The Radical Imagination of Peace: Belonging and violence in South Africa's past and future

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Abstract

Conceptions of race and belonging are central both to the violence of South Africa's past, and the relative peace of South Africa's present. In the colonial world the question of belonging was related to the distinction between Settler and Native, a distinction that came to be racialised as settlers became natives, and natives became foreigners. If there was an enduring question that split the anti-apartheid movements in South Africa, then this was it: what would be the fate of the white settlers in a South Africa without apartheid: where would they belong? This paper argues, through a discussion of two shifts in the conception of belonging in South African political thought, that if South Africa represents a

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peaceful transition from authoritarian rule to democracy, then it was the answer to the question of 'who belonged' that probably swayed the forces of social change in one direction, rather than another.

The history of South Africa, viewed from inside and outside, is marked by the question of how race has facilitated domination. I want in this paper to speak about Race in South Africa and its connection to violence and peace. But we cannot talk about peace processes without talking about violent processes first. Solutions are defined by their problems. But I will talk about the problem not by recounting the thousands who died resisting apartheid, or the thousands who died defending apartheid, or the hundreds of thousands who were annihilated by the colonial settlers of British, Dutch and French ancestry. Nor of hundreds of thousands whose lives were intangibly violated by the experience of forced land removals, of disrupted and denied futures, or of families dislocated by the experience of migrant labour. Or of the legions of anonymous fathers, mothers, brothers, sisters, sons and daughters, whose experiences and trauma could not be recounted at the Truth and Reconciliation Commission where we were battered by gut-wrenching stories and choked by graphic accounts of sensational violence, a violence that resists comprehension. But this violence, the grisly gore of it, can by its sheer veracity, its sheer scale, its sheer brutality, become an object of awe in and of itself. Because from where we stand, its mere existence, its mere translation from thought into deed astounds us. I want therefore to resist the temptation to recount the details of this manifest violence because it might be more useful to think about the mundane than the sensational. It is often in the mundane, or as Hannah Arendt found, in the banal, that violence, and perhaps peace, resides. I want therefore to connect the innocent word and the violent deed into a single economy of meaning to make some of the violence intelligible and some of the peace intelligible. And I want to do that, by telling two tales about race and belonging in South Africa.

Conceptions of belonging are both central to the violence of South Africa's past, and the relative peace of South Africa's present. Who belonged? Who had a right to belong? In the colonial world the question of belonging was related to the distinction between Native and Settler, as the noted Ugandan scholar, Mahmood Mamdani, has observed when he asked: 'When does the Settler become a Native?' (Mamdani 1996)

Belonging, The First Story

The British colonial government in South Africa created a position called the 'Colonial Historiographer' in the early 1800s. This person administered the colonial archive and also produced authoritative knowledge about South Africa, which was put to various uses. The most prolific and influential occupant of this post was a Canadian by the name of George McCall Theal. Theal noted that 'in reality this country was not the Bantu's originally any more than it was the white man's, because the Bantus were immigrants'. He went on: 'We must prove to these people that we were no more intruders than they were, and that they enjoyed now as much as they were entitled to'.

For Theal, the land was empty and was simultaneously occupied by the Bantu and the settlers. The Bantu had come down in waves and fought vicious battles of conquest with each other. Their predisposition to war needed an overarching authority to create peace, and this burden fell to the colonial government of European settlers – what Rudyard Kipling was to call 'The white man's Burden'. Where 'the Bantu' are spoken about, they are almost always also referred to as 'immigrants', leaving us with no doubt as to their non-indigeneity. White settlers, in this historical narrative, were no less 'settlers' than Blacks were. Wars of conquest were thus transformed into mutually credible claims of belonging to be decided by the Law of 'the right of might'.[1] By concentrating on migration, common arrival, and strength, this historical narrative of 'the natives' was also inadvertently telling a story about 'the settler' – a story which made settler claims to land, based on conquest, equally, if not more valid. European settlers, in this account, were merely the latest of a ceaseless history of waves. Military superiority or inferiority of those that preceded, or arrived at the same time, was a valid basis on which belonging and ownership could be decided.

