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Creating African Futures in an Era of Global Transformations:

Challenges and Prospects

Créer l'Afrique de demain dans un contexte de transformations mondialisées :

enjeux et perspectives

Criar Futuros Africanos numa Era de Transformações Globais:

Desafios e Perspetivas

بعث أفريقيا الغد في سياق التحولات المعولمة :

رهانات و آفاق

Identity, Difference, Citizenship,

Or Why I am No Longer a Non-Racialist¹

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“...In order to fight a politics, which is effective in ending the oppression of black people, you have to ask what is the right politics to do. You can’t depend on the fact that it’s blacks doing it; that this will guarantee in heaven that you’re doing the right thing. So I want blacks to enter into what I think they’ve been reserved in doing, which is, you know the hard graft of having arguments with their own fellows, men and women who are black, about it. And that’s a difficult thing because in a way you have to mobilize effectively, you can’t depend on just the race to take you to your political objective... So one has to act in the notion that politics is always open. It’s always the contingent of failure and you need to be right because there is no guarantee except good practice to make it right..., to having the right people on your side committed to the program. So I want people to take politics a bit more seriously...”

Stuart Hall¹

Introduction

The transition from direct to indirect rule colonialism marked the institutionalization of difference. In the post-independence period African countries have had to contend with the legacy of colonial difference. Some opted for continuity rather than rupture. Others sort to fundamentally reconfigure and erase the forms of difference authorized by colonial rule. This has been the legacy of the politicization and depoliticization of difference in racial, tribal and religious hierarchies. Africa’s last settler colonial society, South Africa, similarly now contends with its inheritance of colonial difference enacted through the specific form it took there: apartheid. The dominant anti-apartheid response was to disavow apartheid’s racial categories through the ideological concept of “non-racialism”. This paper asks whether non-racialism, as the constellation of both a political idea and political practice that seeks to erase difference, serves the purpose to which it strategically was put to work when it was deployed to resist apartheid’s categorizations? And it asks whether this disposition toward difference is strategically useful as a basis from which to construct citizenship in post-apartheid South Africa and Africa more generally. I will suggest in this paper that the present conjuncture might require a different formulation of the political predicaments bequeathed to us by our colonial pasts in relation to difference, political equality and citizenship.

If we are to imagine political futures that can better contend with the paradoxes of difference and equality we require re- imagining the relationship between citizen and group identity otherwise to the inadequate formulation bequeathed to us by the dominant traditions of political theory. In this chapter I take up the contemporary debate on the pasts and futures of non-racialism². I am interested in it as both a form of political thinking and a mode of political

¹ Hall, S (1997) “Race, the Floating Signifier” Transcript of Talk, Goldsmiths College, London, http://www.mediaed.org/assets/products/407/transcript_407.pdf

² I wish to thank Jon Soske (2014) for sharing his work-in-progress on non-racialism . While we have a shared concern, Soske’s project is a more careful historically detailed account of the shifting meanings of non-racial,





practice toward a desired political end. I ask whether that political end might be best served by the concept currently mobilized toward realizing it. I will discuss non-racialism loosely in conversation with three concepts gifted to us by important British Jamaican critical theorist Stuart Hall, who recently passed away. These are conjuncture, strategy, and the possibilities of a politics without guarantees. My point in offering a critical appreciation of political thinking on non-racialism is not to suggest some kind showing up. Nor do I seek to expose or implicate this thinking as participating in a compromised discourse. Rather, what I am after here is what Hall called thinking the conjuncture. It is about interrogating conceptual, theoretical and ideological formulations as matters of strategy and tactics, rather than being interested in their ideological or philosophical fidelity or purity outside of historicity.

This exploration is asking: does non-racialism, as the constellation of both a political idea and a political practice, serve the purpose to which it strategically was put to work when it was deployed to resist apartheid's categorizations? Does the critique of non-racialism, similarly, do the political work that it did when it was formulated to assert a political project that offered a way to think blackness not as a racial category, but as a political solidarity derived from a shared experience? In other words, should non-racialism and the critique of non-racialism, still be the dominant terms of a debate that we are being asked to participate in? Or are they two opposing sides of a 'question-answer' complex that might no longer be useful politically to think with or think against in the present conjuncture? I will suggest at the end of the chapter that the present conjuncture might require a different formulation of what the political predicaments bequeathed to our post-apartheid present by our apartheid past. Particularly in relation to difference, political equality and citizenship. These then are my preoccupations here.

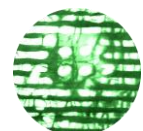
Thinking Conjuncturally

In a recent series of lectures on Stuart Hall, given at the *Centre for Humanities Research* at the University of the Western Cape³, the Jamaican political theorist David Scott drew attention to a few key elements of Hall's work- as Scott put it, his [Hall's] thought was marked by a peculiar emphasis on 'conjuncture' and 'strategy'. Taking up this insight, I wish to think with another conceptual formulation that Hall offered us in the late 1990's. In a now famously influential lecture on race⁴, Hall contended with the relationship between two justificatory structures of race- an early conception of biological racism and a later conception of race as a social construction. Rather than think of them chronologically- as one moment of a historical deployment of race followed by another historical concept of race deployed after the biological ran out of steam, Hall was interested in thinking them together, as overlapping

non-racialism, multi-racial, and multi-racialism in South African political discourse. It promises to be doubly interesting because of his intention to read the South African debates through an East African lens.

