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Struggles for Citizenship in South Africa

Daniel Conway

The Republic of South Africa is one, sovereign, democratic state founded on the following values:

- (a) Human dignity, the achievement of equality and the advancement of human rights and freedoms.
- (b) Non-racialism and non-sexism.
- (c) Supremacy of the constitution and the rule of law.
- (d) Universal adult suffrage, a national common voters roll, regular elections and a multi-party system of democratic government, to ensure accountability, responsiveness and openness.

Founding Provisions of the Constitution of the Republic of South Africa, 1996

South Africa's first democratic constitution of 1996, which defines the content and scope of citizenship, emerged out of what the country's Constitutional Court accurately described as 'a deeply divided society characterized by strife, conflict, untold suffering and injustice which generated gross violations of human rights, the transgression of humanitarian principles in violent conflicts and a legacy of hatred, fear, guilt and revenge' (cited in Jagwanth, 2003: 7). The constitution was internationally noteworthy for its expressed protection of women's and sexual minority rights and its extension of rights of citizenship to socio-economic rights, such as rights of adequate healthcare, housing and education (SAGI, 1996). During South Africa's first two decades of democracy, the Constitutional Court has proven its independence by advancing citizenship rights on a number of occasions (O'Regan, 2012). The struggle for citizenship was at the heart of the

liberation struggle against the apartheid regime and within the complex dynamics of the anti-apartheid movement, increasingly sophisticated and intersectional demands for citizenship were made. South Africa's constitutional rights for citizenship are not always matched in practice. The country's high rates of sexual violence, ongoing poverty and inequality and public attitudes towards the rights of sexual minorities and immigrants lag well behind the spirit and letter of the constitution. Nevertheless, the achievement of formal citizenship rights in South Africa was the result of a prolonged and complex liberation struggle and analysis of South Africa demonstrates Werbner's claim that 'struggles over citizenship are thus struggles over the very meaning of politics and membership in a community' (1999: 221). This chapter will begin with a contextual and historical overview before moving onto analyzing the development of non-racialism as a basis for citizenship, non-sexism and gendered citizenship, contestations of white, militarized citizenship and the achievement of sexual citizenship by the Lesbian, Gay, Bisexual and Transgender (LGBT) rights movement. As shall be made clear, all these citizenship demands emerged during the decades of the country's liberation struggle.

South Africa's complex racial politics are the result of the country's long history of colonization and conflict. South Africa became a Dominion of the British Empire after a bitterly fought war between the British who controlled the Cape and Natal regions of the country and the Boer (or Afrikaner/Afrikaans-speaking) white population, who were descended from the first Dutch settlers to the country in the seventeenth century and who controlled the 'Boer Republics' in the centre and north of what would become a united South Africa in 1910. The legacy of Britain's victory in the Boer War stoked an emergent Afrikaner nationalism, which was heavily influenced by Nazism in Europe (Van Der Westhuizen, 2008). The narrow electoral victory of the National Party in 1947 was as driven as much by

a desire to reduce the influence and power of Britain and English-speaking whites in the country as it was by the fervently held belief that black South Africans should be excluded from all citizenship rights and South Africa returned to the Afrikaans-speaking white population. Added to this political-social mix is a significant Indian population, brought to South Africa by the British and mostly located in the Natal (now KwaZulu-Natal) region of the country and a significant mixed race, or 'coloured' population, descended from indigenous groups, slaves and white settlers, who speak Afrikaans and are predominantly in what is now the Western Cape province. The country's majority black population is also demarcated along linguistic, ethnic and regional lines. The colonization of the country had been resisted by the black population from the start, but assumed a more organized and political character in the early decades of the twentieth century with the formation of the African National Congress (ANC). Achieving the full rights of democratic citizenship had been at the heart of political protest by the black majority throughout the twentieth century, but what was most significant was the development of content and scope of those citizenship rights and the actions the liberation movement took to achieve them.