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1   It is not my concern here to prove the facticity or otherwise of the historical claims discussed, suffice it to say that there is a convincing body of work, both historical and archaeological, which suggests that the land had been settled for thousands of years before the time Theal suggested. Cf Cornevin 1980 for a refutation of what she calls the 'myths' of apartheid, and Maylam 1986 for a particularly well-researched account of the South African iron age.

Now let me recall another rather dispassionate scientific academic discussion. This time, not amongst the English settlers, but amongst Afrikaner nationalists, whose nationalism, one must remember, was formed largely in relation to what they perceived as the imperialism of the British Empire.

Afrikaner nationalists set their claim to belonging apart from the English – who formed to some extent the major part of their Other. The idea of the British as '*uitlanders*' (foreigners) was to render an Afrikaner identity that was no longer a settler one, but rather a native one. The settler question, for Afrikaner nationalists of the 1930s and 1940s, was resolved through the articulation of two broad themes. Firstly, all had equal claim to the land, since all arrived at more or less the same time.[2] Secondly, Afrikaner self-identity and belonging in Africa were willed by divine intervention. But this idea was to be reworked. For one, it came to be framed more explicitly within the discourse of 'race'.

The geneticist, Eloff, published his *Race and Racial Mixing* in 1942. Eloff, in this work, draws on Theal's idea of a mutual arrival, but tells the story slightly differently, with a more overt racialisation of migrations. This theory of racialisation was influenced by what is now called the Hamitic hypothesis – marked by the Napoleonic expedition into Africa. Prior to Napoleon's expedition, the idea of Africans as the Canaanites condemned to servanthood by Noah (as in Genesis, Chapter Five, of the First Testament) held sway. Following the Napoleonic 'discovery' of the Egyptian signs of 'civilisation', a gradual process of de-Africanising Egyptians took place. What were taken to be signs of civilisation were credited to European-Asiatic (as Caucasian) influence. Well-known examples are the Berbers in North Africa, and of course the Tutsi in Central Africa.[3]

This version of the Hamitic hypothesis conflated language and origin. A shared language meant a shared racial origin, and racial identities could in effect be read off linguistic ones (Saunders 1969:528). Furthermore, this version of the Hamitic hypothesis was to racialise the distinction between pastoralists and agriculturalists – based on those identified as being of Hamitic origin through

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2   See Van Jaarsveld 1981.

3   For analyses of the intersections of memory, identity and colonial law in relation to the Hutu and Tutsi, see Malkki 1995 and Mamdani 2001.

language and civilisational markers.[4] The post-Napoleonic version was thus to separate those living on the African continent into those who were 'indigenous' and those of Hamitic descent who were coming from elsewhere.[5]

Racialising the migrations described by Theal[6] more explicitly, Eloff saw the 'Bushmen' of Southern Africa, the Khoi and San, as *Hamitic* descendants originating in North Africa. For Eloff the 'existing races of mankind' could be divided into three broad 'stocks' (*afstammelinge*). These were 'Yellow, Black and White', all descendents of Shem, Japheth, or Ham' (Eloff 1942). Drawing as he does, on the Hamitic thesis, Eloff's account thus continues the distinction between indigenous and those less indigenous.

A later generation of students returned to South Africa from Holland and Germany where they had encountered notions of the organic nature of nationhood (*nasieskap*). It was the confluence of religiosity and nationalist discourse, by no means a unique one in the making of nationalist thought generally, that converged here in apartheid.

The Nationalist Party victory in 1948 and the vision of apartheid that came into existence consolidated, amongst other things, a way of dealing with the Settler/Native distinction. The settler was recast as 'belonging' and the native came to be recast as 'foreign'. The Native Question in South Africa has broadly been answered in three ways. Firstly by genocidal violence, as experienced by the

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4   'Because Hamites discovered in Africa south of the Sahara were described as pastoralists... pastoralism and its attributes became endowed with the aura of superiority of culture, giving the Hamite a third dimension: a cultural identity' (Saunders 1969:530).

5   After colonial settlement, Hamitic, as Caucasian, was further refined to make hierarchical distinctions within it – thus contemporary settlers could act with paternalism to those who were historically Hamitic descendents.

6   Theal too suggests a North African origin of Bushmen, and the racial migration and civilising influence of Caucasians is also to be found in Theal, but less explicitly. This was, I would argue, because writing at that time he was less concerned with what would later become the Verwoerdian concern for the 'separation of the races', and more concerned with conquest and domination. Theal's history is replete with non-pejorative accounts of 'mixing', since it was produced in the context when colonial belonging was still argued for as a civilising project.

