

# Historicizing Power and Responses to Power: Indirect Rule and Its Reform

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THE XVIIth World Congress of the International Political Science Association in Seoul organized a number of panels on "the State of the Discipline." The panels were intended as "a series of debates on eight major concepts of the discipline." The invitation I got succinctly set out the point of view of the organizers: "We are organizing our program around a main theme of conflict and order, and doing so under two "spirits," the spirit of universality, which will allow us to examine whether political science is a universal discipline or a Western creation, foreign to the venue of our meeting, and the spirit of practicality, which will lead us to focus our discipline on useful concepts and new questions that can explain conflict, looking toward the new millenium." The setup was clear: "A Western and a non-Western scholar will address each concept analyzing it (according to his or her preference) as a Western/non-Western or as a universal concept." With an invitation so straight-forwardly provocative, I could not but accept. The program that followed listed me as "non-Western," and asked me to address the concept of "power."<sup>1</sup>

I wondered in which sense I was listed as "non-Western": as one from the non-West, or as one with a non-Western point of view. The first would be of interest only if my origin would betray my views. The second was perplexing, for what, I wondered, was a non-Western view. I could be certain of what it was not supposed

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to be—*not Western*—but that did not particularly tell me about what it *was* supposed to be. Perhaps, I thought, this was simply another version of the first, linking my views to my being, this time perhaps something more dynamic than my biology, say, my culture. But could I be described as non-Western culturally? Or, for that matter, did I know of any colleague in Africa who had not been deeply influenced by the body of thought we referred to as “Western,” including those who had never travelled beyond state borders? In an era just emerged from global colonization, I thought this surely would be a rare phenomenon.

I thus began unable to accept the terms of the engagement. But, then, I was hardly the first to face this predicament. I recalled how, inspired by the practical example of the Cuban Revolution, dependency theorists had tried to sublimate the opposition between universalism and particularism, the former championed by economic theory and the latter by anthropology. Then, dependency theory had highlighted the historical specificity of the third world, being that group of countries that had undergone the experience of colonization in the modern era. Underdevelopment, they had argued, was a historical condition. It was the flip-side of development. In the words of Samir Amin, both were contradictory outcomes of a single process, “accumulation on a world scale” (Amin, 1974). Hence, dependency theorists tried to problematize the geography of underdevelopment by foregrounding its history.

My interest too is in linking the geography of power with its historicity. Rather than try to underline a single universal rule and then classify all that does not fit the norm as so many exceptions, I wish to understand the relation between outcomes and contexts by locating both in time. Those who seek to cull the outline of a universal theory from a particular experience only do so by dehistoricizing it so as to make it fit every other context. By historicizing systems of power, I intend to move away from any claim about its universality or exceptionality.

My interest is in understanding the link between power and political identity, particularly group identity. It is by institutionally

undergirding the reproduction of political identity that power also shapes the identity of those who respond to power. Liberalism presumes group identity, but seldom brings it up for reflection. Whether in its uni- or multicultural version, liberalism presumes the self in self-determination as a cultural self, the "nation." Yet, so long as the link between power and identity is obscured, we remain ignorant about how power reproduces certain identities and erodes others. The result is a notion of politics that focuses one sidedly on aggregating given preferences, but not on politics as the changing of preferences. It is the creative dimension of politics—politics as the changing of preferences—that highlights the relationship between power and responses to it, between power and consent, and teaches us that these are not simple opposites, but that power can and does generate its own form of consent. My intention is to underline these issues through a focus on state reform in colonial and post-colonial Africa.

The history of state reform is the flip side of the history of democratic struggles. I focus on two different moments of reform: first, colonial reform from direct to indirect rule, and second, the two major trajectories of rule that were outcomes of post-colonial reform. Through the analysis of reform, I seek to problematize three key relationships. The first is that between power and consent as explained above. The second is that between politics and culture. I do so by distinguishing political from cultural identities, and thus by posing the question of how to construct a single political community in a multicultural—i.e., multiracial and multi-ethnic—context. Finally, I seek to problematize the relationship between representation and participation in the practice and discourse of democratic struggles. The challenge, I conclude, is not to oppose participation to representation, or rights to power—as have second generation radicals in Africa—but to explore ways of joining them in a creative tension.

In this paper, I focus on race and ethnicity as political identities reproduced by particular forms of power. While the context of my argument is colonial rule in (mainly equatorial) Africa, and post-

colonial efforts to reform it, its significance is of broader interest. Race, I argue, was reproduced as an identity of beneficiaries, and ethnicity as an identity of victims. The dilemma of colonial rule was simple, but hardly superficial: its beneficiaries were never more than a small minority, and its victims the vast majority. How to rule the majority was the dilemma that faced every colonial power.

To this dilemma, called *the Native Question*, there were two answers. The first was called direct rule. It aimed at creating a native elite that was granted a modicum of "civilized" rights in return for assimilating the culture of the colonizer. The second was called indirect rule. While direct rule was premised on *assimilation*, indirect rule was premised on *autonomy*. In spite of its claims to being a more benign form of rule, one that tended to reproduce "native custom" in a permissive fashion, indirect rule was the more hegemonic assertion of colonial power. Unlike direct rule, it aimed at changing the preferences of the mass of the colonized, not just of a narrow elite. We shall see that indirect rule was born of the crisis of direct rule. And yet, indirect rule never entirely displaced direct rule: the two co-existed as two faces of power, direct rule a regime guaranteeing rights to a racialized citizenry and indirect rule a regime enforcing culture on an ethnicized peasantry.

