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Reflections on Racism and World Order

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REFLECTIONS ON RACISM AND WORLD ORDER

*Winston P. Nagan**

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I. INTRODUCTORY REMARKS

This Article is about international racism. Racism is not simply a local or national phenomenon, it is an immense global problem. Indeed, its tentacles stretch from the local to the global and back to the local. Let us put the picture of international racism into perspective by tying it to the claims made to eradicate racism in economic relations. Apart from affirmative action, there are two other approaches: either to assert the notion that reparations is a way to ameliorate the worst manifestations of racism and provide for racial justice, or to join that with the notion that there is indeed a universal right to development, and that every human being has the right to fully develop their personality, to fully develop their

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emotional, material, cultural, and social well-being without unjust or unfair discriminations. This indeed, I would suggest, is also the foundation of the idea of human dignity. These two ideas have emerged, and they have traveled, not often in easily complimentary pathways.

Let me suggest some items from the balance sheet of reparations. Some studies with regard to the colonialization of the Americas indicate that the human cost of 250 pounds of silver was one slave's life. If one counted the amount in dollars (up to \$1800) then the cost in slave life — that is Indian and African slaves — would have been approximately \$24 million in slave life, and the amount of money generated would have apparently been enough to capitalize the entire European industrial revolution. In other words, the European industrial revolution, which took Europe out of a scarce mode of agriculture production and into the very powerful mode of industrialized production, was purchased, in part, with the blood, sweat, and tears of slaves.

This is an argument as to the historical injustice of slavery, but of course it is replicated in various other parts of the world. Recently, reparations have been made to Holocaust survivors, which resurrected the notion that reparations must be paid when they are due. The judicial theory behind the reparations claim apparently rests upon a novel use of an ancient legal doctrine — unjust enrichment.

Another excellent illustration about the development claim is that of South Africa. The post-apartheid government, led by the African National Congress, inherited a debt incurred from the apartheid government of some \$55 billion. Most of this debt was a result of foreign governments and corporations violating U.N. sanctions against the apartheid regime. Banks and multinational corporations circumvented international law and lent money to the South African government for the purposes of supporting the apartheid state and repressing the black people of South Africa. This debt is now the responsibility of the black people of South Africa, and pay it they must. Needless to say, the big question is why on earth should South Africans be stuck with this debt when the apartheid government conspired with others to violate international law in order to oppress, torture, and kill the resisters of apartheid. If reparations are not feasible, then surely debt forgiveness is entirely appropriate in the South Africa context. This latter point is, of course, related to the human right to development claim.

The above examples are some dated illustrations of the issues of reparations and development. Contemporaneously, the story of reparations is more complicated, because in the global society in which we live, the

framework for a weak, but global constitutional order exists: the U.N. Charter. This Charter was a product of sacrifice, tragedy, and blood. Without the Holocaust, without the violent deaths of one hundred million people, and without ubiquitous imperialism and colonialism, there would be no U.N. Charter today. In many ways, the Charter lays the foundation for repairing the wrongs that have been visited on the rest of humanity by the major global powers that be, especially the Germans, who authored German imperialism. The envisioned evolution of the Charter forecasted more than simple civil and political rights. Rather, the Charter would grow and be shaped by a continuing commitment to human progress and the universalization of certain ideals, such as political freedom, and socio-economic justice. This vision was made manifest by the Charter of the 1970s. Emerging third-world states argued (in my opinion, rather reasonably) that there exists a globally-recognized human right to development, which was coherently and modestly postulated in the Declaration on the Right to Development. This Declaration requested no reparations. Rather, this Declaration reflected the opinion held by many within international legal and governmental circles that the right to develop is rational, and global self-interest dictates that we respect this right. However, barriers exist, and even rational economic judgments make way for ideas such as race and various other forms of otherness, so the business of global development design (which includes the right to development, the sharing of technology, and the using of technology to enhance the global society) encountered the problems from which the United Nations has taken a beating for years.

What is left for us today is that the United States continually attempts to appropriate the economic decision-making power regarding world order issues from international governance. The result is that the United States and others have crafted a kind of de facto economic security council in the G-7. The G-7 is nothing more than a forum that constantly tries to control global development issues and remove them from the United Nations. The United States then controls these issues and defines the agenda according to its own parochial interests. Unfortunately, the result has been absolutely pathetic, which in many ways was punctuated by 9/11. The events of September 11, 2001 illustrated the catastrophic effect of the development of this almost apocalyptic force of anti-globalism. The United States' current agenda of unilateralism is an irrational way to approach the current world order crisis. Better ways to approach this crisis do exist, but globalism inspired by U.S. unilateralism has created the monster that now bedevils it.

