

Debate

Should race matter in our society? A ‘Born Free’ perspective

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Abstract

South Africa, as a country, has been built alongside racial lines. This has developed several perspectives within society and academia. The first view suggests that we need to be colour blind and argues that race does not matter. More specifically, race and race talk should not matter in the current South African society as we have gone past the apartheid era. The second perspective argues that race still matters and has a role to play in our society as seen in resolving race related social issues through remedies like affirmative action. In this paper, I seek to revisit the two racial camps to capture their perspectives on the relevance of race in our society. I will then contend from a ‘Born Free’ perspective that race as it is currently used in government statutes does not contribute anything positive in this society.

Introduction

Race is probably one of the most notorious and contentious methods of dividing people. From its role in slavery, colonisation and apartheid, this concept was used to justify there being a hierarchy of races with white people at the apex, and black people at the bottom. Moreover, this justification was based on a scientific notion of race which extended into racialism, an ideology which asserted that from race, one’s moral and psychological character could be ascertained. As a result, there are philosophers like Kwame Anthony Appiah and Naomi Zack who denounce the existence of biological races, and hence, argue that races do not exist and any kind of race talk and thinking in modern day society should be abolished. This perspective is called *Racial Eliminativism*, and its

antithesis is referred to as *Racial Constructivism*, whose supporters posit that races do exist, not as biological entities but as social constructs. Furthermore, racial constructivists claim that race is maintained through practices and institutions of society which, among other reasons, seek to resolve race related issues which emanated from past usages of the concept of race. This is why countries like South Africa, being built on racial lines, utilise the concept of race in state policies like the *Employment Equity Act*, and seek to rectify the aftermath of apartheid evident in society. However, such a usage of race appears not to have been scrutinised fully by legislators as they would be aware that this usage may have damning effects on the South African society and some of the ideals it may wish to reasonably achieve. As a result, this paper seeks to argue that the usage of race and racial categories in state policies ought to be eradicated as such usage is based on the doctrine of racialism, and can lead to racism and reverse racism, outcomes which oppose certain 'Born Free' ideals.

Firstly, this paper will outline certain ideals which emanate from the term 'Born Free', which will be referred to as *Bornfreeism*. It will then outline the normative debate between *Racial Eliminativism* and *Racial Constructivism* and provide a critical analysis of these two camps. While sympathising with the latter camp, this essay argues that it is only the thin constructivist account which is the most realistic notion even though it does not meet the 'no travel constraint', which all social constructs need to meet. Following this analysis, it will argue that race and racial categories used in modern South African statutes are those which were utilised and codified during apartheid in the Population Registration Act. Moreover, if this is the case, then such usage in current legislation is based on racial categories which are unarticulated, fallacious, and subscribe to racialism. In addition, this paper will bring forward a political argument which claims that a continued usage of race in statutes may result in racism. This is because the mentality that some races are inferior and should be excluded from economic, political, and social practices is still present, and once coupled with race related legislation, can maintain racism. Finally, this paper will show that the retention of race in statutes may also lead to 'reverse racism', and all of these consequences of keeping race are in conflict with the 'Born Free' ideals because they facilitate inequality, disunity, and racism, and this does not benefit the new South Africa.

Bornfreeism and race

The 'Born Free' ideology I would like to present is one which is based on how the post-apartheid South African state can be envisaged. It is an attempt at moving away from the negativities rooted in apartheid and imagines a state which has no resemblances to this epoch. It is an ideology of non-racialism, where all races are equal, and advocates for racial social cohesion. The employment of the term 'Born Free' by scholars has been in reference to a generation of individuals which can either be construed as being born after the legislative end of apartheid, which was in 1994 (Malila 2013, Nxusani 2012), or it can be construed as referring to those who reached their 'politically formative years' of 16, 17, and 18, post-1994 (Mattes 2012). These conceptions seek to explain the 'born' in 'Born Free', something which is not very important in this present discussion. What is of interest is the 'free' element, as it raises questions of what exactly is this generation free from. An obvious postulation is that it is referring to how this generation is free from apartheid, but what is not as obvious is what exactly this implies. On one hand, if we understand apartheid to be a system of governance designed for the segregation of different races with the purpose of achieving white political, economic, and social supremacy, then to be free from apartheid is to be free from this system of governance. Thus, so understood, such liberty occurred when all statutes which endorsed racial discrimination in favour of white supremacy were repealed, the culmination of which took place in 1994. On the other hand, if our understanding of apartheid is inclusive of its consequences, such that, for example, certain people are still impoverished because of the statutes prevalent in apartheid, meaning that its consequences are still affecting people post-1994, then it seems that these people are not entirely free from the remnants of apartheid. So understood, then, freedom from apartheid is not only liberty from statutes but also from their consequences. It is on this second understanding that this ideology, to be termed 'Bornfreeism' is founded.