Indirect rule sought to reproduce two connected political identities: *race* as an identity that *unified* its beneficiaries as citizens, and *ethnicity* as an identity that *fragmented* its victims as subjects. The contrast between these two political constructs, race and ethnicity, was the sharpest where beneficiaries constituted a sizeable resident population. This, naturally, was in colonies with substantial settler populations. It is in this sense that I argue that apartheid South Africa, with its racially-defined democracy alongside its ethnically-demarcated Native Authorities, should be seen as the generic form of colonial rule in Africa, rather than as an exception to it.

*In Lieu of Analogy-Seeking as History*

Mainstream Africanists tend to begin with an idealization of a single system of power, that of the modern state framing civil society, and then turn it into a universal norm against which to measure all performances. All practices that do not fit this norm are then presumed to be deviations, and these deviations are in turn explained as the result of a lag, either a cultural residue ("tradition") or a cultural lag. Clientelism in state practices is thus understood as a manifestation of "patrimonialism,"<sup>2</sup> and patrimonialism is, in turn, understood as rooted either in survivals of tradition or as both cause and consequence of a weak civil society.

One can follow two lines of critique against this method of understanding historical phenomena through analogies with a universal. One is to historicize the norm (the universal), while the second is to historicize the exception (the particular). To historicize the universal as a particular is to follow the critics of socialism in an era just gone by, a line of inquiry increasingly pursued by critics of idealized theorizations of civil society. The link between the two arguments should be obvious: the idealization of civil society reminds one of an earlier discourse on socialism. In both cases, the claims are more programmatic than analytical, more ideological than historical. As such, they call for a historical analysis. Just as critics of socialism called for an analysis of "actually-existing socialism," so the critics of civil society focus on what we may call actually-existing civil society. The critics of Habermas (Habermas, 1991), for example, have tried to disentangle the programmatic from the analytic strand in his work on the public sphere,<sup>3</sup> by relocating this movement in its historical context. Geoff Eley (Eley, 1992) argues, for example, that the "public sphere" was from the very outset "an arena of contested meanings": while "different and opposing publics maneuvered for space" within it, "certain 'publics' (women, subordinate nationalities, popular classes like the urban poor, the working class, and the peasantry)" were "excluded altogether" from it.

We may similarly historicize civil society in the colonial context. The exclusion that defined the specificity of civil society under colonial rule was that of race: civil society was racialized. This was the clearest in the settler colonies, the sites of direct rule colonialism. Direct rule claimed to be a regime of rights. It spoke the language of civilization and citizenship. Entry to this world was based, in the words of Cecil Rhodes, on "equal rights for all civilized men." Civil society in this context was the society of the colons. No matter how qualified, the rights of free association and free publicity—and eventually of political representation in countries like South Africa—belonged to a racialized citizenry. In spite of tensions between the settler population and the colonial office, the relation between the civil society of the colons and the settler state was primarily one of symbiosis. My point is that the key prop of a racialized civil society was a racialized state power. This symbiosis, and its other side, the exclusion of "natives" as subjects, was eloquently theorized by Frantz Fanon in *The Wretched of the Earth* (Fanon, 1978).

But this line of critique remains incomplete. It shows that civilization and civil(ized) society turned into an exclusive enterprise in the colonial context, branding the vast majority of humanity as subjects and excluding it from the rights of citizens. To focus on exclusion, on what *is not*, is not quite to show what *is*. This requires a further critique, one which goes beyond historicizing the universal, to historicizing the particular. In the absence of such an exercise, one is likely to find all exclusions appearing analogous and similar: every colonial system is likely to appear as an assertion of power that is sooner or later compelled to recognize its own limits by adopting a permissive attitude to the institutions of the subject population. One is then likely to think of British indirect rule in 20th century Africa as similar to Ottoman rule in another part of the world a few centuries earlier, and both analogous to feudal Europe and the king tolerating multiple jurisdictions: of the lord, of the Church, and so on.

The importance of understanding how the colonized were incorporated in—rather than excluded from—a system of power

is clear if we return to the distinction between direct and indirect rule as two different answers to *the Native Question*. Direct rule sought to create an elite stratum of "civilized" natives, whom it was willing to grant "civilized" rights, as allies in the colonial venture. This was the case in the 19th century with the Cape Province in South Africa, with the British colonies of Freetown or Lagos, with the "assimilated" group either in the Four Communes of French-controlled West Africa or with the Portuguese colonies in Southern Africa. Whereas direct rule sought to shape the world of the elite amongst the conquered population, the object of indirect rule was to shape the world of the colonized masses. Thus, indirect rule was not about tolerating "native" custom, as if it were a permissive gesture of a tired power. Neither was it about *inventing* custom as if it was writing on a blank state. The very point of a shift from direct to indirect rule was to recognize the historicity of the colony and the agency of the colonized. It was, further, to confront custom analytically, rather than to dismiss it dogmatically. The point was to go beyond an understanding of custom in the singular to unravelling its many strands, thereby to identify the authoritarian strand so as to sculpt it and build on it, sanctioning the product officially as customary law. This sculpting and building, in turn, was done less by colonial administrators than by their "native" allies (called "chiefs") whose agency indirect rule did much to unleash.