II. A GLOBAL PERSPECTIVE

A global perspective on racism represents a fractured moral vista. It is a positive moral view, in the sense that great strides have been made since World War II to globally rid the world of racism in its many forms. From an optimistic perspective, the ringing affirmation of the U.N. Charter of the human rights of "We the people" is a milestone in the ethical and moral timeline of humanity. It is a glass half full, and illustrates the romantic image of man struggling to overcome the age-old scourge of prejudice and otherness, the systematic degradation of those who are not like us. This is the half-full perception of the struggle to eradicate racism on a global scale. However, that struggle also confronts us with the fractured moral dilemma of our time. The glass is fractured, which is why it can only be half full. It is the half-full glass of moral sensibility that shares its moral fate with the struggle against the older forms of colonialism and imperialism. While these old forms of colonialism and imperialism are gone, other disguised forms of informal dominance and economic subservience have replaced them. Thus, while the forms of racism have been replaced in their original dimensions, the new racism requires its victims to often happily forge their own chains, all the while unconsciously sealing their own destiny.

The fractured glass that we shall be forced to drink from should be seen as representative of the challenge of unfinished business. The challenge is to recognize two scenarios concerning the future of racism: the possibility of real racial justice, equality, and dignity, or the possibility of the exact opposite scenario — perpetual dominance, exploitation, and an entrenched remnant of unrelenting and lasting deprivation of underprivileged peoples. It is possible that a new slavery, a slavery with a sugar-coated face, will come to pass. Thus, there is from a global perspective both an optimistic and pessimistic scenario concerning race relations in the global environment.

III. A FLORIDA PERSPECTIVE

Let us briefly bring these global concerns down to a local perspective. Florida Governor Jeb Bush determined early in his reign that race relations would be a priority for him. Florida, it seemed, was a racist state, with African-Americans being the prime culprits of racist activity. White Floridians, the helpless and blameless victims of liberal, equalitarian treatment, were now the abused class, the group on the receiving end of

prejudice and domination. To remedy these social problems, the Governor spearheaded the drive to eliminate affirmative action for African-Americans. Of course, the entire thrust of Jim Crow was really a form of affirmative action for white Americans. Parenthetically, the early justification of the apartheid of South Africa was based on the need to honor the expanding claims of poor white South Africans for social justice. In short, black disempowerment and deprivation, it turns out, was the apartheid remedy used to support white social justice claims. At the University of Florida the effects of Bush's policy have already been felt among students,¹ and I suspect will soon be felt in the number of African-American faculty and administrators. Perhaps there is some truth in the notion that the University of Florida is white property, and that, if the Bush plan is successful, it will again be white property, sublimely and parochially "pure."

Perhaps starting on a dismal note brings more realism to this Article, and there is no better form of realism than a critical look at one's own state. The policies pursued by Governor Bush have been a political success, and that success is likely to continue. Perhaps the One Florida² paradigm will become permanently entrenched in Florida and will become the model to be copied nationwide, especially in the context of higher education. Perhaps the really pessimistic news is the modest level of political action by African-Americans whose access rights have been so drastically impaired. Perhaps there needs to be a renewal of a form of critical political consciousness, for African-Americans specifically and for the have nots of the United States in particular.

IV. MY PERSONAL PERSPECTIVE

When I came to the United States in the 1960s, to Duke Law School, I considered the prospect of being a minority and foreign student going to a southern law school, but figured that one could always be up for a challenge, since I was already an exile from South Africa. At Duke, I met two African-American law students (the only two in the law school) and they proceeded to ask me, "Where are you from?" I replied, "I am from

1. The number of African-American students at the University of Florida dropped dramatically in 2001. In response, the University developed a creative and aggressive campaign to diversify. Currently, the numbers have improved. The explanation may be that the University's program of aggressively seeking minority students is an effective form of affirmative action.

2. One Florida is the name given to Governor Jeb Bush's comprehensive plan, developed in 2000, to end affirmative action in the government sector in the State of Florida.

South Africa.” They wondered, “South Africa? Is that in Ethiopia?” Obviously my first reaction was to think, “Geez, its going to be a long, arduous journey trying to raise political awareness and equality in this state to an acceptable level.” Amazingly, a few years later, Randall Robertson, Dennis Brutus, Chris Ntete, Edison Zvgobu, and I were renting a room in Boston, essentially plotting the idea of promoting divestment, disinvestments, and sanctions.