This ideology sees it as imperative to reimagine what a society free from apartheid and its consequences entails. Among many things, what can firstly be derived from this reimagination is a society of non-racialism. This is because in apartheid, people's characters were determined by their phenotypical features, determinations which were the source of unwarranted discrimination based on race, ie racism. Secondly, this society would be one whereby people of all races, whatever these are, are

equal, and are given equal opportunities to exhaust the options available in society to live a full life. Finally, *Bornfreeism* advocates for racial social cohesion whereby the South African society is free from race-based violence, unfair discrimination, racism and reverse racism. While these ideals are not contentious in any non-trivial way, what may spark debate is how they should be realised. Moreover, *Bornfreeism* agrees with those who claim that to achieve the kind of society imagined above, there needs to be the rectification of past injustices, however, this ideology does not agree with some of the ways this rectification has been marshalled. More specifically, and this is the focus of this paper, *Bornfreeism* is against the current usage of racial categories in government policies because these categories are based on ideas of race which were prevalent during apartheid, and have not been properly articulated to be relevant in post-apartheid South Africa.

This paper posits that the usage of race throughout the history of South Africa, leading to certain evils like codified racism and apartheid, was grounded on the mind-set that some races are inferior to others and thus, these inferior races should not benefit from the economy, politics, and social life of the country. This is because any law, before it becomes official, must be deliberated on, and whoever is proposing it must be able to convince others why it must be accepted as statute. Therefore, I do not believe that there can be a reasonable and rational justification for a law which grossly violates the intrinsic human rights of innocent people, and this was evidenced by how law makers during apartheid never made laws which prescribed for them to ill-treat each other. Thus, such statutes infringing the rights of certain people must have come from something other than logic or rationality, and it is reasonable to accept that this thing was the negative mentality which the legislators had towards specific races. More peculiarly, out of all the races which were considered inferior, the degree of the severity of these laws was made to be most felt by the black race. Thus, the attitude of there being a hierarchy of races culminating in the exclusion of black people from the economic, political and social activities became prominent in apartheid, with the codification of such perspectives. Furthermore, the ramifications of apartheid and statutory racism led to there being inequality and disunity, a situation which is conflictual to the ideals of *Bornfreeism*. However, even in light of the aforementioned, race continued to be used in modern-day statutes governing South Africa without an explicit definition of race, and how

people are to be allocated according to it. If this country is to reach the ideals brought forward by *Bornfreeism*, then being ignorant of the debates surrounding race and racial categories will only hinder any kind of progress towards them.

The normative debate on race

While there are many debates surrounding the existence of race, the most pertinent of them for the purposes of this paper is the one between racial eliminativists, who posit that biological races do not exist simpliciter, and racial constructivists who argue that race exists not as a biological entity but rather as a social construct. While this paper sympathises with the constructivists, it is aware that most of the race theories provided by this camp seem to be far removed from reality, and those that do resemble reality are in danger of not reflecting what is generally accepted of social constructs.

Racial eliminativism

Racial eliminativism is the camp which endorses the thesis that there are no biological races in terms of essences or genes and therefore race does not exist. Moreover, this camp asserts that any kind of race talk should be done away with. Kwame Anthony Appiah is one of the prominent advocates of this camp and starts the defence of the racial eliminativist theses by attacking WEB du Bois' definition of race and shows how it is committed to biological races, a notion which Appiah argues to be incorrect (1992). Du Bois (2000:105) claims that race is,

...a vast family of human beings, generally of common blood and language, always of common history, traditions and impulses, who are both voluntarily and involuntarily striving together for the accomplishment of certain more or less vividly conceived ideals of life.

Of the abovementioned claim, Appiah says:

The tension is plain enough in his reference to 'common blood'; for this, dressed up with fancy craniometry, a dose of melanin, and some measure of hair curl, is what the scientific notion amounts to. If he has fully transcended the scientific notion, what is the role of this talk of 'blood'? (1992:30)

Appiah begins by separating du Bois's definition into two elements; the scientific/biological aspect, and the socio-historical aspect. Furthermore, Appiah claims it is not necessary for the reader to focus on things like