There were, of course, differences between settler and non-settler colonies. The scope for chiefly agency was less in settler colonies where customary law was codified, more in peasant colonies where it was not. Yet, in both instances, the point was more to harness the agency of a culturally legitimate group (chiefs as opposed to *assimilados*) than to invent a culturally acceptable custom. Direct rule took for granted the preferences of the mass of the population, and instead sought to shape the preferences of an elite detached from this mass. In contrast, indirect rule aimed at nothing less than to shape the preferences of the mass through a more organic elite. In comparison to the limited nature of direct rule, indirect rule was a hegemonic enter-

prise. To show this, I focus on incorporation, not marginalization. I seek to show how native subjects were incorporated into the arena of colonial power, rather than how they were excluded from it.

Unlike dependency theory whose focus was on the dependent economy created in the course of colonialism, I argue that the African colonial experience came to be crystallized in the nature of the state forged through that encounter. Organized differently in rural from urban areas, that state was Janus-faced, bifurcated. It contained a duality: two forms of power under a single authority. Urban power spoke the language of civil society and civil rights, rural power of community and culture. Civil power claimed to protect rights, customary power to enforce tradition. The former was organized on the principle of differentiation to check the concentration of power, the latter around a principle of fusion. The point was not just to ensure a unitary authority, but to *enable* it. To grasp the relationship between the two, between civil and customary power, and between the language each employed—rights as opposed to custom, freedom rather than tradition—we need to keep in mind that each signified one face of the same bifurcated state.<sup>4</sup>

Against the claim that power is either of universal or of particular significance, I argue that systems of power need to be historicized. In contrast to those who tend to dehistoricize political practices such as clientelism, and political identities such as ethnicity, I shall try and show that both of these make sense as forms of consciousness and modes of organization generated and reproduced by particular systems of power.

#### *From Direct to Indirect Rule*

The late 19th century “Scramble for Africa” marked the last great wave of European colonization. The target of the Scramble was the landmass between the Sahara and the Limpopo. To these equatorial African colonies, late colonialism brought a host of



lessons from previous colonizing experiences, particularly those in 19th century Asia. The core lesson made for a different articulation of power in the colonial state: a distinctive dualism marked the organization of power. This dualism juxtaposed modern and customary law, civil and traditional society, rights and custom, town and country, and crucially, citizens and subjects. The bifurcated nature of power was reflected in the contrast between a civil power claiming to guarantee civilized rights for a racialized citizenry, and a customary power ("Native Authorities") claiming to enforce an ethnicized "custom" on "native" subjects. The British, who pioneered this dualism, described it benignly as "indirect" as opposed to "direct" rule. Its kernel—the division between a *racialized* rights-bearing citizenry and an *ethnicized* subject population—came to be incorporated and reproduced by every colonial power in equatorial Africa. The French called it "association" to distinguish it from the earlier policy of "assimilation." The South Africans, the last to incorporate the lessons of British indirect rule, called it separate development: *apartheid*. Common to all of these instances was the division between the racialized citizen and the ethnicized subject, sharpest where immigrant settler populations achieved self-rule and independence.

Direct rule was based on the presumption of a single legal order. That order was formulated in terms of received colonial ("modern") law. Its other side was the non-recognition of "native" institutions. The social consequence of direct rule depended on the size and the significance of the settler population. Where this size was small, as in the French colonies in West Africa in the early part of the century, direct rule involved the exclusion of "natives" from civil institutions alongside a permissive neglect of "native" lives, which continued to be organized through their own institutions. But where there was a significant settler population, as in the Cape Colony in 18th and 19th century South Africa, the social pre-requisite of direct rule was rather drastic. It involved a comprehensive sway of market institutions: the appropriation of land, the destruction of communal autonomy, the defeat and dispersal of "tribal" populations. In such a context, direct rule meant the

reintegration and domination of "natives" in the institutional context of semi-servile and semi-capitalist agrarian relations.

In contrast to this, indirect rule came to be the mode of domination over a "free" peasantry. Here, land was turned into a communal—"customary"—possession. The market was restricted to products of labor, only marginally incorporating land or labor itself. Peasant communities were reproduced within the context of a spatial and institutional autonomy. Its leadership was either selectively—and ethnically—reconstituted as the hierarchy of the local state, or was freshly constituted and imposed if none had existed as in the "stateless societies." Here, political and civil inequality were grounded in a legal dualism. Alongside the received law was implemented a customary law that regulated non-market relations, in land, in personal (family) and in community affairs.

In a colonial context, direct rule was necessarily unstable. Its claim to a single legal order and an equality of rights in a multiracial context was premised on a massive exclusion of "natives" (the "uncivilized") from the regime of civil power and civil rights. For those excluded, direct rule was a *centralized despotism*. The exclusion reproduced amongst them an identity that highlighted the basis of the exclusion: race. But a racial identity in a colonial context was also a majoritarian identity. The tendency of direct rule was to unite—and not to divide—its victims. In contrast, indirect rule was premised on a mode of inclusion of this colonized majority in a regime of "customary" power whose very point was to refract the identity of race through several ethnically-defined identities. The very basis of incorporation was a fragmented identity. There were now two steps, and not just one, in the formation of political identity. While the first, an exclusion from the regime of rights, tended to generate a unified racial identity, the subsequent incorporation into a regime of culture fractured it into several ethnic identities. Anchored in so many local states, each the seat of an ethnically-defined Native Authority, "customary" power spoke the language of tradition, not of rights. It took the vast majority of natives, those hitherto excluded as a single racialized mass, and disaggregated them into so many ethnicities, each

brought under the thumb of its own Native Authority. For those incorporated in the regime of "customary" power, indirect rule turned out to be a *decentralized despotism*.