The Freedom Charter and non-racialism

The most significant and comprehensive statement of citizenship demands made by the liberation movement was made on the 26th June 1955 with the signing of the Freedom Charter by the Congress Alliance. The formulation of the Charter, the public manner of its adoption and the principles it contained were all typical of the liberation movement and resonated throughout the struggle against apartheid and resulted in the 1996 constitution (Strand, 2001). While the National Party government was energetically engaged in codifying 'apartheid' legislation aimed at removing South African citizenship from the black population and subordinating them in all aspects of political, social and economic life, the ANC had sent

some 50,000 volunteers across the country to collect 'freedom demands'. The resulting document was endorsed by Congress of the People, an umbrella movement including the ANC and other anti-apartheid groups, at a mass meeting in Johannesburg attended by 3000 people. The Charter began by stating 'South Africa belongs to all who live in it, black and white, and that no government can justly claim authority unless it is based on the will of all the people' (ANC, 1955). This commitment to non-racialism and the insistence that a future South Africa would be based on liberal democracy with the rule of law, was a key principle of the ANC and was reflected by the multi-racial leadership of the organization. The Charter went on to lay out the socio-economic and other demands for a country free of apartheid, many of which, but not all, were embodied by the 1996 Constitution. For example, the Charter stated that 'The people shall share in the country's wealth' (ANC, 1955) and explained that this would be achieved by the nationalization of mine ownership and banks, something which never came to pass. The socio-economic rights to health, education and housing were mostly incorporated by the 1996 Constitution, which was also the product of a mass consultation exercise between 1993 until 1996 and was finally debated and codified by the first democratic parliament which also served as a Constitutional Assembly (Strand, 2001). The Congress of the People's public meeting was broken up by the police, but the principles contained in the charter, particularly the commitment to non-racialism and inclusivity and to liberal democracy continued to define the ANC and have framed South Africa's democracy.

Gendered citizenship and women's rights

The South African constitution extended and redefined gender based rights to include, for example, women's right to make 'decisions concerning reproduction'

which has resulted in the legalization of abortion, a specific commitment to 'non-sexism' and protection against 'hate speech' on gender grounds, the ability to institute gender based affirmative action employment policies and the creation of a framework for a Gender Equality Commission (SAGI, 1996). The incorporation of gender based citizenship rights was not inevitable, but was the result of women's struggle for recognition and equality as part of the liberation movement and a cross-racial and cross party women's coalition who lobbied for rights during the country's political transition. As Hassim notes, during the liberation struggle black women activists 'were engaged on a daily basis in shaping new understandings of the relationship between women's struggles and nationalist struggles, and in making connections between oppression and exploitation in the public sphere and women's subordination in the private sphere' (2006: 28). This was not a consistent or always successful process, but it did result in defining specific forms of women's citizenship and delivering gender rights, in formal terms at least. In 1990, the ANC executive returned to South Africa and stated that 'the emancipation of women is not a by-product of a struggle for democracy, national liberation or socialism. It has to be addressed within our own organization, the mass democratic movement and in the society as a whole' (cited in McClintock, 1993: 76). This achievement was the result of the undoubtedly important role women had performed in the struggle against apartheid. Yet it was also a recognition that the ANC had not always addressed gender rights and feminist concerns in its activities.

Black women occupied a pivotal and exposed position during apartheid. Black women's position in South Africa was characterized as the 'triple oppression' of class, race and gender (Cock, 1993: 26). Nonetheless, black women proved to be militant and consistently active opponents of the apartheid system. As early as 1937, a woman ANC activist stated at a rally that 'we women can no longer remain in the background... The time has arrived for women to enter the political field and stand shoulder to shoulder with men'