³ David Scott titled the series of four lectures '*Stuart Hall's Voice*', delivered between 22 November and 5 December, 2013. The quote is from my notes. See also, Scott, D (2005) *Stuart Hall's Ethics*

⁴ Hall, S (1997) "Race, the Floating Signifier"



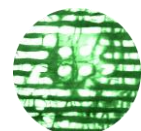
structures. He was interested in how the largely discredited arguments of biological racism continued to inflect themselves in contemporary political practices of racism, in a way that drew scientific racism and cultural racism into a complex discursive structure. For Hall, the point was to think of race, as he titled his talk, as a ‘floating signifier’ as part of a structure that drew language and politics, science and truth, into a discursive regime- a formulation explicitly indebted of course to the work of Michel Foucault. It was not, argued Hall, that racism existed as a clearly and historically distinct set of chronologies but rather that it took the form of a historical rendition of implications and overlapping deployments.

What I am also interested in here though, is the concluding provocation of that talk. Hall suggested that in the wake of the collapse of the Bandung projects, of Cold War certainties, and the skepticism of familiar left and right ideological distributions of political futures and solidarities, that we had to think about the political now as a ‘politics without guarantees’. This for him, was the sensibility that inflected the contours of our political present. Hall was trying of course to get a grip on why certain subjectivities, solidarities and practices- like race and racism- endured and renewed themselves despite economic logics and political hopes that promised their dissolution through the march of progress. These hopes were premised on a specific normative horizon of an emancipated society. The assumption of modern politics was to think of time as linear movement and movement as progress- whether in its liberal or radical guise⁵. For Hall, this no longer yielded the bannisters they did. It was no longer useful to think in apriori and abstract and monolithic terms, what that end might look like, what its concepts and what its ideological and political practices or idioms might be. It is in the spirit of this invitation to think a politics without guarantees that I suggest we rethink the terms of our debate on the relationship between difference and citizenship, and race and apartheid in the making of our post-apartheid future.

In the next section I provide a brief rendering of recent work concerned with the fate of non-racialism in South Africa. Some of this work is explicitly concerned to conserve, secure and entrench non-racialism in our post-apartheid present and future. Some of this work is animated by a more critical tenor, interesting in resurrecting a subaltern political critique of non-racialism which dispenses with the concept altogether. My rendition of these debates and articulations is selective rather than exhaustive. My concern is not to catalogue all the arguments for and against. What I am interested in are outlines in the contours of these debates, as symptomatic instances of this political thinking.

Thought of as conjunctural, as a matter of move and counter-move, as a matter of strategy and tactics, one would have to do a lot more work on the moment of political transformation, of the political negotiations, in order to have a sense of the possibilities and limits that exist in a conjuncture, and the alterations and transferences between conjunctures. I consider this a

⁵ I am drawing on a reference to the relationship between Time and Movement developed by Souleymane Bachir Diagne (2010) in *Islam and the Open Society: Fidelity and Movement in the Philosophy of Muhammad Iqbal*, Dakar: Codesria





tentative foray. Conjunctures shift and change like tectonic plates. To my mind, the hubris of celebrating or denigrating choices made out of the context within which they were made is not entirely helpful as a mode of political criticism nor political practice. Conjunctural thinking as I understand it, is less interested in judging the answers given at a particular point in time as the right or wrong answer, as it is in asking whether the questions to which the answers were a response were adequately formulated and still obtain, or whether the grounds which gave rise to them, have shifted. This is what David Scott suggests, as he thinks through a tradition of political theory and historical criticism derived from the work of diverse a set of figures, among them of course Hall, as well as the historian R.G Collingwood⁶, and the political theorists Quentin Skinner⁷, Michael Oakshott⁸ and William Connolly⁹.

Conjunctural thinking then, is interested in how we formulate the question, how we understand the problem, more than it is interested in only judging the answers. But it sees the two as related, as forming a 'question-answer complex'. Along that grain, we might be more inclined to ask of a prior conjuncture: did we get the question right? rather than legislate on did we get the answer right? If there is one such question loitering about in the shadows of my discussion that I wonder whether we got right, then it might be this: did we get the question of what apartheid was right in our political criticism and in our political practices?

Non-Racialism and its Discontents (i)

Let us turn now more specifically to some of the defenders of non-racialism. There have been of late a number of works by scholars and some by scholar-activists with histories in the anti-apartheid struggle- which have been concerned with the fate of non-racialism in South Africa's political present, and its political future. Among these have been ANC stalwarts like Raymond Suttner, to activist intellectuals like David Everatt¹⁰ to political scientists like Rupert Taylor¹¹ and Fiona Anciano¹² A foundation in the name of the ANC stalwart and Robben Island prisoner Ahmed Kathrada¹³ has been established out of a similar concern. In different ways, the general inflection of this work is a concern with the departure of our current politics from the promises of a non-racial future.

⁶ R. G Collingwood (1994) *The Idea of History*

⁷ Quentin Skinner (2002) *Visions of Politics, Regarding Method*, vol.1

⁸ Michael Oakshott (1991) *Rationalism in Politics and Other Essays*.

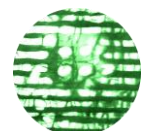
⁹ William Connolly (2002) *Identity/Difference, Democratic Negotiations of Political Paradox*.

¹⁰ Everatt, David (2009) *The Origins of Non-Racialism, White Opposition to Apartheid in the 1950's*,

¹¹ Taylor, Rupert (2012) 'Deepening Non-Racialism in South Africa'

¹² Anciano, Fiona (2014, forthcoming).

