



Post-Apartheid ‘Disgrace’: Language and Politics of Human Rights

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The Apartheid in South Africa (1948–1994) presents one of the few instances in modern history when the systematically organised segregation and oppression of select groups of people—the Black and the Coloured populations of the country in the case of South Africa—enjoyed legal sanction.¹ In 1995–96, the Truth and Reconciliation Commission (TRC) was set up by the post-Apartheid democratically elected government to address this history of legally-backed racial subjugation. It was then naturally expected of the TRC that while administering the much-anticipated justice to those who suffered during the Apartheid, it would necessarily revise the legal framework which formed the bedrock of the Apartheid system. To the extent that the TRC recognised racism as an essential violation of a victim’s human rights, it was also understood that it would inevitably address violations of such rights. The President of the TRC, the Anglican Archbishop Desmond Tutu, has unambiguously recognised the Apartheid as a system that violates principles of human rights and dignity in these words: “As I listened in the Truth and Reconciliation Commission to *the stories of perpetrators of human rights violations*, I realized how each of us has this capacity for the most awful evil—every one of us” (Cited in Todorov 457 Emphasis added).

In his critical account of the history of Human Rights titled *The Last Utopia: Human Rights in History*, Samuel Moyn highlights the universal and a-historical impulse as inherent to most conceptions of human rights. He suggests that international movements for Human

¹Much of the Apartheid legislation was passed by the government of the National Party that came into power in 1948. The Population Registration Act 1950, for instance, required that all South Africans be divided into racial population groups and their racial affiliation be registered in a government document. Similarly, the Reservation of Separate Amenities Act 1953 stated that services, transport, and public spaces were to be divided along racial lines such as for “Europeans only” and “non-Europeans only.” Further details about Apartheid legislation in South Africa can be accessed from <http://scnc.ukzn.ac.za/doc/HIST/Apartheid%20Legislation%20in%20South%20Africa.html>.

Rights have always worked by eliding crucial foundational questions, certainty about which should necessarily underlie such endeavours so that they remain consciously self-critical as well as meaningful for others who might wish to become a part of them. These include questions such as: What are Human Rights? Are they natural? When and where do they originate? Moyn argues that:

Historians of human rights approach their subject, in spite of its novelty, the way church historians once approached theirs. They regard the basic cause—much as the church historian treated the Christian religion—as a saving truth, discovered rather than made in history. If a historical phenomenon can be made to seem like an anticipation of human rights, it is interpreted as leading to them in much the way church history famously treated Judaism for so long, as a proto-Christian movement simply confused about its true destiny... And the organizations that finally appear to institutionalize human rights are treated like the early church: a fledgling, but hopefully universal, community of believers struggling for good in a vale of tears. If the cause fails, it is because of evil; if it succeeds, it is not by accident but because the cause is just. (Moyn 5–6)

It should not be construed that the parallel between the a-historical attitude inherent in most histories of the movements for Human Rights and a Church history of the Christian religion that Moyn considers is misplaced. This is because, as this paper hopes to establish, legal mechanisms to redress historical wrongs such as the TRC that are established with a consideration of the principles of Human Rights often implicate questions of history and religion in complex ways in their conception as well as workings.

If one carefully scrutinises the terms of reference and mandate of the TRC and contrasts it with the nature of its own attempts at material historical reparation for those who suffered, one discovers a paradox. The terms of reference recognise the significance of the historical context of the Apartheid by acknowledging the fact that the Apartheid was systematic violence, enjoying legal backing and support, directed against a particular *community* of people. Citing the Report of the TRC, Mahmood Mamdani attests to this fact in these words: “The big finding [in the report]...was that apartheid was indeed a “crime against *humanity*”” (Mamdani 35 Emphasis added). However, the TRC’s preferred method of conducting its hearings contradicted its own mandate and terms of reference as it asked an *individual* perpetrator to *confess*

all of his/her crimes in public for his/her case to be considered for amnesty. Justice for the TRC thus clearly meant an unconditional affirmative admission of all crimes committed on the part of the perpetrator which would elicit forgiveness for the same from the 'victim.' Unsurprisingly, with reference to the method of the conduct of TRC's hearings, its President Desmond Tutu has highlighted the importance of this gesture of forgiveness in the following words:

...when I talk of forgiveness, I mean the belief that you can come out the other side a better person. A better person than the one being consumed by anger and hatred. Remaining in that state locks you in a state of victimhood, making you almost dependent on the perpetrator. If you can find it in yourself to forgive then you are no longer chained to the perpetrator. You can move on, and you can even help the perpetrator to become a better person too. (Tutu, "Forgiveness Project")

Forgiveness for Tutu therefore implies a certain psychological progress for the victim that marks his or her movement away from a state of anger and hatred towards the perpetrator to one of empathetic reconciliation.