(cited in McClintock, 1993: 74). Gender rights were present in the 1955 Freedom Charter which had committed the liberation movement to equal pay for women, focused on providing free maternity care, as well as promising equal employment rights for highly feminized occupations, such as domestic work (ANC, 1955). However, there was a suspicion of feminism and feminists across the liberation movement. Particularly, the effects feminist demands could have on the wider liberation struggle. This was summed up by one woman ANC activist who said, 'in South Africa, the prime issue is apartheid and national liberation. So to argue that African women should concentrate on and form an isolated feminist movement... implies African women can fight so they can be equally oppressed with African men' (cited in Beall, Hassim and Todes, 1989, 32). In other words, feminist concerns about women's emancipation and equality would weaken the imperatives of armed national liberation. Feminism's Western, capitalist connotations also provoked concern. The influential Mozambican President, Samora Machel, said that 'an emancipated woman is one who drinks, smokes, wears trousers, and mini skirts, who indulges in sexual promiscuity, who refuses to have children' and thereby the very antithesis of African notions of appropriate femininity (cited in Beall, Hassim and Todes, 1989: 32). Women's protest was often circumscribed by the militarized, gendered dichotomy of South African apartheid-era politics. Women articulated traditional gender demands, such as improved maternal rights, only to see their initiative lost to men, once army and police involvement encouraged men to use counter-violence.

One example of the role women played in the liberation struggle was in the Pass Law protests in the 1950s. The South African labour force was one of the most regimented in the world. Black South Africans right to work and live in urban areas was regulated and restricted by the Pass Laws and 'influx control' system. This aspect of the state's denial of black citizenship rights represented perhaps the single most gendered aspect of apartheid and

was a symbol of the insecurity, persecution and violence black people faced. The Pass Law system meant that black people were classed as permanent visitors in white South Africa, liable to be removed from urban areas should they not possess the right documentation (which corresponded with the labour force needs of the white controlled state). Opposition to the Pass Laws was constructed in gendered terms. Women, and, in particular, the more politically involved urban women, realized that this system would have greater negative effects upon them than on their male counterparts. Women's lack of access to the formal economy and their employment in precarious sectors like domestic labour for white families meant that dismissal or inability to get a job would result in arrest, possible physical abuse and separation from their children. However, women's activism against the Pass Laws and in later campaigns did not necessarily mark their political parity with men.

Women were very active in opposition to the Pass system in the 1950s. Many thousands of black women either refused to accept a Pass or marched upon court houses and police stations to throw them back. In Johannesburg, women marched to public offices with the aim of being arrested to overwhelm the prison system and two thousand were arrested. Within two weeks of the women's arrest, the male executive of ANC seized control of the protests, paid the bail of the women prisoners and stopped the voluntary arrest strategy (Wells, 1993: 112-122). Women argued that as mothers, the Pass system threatened them with arbitrary arrest and separation from their children. Women therefore attempted to reassert the family as a domestic sphere outside of political control (Wells, 1993: 1). However, once arrested for protesting, the women who were mothers, were removed from their children and homes and the ANC executive backed down. The pattern of women's activism and feminist demands being diluted and transferred to male control would reoccur in the 1980s and the reasons for it then were similar. Women were always liable to lose the initiative to men once their security was threatened by the police or army,

for masculinity embodied the values of protector and defender of femininity (Hassim, 2006). This gendered dichotomy that undermined women's activism was complicated by the fact that many black African women joined and played an active part in the armed struggle of the 1980s. Indeed, some 20% of Umkhonto we Sizwe (MK - the armed wing of the ANC) cadres were women and in Namibia female guerrillas engaged in combat with South African Defence Force (SADF) troops (TRC, 1998: 290; Cleaver and Wallace, 1990: 6). The Truth and Reconciliation Commission concluded that the majority of these women were drawn into the struggle because of the suffering their families endured at the hands of the security forces (1998: 292). Black women's involvement in the struggle against apartheid was often necessitated by the state's encroaches on family life and domestic space, but it did not always lead to women's empowerment as activists or successful feminist demands. As apartheid's crisis deepened, however, new opportunities for women to advance feminist citizenship demands emerged.