¹³ <http://www.kathradafoundation.org/>





In its broadest sense, the concern here is with pace and prospects of deracialization, and the reracialization of South African political discourse. One element of this debate focuses on the formulation of corrective measures to redress past imbalances. Another element is concerned with the fate of non-racialism in relation to an ideological debate in the liberation movements in the past, inside the country and in exile. As Everatt laments, when he registers an impatience:

“How do we move beyond repentance and redress—the latter currently the focus of much state activity—and look to building new citizens and a new society on a new moral basis, where individuals are not immediately pigeonholed socially, economically, psychologically, intellectually or morally by their race? How do we create spaces where citizens can leave behind the trappings of race and engage as fellow South Africans? ... “The current generation of political leaders—and many of their voters—were all affected by apartheid, and may have a race-bred consciousness that will never entirely fade away. But the next generation—those born long after apartheid’s demise—deserve so much better. Our challenge is to find the courage to break decisively with the past, the mindsets and the identities it created for and ascribed to us all, and enter a new discursive space where it is, indeed, enough merely to be.”

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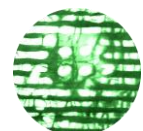
For Taylor, the challenge is how to offer a concept of non-racialism that has more traction than what he perceives to be a ‘shallow concept of non-racialism’. Interestingly, he turns to Biko: “In South Africa, although the writing of Steve Biko engaged with the systemic nature of white racism as a ‘System’, no scholar has subsequently sought to fully unpack the sociological implications of structural Racism.”¹⁵ As I will discuss later, despite invoking Biko, that Taylor can discuss the question of race in South Africa and not once make reference to either colonialism nor ethnicity matters. It underscores my contention that the critique of apartheid understood apartheid and continues to do so, singularly through the prism of race-thinking and racial difference. I will suggest why we need to reconsider this optic in how we understand the wrong of apartheid toward the end of this chapter.

The formulation of the terms of the debate also revisits and seeks to settle older ideological scores, by locating the current fate of non-racialism in an alleged and older vitriolic ideological and organizational antagonism between non-racialism and nationalism, or more specifically, non-racialism and African nationalism. As Everatt argues, “...it remains questionable whether that same African National Congress is able to throw off the constraints and racial blinkers of nationalism and truly embrace non-racialism” ¹⁶I have not sort to rehearse the history of this enmity, as it was fought out over the role of the South African Communist Party in the ANC. This is a fight that continues to be tussled over, with scores to

¹⁴ David Everatt, (2009) pp2, 7

¹⁵ Rupert Taylor (2012) p46

¹⁶ David Everatt, (2009) p3





be settled by the partisans ¹⁷I have not entered into that debate here because I am no longer persuaded that the stakes in that scrap is useful for the predicaments of our present conjuncture. But as a sense of the terms of the debate as they pertain to African nationalism, let me illustrate a sense of the other side of the argument with a rejoinder from the other side of the fight.

It is taken from a document submitted to the Central Committee of the South African Communist Party by a faction expelled from the ANC, and led by Robert Resha. Under the subheading “Ghetto ‘nationalism’”, the statement noted:

“The White leadership of the SACP has devised an effective swear word- racist- which it uses against all its African opponents....they have tried to give an interpretation of African nationalism that divides African militants into ‘reactionaries’ and ‘progressives’. We know that this division of the Africans flows from the inability of the SACP to give a proper assessment of the national question in S.A.’ ¹⁸It is a spirited document which requires closer reading, but it goes on to note: “We shall continue to subscribe to and uphold African nationalism as our liberatory outlook. Our entire ideological perspective is based on African nationalism—that political philosophy that rejects White domination and imperialist exploitation. A philosophy that is the mainspring of the African revolution against colonial rule and monopoly domination.” ¹⁹

To state a point that I will elaborate on at the end, setting up our choice as between non-racialism and African nationalism might not be the most productive binary. Although it does give us a sense of the contested, conflictual bruises that shape the terrain of our intervention.

Non-Racialism and Its Discontents (ii)

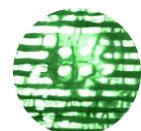
There are of course very vocal critics of non-racialism that are finding traction who are also seen as progressive and leftist, however imprecise this catchall phrase might be. These critics, movements and intellectuals offer us re-articulations and reworkings in the current conjuncture of the non-hegemonic liberation movements, from the anti-colonialism of the PAC, to the Black Consciousness of Steve Biko to the various Marxisms that have inflected political thinking against apartheid²⁰.

¹⁷ Stephen Ellis (2013) *External Mission, the ANC in exile: 1960-1990*,

¹⁸ Robert Resha, (1976) p6

¹⁹ Ibid(1976) p9

²⁰ The latter in particular, which cannot be caricatured in this short discussion because of its complex and varied ideological strands, tended to counter-pose the corporate identity of class to nationalism. Known as the race-class debate, it is widely rehearsed and known. I do not wish to enter into the conceptual and ideological terrain of its battles here. This is for the simple reason that it seems to me that the individual citizen of the liberal tradition is





In its most subversive articulation, the neo Black Consciousness formulation has two differentiated elements which I will in the course of my argument disaggregate.

The BC critique which draws on Biko, via Fanon, draws our attention to the mutually constitutive nature of race in the colonial setting. For Fanon, famously, blackness is no more a fact than whiteness²¹. Given the dialectical form of the relationship between native and settler, the struggle against whiteness will unravel the solidity of blackness since it cannot have an identity beyond the longevity of the binary. In other words, in its most Hegelian formulations, blackness as such, could not outlive whiteness as such. For Biko the critique of multi-racial organizing, and non-racial organisations was a matter of strategy and tactics towards a certain end, rather than an obdurate refusal regardless of time or end. He argued that, along with the early critics who formed the PAC, that mixing race membership of organisations mobilizing black communities against apartheid ignored the concrete material and differentiated social capital that whites held. In the essay ‘Black Souls in White Skins?’, he baldly noted: “Nowhere is the arrogance of the liberal ideology demonstrated so well as in their insistence that the problems of the country can only be solved by a bilateral approach involving both black and white. This has, by and large, come to be taken in all seriousness as the *modus operandi* in South Africa by all those who claim they would like to change the status quo. Hence the multiracial political organizations and parties and the “nonracial” students organizations, all of which insist on integration not only as an end goal but also a mean.”²²