It was a great victory for African-Americans when they succeeded in spearheading the campaign to free South Africa and succeeded in getting the U.S. Congress to pass the Comprehensive Sanctions Bill Against South Africa. The sanctions legislation accelerated the transformation of South Africa and demonstrated two things. First, concerns for racial equality in the United States could be translated into a mandate of international salience. Second, if racism carries a price, it will be harder to sustain. I do not believe that South Africans could have transformed the South African landscape, combating the hard-nosed apartheid regime, without the American sanctions, and the American sanctions would not have happened without the commitment and the solidarity of African-Americans. And what were they fighting for? They were fighting for the principle of racial equality. They were fighting for human rights on a global scale. They took up the issue with their allies and won. What was the lesson behind that? I think that the most important lesson discovered through the sanctions movement was that racism continues to endure because it pays. If a system can be devised in which racism will not bring economic advantages, the racist structures begin to weaken and dissipate.

So, I believe, for all the complexity about race relations, there seem to be some basic fundamental lessons here. The first lesson is that as long as there is a system in place that allows institutions to benefit from racism, racism will thrive. When there are economic and legal punishments and liabilities for supporting racism, these interests will retreat from supporting racism. I am uncertain that they will necessarily change, but they will strategically retreat from previously held positions.

V. A UNITED STATES PERSPECTIVE

A person does not need a magnifying glass to determine how the benefits of racism play out on the political scene. The United States is the only hegemon on the planet, and its policies on racism have global influence for good or ill. Stated bluntly, it is not just the case of African-Americans losing ground and being packed off back to the plantation. It is more than that; it is whether we want a global form of American racism

or a global form of apartheid in which we basically end up sentencing the vast majority of African, Asian, and Latin-American states to a form of colonial or neocolonial rule under the hegemony of U.S. controlled, large-scale amorphous institutions of public and private power.

I want to give a few brief examples of why racism pays. When President George W. Bush was in trouble in the primaries he went to Bob Jones University in South Carolina, which prohibits black-white dating, to make a rallying speech. If anyone ever wanted to play the miscegenation card, Bush played it, and every white in South Carolina predisposed to looking sympathetically at miscegenation as a normative social construct immediately understood what Bush was doing. Bush had learned well from Bush, Sr., who had pulled out the Willie Horton race card during his own campaign. Again, the implications were simply to associate crime with African-Americans. It paid off electorally, both then and now. An individual plays the race card when it is advantageous and ignores the race issue when it hurts their position or pocketbook.

As one can see, it is extremely difficult to prevent an individual from playing the racial angle from every conceivable direction they can in order to gain a political or economic advantage. How we approach that problem, whether it is in the context of higher education or elsewhere, is an extremely difficult question to answer. What I think has been missed in the discourse in the United States is that liberalism itself has fundamentally retreated on the question of affirmative action. Affirmative action is an important stratagem for enhancing genuine equality and respect for disadvantaged people in the United States, especially minorities and women. I think this is a failure of both liberalism and the black perspective, which is intended to take its basic cues from liberalism. The best liberal minds claim that affirmative action, and therefore racial justice, is a transitional thing. I wrote an article on this, and at the end I commented to my friend, Tony Kronman at Yale,

If I may hazard a prediction, it will be that the struggle for social justice in general, and racial justice in particular, simply will not be a transitional thing. . . . America is a melting pot of unmelted lumps. When you and I make the great Transition, America will still be a melting pot of unmelted lumps, and the struggle for equal respect and dignity will continue.³

3. Winston P. Nagan, *Dunwoody Commentary: Dean Kronman's Diversity Narrative: Liberal Education Ideology Versus Social Justice?*, 52 FLA. L. REV. 897, 927 (2000).

Fundamentally, I think there is an even deeper question here, and I want to briefly address it. We as a society sometimes have to examine the fundamental ideas about what we accomplish and do not accomplish through our initiatives and action in the social context. One of the problems with affirmative action is that it was, in fact, mainly a Republican invention. It came to fruition through the Nixon administration, and we as a society have forgotten this fact. Why? Affirmative action made the Republicans appear to have a policy on racial justice, but it also skillfully divorced racial justice from social justice. If we examine what Republican regimes have historically done, we discover that they have consistently undermined the notion of social justice as a critical political construct. They have spent the last thirty years trying to extinguish the ideology of the New Deal. And the ideology of the New Deal was a deal connected with social justice. Affirmative action became an excuse, allowing society to do something of a token nature for the African-American community, while covertly undermining the larger claims to social justice and socioeconomic equity. It significantly undermined the justification for the war on poverty. The U.S. form of economic organization would begin to lose its human face. The operative Republican elite has, as of yet, not consumed Social Security in the interests of Wall Street. They will surely continue to attempt to do so.