A century earlier, direct rule had been *the* mode of colonial rule. It had embodied the claim to a civilizing mission, the flipside of which was a wholesale condemnation and dismissal of local "tradition" and "custom" as backward. From this point of view, to civilize was thus to erase tradition, and to modernize was to Westernize. As the civilizing mission ran into resistance, the colonizing power—in particular, Britain in 19th century India—was compelled to seek local allies. Thus began a protracted process of thinking through "tradition" analytically, of separating its authoritarian from its popular strands. The construction of a "customary" law, whereby authoritarian strands in tradition would form the building blocks of a legal regime disciplining "natives" in the name of enforcing "tradition," began in India, not in Africa.<sup>5</sup>

In India, though, this measure came late, mainly in the aftermath of the great 1857 rebellion, too late to affect the form of land tenure in the colony. Defined in a religious ideom, the scope of the "customary" was thus restricted to personal law. In Africa, however, its scope was broadened, most importantly to include land. While the starting point of differentiating the "civil" from the "customary" lay in earlier colonial experiences, its culmination into a full-blown bifurcated power really happened in the equatorial African colonies in the 20th century.

Not surprisingly, indirect rule came to be *the* form of colonial rule. While its basic features were sketched in the colony of Natal over five decades in the second half of the 19th century, it was really elaborated by the British in equatorial Africa in the early part of the 20th century—by Lugard in Nigeria and Uganda, and Cameroon in Tanganyika—then emulated by the French after World War I, the Belgians in the 1930s and finally the Portuguese in the 1950s. At the same time, indirect and direct rule, customary and civil power, ceased to be thought of as alternatives. While indirect rule became the mode of governing the countryside, towns were subject to direct rule.

Indirect rule was mediated rule. It meant that colonial rule was never experienced by the vast majority of the colonized as rule directly by others. Rather, the colonial experience for most "natives" was one of rule mediated through one's own. As Jan Smuts, the South African Prime Minister, emphasized in his Rhodes lecture at Oxford in 1929 (Smuts, 1929, pp. 76-78, 92), "territorial segregation" would not solve the "native problem"; "institutional segregation" was needed. For the colonial order to be stabilized, the "native" would have to be ruled not just by his own leaders but through "native institutions." Indirect rule was grounded less in racial than in ethnic structures. Through the combination of a state-sanctioned and ethnically-defined "custom," enforced by a state-appointed and ethnically-labeled "customary" (Native) Authority, the colonial power attempted to salvage and to build creatively upon the authoritarian strand in "native" tradition. As such, it tried to fragment the subject population from a racialized majority to several separate ethnicized minorities. Thereby, it tried to dissipate a growing racial contradiction into an ethnic one.

#### *"Customary" Power*

The legal dualism characteristic of indirect rule juxtaposed received ("modern") law alongside customary law. "Modern law" regulated relations entered into by "non-natives," whether with one another or with "natives." Customary law, on the other hand, governed relations amongst "natives" only. The creation of an all-embracing world of the "customary" was the defining feature of late colonialism in the equatorial African context. It had three notable consequences.

The *first* consequence distinguished the African from other colonial subjects, as one containerized in a world of state-enforced "custom," not as a racialized "native," but as an ethnicized "tribesperson". If rights were cast "in a racial mould" (Webster, 1985), then custom was undoubtedly cast in an ethnic

mould. Every colony had two legal systems: one “modern”, the other “customary”. Since “customary” law was defined as the law of the “tribe”—and a “tribe” in turn as a group with its own “customary” law—there was not one “customary” law for all “natives,” but roughly as many sets of “customary” laws as there were said to be “tribes.” Dame Margery Perham, a semi-official historian of British colonialism, claimed that the genius of British rule lay in seeking to civilize Africans as communities, not as individuals (Perham, 1967, pp. 65, 145). More than anywhere else, there was in the African colonial experience a one-sided opposition between the individual and the group, civil society and community, rights and tradition.

The *second* consequence of creating an all-embracing state-enforced custom was to give “tradition” a markedly authoritarian content. Customary law was usually unwritten, especially in non-settler contexts. Its source was the Native Authority, those in charge of managing the local state apparatus. And this Native Authority was supposedly the “traditional” authority. From a multiplicity of institutions that carried out governance in “traditional” Africa—administrative chiefs, hereditary chiefs, clan councils, age groups, gender groups—a single institution, that of administratively-appointed chiefs, was privileged as *the* traditional institution whose interpretation of custom should hold sway over that of every other institution in “tribal” society. To create a “customary” power was thus not as much to privilege a particular custom as it was to privilege a particular authority. This authority, the chief, was defined in terms of both masculinity and seniority. From a multiplicity of contending versions of custom, a single version was sanctified as official. Because the scope of “customary” law in Africa went beyond personal law (to which it was confined in India) to cover access to land as a means of livelihood, the definition of “custom” came to be vital in two major arenas: personal law and development. It is in the realm of personal law that “customary” law tended to reproduce the point of view of masculinity and seniority; in the sphere of development, “custom” had little

historical depth. To enforce development only required what was from the colonial point of view no less than the mother of all custom: the obligation to obey the will of the authority sanctioned as customary.