For Biko, as for Fanon, the Hegelian spirit of ‘overcoming’ would require a movement of consciousness and becoming that allowed for the mutually deconstituting politics to unfold, and this had to happen by bringing difference to self-consciousness rather than by denial of the effects of race-based privileges and oppression. Self-consciousness of a group identity would unravel these group identities in the course of struggle. As he insisted, when it came to ‘integration’ that ‘At the heart of true is the provision for each man, each group to rise and attain the envisioned self. Each group must be able to attain its style of existence without encroaching on or being thwarted by another. Out of this mutual respect for each other and complete freedom of self-determination there will obviously arise a genuine fusion of the lifestyles of the various groups. This is true integration.’²³

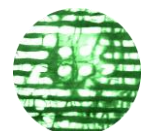
My observation here is that both the arguments by the avowed non-racialists, and many of the Black Consciousness inspired critics of the present, who have invested in Blackness--some closer to the Fanonian and Biko sense, others closer to a nativist sense(which turns political solidarity into the comfort of insider/outsiderness) --share a futural horizon that springs from

the normative and hegemonic articulation of freedom, equality and modernity in our times, and hence a more important object for critical reflection.

²¹ For his elaboration of this argument, see Fanon’s (1967) essay on the ‘*Fact of Blackness*’.

²² Stephen Biko (1978) *I Write What I Like*, p20

²³ Ibid, p21





a conception of the problem of apartheid being about the racial character of the exclusion of individuals from the promise of political equality. For the purposes of my argument, I have a particular stake in how we think about apartheid and political equality, and a detour through that conversation seems necessary at this point.

Equality and the Modern

An important part of the general history of the modern state is the emergence of the serial citizen. By that I mean the citizen that is an equal figure in law, and which we describe as a universal subject. In its broadest conceptualization, this citizen is a figure that can be substitutable and interchanged- it aspires to be equally individualized, equally rights bearing, and equally autonomous. It makes choices arrived at through reflection and determined by reason.

To be modern was importantly about this serialization of this citizen-subject. The modern offered the promise of universalizing this subject through equality. And this, in the temporality of this scheme of things, departed from the structures and hierarchies of feudalism, and could be traced all the way back to the history of exclusions performed in the Greek etymology of citizenship and a subsequent history of inclusions. This is the conventional biographical narrative²⁴, if you like, of the modern state, and the modern citizen, founded on the philosophy of equality. It is also characterized by histories of the struggles of excluded groups for inclusion into the capaciousness of that equality.

At the outset then, citizenship and most forms of identity have been set up as oppositional constructs. Except for the normalization of the nation-state form as the authorized domain of an exclusionary or circumscribed sovereignty which guarantees and distributes rights equally, or should do so. Noting that this is largely a particular story reminds us that this history of the universalization of citizenship, the nation-state, and equality, has always been the site of a series of silences- most notably in the reminder that conquest and coloniality is a part of the story from the outset, that being human or being a citizen was withheld from some- based on religion, based on race, or based on civilization potential (see Todorov²⁵, Chatterjee²⁶, Césaire²⁷, Senghor, Mignolo²⁸). Coloniality in this view, is not a single rationality across time and space. It does have a chronological career, and it is differentiated in space across its territorialization, if we are to track it from 1492 at least²⁹. The history of state formation is therefore also variously the history of genocide- (think of the Herero in German South West Africa), the history of assimilation (think of Francophone Africa, the Caribbean and Latin

²⁴ A canonical text is Charles Howard McIlwain's [1940] *Constitutionalism, Ancient and Modern*

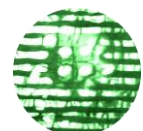
²⁵ Tsvetan Todorov, T (1996) *The Conquest of America*

²⁶ Partha Chatterjee (2012) *The Black Hole of Empire*

²⁷ Aime Césaire (2001) *Discourse on Colonialism*

²⁸ Walter Mignolo, (2003) *The Darker Side of Renaissance*

²⁹ Edward Said (1994) *Culture and Imperialism*,





America), and later on, particularly after the British encounter of the 1857 Revolt in India, and the Mahdiyya uprising in Sudan, it is a story of the permanence of difference of the native population; what the Indian political theorist Partha Chatterjee has called ‘the rule of colonial difference’³⁰. Karuna Mantena³¹, Nasser Hussein³² and Mahmood Mamdani³³ have elaborated so importantly on the administrative logic of the rule of difference. They have illuminated Henry Maine’s translation of a distinction between native customary law and settler civil law into a turnkey project of colonial rule. Maine offered an ethnographic and legal- administrative answer to a political predicament of how settlers rule over a natives- think of indirect rule in Africa after Lugard.

That the biographical story of the modern state recognizes , albeit with prodding, these histories of exclusions does not bring into question the strength of the normative argument for this form of political modernity. Rather, the recognition of the histories of exclusions almost seems to have a redemptive function: they vindicate the normative purchase, redeemed then by its delayed but ‘eventual’ inclusion³⁴. In the historical narrative, excluded races, excluded nations, excluded genders, excluded sexualities are eventually awarded freedom and equality. Even if it is after struggle. It is for this reason that ‘progress’ is said to be a teleological concept. It has a temporal dimension. It moves from darkness to light, or more aptly from darkness to enlightenment. It carries us over the threshold of tradition into modernity. It transforms backwardness into contemporaneity. And it gives us a barometer and an index through which we compare and measure progress in relation to others, given that these equalities are and always have been unequally distributed within and between nation-states.