San and the Khoi. Secondly, it could be resolved through assimilation, through various Christianisation and civilisation projects, largely associated with particular periods of British colonial rule, particularly in the Cape and Natal provinces. And thirdly, it could be resolved through difference and segregation. All three answers were applied in South Africa, sometimes at the same time in different parts of the country. Each built upon the other, rather than replacing the other. The result is a varied and sometimes contradictory set of arguments which has *as effect* white rule. Each provided a different rationale for rule and a different mode of administration over those ruled. State consolidation under Afrikaner nationalist rule confronted 'the Native Question', and confronted the challenge of working out a comprehensive and single answer to be implemented systematically across the territorial breadth of South Africa.

The South African Native Affairs Commission (SANAC) of 1903-1905 had established that 'the word "Native" shall be taken to mean an aboriginal inhabitant of Africa, south of the Equator, and to include half-castes and their descendants by Natives' (Ashforth 1990:13). The report of this commission was to establish a series of recommendations which established the broad elements of state segregationist policy with regard to the 'Native Question'. It recommended that 'Native Reserves' be based on 'ancestral lands held by their forefathers' (Ashforth 1990:35). At the same time Christianisation, the value of hard labour, and government of Natives through Tribal administration were put before the State as answers to the Native Question.[7]

Here we glimpse a moment of the contradictory co-existence of rationales of domination. The SANAC invocation of ancestral lands is at odds with Theal's writings which dismiss the value of 'being there first' as right to ownership. This Janus-faced moment contains two political rationalities: an answer to the Native Question which looks toward the *future* of state formation and citizenship, whilst the other looks toward the *past* and the moment of conquest.

The 1913 Land Act stipulated that a total of 13% of the land would be designated for Natives, governed by the Governor General who would act as 'Supreme Chief'. The identity of 'Native' was not only a descriptive one, but

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7   For a critique of 'ancestral lands', see Ashforth 1990:35-36.

also a legal one: to be classified as Native was to have limited land ownership, employment opportunities, and land tenure practices.[8]

The eighteen-volume report of the Tomlinson commission in the 1950s addressed the effects of ineffective segregation and urban black settlement, noting that a gradual process of overlapping had taken place. 'Coalescence' and 'overlapping', the report concluded, could not be allowed: 'Either the challenge must be accepted or the inevitable consequences of the integration of the Bantu and the European population groups into a common society must be endured' (Houghton 1956:59). What were the 'consequences' which the report ominously hinted at? It noted that 'the ultimate result – though it may take some time to materialize – is complete racial assimilation, leading to the creation, out of the original communities, of a new biological entity' (Houghton 1956:12).[9]

The student newspaper of the Afrikaans National Student Union put the matter as follows:

> The Liberalistic and negrophilistic sections of our country's intelligentsia are much better organized, and in many cases better equipped than the Afrikaner to propagate their viewpoint of racial equality which can only result in eventual racial integration. It is necessary for the Afrikaner intelligentsia to *scientifically* formulate the Boers' point of view about non-white groups [my emphasis].[10]

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8   Parts of the Union, like the Cape, still gave a certain amount of franchise rights to those Natives who could pass various 'civilisational' criteria.

9   The Tomlinson report reflected a series of concerns of academics and state bureaucrats about South African life at the time. These themes, particularly, 'culture contact', were prominent in anthropological discussions, and could be found in both broad traditions of South African anthropological work – the social anthropologists and those who worked within what came to be known as the *Volkekunde* ('pure' Afrikaans for 'Anthropology') tradition. It was their conception of racial characteristics and cultural identity that was particularly illuminating.