If there was a tradition that came close to the construction of the customary under colonial rule, it was that of administratively-appointed chiefs in 19th century conquest states. It was also a tradition with the least historical depth. At its bare minimum, this tradition simply claimed the supremacy of the patriarch in the homestead, the chief in the village, and the supreme chief or king in the larger polity. At the same time, this monarchical, authoritarian and patriarchal notion of the "customary" most accurately mirrored colonial practices. In this sense, it was an ideological construct.

The *final* consequence of rule through an authority sanctified as "customary" was that the African colonial experience was marked by force to an unusual degree. Where land was defined as a "customary" possession, the market could only be a partial construct. Beyond the market, there was only one way of driving land and labor out of the world of the "customary". That was force. The day-to-day violence of the colonial system was embedded in "customary" Native Authorities in the local state, not in civil power at the centre. Custom came to be the language of force. It masked the uncustomary power of Native Authorities. Not surprisingly, when the use of direct force was outlawed in British colonies after the First World War, and in French colonies after the Second, this did not affect the use of direct force by Native Authorities. The prohibition was effected through "modern" law and applied to civic authority only. It neither affected customary law nor constrained customary authority.

Colonial despotism was highly decentralized. The locus of "customary" power was the local state, the district in British colonies, the *cercle* in French colonies. Unlike civil power that was organized on the principle of differentiation, customary power was organized as fused power. Customary law was administratively driven,

since those who enforced custom also defined custom in the first place. Custom, in other words, was state-sanctioned and state-enforced. I wish to be understood clearly. I am not arguing for a conspiracy theory whereby custom was always defined "from above," invented and constructed by those in power. The "customary" was more often than not the site of a struggle. Custom was the outcome of a contest between various forces, not just an artifact of those in power or its on-the-scene agents. My point, though, is about the institutional context in which this contest took place: the terms of the contest, its institutional framework, were heavily skewed in favor of state-appointed "customary" authorities. It was an institutionalized contest in which the dice were loaded.

My general point is this. Legal integration characteristic of direct rule defined a form of state based on the rule of law. It was a state form that framed civil society. In contrast, indirect rule was grounded in a legal dualism, central to which was the colonial construction of an administratively-driven form of justice, called "customary" law. It was the anti-thesis of a rule of law. It was, rather, legal arbitrariness. An arrangement in which the source of the law was the very authority that administered the law could not possibly give rise to a rule-bound authority. Despite the persistent fantasy of colonial powers, particularly Britain and France, that their major contribution to the colonized was to bring them the benefits of rule of law, there could be no rule of law in such an arrangement. Customary justice was administratively driven. While civil law recognized civil rights as a domain the state could not breach (a consequence of the inviolable rights of the individual), the administratively-driven justice known as "customary" law enforced "custom" as a positive activity. Thus while the notion of rights codified in civil law bounded the authority of the state and *disabled* it beyond specified limits, the *enabling* effect of customary law tended to render authority arbitrary. This is clear if we return to our discussion of how custom was defined with regard to two spheres of social life: the family and the economy (development). When it came to reg-

ulating relations between men and women, as between generations, customary law privileged one of several points of views—a view both male and senior—as traditional and enforced it as law. But when it came to “development” measures—such as compulsory crops, terracing, culling cattle—the only “tradition” it could highlight was that of obeying the chief. In case of failure to do so, the response was force, claimed to be equally “traditional.” In this case, “custom” masked the will of a colonizing power.

The agent enforcing “custom” was the functionary of the local state apparatus, everywhere called the “chief,” also everywhere appointed, promoted and dismissed by the colonial power. One should not be misled by the nomenclature to think of this as a holdover from the pre-colonial era. The chief was not only a person who had the right to pass rules (“bye-laws”) governing persons living under his domain, he also executed all laws, and was the administrator in “his” area, in which he settled all disputes. The authority of the chief thus fused in a single person all moments of power: judicial, legislative, executive and administrative. This authority was like a clenched fist, necessary because the chief stood at the inter-section of the market and the non-market economy. The administrative justice and the administrative coercion that was the sum and substance of his authority lay behind a regime of extra-economic coercion, a regime that breathed life into a whole range of compulsions: forced crops, forced sales, forced contributions, forced removals. The institutional triad that held up the regime of customary power was the *fused authority* of the chief, the *administratively-driven form of justice* called “customary” law, and *extra-economic coercion* masked as custom.

### *Ethnicity as a Form of Revolt*

The form of rule shaped the form of revolt against it. When ethnicized subjects revolted against an authority claiming a customary legitimacy, they in turn claimed that genuine custom had been subverted. Ethnicity was simultaneously the form of colonial



control over “natives” and the form of revolt against it. It defined the parameters of both the Native Authority in charge of the local state apparatus and the revolt against it. Everywhere, the local apparatus of the colonial state was organized either ethnically or on a religious basis. This is why one finds it difficult to recall a single major peasant uprising over the colonial period that has not been either ethnic or religious in inspiration. This is so for a simple but basic reason: the anti-colonial struggle was first and foremost a struggle against the hierarchy of the local state, the ethnically-organized Native Authority that claimed an ethnic legitimacy. Indirect rule at once reinforced ethnically-bound institutions of control and exploded them from within.