This is of course an account, to be more precise, of the modern western state, as it tells its own story. And it is an account, to a large extent, of the enactment practically of the philosophical-ideological arguments that make one form of liberal tradition the dominant formulation of the good society today (Mehta, Connolly). The constellation of beliefs and practices, and the institutionalizations of liberalism are then what we have in mind here: the individual citizen that exercises choice free of group pressures or constraints, the separation of powers between legislature, executive and judiciary, all created around the rational autonomous subject- a subject that is an abstraction and that is substitutable for any other citizen, hence a serial citizen. Equality in this liberal tradition’s formulation is not specific to a group, not specific to a race, not specific to a gender. It is for this reason that the popular symbol of justice is a blindfolded figure.

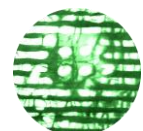
³⁰ Partha Chatterjee (1993), p33

³¹ Karuna Mantena, *Alibis of Empire: Henry Maine and the Ends of Liberal Imperialism*

³² Nasser Hussein (2003) *The Jurisprudence of Emergency*,

³³ Mahmood Mamdani (1996) and (2012)

³⁴ That said, the form of that recognition matters, as Michel-Rolph Trioullout has so persuasively argued in his account of the how the Haitian Revolution remains an aporia in the conventional historiography of the origins of our political modernity





These rights remain circumscribed by the universalized form of the nation-state, giving it a paradoxical character, as the political theorist Hannah Arendt was to note long ago: you have to be a part of a nation-state to enjoy and to have your universal human rights protected. Constituted as such, the terrain of much of the struggles of the 20th Century, whether it has been for the nation-state freed from the yoke of European feudalism, the suffragettes for citizenship, the anti-colonial struggles or the struggles for national liberation, have aspired towards an equality of rights for an individualized citizen.

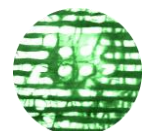
Of course many will point out that because of the history of the universalization of the abstract citizen resides in the paradox of the nation-state form, that liberalisms have always had to contend with group sensibilities and group rights. This is precisely the lively debate in political theory between liberals and communitarians. Yet, as one of the most insightful scholars on these debates has noted, the debate between liberals and communitarians is somewhat of a misnomer; it largely takes place within the terms of liberalism, rather than outside of it. In his account of the quandaries of constitutionalism in a 'post-imperial age', the Australian philosopher and scholar of political theory, James Tully offers us a useful set of sign posts for thinking this problem. In *Strange Multiplicity* (1995) Tully reminds us about the worry that the American pragmatist philosopher, Richard Rorty, expressed in the hey day of the debate between liberals and communitarians, like Michael Sandel, and William Kymlicka. Rorty noted that the debate was divided between 'the agents of love and the agents of justice'. He argued that the agents of love were the 'connoisseurs of diversity', and insisted that 'there are people...whom society has failed to notice'. It was their task, as Rorty saw it, to make 'these candidates for admission visible' by making their strangeness appear coherent. On the other hand, the 'agents of justice' were the 'guardians of universality, whose role was to 'ensure that once these people have been shepherded into the light by the connoisseurs of diversity, they are treated like all the rest of us.'"³⁵

In Tully's account, the history of modern constitutionalism's relationship to difference could be called 'the Empire of Uniformity'. Given an account of the rise of the modern state and its form of citizenship, Tully has argued that "Modern constitutions only come into being as result of this development 'amongst', as Locke put it, 'those who are counted the Civiliz'd part of Mankind.' As the process of colonization and modernization spread around the world from Europe, the colonies and lower peoples will become objects of the causal process of improvement, gradually shedding their primitive customs and ways, appropriate to their lower levels of development. They will be assimilated into modern nations within a European imperial structure or independent constitutional nation-states, as European states have done, or they will be pushed to the wayside by the march of progress.""³⁶

For Tully, the debate between liberals and communitarians does not get us out of the quagmire that a substantive difference presents: "Many communitarian and critical theorists

³⁵ James Tully (1995) p97

³⁶ Ibid, p65





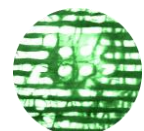
are no less imperious. When they ask the crucial question, ‘who’s justice’, and ‘which rationality?’, the answers are always the same: some European, male traditions of interpretation set within the stages of intellectual history; never a dialogue with any of the non-European traditions set within non-European views of history, that have been authoritative for millennia in the very places they write their books.”³⁷ While I have offered the most polemic elements of Tully’s critique of constitutional liberalism, there is much in his provocation that should give us reason to pause and think about the end to which we think non-racialism is the means. Have we sufficiently thought about the assumed ‘culture’ that underpins the concept of the individuated citizen of reason? Have we sufficiently thought about what we were being *included into* when we demanded to be included? By emphasizing the fate of an aboriginal identity in the Australian context, Tully is aware that he is introducing a problem of incommensurability, of a way of being that cannot be easily assimilated by the agents of love or shepherded into the hands of the agents of justice. We might want to quibble with him about how these Other identities come into being, whether they are asking us all to compromise ourselves at the altar of relativism, or be duped by the entrepreneurs of authenticity; but that does not get us out of the predicament that he reminds us about- that our political modernity is the bequest of a colonial and imperial history, that it demarcates us on a progressivist scale, and that its violence continues to reside in this legal and constitutional genealogy of the erasure of difference.