10   Quoted in Gordon 1991:83.

These experts brought into the discussion the idea that all peoples live within and are formed by an 'ethnos'. A shift occurred from the racial classification of society to cultural difference. Anthropologists became the experts to turn to.[11]

Whilst for geneticists like Eloff *race* determined the world, for Coertze it was *culture*. Whiteness was split into a British ethnos and an Afrikaner ethnos. The Afrikaners were also regarded as a chosen people. And those classified as Native became Bantu. Bantu was further divided into two broad groups, based on linguistic communities. The first was Nguni, which comprised Zulu, Ndebele, Xhosa and Swazi. The second was Sotho, which comprised South Sotho, North Sotho, Tswana, Venda and Tsonga peoples. Here again, language communities were being mapped onto cultural communities. And cultural communities established political boundaries. The broad category of 'Native' was thus exploded into a number of different Bantu 'tribes' around which territorial and political boundaries could be built.

The shift was now almost complete. Settlers had become Natives, and Natives now *belonged*, but they belonged *elsewhere* – they were to become foreigners. If the boundaries of cultural communities were also to be the boundaries of political communities, then membership of differing cultural communities meant belonging to different political communities. If South Africa were to be conceived as a white 'Nation', made up of the Afrikaner volk and the English speaking whites of European descent, then to be tribally defined in South Africa made one racially an outsider, and ethnically a member of a different political community – a 'homeland'.

In the writings of ethnos theorists and government documentation inspired thereby, 'belonging' was conceived as 'ethnic', and the concern was about policing the boundaries of belonging and difference, i.e. cultural, 'organic' boundaries rather than physical, spatial boundaries. The physical boundary of saying where one could live, for example, would *follow* as an administrative need

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11 The policy of creating clearly demarcated Bantu Authorities involved anthropologists who would advise on the cultural borders of the Authorities and identify the 'correct' chiefs to lead them, particularly amongst groups like the Mfengu in Transkei and Ciskei, and the Tsonga in Transvaal, who lacked, in their view, the degree of centralisation in political authority required in the vision of rule imagined for Bantu Authorities.

that had become both 'rational', as a scientific way of governing, and historically logical.

The dramatic wave of forced removals of the 1960s, which wrenched thousands from their homes and dumped them into barren, overcrowded or windswept wastelands, was therefore an attempt to get rid of 'black spots' which dotted the otherwise white map of 'European areas'. The targets of forced removals were primarily those urban Africans, or 'de-tribalised Bantu', as Verwoerd preferred to call them, who had attempted to settle in towns. Some were the remnants of the African peasantry who were squeezed off the land in the 1930s. In the end, both groups, now racialised and ethnicised, 'belonged'. The political question that posed itself as self-evident was: How does this diversity live 'harmoniously' and 'peacefully together', but 'separate' and apart – that is, in apartheid?

Belonging, A Second Story

There is a simple and rather innocent sounding phrase in a document drawn up at a meeting in South Africa in 1955. That document, 'The Freedom Charter', became a manifesto for one section of the anti-apartheid nationalist movement, that is the African National Congress, South Africa's present ruling party. There were also those broadly allied with this document and known as 'charterists'. The line in the document reads, 'South Africa belongs to all who live in it, black and white'. The ANC pursued a political programme which through various forms, began with the idea that South Africa was a racially exclusive state, and that the goal was not to re-racialise the state through demanding a black majoritarian future, but rather a de-racialised state with a non-racial future. That is, to not replace a white minority with a black majority.

This was not a view shared by all in the anti-apartheid nationalist movement, nor by all in the ANC itself. It was a position only adopted in the latter years of its existence. In 1927, the ANC president J.T. Gumede issued a statement 'To all Leaders of the African People' (Gumede 1927), in which he made a call for unity. Gumede noted that it 'is my earnest desire to create mutual understanding among all the leaders of our race, and to secure their

co-operative support particularly at this hour of the destiny of the race. Gentlemen, this is a critical time in our history; it is a time when we should sink our personal ambitions for the greater ambitions of the race' (Gumede 1927:304). Gumede, as I noted above, was speaking here as the president of the ANC. The organisation at this point was seen as the representative of a 'race', the black race, 'the Bantu people', or as it appeared in government documentation, the 'native people'. Race and political identity merged here into a singular form of political expression and organisation, which fragmented resistance to apartheid along racial lines. Thus the Coloured Peoples Organisation, the African Peoples Organisation, the South African Indian Congress and the Congress of Democrats, amongst others, that met at Kliptown in 1955 to adopt the Freedom Charter, arrived as racialised representatives of mostly disenfranchised racially defined groups in South Africa, broadly conforming to what was seen as the 'four nations' of South Africa. The Freedom Charter, which proclaimed that South Africa 'belongs to all those who live in it, black and white', thus recognised the existence of racial difference, but also the historical peculiarity of a settler colonial identity that had become settler nationalist identities, which saw itself as 'belonging' in South Africa and not to a European colonial metropole.