The agency of the colonized did not remain confined to the local state. Over time, social processes—migrant labor, trade, administration, schools and media, or just flight—created a growing pool of urbanized “natives,” those who were beyond the lash of “customary” law but were excluded from the regime of “civilized” rights. Confronted with a racialized power that kept them on the margins of a racialized civil society, they developed a racial consciousness, one of exclusion, as a core political identity. It is these urbanized “natives”—Nkrumah’s “verandah boys”, Cabral’s “boatmen”—who were to provide cadres for a militant nationalism. But cadres do not make a movement. To gain depth, urban nationalism needed anchor in the struggle of the peasantry against the array of Native Authorities that shackled it. Whether Nkrumah’s “verandah boys” or Cabral’s “boatmen,” the cadres of militant nationalist movements straddled the urban and the rural; the key to the making of a militant anti-colonialism was the forging of a progressive link between town and country.

Like ethnicity, race too was an identity of power and of resistance. As political identities, both were structured by contradictory moments, power tending to social control and resistance to social emancipation. And yet, this does not mean that one only need separate moments of resistance from moments of control, so as to identify what to embrace and what to reject. Rather, eth-

nicity and race need to be problematized, not just as identities of power but also as identities of resistance. I shall underline this lesson through an analysis of post-independence efforts to reform the two faces of colonial power, on the one hand a racialized regime of rights, and on the other an ethnicized regime of custom. My point is to underline the tension generated by a context in which power is defined in the singular while the population subject to it is defined in the plural, a context in which civic power is defined as racial but civil society is multiracial and where customary power is legitimized as ethnic but the population it governs is multi-ethnic. To the extent the contours of resistance generated in these contexts reproduced the contours of power as so many birthmarks, one would need to ask: what is the unintended consequence of a racialized resistance against civic authority, and an ethnicized resistance against Native Authorities?

#### *The Trajectories of Post-Independence Reform*

It is striking that every nationalist government in post-colonial Africa had roughly the same core agenda: the de-racialization of civil society. Independence deracialized the state, but not civil society. From the nationalist point of view, civil society harbored ill-gotten racial privilege. Those racially victimized began to look to the newly deracialized state as the only effective vehicle to carry forward the struggle for justice. Not surprisingly and in tempo, racially-associated privilege tried to shake off the stigma of race and to defend itself in the language of civil society, calling for a color-blind defense of institutional autonomy and individual rights. The struggle for justice took two forms: nationalization in the "radical" states, and privatization ("Africanization") in the "conservative" states.

#### *Conservative Reform and "Customary" Power*

Whereas de-racialization turned out to be part of the agenda of every post-independence regime, the same could not be said of

de-ethnicization. Here, there was a clear difference between two regime types: the “conservative” and the “radical.” In conservative states, the hierarchy of the local state apparatus—of chiefs who enforced “customary” law in the Native Authorities—continued after independence as before it. It was reproduced unproblematically, as part of tradition. The chief remained the enforcer of this peculiarly authoritarian version of tradition, his powers still a clenched fist, fusing as one its legislative, executive, judicial and administrative moments. In this context, even if the central state was reorganized as a representative parliamentary democracy, the local state continued to function as a decentralized despotism. The same peasants who could elect their representative in parliament had little choice about who would be their chief wielding despotic power on the ground.

Where customary power was reproduced alongside a reformed and deracialized civil society, the rural power structure inevitably corrupted the urban—particularly where political reform embraced the rural and the urban in countrywide multiparty elections. In a country where urban areas were administered through an electoral civic order, but rural areas through appointed chiefs, the impact of a multiparty electoral democracy turned out to be not only superficial but also explosive. An arrangement that limited meaningful electoral choice to a minority, comprising citizens in urban areas and chiefs in rural areas, was obviously superficial. But this electoral system also turned out to be explosive: the winning party not only came to *represent* citizens in urban civil society, it also became the *master* of peasant subjects since it appointed chiefs who ruled them directly.

It is this fact that chiefs understood well. None could underplay the importance of delivering “their” peasants to the party of their choice. In time, this localized oppression contaminated the whole political system. Not only did the chief claim to represent “his” people, he claimed it as a traditional ethnic right, and he barred entry to “his” area except to those who recognized his “traditional” authority by going through him. Electoral contests in rural

areas immediately took on an ethnic flavor as political parties took on the ethnic tag of the Chiefly Authority with which they came to ally.

An electoral democracy where peasants were left as a rightless mass under a hierarchy of chiefs inevitably led to a double corruption. One was that the city came to be linked to the country through patronage. And the second was that these ties took on an ethnic flavor since chiefly authority was organized along ethnic lines. The conveyor belt for this institutionalized patronage was the political party system. The switch that linked patronage to ethnicity was the election: it simultaneously set in motion the machinery of patronage and triggered tensions along ethnic lines. Under these conditions, the more civil society was deracialized, the more it came to be ethnicized. Practices that Africanists have often considered a "patrimonial" survival of an earlier era in reality came to be reproduced by a form of political power with a colonial geneology.

### *Radical Reform and the Single Party*

The single party came to be the alternative to reproducing a "customary" power, a countryside run through a hierarchy of chiefs. Ghana, Guinea, and Tanzania came to symbolize the most radical attempt to deal with the political legacy of colonial rule by dismantling the institution of chiefship. In all three countries, a militant anti-colonialism linked militant urban-based nationalists to varied peasant struggles against chiefship and its corruption of "tradition." The inheritor of that experience was the single party.

At one level, the single party was a way to contain the social and political fragmentation reinforced by ethnically-organized Native Authorities. At another level, though, the militants of the single party came to distrust democracy as another way of reproducing that same fragmentation. In addition, they came to see democracy as an electoral reform that not only left chiefship intact in the

rural areas but also strengthened it through links with civil society in urban areas. In their eyes, a democratic link between the urban and the rural came to be synonymous with an ethnically-based system of privilege that linked chiefly power in rural areas with urban-based political organizations. Even if imposed from above, they considered the single party preferable to giving this colonial corruption a fresh lease on life.