VI. CONCLUSION

What we have then is a very narrow construct of social justice, in which we have disconnected African-Americans and communities from the other constituencies who are critically interested in the idea of both racial and social equality. The problematic question becomes how to reconnect the social forces who believe in an inclusive and just political culture for the United States. It is important that the discourse on reparations and development not be seen as a discourse in conflict, with each of these principles standing normatively apart. In fact, it would be much better that we connect reparations and development as complementary strategies critical to the realization of real human dignity on a worldwide basis.

The outcomes of the Republican success, to the extent that they have been able to loosen public control over corporate behavior, can be seen in the Enron fiasco. Enron imposed a massive price hike that was a *de facto* tax on the Californians. These taxes are private sector taxes required by big corporate governance rather than by elected government. There was no critical examination of the detail behind the price hike. If one examines

other forms of corporate behavior on the international stage, where the controls are even less stringent than those required in the United States, the level of transparency is virtually non-existent. We then can readily identify a way in which small government now means big corporate government with no responsibility, no transparency, and no accountability. We are faced with the overflow of this vast aggregate of wealth. In the history of our planet no more wealth has ever been produced than is now being produced, and the disparity between the haves and the have-nots has never been worse than it is at present.

The problem that desperately needs to be addressed is not whether everything should be under government or nothing should be under government, but whether we should rethink the foundations of social policy and social justice, not only nationally, but also globally. Having said that, the problem is that the present system makes the United States look parochial. Americans tend to think that their problem is unique and only affects them. They disconnect themselves from the larger issues affecting the planet. The melancholy part of this perspective is that it does not take much to make a real dent on global or national poverty. It just does not take a lot of money or resources to accomplish that. A few years ago the cost of the total African debt was something like twenty-six billion dollars. In global terms, this is minuscule. The Western governments could eliminate that debt and benefit from the energized flow of capital into Africa and other countries, which would make the whole global economy more productive. What we currently have instead are the economic, political, and social conditions that undermine democracy, undermine governmental stability, and undermine the ability of states to provide the most minimal health and social services, making it seem as though these ideas are communistic and socialistic, as if these ideas carry all kinds of negative connotations.

Finally, I think the great failure of liberalism, and in my judgment, black activism, is that we bought far too much into the notion of pragmatism. We strive for small incremental adjustments, and if we get a little crumb, we convince ourselves that the token offering is adequate. Those on the other side of the discourse have long sought to refute this. The major institutions that support its cause, the Heritage Foundation, the Hudson Foundation, and the American Enterprise Institute, have a very clear agenda as to what they want. And we Progressives simply do not take them seriously enough. We think their techniques do not work, and the result of our apathy is a vast flow of debate in the media and television, which is fundamentally two versions of the same side of the coin, all controlled by similar vested interests. It has gotten to the point where the

other side of the coin is not even shown to society at large, due to the fact that we are afraid to voice that option, in fear of being viewed as betraying our own cause and not being willing to compromise. FOX, NBC, and the other major corporate-driven media outlets seem to be brainwashing us day-in and day-out, and the silent majority of society has no idea that it is actually happening in its name. The media takes advantage of our reliance on a television-based society to employ doublespeak in order to shape our views. They purport to give us choices that are really simply the same idea, but with a deft spin. I remember that marvelous expression that Malcolm X told me when we met just before he was killed. He said, "You know, it's like (he used this example and it came out in his book as well) they stick cocaine into you, and they pull your teeth, and you are bleeding, and so on. You don't know what's happening, but you are happy while all the blood is dripping from your mouth."

I think that there are immense challenges for us to rethink some of our basic beliefs and ideologies, to be far more focused on what we plan to do, and to see ourselves globally. African-Americans are strengthened in solidarity with the larger world community of have-nots, and we have to join them in that struggle to ensure that the planet survives. Governments and their special interests are busy reinventing the possible use of nuclear weapons. The war on terror might end up being a war to destroy the constitutional foundations of world order. We live in difficult times, but the root cause of conflict is the ease with which our moral sensibility can be corrupted, so that we consistently affirm or construe or create human beings as others, and thus they are potential enemies, targets of prejudice, racism, and war. We do indeed live in challenging times.