Mahmood Mamdani, however, highlights the nature of the political manoeuvre that underlies the TRC's professed ethic of confession and forgiveness. He rightly points out that both confession and forgiveness in the TRC's model of mutual reconciliation between the victim and the perpetrator are designed to work at the level of the individual. Thus the historical fact of the Apartheid being a legally sanctioned system of racial segregation and oppression against a specific community is not adequately addressed by the TRC. The TRC, he suggests, thus renders this systematic and deliberate segregation a personal issue between the victim and the perpetrator as it ignores the hierarchical socio-political positions that they have occupied during the Apartheid. He states, "The core victims of the crime against humanity, of this "system of enforced racial discrimination and separatio" could not have been individuals; they had to be *entire communities* marked out on grounds of race and ethnicity..." (Mamdani 54).

Mamdani also suggests that the TRC's affirmation of the act of forgiveness further implies an erasure of the history of colonisation of South Africa as it construes the Apartheid as a system marked by a stereotypical political struggle between the Apartheid government's officers and certain pro-democracy activists. He argues this to be an outcome of the lack of any well-defined mechanism in TRC to identify

the victims of Apartheid which resulted in mainstream political activists being solely identified as those who suffered the inflictions of the system. This identification was of course at the cost of the many tribal groups and communities that constitute the population of post-Apartheid South Africa as they were never recognised by the TRC as those who also suffered during the Apartheid. Mamdani rightly underlines the fact that such a scenario seems to unfortunately repeat the manner in which the exploitation of tribes in South Africa under colonial rule is often ignored while an attempt is made to highlight the ways in which the colonial government proved to be difficult for the semi-urban middle classes in the country to endure and survive (Mamdani 34).

Apart from the above described historical elision by the TRC, another perplexing fissure marks the linguistic discourse of the individual confession mode that it has preferred as the method for its workings. A religious and secular dichotomy marks the individual's confession in the TRC hearings. The mode of an individual confessing his/her crimes to the Commission is remarkably similar to the Catholic practice of an individual confessing his or her sins in a church to the head Pastor. It is not surprising therefore that Desmond Tutu has himself spoken of the TRC in language that has Biblical intonations: "We had to distinguish [in the TRC hearings] between the *deed* and the perpetrator, between *the sinner and the sin: to hate and condemn the sin* whilst being filled with *compassion for the sinner*" (Cited in Todorov 457 Emphasis added). On the other hand, as discussed earlier in this paper, the TRC has also been understood as a mechanism to address the gross human rights violations that marked the Apartheid in South Africa. The international Human Rights community lent its support to the TRC on purely secular grounds, providing it with legal and technical assistance.² It understood the Apartheid as the large-scale repetition of acts of violation of an individual's human rights. Thus, one realises that the almost religious, confessional mode with which the TRC functioned was at odds not only with its secular and legal mandate but also with the fact that its hearings were conducted in public. The latter is a problem in at least two ways—it was supposed that the TRC would address questions of violation of human rights which, by definition, go beyond the bounds set up by any one religion; internationally it was

²In this regard, Mahmood Mamdani informs his readers of the two Non-Governmental Organisations, namely the Institute for a Democratic Alternative in South Africa (IDASA) and Justice in Transition that have, under the leadership of Alex Borraine, helped in promoting the activities of the TRC. Borraine later became the Vice-Chairman of the TRC (Mamdani 55–56).

understood and supported as an institution built upon and working through secular and legal means. The TRC was thus marked by an uneasy cohabitation of the two fundamentally opposed discourses of the religious and the secular or legal. Jayne Poyner rightly remarks, "...a key flaw of the processes of the TRC: that discourses of truth and reconciliation are premised upon a Christianized, private ethics of confession and are therefore inequitable in the public sphere of the TRC" (Poyner 150).

Nowhere is the uneasy coexistence of the religious and the secular in the discourse of the TRC represented more sensitively than perhaps in J.M. Coetzee's novel *Disgrace*. The protagonist David Lurie, a White male professor in post-Apartheid Cape Town, is charged with committing sexual abuse and violence against his (presumably coloured) student Melanie Isaacs. He appears before the Committee investigating the charges in a scene that almost mirrors the many hearings that have been conducted by the TRC. He accepts his guilt without even reading the statement made by Isaacs. This exasperates the members of the Committee, especially Farodia Rassool, who insists that Lurie must state in detail the nature of what he acknowledges as his guilt. She implies Lurie's acknowledgement to be insincere because of Melanie's belonging to a coloured community in these words: "I want to register an objection to these responses of Professor Lurie's, which I regard as fundamentally evasive. Professor Lurie says he accepts the charges...To me that suggests that he accepts the charges *only in name...**The wider community* is entitled to know what it is *specifically* that Professor Lurie acknowledges..." (Coetzee 50 Emphasis added). Lurie understands that what Rassool really wants from him is a *confession*, a 'coming-clean' in deference to the authority of the Committee rather than a mere statement of his guilt regarding what transpired between him and Isaacs. He thus responds to her, "Frankly, what you want from me is not a response but a confession. Well, I make no confession. I put forward a plea, as is my right. Guilty as charged. That is my plea. That is as far as I am prepared to go" (Coetzee 51).