Apartheid, Race and the Struggle for Equality

I have elsewhere discussed the significance of law as the terrain of struggle against apartheid. Given that apartheid was a legally implemented policy, a debate unfolded within the legal fraternity about apartheid. The pivot of that debate was a political-juridical one about a conception of law, viewed on the one side as universal or universalizable, and a conception of law as particular or national on the other. It is not an anomaly that some of the most significant political figures who struggled against segregation and apartheid in the colonized world, and in South Africa, grapple against colonialism where segregation exasperates the promises of universal political equality in law. Think of Mahatma Gandhi’s political becoming in South Africa, and Nelson Mandela and Oliver Tambo’s early prominence and political preoccupations; they are the first black South Africans to set up their own legal practice.

Why this matters, for the purposes of this discussion, is that the exclusions of segregation are performed on the terrain of *race*, and enacted through *law*. When the civilizational criteria of early liberalism, for example in the Cape, gave way to difference as racialized and not propertied, the terms of critique shifted. It was the withholding of the universal rights of the modern political subject from the racialized subject that became the point of contention. Why should the difference of race be the grounds for withholding these rights? Was the question

³⁷ Ibid, p97





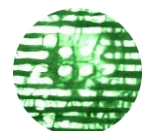
asked. This formulation of the problem of apartheid, particularly in the liberal critique of apartheid, focused squarely on this disjuncture, and on the racialized grounds of this disjuncture. Whereas liberal paternalism held that these universal rights might be eventually enjoyed by all, racial thinking held that these universal rights could never be distributed equally across racial lines. Both biological and cultural race thinking- however differently rationalized—concurred on this point.

This critique of apartheid, we might say, was the critique of racial segregation. Racial segregation as such- whether in the American South, or other parts of the settler colonial world, had that familiarity to it. It performed its exclusions on recognizable grounds. It allowed therefore for some commensurability, for comparison that could be drawn with situation and that. It could do so because it had a seemingly common ground. And being able to think across time and space in comparative terms also allowed for political solidarities both for and against. This might have something to do with why the anti-apartheid struggle was able to become one of the most visible and globalized movements of the 20th century. It was less that it was an anti-colonial movement that gained it global traction, and more about it being a movement against racial exclusion, increasingly understood in individualized terms- as a violation of human rights.³⁸ Symptomatic of this I would contend is the political fate of the two largest anti-apartheid liberation movements in exile. The Pan Africanist Congress, which emerged from a splinter group in the ANC in 1959, articulated the central political problem in South Africa as a colonial and anti-colonial one between natives and settlers. The ANC on the other hand, largely through its embrace of multi-racialism and later on non-racialism, was perceived to offer and account of the problem formulated in the terms of racial exclusion from universal rights- all could, suggested its ideological manifesto the Freedom Charter, be equal citizens regardless of race. Native and settler had less of the universal resonance than equalized individual citizenship. This latter corresponded in form more clearly with the conceptual abstraction of equal citizenship that had become doxa by the third quarter of the 20th century and which I have outlined in the previous section of this paper.

Oppression and injustice were understood in the global anti-apartheid movement largely in racialized terms. Not in terms of national independence as the PAC might have preferred, but rather on the grounds of the universal right to have rights, and to struggle against the denial of these rights on the grounds of human rights, against the grounds of racial difference³⁹. This formulation of the distinction accounts for the contrast defenders of non-racialism, such as Everatt and Suttner, draw between non-racialism and African nationalism. The former is for them a reference to a universal equality of de-racinated individuals, the latter a short hand in their minds, for particularism and group identity.

³⁸ Suren Pillay (2014 forthcoming) 'The Prerogative of Civilized Peoples'; Samuel Moyn (2010) *The Last Utopia: Human Rights in History*

³⁹ I have borrowed the formulation of the right to have rights, from Jacques Ranciere's (2004) essay 'Who is the Subject of the Rights of Man?.'

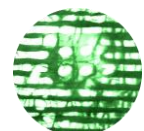




My point here is to draw attention to how *difference* marked as racial, became the dominant ideological flashpoint. Difference, race, and inequality were braided together as the conceptual-political theorization of the problem of the disjuncture between the abstract idea and its concrete manifestation. Let me try to unpack this rather dense formulation. I have in a previous section given a truncated and abbreviated account of the dominant normative conception of the political subject of modern equality and liberty. This subject, as I have suggested, can be traced through a narration of disjuncture. The disjuncture being the difference between the abstract good idea and the concrete historical conjunctures of exclusion, in other words, of bad practices. The history of political equality, in this narration of modern, western political theory, is the history of the bringing into correspondence, into sameness, of the abstract citizen and the concrete citizen. It is the history, as I have suggested, of the inclusion of the excluded into the universal good of individuated rights and individuated liberty.

In this genealogy, the struggle against apartheid, grounded on the problematic of race, not colonialism is toward the horizon of a polity internally undifferentiated in citizenship. It is towards a future where race is effaced as an influence on the social, cultural, economic or political possibilities of the individuated citizen. The struggle, in other words, was and is to create, as the slogan goes, a 'non-racial, non-sexist society free from discrimination'. For those who are anxious about the current fate of non-racialism, it is about the divergence in the post-apartheid from the abstract hope that animated many of us in the anti-apartheid struggle and the concrete signs of its tenacity and for some, its revitalization. The continued life of race as a juridical category in affirmative action policies, and references to race by some political elites, particularly in the Mbeki period, in this line of thinking cast a colour-tinged pall over the scene..