There were those, who like the Pan-Africanist Congress, led by Robert Sobukwe, broke away from the ANC precisely around this issue. They argued that South Africa belonged to the black majority, and that white settlers in South Africa did not have a guaranteed future there. *Africa for Africans* was their slogan (Thompson 2000:210).

There were many political and economic questions that divided the anti-apartheid opposition in South Africa in the latter half of the twentieth century, often along the infamous lines of the debate around race and class.[12] Should apartheid, the debate went, be seen as primarily a racial problem or should it be seen as the creation of a particular form of the capitalist mode of production? The former required a popular political struggle against national oppression; the latter required a class struggle against racialised capitalism. The debate linked

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12 See Saunders 1988 and Wright 1977 for illuminating discussions of these debates, from the vantage point of South African historiography.

analysis to the strategies and tactics of political struggle. Accepting one analysis meant accepting a particular ideological programme.

It could be argued however, that if there was an enduring question that split the anti-apartheid movements in South Africa, then this was it. What would be the fate of the white settlers in a South Africa without apartheid? Where did they belong? The 1959 PAC breakaway posed this question indirectly, the formation of the Black Consciousness movement posed it directly, and the violence between the United Democratic Front and followers of the Azanian Peoples Organisation in the 1980s posed it as a matter of urgency. Of course, it was a debate that divided the ANC leadership itself, most starkly after the 1969 Morogoro consultative conference when 'non-Africans' (whites, coloureds, Indians) were allowed to become members of the ANC in exile. The outcome of this decision, expressed in a document titled '*Strategy and Tactics*', noted that this change in membership policy needed to manage two factors. Firstly, it needed to not 'be ambiguous on the question of the primary role of the most oppressed African mass and, secondly, those belonging to the other oppressed groups and those few White revolutionaries who show themselves ready to make common cause with our aspirations, must be fully integrated on the basis of individual equality' (ANC 1969:390). This tension between group and individual representation was partly managed by maintaining National Executive Committee positions for Africans, a policy upheld until 1985. But at the time this resolution sparked a crisis in the leadership circles of the ANC. At the unveiling of the tombstone of the ANC leader Robert Resha in London in July, 1975, Ambrose Makiwane observed that '[t]he trouble the African people have at present is that our strategy and tactics are in the hands and dominated by a small clique of non-Africans. This is as a result of the disastrous Morogoro Consultative Conference of 1969, which opened membership of the ANC to non-Africans' (Makiwane 1975:400-401). December of 1975, some four months later, the National Executive Committee of the ANC expelled Ambrose Makiwane as well as Alfred Mqota, George Mbele, Jonas Matlou, Tennyson Makiwane, O.K. Setlapelo, Pascal Ngakane and Thami Bonga, noting that they 'have arrogantly refused to denounce their counter-revolutionary activities' (ANC NEC 1975:403). Periods of severe division and violent conflict within the anti-apartheid movement therefore turned on this political question.

If South Africa represents a peaceful transition from authoritarian rule to democracy, then it is the answer to this question, perhaps more than any other, that swayed the forces of history in one direction rather than another. Yes, how one gets from violence to peace is important. But a peace process requires radical acts of imagination by the parties involved. The process itself may be secondary to the imagination which enables it. And that imagination, if it is to work, is radical because it must defy the common-sense choices. It must transcend the limitations imposed upon it by the past. That the process in South Africa was as inclusive as possible, that the process, despite challenges from the ideological right and the ideological left, could stay on track through some very challenging events, like the assassination of Chris Hani or the AWB invasion of the Kempton Park Codesa talks, was because the process was able to satisfy a fundamental challenge to peace: Who would belong, who could belong, who had a right to belong? Race, Ethnicity and History defined the answer in the past. Race, Ethnicity and History would not define it in the future. And the result is eloquently crystallised in the speech delivered by the then Deputy President Thabo Mbeki at the adoption of the new Constitution of the Republic of South Africa in 1996. Some 40 years after the writing of the Freedom Charter, Mbeki noted: 'It is a firm assertion made by ourselves that South Africa belongs to all who live in it, black and white'. 'I am formed', he proclaimed, 'of the migrants who left Europe to find a new home on our native land. Whatever their actions, they remain a part of me'. He went on: 'I am the grandchild of the warrior men and women that Hintsa and Sekhukhune led, the patriots that Cetshwayo and Mphephu took to battle'... 'I am the grandchild who lays fresh flowers on the Boer graves at St Helena and the Bahamas...I come of those who were transported from India and China whose being resided in the fact, solely, that they were to provide physical labour...being part of all these people, and in the knowledge that none dare contest that assertion, I shall claim that I am an African...we refuse to accept that our Africanness shall be defined by race, colour, gender and historical origins' (Mbeki 1996).