'Motherism'

In the anti-apartheid struggle, the discourse and subjectivity of motherhood was a predominant method for the mobilisation of black women. Indeed, in vernacular African languages, the term for adult woman is 'mother' (Gaitskell and Unterhalter, 1989: 72). Motherhood as a form of feminine citizenship developed into 'motherism' as an ideology and political language that women activists and this enabled them to make feminist demands of the ANC leadership. Hassim defines 'motherism' as 'a celebration of women as mothers, a link between women's familial responsibilities and their political work, and an emphasis on this aspect of women's roles as cutting across class and race barriers' (2006: 76). As such, it was a form of South African feminism and one that sought to reformulate feminism in indigenous terms, free from Western connotations. Motherism was a basis for many of the

consumer and rent boycotts of the 1980s, which were aimed at achieving women's rights as mothers. For example, in Grahamstown, women boycotted white owned shops in demand for better crèche facilities for their children (Cock, 1987: 138). Conceptualisation of women's citizenship in 'motherist' terms also corresponded to the state's framing of white women, particularly Afrikaner nationalism's concept of the *volksmoeder* (mother of the nation) (McClintock, 1993). Women as mothers was also used as an oppositional discourse by women in the white community, particularly by the predominantly English-speaking white anti-apartheid women's movement, the Black Sash (Spink, 1991: 30). Motherism sought to appeal across racial lines and involve white women in the anti-apartheid struggle, particularly against the militarisation and violence of the apartheid state, where compulsory conscription for all white men enabled the state to prosecute a war on the Namibian border and after 1984, use troops to try and suppress a general uprising in South African townships (Conway, 2012). An example of the attempt to create a multi-racial anti-apartheid alliance using motherist discourse was in 1987 when the ANC Executive issued the following:

Black mothers have to live with the agony of having to bury their children every day... Across the barricades, the white mothers see their children transformed and perverted into mindless killers... and they will surely turn their guns on the very mothers who today surrender their sons willingly or unwillingly to the South African death force. These black and white mothers must reach across the divide created by the common enemy of our people and form a human chain to stop, now and forever, the murderous rampage of the apartheid system (cited in Gaitskell and Unterhalter, 1989: 71).

There were some limited results from these appeals, with women from Black Sash holding vigils for peace with black women activists (Beall, Hassim and Todes, 1989: 43). However, the appeals did not reach much further into the white community. The

militarization of white society meant that many white women, as mothers, thought it was their duty to support their sons and the apartheid state. Nevertheless, as shall be discussed below, the strains of conscription, and the centrality of it as an act of white , masculine citizenship, opened up possibilities for apartheid to be contested within white society. Motherism created an enabling basis for black women's political activism and a means for black women ANC activists to advance feminist claims on the leadership. Motherism also allowed for (albeit limited) cross racial appeals. These women's alliances were to become crucial after 1990 and it was the cross racial, cross party, Women's National Coalition that successfully demanded gender rights to be included in both the interim and final 1996 constitution (Hassim, 2006).

De-militarizing white citizenship

White citizenship was premised on complicity with apartheid and a central act of white citizenship for men was compulsory national service in the SADF (Conway, 2012). Conscription constructed and framed dominant, militarized forms of white masculinity as well as mediating intra-white class, political and linguistic cleavages (Conway, 2012: 56-85). Conscription was presented to the white populace as a "rite of passage" where boys became men. The SADF was also widely considered to be the "shield" behind which South Africa could be protected from what the government defined as a communist onslaught (Conway, 2012: 42-44). Despite the considerable personal and ideological investment white South Africans had in conscription, it was arguably the only aspect of apartheid that directly and potentially negatively affected them. The ANC identified conscription as an area where they could covertly work within the white community and also undermine apartheid from within. Anti-conscription activism became the focus for the most significant anti-apartheid activism undertaken by white South Africans and white men who politically objected to conscription

powerfully and symbolically challenged the racist and gendered norms of citizenship, tied as they were to military service (Conway, 2012: 86-88). Conscription had become a political issue in the 1970s as South Africa's military involvement in the region increased and groups, such as the English-speaking churches became increasingly critical of apartheid. From the late-1970s, a small number of white men started to publicly object to serving in the SADF for anti-apartheid reasons. In 1983, Black Sash declared that

South Africa is illegally occupying Namibia and this is cause for many in conscience to refuse military service. When South Africa withdraws from Namibia there would be no need for a massive military establishment unless there has been a political failure to respond to the desires of the citizens, and that army will be engaged in civil war, which is a good cause for many to refuse military service. In such a civil war, if the state has to rely on conscription to man its army, the war is already lost (Spink, 1991: 219).