The day after the hearing the Committee Chairman, Manas Mathabane, calls Lurie and asks him to submit a "plea of mitigation" to the Committee in a "spirit of repentance" (Coetzee 58). Lurie refuses to accede to Mathabane's suggestion. He replies:

Manas, we went through the repentance business yesterday. I told you what I thought. I won't do it. I appeared before an officially constituted tribunal, before a *branch of the law*. *Before*

that secular tribunal I pleaded guilty, a secular plea. That plea should suffice. Repentance is neither here nor there. Repentance belongs to another world, to another universe of discourse. (58 Emphasis added)

This acrimonious exchange between Rassool and Lurie as well as the conversation between Lurie and Mathabane reveal that both Rassool and Mathabane do not realise the significance of the politico-linguistic slippage that occurs when a secular and legal acceptance of guilt is construed as, in a gesture similar to the multiple evocations of the religious in the discourse of the TRC, an act of confession or repentance. Lurie's responses to them suggest that he is acutely conscious of the ultimate incompatibility that exists between legal/secular discourse, which demands a specific admission of guilt and provides a certain 'amnesty' in return, and the religious discourse that asks for confessional repentance.

Coetzee's *Disgrace*, however, does not limit itself to the presentation of the above mentioned instance that can be construed as a subtle critique of the workings of the TRC. The narrative of the novel further traces the way in which a refusal to publicly confess one's guilt in terms of repentance can ultimately get played out. Even as David Lurie refuses to publicly repent his guilt he chooses to suffer personally in a spirit of, what Elleke Boehmer calls, "secular atonement." Boehmer suggests that secular atonement, contrary to a Christian understanding of confession, works through a Levinasian ethic of abjection of the self for the other. It entails an acceptance of humiliation on the part of the self that ultimately manifests in the form of an acceptance of physical abjection. In the context of *Disgrace*, she argues that for the 'near-rape' of Isaacs, Lurie thus accedes to and undergoes personal suffering. He chooses to bear his guilt on his own body even though he does not care to or cannot re-present it in *confessional and repentant* language for either the Committee or even for himself (Boehmer 347–8). This suffering entails Lurie's recognition that he would need to live and survive through his disgraceful guilt in extremely difficult conditions of abjection—conditions of an absolute lack of material possessions and a completely depleted sense of self-confidence which get reflected, (if only) in a spirit of love and compassion, in his service for the dead dogs that he helps to carry for their incineration. As Boehmer argues, this empathy for the dead dogs ultimately transcends conventional limits of the subject's expression of his or her feelings such as the divide between the living and the dead, and between humans and other beings (Boehmer 346). She thus rightly suggests that the ethical scheme that *Disgrace* presents as an alterna-

tive to the TRC's preferred method of an almost Christian confession is of an individual addressing his guilt in 'private' in terms of personal suffering, physical abjection, and an excruciating truthfulness to himself. Such an acknowledgment of course cannot be confined to a representation of the guilt in terms of a *narrative* of what transpired between two specific individuals for the Committee set up by the University and, by extension, even for the TRC.

The conversation that transpires between Lurie and Mr. Isaacs (Melanie Isaacs's father) when the former visits the Isaacs's towards the end of the novel's narrative provides strong evidence that corroborates Boehmer's argument. As Lurie is bidding farewell to the family, Mr. Isaacs wonders if Lurie has learnt any lessons from the past episode as for him God wills people to learn lessons from their experiences. Lurie responds in the following words:

Normally I would say that after a certain age one is too old to learn lessons. One can only be punished and punished. But perhaps that is not true, not always. I wait to see. As for God, I am not a believer, so I will have to translate what you call God and God's wishes into my own terms. *In my own terms, I am being punished for what happened between myself and your daughter. I am sunk into a state of disgrace* from which it will not be easy to lift myself. It is not a punishment I have refused. I do not murmur against it. On the contrary, *I am living it out from day to day, trying to accept disgrace as my state of being. Is it enough for God, do you think, that I live in disgrace without term?* (Coetzee 172 Emphasis added)

Boehmer herself, however, stops short of completely endorsing the ethical alternative of personal suffering and physical abjection in the face of an engagement with "extreme alterity" that *Disgrace* proposes. This is because, according to her, the novel does not present the reader with any concrete evidence to infer that Lurie actually does learn his lesson and engages with others (humans) around him with gestures of reconciliation as a consequence of his sustained engagement with the dead dogs (Boehmer 346). He, for instance, assaults Pol-lux, one of the three Black men who raped his daughter Lucy and lusts after Melanie Isaacs's younger sister, Desiree. Besides, as Boehmer further argues, the ethical paradigm espoused in Coetzee's novel does not seem to be politically inclusive, if examined closely, especially from the perspective of gender.