It's worth saying something briefly about affirmative action here because it might be said to detract from the pursuit of non-racialism. Except for those very obvious political defenders of the legacy of apartheid, and the defenders of the benefited gains of apartheid, most people who see a problem with apartheid today accept some form of 'fair discrimination' as a justificatory process of equalizing the equality of opportunity. Affirmative action, as we know, is not premised on the permanence of difference. It sees difference as a momentarily applied policy on the path towards its erasure. It therefore has built into it a limited temporality. It is a means to the same end- a society where equality can be enjoyed universally without the discriminations of race primarily, but of course of gender and physiological abilities as well. That there is a vigorous debate about it is not deniable. But the debate about it that matters is mostly about how long we should implement it and how it defines disadvantage. In other words, about how to finesse it, and whether it is optimally formulated to succeed in creating that level playing field. However fierce and politicized that debate might be, more so infused by electoral mobilizations, or ideological antinomies, the assumed and submerged agreement --in the futural sense --on most sides of that debate is a shared vision of a society free of apartheid's differences.

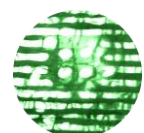


My wager then is that the terms of the debate on non-racialism, as currently deployed, are underwritten by a common normative horizon or end, towards the erasure of difference and the creation of the abstracted serial citizen. Amidst the delineation of what the terms of disagreement might be between those for or against non-racialism, I will suggest, there is an unspoken agreement about where non-racialism might or might not take us. It is this end which I wish to bring into question. And it is this end, which I will suggest, might be a more the subject of a more substantive theoretical-political debate, rather than our current preoccupations with the means to that end.

There is another element in the tradition of political thought, via the PAC and Black Consciousness that I do think is worth bringing back into a conversation on revised ends. It was a critique that held onto a conception of apartheid's modes of oppression as structured along group lines, but it did not only conceive of group along racial lines. It conceived of group in two senses that were interlinked as subjectivities that were produced in the colonial encounter- the settler/ native distinction, and the white/black distinction- the latter not as I have said, understood racially, but as the coagulated terms for colonizer and colonized. In other words as structurally produced subjectivities. For some, the attraction non-racialism offered activists the possibility to step out of the script of difference that apartheid had written for us. From the 1970s onwards, particularly white leftists, but more generally for all others as well- 'so-coloured Coloureds', and Indians,. For example, it was a common practice in the United Democratic Front, in which I was a student and youth organiser in the 1980s, that little recognition of race was officially authorized unless used, as Jacques Derrida might have said, 'under erasure'. Race was already dissolved at the discursive level in these organisations at the official ideological level and in authorized political discourse, *in anticipation* of a future without the differences of apartheid, but importantly well before the actual end of apartheid.

On the other hand, within the BC tradition, it was less easy to step out of one's historical script ahead of its time, as it were. As we saw, for Biko whiteness was a collective identity of settler colonial privilege infused with economic dominance; individuals classified as such were should not be allowed to step out of this history while apartheid was in place. Where the critique of apartheid that relied on race put it in place a future in anticipation of an individuated free and autonomous deracinated rights bearing citizens, the critique of apartheid that saw it as a form of the colonial experience, recognized that the future could only be arrived at with dissolution of the native/settler relationship as a political distinction. In other words, its resolution would be glimpsed in the moment when the native/settler distinction was dissolved as the primary political distinction that mattered, and that had substantive socio-cultural, political and economic effects.

Again, my point in restating the terms of these political debates is not to adjudicate which side of the line was right or wrong from the vantage point of the present. This is not to say that the choices and paths followed by the dominant political movements have not had consequences





for the political present. But the kind of ahistorical judgments made on these political choices from the perch of our present reality seem to me to be unhelpful when thinking the present conjuncture. What I am however interested in, is drawing on these traditions of political thought, and conceptual formulations, in order to re-arrange, and reassemble them towards a new strategic deployment.

A Politics of Difference without Guarantees?

Can we think a postapartheid future *with* difference in two senses: that does not assume the teleology of moving toward an individuated subject liberated from group affiliations or identities? And that can disaggregate race, culture and ethnicity as group subjectivities from their historical instrumentalization in indirect rule colonialism? Can we formulate a postcolonial citizenship of belonging that is able to fold into its politics and practice all of these affiliations? Does that require that we pay more attention to those elements of the constitutional order that have been required, through political compromise, to concede recognition to custom? In other words, to the recognition of group sensibilities and rights and not only dehistoricized individual rights? Interestingly, in her fieldwork with members of ANC branches in Gauteng, Anciano⁴⁰ suggests that this predicament is not lost on members of the ANC:

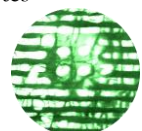
“Respondents implicitly see a non-racial society as one where people from different race groups are treated equally and individuals do not have to be defined by their race group. There is a strong appreciation that South Africa is composed of a diversity of cultures (encompassing religious, race, class and gender differences amongst others) and that to build a non-racial society does not mean overlooking (or attempting to overcome) this reality. Rather non-racialism is about sharing and embracing difference, with respect, as equals.”(2014, forthcoming, no page no.)

At present the authorization of group rights, particularly in the realm of cultural rights, and traditional authorities, surfaces largely as the uncomfortable legacies of Bantustan interests and despotic, patriarchal traditional authorities⁴¹. They are challenged by the custodians of our political modernity and human rights groups as vestiges of a past, of subjection and subjectivities with the hope that ground down by the Bill of Rights and the civilizing effects of law over time, they might dissolve quietly into the sands of history. In other words, their presence is a sign of the past, rather than the future. They are, as Tully suggested elsewhere, seen as analogous to communities elsewhere who are under erasure by constitutional

⁴⁰ I wish to thank Fiona Anciano for sharing her forthcoming publication with me. (2014) ‘Non-Racialism and the African National Congress, Views from the Branch’