The accent in the "radical" African states was on change, not continuity. In some instances, a constellation of ethnically-defined customary laws was done away with as a single customary law transcending ethnic boundaries was codified. But even if the result was to develop a single country-wide "customary" law, applicable to all peasants regardless of ethnic affiliation, it still functioned alongside a "modern" law for urban dwellers. While "custom" no longer corresponded to ethnicity as in the colonial period, the divide between "customary" and "modern" law still reproduced and reinforced the division between town and country. In spite of the overwhelming accent on change, there was an important continuity with colonial practices: in as much as these "radical" regimes shared with colonial powers the conviction to effect a "revolution from above," they ended up intensifying the administratively-driven nature of justice. What had happened was a change in the title of the functionaries of that justice, from chiefs to cadres. But it was a change in nomenclature without a fundamental change in the organization of power. While the bifurcated state that was created with colonialism was deracialized—in some cases, even de-ethnicized—it was not democratized.

While it dismantled chiefship in rural areas, replacing chiefs with cadres, the single party tended to depoliticize civil society in urban areas. The more it succeeded, the more the single party came to be bureaucratized. As the center of gravity shifted from the party to the state, the method of work came to rely more on administrative coercion than on political persuasion. In the words of Fanon, militants of yesterday turned into informers of today.

The attempt to reform localized despotism turned into a centralized despotism: instead of a "customary" halo sanctifying the will of the chief, cadres of the single party unleashed compulsion in the language of making "revolution" and a waging "development."

The reaction to the legacy of the single party came in two waves in the eighties. The first came to be known as the pro-democracy movement. From Francophone countries in West Africa (Benin, Niger, Ivory Coast, Mali) to Anglophone countries to the East (Kenya, Sudan, Zambia), everywhere the pro-democracy movement tended to be urban-centered. It was guided by the perspective that democracy equals multiparty competition and majority rule through electoral representation. Wherever the multiparty reform took root, the results were disappointing. In the absence of a democratization of power in the rural areas, urban-based political parties were forced to deal with ethnically-organized chiefly hierarchies in the countryside. In the process, parties tended to turn into so many ethnically-organized coalitions. While usually less coercive than the single party variant, its bitter fruit was ethnic conflict.

The second response to the legacy of the single party has been the rebirth of radical nationalism. While I shall later discuss its downside, the great virtue of second generation radical nationalists lay in not dismissing one-sidedly the legacy of militant nationalism (and its child, the single party) but in incorporating that experience critically in a re-worked program. They retained the conviction that it would not be possible to check tendencies to political fragmentation without dismantling the true institutional legacy of colonial indirect rule: i.e., ethnically-organized chiefly power. The lesson they learned from previous failures was to recognize that this dismantling could not be from above and by force; it would have to be from below and through popular support.

As one would expect, this lesson was drawn in not one but several countries: beginning with the early Gaddafi, Sankara, and the

early Rawlings. But it is in Uganda under Yoweri Museveni that the lesson was underlined with the full force of a comprehensive reform: the introduction of village-based councils and committees, called Resistance Councils and Committees (RCs). The RC system separated powers which had hitherto been fused in the authority of the chief. Legislative power now belonged to a council of all village adults, whereas executive power lay with a Committee elected by the Village Council. The chief was turned into a simple administrative officer, paid, hired and fired like any other member of the civil service—except that he was accountable to popular organs. “The first function of the RC,” said the Report of the 1987 Commission of Inquiry into Local Government (Report, 1987), “is that of a “watchdog”: it is to resist any tendency on the part of state officials towards abuse of authority or denial of the rights of the people.”

*Versions of Democracy: Representation and Participation*

I characterize these two broad reform movements as multiparty and representative on the one hand and non-party and participatory on the other. If one thought of democracy as representative, the other championed it as participatory. If one saw the countryside as the real problem, the other saw the city as symptomatic of corrupting tendencies. While the focus of the multiparty reform was on democratizing the center, that of non-party reform was on the local and the rural.

Such a comparison, however, misses an important point. That is the originality of the radical nationalist contribution. For while the movement for multiparty reform was literally content to translate democracy as a turn-key project from Western manuals, the great merit of second generation radicals was to have come to grips with a key political legacy of Africa's colonial experience. They recognized that the real and enduring political legacy of colonial rule in Africa goes beyond the racial effrontery of alien rule to local

despotisms that are institutionalized and sanctified as so many "customary" forms of power. To appreciate that contribution is not to argue that it is free of any dilemma. There are at least two.

The radicals' great success has been the rural and the local; their great dilemma continues to be the urban and the central. For this very reason, they are often tempted to pit rural against urban areas, arguing that the participatory aspect of democracy is its truly popular aspect, whereas its representational side is really meant for selfish elites—who can be safely ignored for they are a small minority. Or, in a different version of the same argument: a multiparty democracy may be OK for Europe which is urban and class-divided, but not for Africa which is rural, and where class divisions are incipient since people tend to live in village communities where land is not yet fully commodified.

