic governance.

The 1950s and 1960s saw unprecedented discussions around which marital practices were considered acceptable to the emerging international community and attempts to generate and order knowledge around these practices. The debates around the 1956 Slavery Convention and the 1962 Marriage Convention were important parts of this knowledge-generation project, which built hierarchies between marital practices deemed ‘good’, usually modelled on the Eurocentric ideal of the nuclear family, and those considered to require reform. The practices identified as necessitating discussion and possible intervention were named as bridewealth, child betrothal, and early and forced marriages. While not often explicitly named as such, these had been associated with African customary practices in international discourse since at least the early 1920s. However, despite the contentious debates, and the definition of such practices as contrary to the emerging human rights regime, tangible interventions still did not emerge. Rather, these debates served as a proxy arena for other, political causes. Competing powers in the era of the Cold War and decolonization utilized the language of women’s welfare and rights to claim moral superiority on the international stage, and to embarrass political rivals. They also served as the site of a power-play between knowledge-holders. Imperial states came into conflict with new international government structures, and struggles were also waged within the UN itself, regarding who had the power to claim expertise. Additionally, despite the emergent language of human rights, and the proliferation of international instruments intended ostensibly to protect these, where marital practices were concerned, older ideas of non-interference in ‘custom’, and platitudes about the role of education as a means to improve African women’s lives, persisted. Furthermore, tensions between universality and relativity meant that the Conventions were vague in content, constructing those considered to be at risk from certain practices as in need of rescue, without consulting with them as to what they felt. African women’s voices were, ultimately, marginalized in discussions concerning them.

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