Mbeki, in this speech about what it means to be an African, situates it within a seemingly seamless historical discourse found in the Freedom Charter. But despite this expressed continuity there is also a departure. The Freedom Charter's discursive and material world was one of the racialised notions of

blackness, a South Africa of 'four nations', a South Africa of 'Europeans' and 'Non-Europeans', a South Africa where to be African was to mean 'black', was to mean inhabiting a world of pass laws, customary laws, petty discriminations and grand limitations. The departure lies in the speech's poetic recognition of diversity as a unity contained within a single national and continental identity, rather than many fragmented racial and ethnic identities. At the core of this speech is a statement about belonging. A reassuring statement. A statement that speaks with equal measure to anxieties and fears, and to hopes and dreams. A vision that confounds the historical laws of wrong, right and revenge that so often have turned 'victims into killers' (Mamdani 2001). That makes perpetrators of wrongs scared to take their feet off the necks of their victims, because surely one expects the victims to turn on you with the full vengeance of their might. It is this fear that Rian Malan spoke of so vividly in his book *My Traitor's Heart*: 'Pebbles leapt off the road in brilliant clarity, casting shadows as stark as shadows on the moon. The night was as silent as outer space. I was walking on the moon. All I could hear was the drumming of blood in my ears, and the rasp of my own breathing. I was out of my mind with terror, and in that moment, in that moment it came to me; the force that held the white tribe together, and kept our sweating white fists locked in a death grip on the levers of power' (Malan 1990:289).

It took a radical act of imagination to grasp that so much turned on fear, and by offering and proving their commitment to overlook race, to transcend race, the ANC convinced the parties representing white South Africans that their future was safe. It even placated the far right white parties by constitutionally recognising the possibility of an Afrikaner homeland or *volkstaat* in a new South Africa.[13] Mbeki's notion of an African is therefore distinctive since it seeks to deracialise Africanity and de-nativise it. Being African is not synonymous to a racial identity or origin in the biological sense. It is therefore not about where you are from but *where you are at* that determines your eligibility for 'belonging' and citizenship. It is, to some extent a multiplicity of collective experiences, both

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13 Even though it was an offer later withdrawn once the far right was deemed no longer a considerable threat. I have discussed this in a forthcoming chapter (Pillay forthcoming).

good and bad, a totality, *embodied* – 'a part of me' – in him as a representative of the 'state', as deputy-president, coupled for the first time to the 'nation' in a fully representative manner in South Africa. To be an African for Mbeki, is to embody the baggage of history in order to fully represent the totality of experiences which therefore requires him to speak not as the leader of a liberation movement or a political party, but as the official authority of a sovereign state.

And so we might say that we had a peaceful transition in South Africa, in a place where few would have predicted that the horrific violence in Africa in 1994 was going to be in Rwanda and not South Africa as Mahmood Mamdani noted. But ten years on, the remarkableness of that gesture towards one's oppressor might not seem as prudent for some. For in the peace process, there are some who note cautiously that in favour of Peace we set aside the question of Justice. And the relationship between peace and justice – between security and fairness, between 'political life' and 'biological life' – profoundly shapes the dilemmas of South African life today.