Lucy's decision to marry Petrus, another Black man and a relative of Pollux, serves as the crucial point in the narrative of *Disgrace* that requires examination. Her decision of not reporting the fact of her being raped to the police justifiably disturbs most readers of the novel. She never articulates the reasons for deciding to do so in clear terms and the reader is left wondering if her decision is solely in lieu of her being allowed to continue staying on the piece of land that she holds in the post-Apartheid South African countryside. In other words, Boehmer suggests that Lucy seems to have sacrificed her (sexual) identity and sense of personal being in the aftermath of her predicament. Her decision to not report the matter of her rape to the police, to marry Petrus, and to bear the child born out of the rape threaten her very (sexual) existence and put it at stake in such a manner that Lurie, quite apart from experiencing, cannot even begin to comprehend. Unsurprisingly, Boehmer reads the ethical alternative to Christian confession suggested by *Disgrace* as being particularly harmful to Lucy and underlines that, in the process, "Lurie remains a subject...Lucy's self-substitution involves becoming reconciled to the position of conventional object..." (Boehmer 349). She, therefore, asks the reader of *Disgrace* to recognise the danger of not subjecting the ethical paradigm espoused by the novel to a rigorous and politically conscious scrutiny.

Boehmer's own terms of questioning, however, can be scrutinised further. In making the assertion that the ethic of "secular atonement," that *Disgrace* presents to its readers, as an alternative to the demand that a person confesses his/her guilt in public and repent for them is politically suspect, she yields to the temptations of understanding gender relations in heteronormative and patriarchal terms. Instead of looking at Lucy as a subject who deliberately chooses to marry Petrus and continues to stay in the South African countryside of Grahamstown, she sees an essential opposition between Lucy's dignity as a human being and the fact that she agreed to have the child born out of the act of rape. In other words, Boehmer does not quite appreciate the fact that Lucy does not attach ethico-political value to the fact that she is going to marry the relative of one of her rapists and she is not going to abort the child which was conceived during the assault. Gayatri Chakravorty Spivak agrees with this assertion in her argument:

It is...the casting aside of the affective value-system attached to reproductive heteronormativity as it is accepted as the currency to measure human dignity. I do not think this [Lucy's decision to marry Petrus and not abort the child] is an acceptance

of rape, but a refusal to be raped, by instrumentalising reproduction. (Spivak 21)

It is slightly ironic then that on one hand, Boehmer seems unable to appreciate Lucy's instrumentalization of reproduction and, on the other, she does not recognise Lucy's decision to not report the incident to the police to be a refusal to accept an instrumental and normative conception of justice and the law. As Maria Michelle Kelly suggests, Lucy's insistence that the rape is a 'private matter' is actually a refusal to submit to the space of law in which confession and testimony are subjected to analysis. The TRC, in its procedure of analysing confession and testimony as an instrument providing amnesty, is precisely the kind of space that Lucy rejects when she rejects legal redressal for the act of rape in *Disgrace* (Kelly 228). Therefore, this paper suggests that Boehmer cuts short shrift to the very ethic of "secular atonement" that she otherwise so astutely recognises as being configured in the narrative of the novel.

Thus, in light of the above discussion, it can be said that legally sanctioned mechanisms such as the TRC that are evolved to address instances of gross violations of human rights like the Apartheid tend to become the site of an uneasy cohabitation of mutually adverse world-views such as the religious and the secular or legal. These contradictory ideologies have a tendency to exclude particular and specific historical instances of mass communal abuse from the purview of such mechanisms and turns them against the mandate of their own constitution. The mechanisms then adopt an instrumental and normative view of justice and insist on working with a model that requires individuals to confess and repent their crimes in public in exchange for amnesty.

The ethical paradigm of personal suffering through physical abjection as presented in texts such as Coetzee's *Disgrace* can be used as a basis to critique the working of enterprises such as the TRC. The novel presents the TRC as being limited on at least three accounts—of not being able to adequately address the Apartheid as a history of violence and subjugation that targeted communities and not individuals; of being caught in a binary of the religious and the secular; and of taking an instrumental view of justice and law. It then, ultimately, demands its readers to understand conceptions and mechanisms of justice which at least make a sincere attempt to address histories of violence, to try to think beyond easy and comfortable connotations of binaries, and to re-imagine the law in a way that does not think of it as a mere instrument of delivery.



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