Urban areas may be small, particularly in Uganda that at around 10% has one of the lowest proportions of urban dwellers in Africa. But urban areas are rapidly growing: Africa is urbanizing at a rate second to none globally. Take, for example, the case of neighboring Democratic Republic of Congo: its capital, Kinshasa, is alone estimated at between 5 to 7 million (around 15%) of a total population of roughly 40 million. To take into account the most dynamic features of the African reality is to recognize that African countries are not just villages or towns, but both; not just rural peasant communities or class-divided urban areas, but both. It highlights the limits of both the "pro-democracy" multipartists who have given us *representation without participation* and the second generation radicals who champion democracy as *participation without representation*. It is a context requiring us to think of democracy in both its participatory and its representative aspect. How to marry the two is the first challenge Africa faces today.

The second challenge flows from the first. The split between participation and representation is also a split between rights and power. Radical regimes have come to shed the distrust of rights they shared with Soviet Bloc mentors. Instead, they have come to champion a regime of rights—particularly in its most individualistic version—thereby shelving the question of power. It is here



that one is tempted to pose several questions: Is there not a shared lesson in the experience of the Communist Party in the former Soviet Bloc and the single party in post-independence Africa, both of which held regular elections but neither of which allowed rival political organizations? Is the lesson not that a political system that does not guarantee the right of opposition—the right to organize as an opposition—can be neither stable nor self-sustaining? How to join the question of rights to that of power in the overall discourse on democracy is Africa's second challenge today.

### *Conclusion*

My argument has been that a specifically African form of the state was forged through the colonial experience as an articulation of two distinct systems of power—one civic but racialized, the other customary but ethnicized—under a single authority. The structural effects of this form of power reproduced a double division, that between the urban and the rural, and that between different ethnically-organized Native Authorities in the rural. Attempts to reform this legacy gave us two major variants of this state in the first decade after independence: the “radical” and the “conservative.”

This kind of historicization allows for several insights, each problematizing a different set of binaries. The transition from direct to indirect rule allows us to think through the relation between power and consent. Was it not the search for consent that informed colonial reforms leading to this transition? Rather than think of power and consent as opposites, as liberals tend to, does it not make more sense to think that each type of power tends to generate its own form of consent? As feminists have taught us, and Foucauldians have reminded us time and again, consensual ideologies more often than not tend to obscure the exercise of power.<sup>6</sup> This is why post-revolutionary claims about

eradicating power relations more often than not end up masking the nature of power. This insight, however, should lead us to further questions. How do we tell between different forms of power and different forms of consent? For does not each form of power as of consent have different consequences, both for those subject to power and for its holders?

This analysis also helps us to problematize the relationship between politics and culture. Underlining the discussion on the relation between political identity and forms of power—on the one hand between race and civic power, and on the other between ethnicity and customary power—is the questioning of at least three received notions: first, the nationalist tendency to see race as a positivist activity (i.e., race exists!); second, the claim by theorists of patrimonialism that “tribalism” is to be understood as a cultural residue, part of the baggage from a “traditional” past; and third, the claim by civil society theorists that the persistence of “tribalism” testifies to a cultural lack, being the absence of a civic and democratic culture. In contrast, I have argued that political identity is generated both by the institutions that undergird a historically specific form of power and by the resistance that each form of power tends to generate in the first instance. It is the “conservative” experience that allows us to see the phenomenon called “tribalism” both as a form of power and as a form of resistance to it.

If the “conservative” experience allows us to problematize “tribalism,” the radical experience is a valuable source of insight into how to go beyond it. It shows that any attempt at democratic reform will need to recognize the bifurcated nature of the state inherited from colonialism, so as to link reform of its two spheres creatively. Put differently, it will have to recognize that neither deracialization (of the civic) nor de-ethnicization (of the customary) can by itself amount to democratization. Building democracy will require, first of all, making a distinction between a political and a cultural community, thereby opening the possibility of constructing a single political umbrella over multiple cultural/historical communities—communities that are multiracial in urban areas and multi-ethnic in rural areas, and have aspirations to live

under a single political roof.

Finally, the African experience also calls on us to question yet another simple binary opposition: between representation and participation. While second generation radicals turned away from post-independence attempts to enforce a "revolution from above," they have ended up idealizing participation while downplaying representation, highlighting democracy in the local sphere while denying it in the central state. The theoretical lesson of the latest round of radical reforms may be the simple proposition that, for democratization to happen, reform will also have to contend with how to join *representation* in the central state with *participation* in the local sphere.

#### Notes

<sup>1</sup>This is a revised version of a paper presented at the State of the Discipline session on "Power" at the XVIIth World Congress of the International Political Science Association, Seoul, Korea, August 17–21, 1997.

<sup>2</sup>"Leader-follower patronage ties," claims Michael Bratton, "are the defining characteristic of African politics and the thread of continuity in African political history" (Bretton, 1994, p. 123). On patrimonialism, see Richard Sandbrook (1985), Thomas Callaghy (1984, 1987), Crawford Young and Thomas Turner (1985), Donald Rothchild and Naomi Chazan, eds. (1988), Richard M. Joseph (1984).

<sup>3</sup>See, Andrew Arato and Jean Cohen (1993) for an elaboration of Habermas' ideas.

<sup>4</sup>For a complete statement, see Mahmood Mamdani (1996).

<sup>5</sup>For interesting parallels between British colonial rule in India and Africa, see, D. A. Low, *Lion Rampant: Essays in the Study of British Imperialism* (London: Frank Cass, 1973).

<sup>6</sup>For a similar statement, see Ian Shapiro (1996, pp. 49–51).

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