A number of white liberal, anti-apartheid, student and church groups debated this statement and decided to form the End Conscription Campaign (ECC). The ECC existed mainly on English-speaking white university campuses and surrounding areas in cities such as Cape Town, Johannesburg, Durban and Grahamstown. The ECC used creative forms of protest including music, satire, art and 'alternative national service' protests, which involved doing peaceful community work in black townships, to highlight the divisiveness of conscription, critique the militarization of apartheid and offer a vision of a democratic, non-racial political future (Conway, 2012: 106-127). The trials of individual objectors were effectively used to highlight the realities of apartheid to a broader white audience and to serve as an iconic act of alternative citizenship to conscription.

The apartheid state responded in varying degrees of punitive measures and vitriolic discourses, ranging from the ECC and objectors being presented as a dangerous part of the

liberation struggle, to them being well-meaning, but naive young people who were being used by the ANC. One of the most pernicious responses was that objectors and their supporters were cowardly and sexually “deviant” and had no valid political basis for their objection (Conway, 2008). The ECC was banned by the apartheid government in 1988, but this did not stop individual and collective groups of men from publicly objecting to military service for political reasons. The emergence of post-traumatic stress disorder in returning white conscripts, with its attendant symptoms of suicide and alcoholism, rising death rates and net-emigration began to undermine the state’s contention that conscription created men out of boys and unified the white population (Conway, 2012: 114-115). The ECC and the white men who publicly objected to military service contributed to the liberation struggle by performing alternative, non-violent and non-racial ‘acts of citizenship’ (Isin and Nielsen, 2008), as well as symbolizing and exacerbating fractures in the white community about apartheid. The symbolic power of anti-apartheid and anti-conscription white South Africans also helped strengthen the non-racialist discourse of the ANC. During the transition, non-racialism as a founding clause of the constitution and the post-apartheid reconciliation process that was designed to help create a new non-racial, democratic South African citizenship, was more credible precisely because there had been white men and women willing to defy the norms of apartheid and ally themselves with peace, democracy and non-racial citizenship.

LGBT and sexual citizenship

The protection against discrimination on the grounds of sexual orientation, like women’s rights, had been the result of an organized and highly effective LGBT rights movement during the transition and after (Croucher, 2002). Same sex marriage was enabled in South Africa by the equality clauses in the constitution. The emergence of this movement

was, like the women's movement, embedded in the struggles within the struggle for liberation. As with feminism, gay identity and gay rights had been perceived in some quarters of the ANC as Western, decadent, un-African and irrelevant to the main goal of liberating the country. Another complicating factor was that the nascent white gay rights movement adopted an "apolitical" stance, focusing instead on white politics and distancing itself from the ANC (Conway, 2009). This approach was essentially complicit with apartheid governance. In the liberation movement, ANC activists, such as Simon Nkoli, who came out as gay while standing trial for treason, challenged and helped change fellow ANC activists' perceptions of homosexuality (Conway, 2009: 856). With many of the ANC leadership subject to international political and cultural influences while exiled in cities across the world, it was perhaps unsurprising that senior ANC figures based in London, such as Thabo Mbeki, came to openly advocate LGBT rights. In 1987, the white and racially exclusive nature of the broader gay rights movement in South Africa came to a head when the Gay Association of South Africa (GASA) and a gay magazine called *Exit* openly supported the National Party candidate for Hillbrow in the whites only election. Despite homosexuality being outlawed in apartheid South Africa, Hillbrow had a number of gay bars and a significant white gay and lesbian population. Hillbrow was also an area where the Group Areas Act was being flouted by black, Indian and coloured residents moving into what was officially a whites only area. The National Party's candidate sought to garner white gay votes by promising to advance gay rights in white politics and reinstitute Hillbrow as a whites only area (Conway, 2009). This 'homonationalist' (Puar, 2006) campaign provoked anger from other white LGBT activists, such as those in the student movement and organizations such as the ECC, who were openly committed to the liberation movement and considered LGBT rights to be intersectional with women's and black South Africans' citizenship rights. The reaction to the Hillbrow campaign led to the decline of GASA and the rise of LGBT rights movements

committed to the liberation struggle and who were well placed to lobby for the inclusion of LGBT rights during the transition (Croucher, 2002).