⁴¹ There are number of very important political contestations transpiring in the legal domain. One is regarding proposed reforms to the Traditional Courts Bill, with important implications for women’s rights. Another is a proposed reform that enables Traditional Authorities to become recipients of land, as communal not freehold, in land restitution cases. See the discussion by the legal scholar Aninka Claasens on this:

<http://www.bdlive.co.za/opinion/2014/04/10/haste-over-land-rights-bill-not-just-in-aid-of-buying-votes>





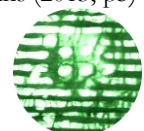
modernizers, the torch bearers of the individual citizen . Again, my point here is not that these contestations or challenges are by human rights groups or NGO's are misplaced from the vantage point of political equality and freedom. It is that since the aspects of apartheid that administered indirect rule--culture, custom and ethnicity--was rendered oblique in the critique of apartheid, these appear in the postapartheid as an afterthought, the product of a political demand from its beneficiaries in the twilight of the political settlement. It therefore always surfaces as a problem that is can only be solved legally, rather than a socio-cultural debate that can be addressed politically, and therefore offer a different and dialogical concept of citizenship in relation to difference.

That these provisions are there in the constitution suggest that apartheid was more than the racialized exclusion of individuals from the universal rights of political modernity. Rather than only thinking about these manifestations as the nagging presence of a traditional past that must be overcome, my contention is that we need a different way to think about the plurality that defines collective and individuated subjectivities. Their presence in our sociality, in our politics, and in our law, draws attention to a deficit in the formulation of our understanding of what apartheid was. As I have suggested above, we inadequately posed the question of apartheid as an upscaled version of racial segregation, of racial exclusion from the realm of the universal mediated through civil society. We neglected thinking the domain of ethnicity, of indirect rule and customary law- and yet the classification of the majority of the population was afterall as an *ethnicity* and not a race⁴².

Apartheid was more than racial classification. It was the administration of difference not only on the basis of one category of exclusion, but two, both race and ethnicity, as defined in the (1950) *Population Registration Act*. Deracialization as the privileged item on the reform agenda has valorized the erasure of difference when what it wanted to do, rightly so, was erase racism. And along with this erroneous strategic elision, it valorized the unspoken assumptions of western political modernity- that the realm of the political is the realm of reason, of rights, of sovereignty individualized. That the political- modern should not be seen to betray traces of particularities. It is these problematic, and unproblematized assumptions that to my mind, encourage the mistaken view that we have only two options before us, and that these are the same options with the same implications that defined a prior political conjuncture. The limited terms of the current debate about our futures offers us only the choice between non-racialism as the grounds of freedom, equality and modernity the one hand, or African nationalism, seen as the grounds of chauvinism, tradition, and new oppression⁴³.

⁴² It was this very point, about the bifurcated nature of the colonial state, and apartheid as a generic form of this state as a technology of rule, that Mahmood Mamdani (1996) illuminated so insightfully.

⁴³ For example, another manifestation of this is the simplistic and alarmist labeling of those advocating a curriculum reform of the Humanities and Social sciences in South Africa as violating an abstract right of individuated freedom, ie. academic freedom; the bogey man of African nationalism now appears as 'applied nationalism' Higgins (2013, p5)

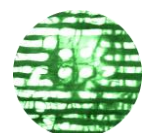




In my view the conjuncture of our political present affords us, and perhaps demands of us a third option. One that is aware of the problems of both a will to the erasure of difference in the civil realms of law, and the problems of narrow, ‘chest thumping’, self-congratulating, othering, and native recourses to secure identities in the realm of culture and custom. This third option would have to navigate a tricky path, a ‘politics without guarantees’. It would have to forge itself through contestation without the self-assured disposition of knowing in advance the ends to which it directs its desires. It will have to forego the normative orthodoxy of western political modernity, while conducting a decolonial politics of colonial identities at the same time that it avoids wagging its finger dismissively at all group identities as colonial inventions.

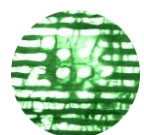
This is no easy proposition. But if we accept that apartheid was a ‘generic form of the colonial state’, then we can anticipate that the unreformed aspects of the colonial state that live on in the fractious nature of postcolonial politics in the rest of Africa will manifest here. In many places that politics has taken the form at best of continuous contentious politics over citizenship questions, and at worst civil war, population expulsions and genocide. We have witnessed, and continue to witness a continental politics over who belongs, pitting political equality in the one corner against identity and difference in the other. My worry is that a hubristic faith in constitutional reason as the terrain to resolve and dissolve difference will be an insufficient answer. If that is the case, then difference denied might translate into the strident politics of difference demanded. This might stem from either subaltern or new elites and movements that will pit a deracializing civil society against an increasingly ethnicized political society in the dramatic idioms of popular politics.

A new question answer-complex would have to give up on both the spirited defense and the tragic lament, about the fate and future of non-racialism as the sacred destination of our political horizon. Thinking our way out of that possibility requires a strategic reconsideration of our aversion to the question of difference. One that is less anxious about it than was strategically useful in a prior conjuncture. So, neither as non-racialists hope should we valorize the erasure of difference, nor as its champions might demand, should we embrace difference as security of identity without skepticism. The terms of this debate as they currently hold, I have argued, draws us into a mobilization and counter-mobilization about the means to an end in a world at a time when that end is being questioned by many scholars and political movements in ‘most of the world’. By thinking about our conjuncture we would have to address the problem to which non-racialism was once an answer to. If my wager has some purchase, then rather than being an answer to a problem, without a fresh reflection on how the conjuncture has shifted the answer might risk becoming part of the problem. Perhaps ironically then, I am arguing, the best way we might secure the political future the non-racialists among us dream of, is to give up on it





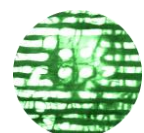
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