The peace process, otherwise known as the negotiated settlement, protected the political life of South Africa. It has entrenched a government that is widely considered as legitimate, in severe distinction to its apartheid predecessor.[14] A remarkable degree of political stability thus characterises the national discourse around the institutions and practice of political life. There is substantive participation in electoral politics at national and provincial level (Daniel 2004). The opposition parties within parliament, albeit small, seek to address their concerns within a parliamentary framework rather than outside of it. There is an increase in what we might call the judicialisation of politics, that is to say, the addressing of political demands through legal channels and constitutional discourses. Important economic and social demands have thus been expressed via the courts resulting in landmark decisions, setting legal precedents, like in the '*Grootboom*' case which dealt with land removals, the case for access to anti-retrovirals for those living with HIV and Treatment Action Campaign's use of the law in that case, and the Mikro School case around the language of

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14 See www.idasa.org.za for a number of useful studies measuring participation within South Africa's post-apartheid democracy.

instruction at public schools. The expression of political discontent through judicial mechanisms is an indicator of the perceptions of the efficacy, transparency and trust in these mechanisms to successfully mediate and regulate the power of the government in relation to the sovereignty of the constitution, which contains the fundamental rights to which citizens are entitled. These are positive developments.

It is at the level of biological life that serious concerns must be expressed. And it is here that Justice most glaringly presents itself as tangled in a web of constraints – historical, national and global. Government policy discourse shifts constantly between redistributive promises to its mass constituency that profound change is on the way, and reassuring promises to its minority privileged constituency that their lives and their privilege will stay the same and in fact get better. And despite their perceptions, it has indeed got better for most of the previous beneficiaries and for the small number of new beneficiaries (Gelb 2005:397). Not that things have been altogether bad for the victims of apartheid. In the President's State of the Nation address in 2004 numerous successes are correctly identified. Between 1994 and 2004 housing subsidies were allocated to 1,6 million houses built for poor families. Some 70% of households were supplied with electricity and nine million people now had access to clean water (Mbeki 2004). In addition 1,8 million hectares of land had been redistributed, and secondary school enrolment stood at 85%, with a range of childhood interventions set in place, including a child care grant. These are impressive achievements targeted specifically at what I am referring to as the biological life of South Africans, most of whom have been living in conditions of abject poverty and material insecurity for decades. Whilst government achievements with regard to basic conditions of life, like access to water, housing, electricity and health care must be applauded, it is the sustainability of these interventions that is worrying. Critics point out that substantial numbers of people have since been disconnected from access to electricity and have been denied access to drinking water because they cannot afford these services. The institutions concerned are determined, however, to recover costs for services provided rather than see access to basic services as a constitutional right affecting biological life.[15] In these instances the redistributive action is curtailed by the assurances to private capital that a macro-economic framework is in place which fosters

economic growth through 'free' market mechanisms, thereby negating the total impact these positive redistributive gestures might have on the people most in need of them. And despite these interventions, inequalities are widening, particularly within racial groups. As Reg Rumney notes: 'The income inequality present at the dawn of democracy grimly persists...Moreover, the divide has grown within racial groups, as a small group of black people has become exceedingly rich' (Rumney 2005:403).[16]

Whilst there has been growth in the South African economy, it can be described as 'jobless growth'. This is particularly troubling given the level of unemployment in South Africa, which by wide definitions of unemployment hover at around 40% whilst 'strict' definitions place it in the low 30%.[17] And unemployment continues to rise by between 1 and 2% per year, most dramatically affecting those classified as 'African', with an increase in unemployment amongst those so classified from 20% in 1995 to just under 40% in 2002 (Altman 2005:426). In addition, during the same period, the number of people employed in the formal sector of the economy dropped from 72% to 51%, while unemployment in terms of the strict definition leapt from 16% to 31% (Altman 2005:437). Given these statistics, it is troubling to note the comment of a senior member of the Presidency in South Africa, Joel Netshitenzhe, about 'mistaken views that the poor are worse off than during the apartheid years' (*Business Day* 2003). Poverty affects those most vulnerable the worst of course. Up to 40% of South African children, despite valiant efforts at providing a child grant support system, are today living below the poverty line. And poverty exacerbates illness, particularly chronic diseases. HIV/Aids now accounts for more than 40% of mortalities in South Africa,[18] up from around 9% in 1995 (Woolard 2002).

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15 See in this regard the work of Patrick Bond (2000), Hein Marais (1998) and Sampie Terblanche (2003).