Contemporary citizenship

The intersectional and multiple rights contained in the South African constitution can be traced back to the liberal democratic, socio-economic rights based and non-racial Freedom Charter of 1995 and to the struggles within the struggle to include gendered and sexual citizenship as important aspects of national liberation. As a document, the constitution is an undoubted achievement and has led to progressive legislation in numerous fields. There is, however, a bitter irony when one considers post-apartheid social attitudes towards citizenship rights and societal trends. As a comprehensive review of public attitudes towards the constitution and society noted, 'South Africans still come across as deeply conservative - racist, homophobic, sexist, xenophobic and hypocritical in terms of sexual beliefs and practices' and they also remain ambivalent about democracy (Daniel, Southall and Dippenaar 2006: 20). For example, three out of four South Africans favoured a return of the death penalty, 74% considered abortion to be wrong, only 7% of South Africans thought gay sex was not wrong at all and 78% thought it was always wrong, 9% thought it was wrong to some degree (Daniel, Southall and Dippenaar 2006: 36). Hassim notes that despite the commitment to gender equality in the constitution, a formal mechanism for monitoring and promoting this equality and the internationally high level of women's representation in the South African parliament 'South Africa has reached no social consensus about the political significance of women's interests relative to other issues of empowerment (most notably, race)' (2006: 194). The value of the gender equality clauses in the constitution are also seriously called into doubt by the country's high rates of sexual violence, HIV infection and continued gendered economic inequality (UNAIDS, 2013;

Sigsworth, 2009). Widespread xenophobic attitudes towards immigrants, which spilled over into violence in 2008, along with the consistent negative and hostile responses to South African democracy and post-apartheid society from the white community call into question the value of the constitution's non-racialism (Daniel, Southall and Dippenaar 2006: 27). These factors reveal how the achievement of citizenship is much more than the sum of a written constitution and forms an ongoing and fragile socio-economic process. Nevertheless, the existence of the constitution as a centre of South African governance and democracy offers the promise of gradually improving democratic, multi-sectional and humane forms of citizenship.

The South African liberation movement overcame considerable institutional resistance and prejudice and collectively triumphing over an obscenely iniquitous form of government and repressive social organization. The case of South Africa demonstrates how 'acts of citizenship' (Isin and Nielsen, 2008) by anti-racist, pro-democratic, women's and LGBT rights campaigners can forge new and intersectional understandings of citizenship. If citizenship is considered to be 'rooted in an implicit bargain, or an invisible handshake between the individual and the state, in which citizens claim rights and protection in exchange for various obligations to deliver things that the state needs if it is to be effective' (Whiteley, 2008: 173), then South Africa can be considered to be a model of progressive, liberal and intersectional citizenship embodying non-racialism, gendered and sexual citizenship rights. The Constitution has proved to be internationally groundbreaking in these terms and broadly robust. The socio-economic rights contained in the constitution have resulted in groups successfully demanding changes in government policy, such as when the Treatment Action Campaign successfully took the South African government to the constitutional court to ensure HIV positive South Africans received anti-retroviral medication to fulfill their right to 'adequate healthcare' (Kapcczynski, A. and Berger, J., 2009). However,

if we consider citizenship to be constituted by 'a set of social practices that define the relationship between people and states and among people within communities' (Canning and Rose, 2001: 427), then contemporary social attitudes, practices such as sexual, homophobic and xenophobic violence, alongside continued socio-economic divides, raise deeply problematic questions about the efficacy of the spirit and clauses of the constitution and worrying doubts about the future. Perhaps though, just as Schrire argues that because of the enduring legacies of apartheid 'South Africa may not have the democracy it deserves', but that its constitution and civil society ensures 'it may well have the democracy that it can sustain' (2001: 148), so may the values and rights of citizenship contained in the constitution gradually take hold as the country enters its third decade of democracy.

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