

AFRICAN MIGRATION, HUMAN RIGHTS AND LITERATURE



Fareda Banda

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This innovative book looks at the topic of migration through the prism of law and literature. The author uses a rich mix of novels, short stories, literary realism, human rights and comparative literature to explore the experiences of African migrants and asylum seekers.

The book is divided into two parts.

Part one is conceptual and focuses on art activism and the myriad ways in which people have sought to 'write justice'. Using Mazrui's diasporas of slavery and colonialism, it then considers histories of migration across the centuries before honing in on the recent anti-migration policies of western states. Achiume is used to show how these histories of imposition and exploitation create a bond which bestows on Africans a 'status as co-sovereigns of the First World through citizenship'. The many fictional examples of the schemes used to gain entry are set against the formal legal processes. Attention is paid to life post-arrival which for asylum seekers may include periods in detention. The impact of the increased hostility of receiving states is examined in light of their human rights obligations. Consideration is paid to how Africans navigate their post-migration lives, which includes reconciling themselves to status fracture – taking on jobs for which they are over-qualified, while simultaneously dealing with the resentment borne of status threat on the part of the citizenry.

Part two moves from the general to consider the intersections of gender and status, focusing on women, LGBTI individuals and children. Focusing on their human rights and the fictional literature, chapter four looks at women who have been trafficked as well as domestic workers and hotel maids while chapter five focuses on LGBTI people whose legal and literary stories are only now being told. The final substantive chapter considers the experiences of children who may arrive as unaccompanied minors. Using a mixture of poetry and first person accounts, the chapter examines the post-arrival lives of children, some of whom may be citizens but who are continually made to feel like outsiders. The conclusion follows, starting with two stories about walls by Hadero and Lanchester which are used to illustrate the themes discussed in the book.

Few African lawyers write about literature and few books and articles in Western law and literature look at books by or about Africans, so a book that engages with both is long overdue. This book provides fascinating reading for academics, policy-makers, students of law, literature, gender and migration, and indeed the general public.

African Migration, Human Rights and Literature

Fareda Banda

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To Azera and Shamiso, with love

PREFACE

I remember a conversation that I had with my father aged 17. I was filling out university applications and paused on ‘programme to be studied’. From the age of nine, he had convinced me that I wanted to be a lawyer. However, in the intervening years, I had developed a love of reading fiction and was now openly saying that I might want to do a degree in English literature instead. His response was withering, ‘You can always read books in your own time Fareda. Do something sensible.’ Like so many before me, I gave in to demands for a ‘practical course’ with a pre-determined career path. Studying law had been my father’s dream. It was thwarted by a combination of Rhodesian racism and the need to fulfil familial obligations of support.

I have never regretted realising my father’s vision – it is hard to begrudge a man who had migrated from his country of birth, then Nyasaland (Malawi) to Southern Rhodesia (Zimbabwe) in a goods train. He had worked his way up from being a clerk in a bakery to running his own accountancy business. Mine was the first generation to go to university. My country, Zimbabwe, had been independent for four years when I started university. Law over English was indeed the ‘sensible thing’ to do. However, my love of reading remained undimmed. If anything, it was literature and discussing the books that we were reading that bound my father and me until his death in January 2017. Returning to the family home in Harare since his death finds me sitting in his study, scanning his bookshelf and gently weeping over the books that we loved and shared, some of which I discuss later.

Still, as a newcomer to the law and literature field, I have to acknowledge the limitations of my own knowledge and abilities. A passion for reading does not one a literary critic make.¹ I concede my limitations as a literary critic from the outset. Excellence in this field abounds.² Lawyers might argue that I should concede my

¹ Posner identifies amateurism as one of the pitfalls that lie before lawyers who wish to write about literature and vice versa. R Posner *Law and Literature*, 3rd edn (Boston MA, Harvard University Press, 2009) 6–7.

² A personal favourite is K Osei-Nyame Jnr, ‘Images of London in African Literature: Ama Ata Aidoo’s *Our Sister Killjoy* and Dambudzo Marachera’s *The Black Insider*’ in L Phillips (ed), *The Swarming Streets. Twentieth-Century Literary Representations of London* (New York, Rodopi, 2011) 175–97. M Wa Ngugi, *The Rise of the African Novel* (Ann Arbor MI, University of Michigan Press, 2018); E Boehmer, *Postcolonial Poetics: 21st Century Critical Readings* (Cham, Palgrave Macmillan, 2019); M Feldner, *Narrating the African Diaspora: 21st Century Nigerian Literature in Context* (Cham, Palgrave Macmillan, 2019).

ignorance in that field too. Happily, I oblige. I am, however, heartened by the words of Ian Ward in the preface to his book on *Law and Literature*:

Law and literature scholarship is one of the most exciting of recent interdisciplinary ventures, and its potential is enormous. Whilst embracing the possibilities which it offers, what we must not do is waste that potential by making it too intellectual and above all inaccessible for all but the most conversant in the intricacies of literary or legal theory. Intellectual pretentiousness is the pervasive evil in so much contemporary legal scholarship, and law and literature must seek to avoid falling into this particular trap. What law and literature scholarship must do is to remember that its purpose is to broaden, not merely to deepen. At the same time, importantly, it must strike out and establish its own identity, and it will only do this by returning to and concentrating on the text.³

³ I Ward, *Law and Literature: Possibilities and Perspectives* (Cambridge, CUP, 2008 [first published 1995]) ix–x.

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I have loved writing this book. This is largely due to the company that I have kept – the authors, poets, photographers and musicians cited have taught me so much and also made me laugh. I have also experienced enormous kindness and am grateful to all those who have made this book possible.

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John Eekelaar has read every iteration of this book which started as an experimental draft article. I value your kindness, support, friendship and encouragement over the years. Thank you also to Mavis Maclean for reading an early version of the book and for all that you have done for me. It was with you that I first tried putting a poem in my work (Jenny Joseph's 'When I am an old Woman, I Shall Wear Purple'). Appreciated as always, Mave. I want to remember and honour the life of Don Harris, my first supervisor, whose advice on work, 'six good hours a day and don't count the coffee breaks' has been passed on over the years. Sadly, I have fallen short. Go well and thank you, Don.

Many of the books and poems that I cite were gifts – to the many friends who introduced me to new authors and worlds – endless thanks. Marcelle Akita's gift of Nyarriah Waheed's *SALT* to honour my father's passing provided both balm and the stimulus to start. Thank you.

My thanks are also due to the three anonymous reviewers whose comments were constructive and helpful. I also appreciate Marie-Benedicte Dembour who kindly, and at short notice, looked over a short extract. The mistakes remain my own but thank you for your insights.

My father has gone on ahead to join the ancestors. I miss him still, but, as in life, I kept up a running conversation with him during the writing of this book. My mother remains the kindest, most selfless woman that I have ever known. The depths of my love for you and gratitude to you and for you are unfathomable. For my brother Adam – chief cheerleader and optimist – thank you. Sue, I always enjoy our mini book-club chats.

To Azera and Shami, our two wonderful daughters who challenge, inspire, tease and make me laugh so much – this book is for you. Thank you for being great co-researchers and book reviewers and for reminding me of the plots of books that we read together. And for Craig, none of this would be possible without you.

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AUTHOR'S NOTE

The joy of writing this book has been in the reading of a rich array of fictional literature and poetry. I am grateful to the artists who have enriched my world and my work. While all the works cited fall under the 'fair dealing' principle/exemption, every effort has been made to seek permission. The publishers apologise for any accidental infringement and would be pleased to come to a suitable agreement with the rightful copyright owners in each case.

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