16 See also Bhorat et al 2001 and Whitford & McGrath 1994 for similar findings.

17 The 'strict' definition does not include people who are unemployed and are no longer seeking a job.

18 Government officials have been involved in the dispute about whether criminal violence or Aids is the leading cause of death.

In the laudable attempt to placate the fears of white South Africans during the peace process the ANC may have ensnared itself. The moment President Mbeki mentions the fact that most whites are wealthy and most blacks are poor there is an uproar from the smaller white parties, accusing the President of 'dividing the nation' by talking about race and talking in racial terms. The government's attempts at affirmative action and black economic empowerment (BEE) are attacked by some in the white opposition as 'reverse racism'. Ironically then, the biggest champions of non-racialism now are the previous beneficiaries of apartheid. To talk about race and to view the past through that prism is to put the spotlight on their privileges as beneficiaries of a system labelled a crime against humanity.[19] Secondly, the government's attempts to recognise diversity have meant it has had to make gestures toward cultural recognition claims which demand respect for difference. But where cultural differences coincide with racial differences, recognising cultural differences can mean promoting racial differences and continued racial privilege. Hence the Minister of Defence, Mostiuoa Lekota, remarked not so long ago (Independent online 2004), that we might want to move beyond the celebration of diversity, if it is at the expense of celebrating our commonalities, since it contains the threat of splitting the country up into balkanised communities (concerns that arise, no doubt, from the S.A. Defence Force's recent peacekeeping experiences in Central Africa).

Meanwhile, the sensational political violence of the past, recounted at the Truth and Reconciliation Commission, may have transformed itself into the mundane socio-economic violence of the present – the structural violence of hunger, poverty and homelessness, and the almost normalised perception of the violence of murder, robbery, rape and hijacking. As Ted Leggett (2003) notes: 'A country of some 44 million, it experiences at least 22 000 murders a year, which is about 25 per cent more than the United States, a violent country with over six and a half times the population'.[20] The insecurity of living under the

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19   An argument made by Mahmood Mamdani (2002:58).

20   There is a discrepancy between the perception of the levels of crime amongst the public and the official statistics of the state however. The official statistics show a decrease rather than an increase in murder rates, for example. My point however

authoritarian police state of apartheid that was everywhere may have been replaced by the insecurity of the increasingly absent state. At the level of perception, but in many instances in actual practice, the state appears to be not there, or to be unable to provide for its citizens' needs,[21] at least for the needs of those *most in need*, like the majority of black South Africans, children, women, and the ill.[22] The state seems unable to provide jobs, housing and medical care, at least at the pace and on the scale required to lift the poor out of poverty and insecurity in the medium to short term. The lesson of South Africa, if there is one, is not simply the one contained in the remarkable gesture of *reconciliation* made by the majority of victims to their oppressors which enabled the Peace process. The lessons of South Africa may still be unfolding. For there is still an unanswered question that everyday finds a bigger chorus: the question not just of peace, but of how one creates a Just Peace.

For it is this rather impolite question that continues to haunt the dignified veneer of South Africa's settlement and the longevity of its stable political life. We have redefined 'African' in order to show that we are not thinking in terms of a racial identity. We are not making 'all who live in it' Africans who now belong, almost regardless of what they have might have done in the past, and thereby enable a relatively peaceful transition to democratic rule. We have, in Thabo Mbeki's stately eloquence, refused 'to accept that our Africanness shall be defined by race, colour, gender and historical origins'. We have thereby endorsed a lesson which needs wider resonance in a country on a continent witnessing simmering levels of xenophobia. But we must also refuse, as robustly, to accept

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concerns the perception of the high probability of insecurity with regard to matters of everyday life and well-being, amongst black and white South Africans, even if this is at odds with the empirical manifestations of violence in some instances. See the following note.

21 A number of studies of perceptions of the most pressing concerns of South Africans have borne this out, where joblessness and crime are listed as priorities. For example, see wa Kivulu 2002.

22 The UCT based Afro-Barometer survey reported that 'only one in ten South Africans believe that their elected representatives act in their best interests' (Mail and Guardian 2002).

that our Africanness shall be defined by injustice, by poverty, and by disease. These realities are indeed part of what it means to be an African for many. They are surely not a part of the legacy that we want to carry into the future, if there is to be a future to which we all belong, equally.

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