‘common impulses and strivings’ or ‘family’ because these can be due to either biological inheritance (ancestry) or common history, or a combination of both. Hence, in order to fully understand what du Bois’s notion of race is, Appiah explains how focus should be placed on common history and whether it can distinguish one racial group from another, as well as if that common history can show du Bois’ conception of race to be sociohistorical as opposed to being scientific or biological. However, Appiah (1992) posits that neither of these is possible since the usage of common history as a criterion for the identification of black people, for example, would lead to circularity. This is because if common history becomes a criterion of blackness, it means that in order to find out who black people are, we need to find out what the history of black people is. However, in order to find out what that history is, we first need to find out who black people are so we can point out their history; this leaves us back where we started. Appiah articulates this point by saying that ‘Someone in the fourteenth century could share a common history with me through our membership in a historically extended race only if something accounts for their membership in the race in the fourteenth century and mine in the twentieth. That something cannot, on pain of circularity, be the history of the race’ (1992:32). As a result, common history does not do the work required, thus what is left is common descent as well as common impulses and strivings (Appiah 1992). However, descent cannot be considered as a criterion of a sociohistorical account since that is what the scientific account relies on, thus only impulses are left. Appiah further claims that there is no way impulses can be a criterion to being a race since it can be determined that one is a Negro without knowing one’s impulses (1992: 33). Instead, he continues, what can be said is that people who are of the same biological race share impulses (1992:33). As a result, du Bois is left with the scientific account of race which relies on biological foundations as opposed to transcending it.

For Appiah, this view that the races are biologically distinct groups is false, which is why he and other philosophers, like Naomi Zack (2001), deny the existence of race. Appiah claims that there are minimal genetic variations between populations of different continents as well as within those populations (1992:35). He says that ‘the chances of two people who are both “Caucasoid” differing in genetic constitution at one site on a given chromosome are about 14.3 percent, while, for any two people taken at random from the human population, they are about 14.8 percent’

(1992:36). Moreover, he claims that:

...the underlying statistical facts about the distribution of variant characteristics in human population and subpopulations are the same, whichever way you express the matter. Apart from the visible morphological characteristics of skin, hair and bone, by which are inclined to assign people to the broadest racial categories-black, white, yellow – there are few genetic characteristics to be found in the population of England that are not found in similar proportions in Zaire or in China, and few too (though more) that are found in Zaire but not in similar proportions in China or in England. All this, I repeat, is part of the consensus. (1992:36)

In addition, Appiah asserts that those differences like morals, language, politics are also not significantly biologically determined whereas our similarities like the ability to smile and acquire human languages ‘are to a significant degree biologically determined’ (1992:35). Therefore, since biological differences do not mean much, racial difference is not important either. In fact, Appiah says that it is difficult to figure out a person’s biological features from her race apart from the phenotypical features like hair, bone and colour. This means that the claim for there to be a racial essence made up of heritable characteristics has no biological foundations. Thus, the notion of race used to classify people is no more significant than classifying people ‘according to whether or not they are redheaded, or redhead and freckled, or redhead, freckled, and broad-nosed too, but nobody claims that this sort of classification is central to human biology’ (Appiah 1992:37). Thus, he concludes that ‘the truth is that there are no races: there is nothing in the world that can do all we ask race to do for us’ (1992:45).

Zack also supports Appiah’s conclusion because race, she asserts, does not meet any requirements of philosophic theories of meaning relating to essentialism, nominalism and the new theory of reference. According to Zack, science supports the non-essentiality of race; she claims ‘insofar as a universal negation can be affirmed, it is now accepted by scientists that there are no racial essences which inhere in individuals and determine their racial membership’ and any continued use of racial essences is a mistake (2001:44-45). Zack then puts race under the test of Locke’s nominalism which claimed that referral to an essence of a thing was to refer to the idea of what that thing is in the mind (2001:45). However, for Zack, this test was too arbitrary as it did not depend on the objectivity of biology but rather on meanings of words and ideas. Thus, she believed that

there still needs to be some empirical and logical methods utilised to classify objects, and this can be done by what she calls ‘intension’ and ‘extension’. For Zack,

the definition of a term is its intension; the class of objects, each one of which can be picked out by the definition, is the term’s extension; and intension determines extension. Typically, the intension states necessary and sufficient conditions, or conjunctions of properties, that must be present for an object to belong to the extension... Overall, the definition of a term ought to pick out only its extension and not the extension of a term with a different intension. (2001:46)

Furthermore, she asserts that the definition must pick out what it explains precisely and intelligently because ‘it would be vacuous to define a cat as an animal with cats for parents, or to define wood as stuff similar to other stuff called “wood”’ (2001:47).

Although, according to Zack, ‘contemporary biologists and anthropologists’ infrequently define race as a group of people ‘who have more of some genetic or heritable traits than other groups’, and modern scientists posit that there is no gene for race but rather ‘genes for traits’, it is these latter genes which users of the folk meaning of race believe to produce racial traits (2001:47). Additionally, Zack claims that these genes for traits are like any other genes. Furthermore, there are still no set of genes belonging to race such that they can be inherited together, and there are no phenotypical traits which encompass all members of that race. Thus, she says, when race is put against nominalism, it becomes evident that ‘there are no necessary, sufficient, or necessary and sufficient conditions of individual human biological traits, which need be present for black or white designation’ (2001:47). Moreover, Zack points to there being a multiple of overlaps in the genetic make-up of blacks and whites resulting in there never being a purely white or black person (2001:48). Therefore, with regards to nominalism, she concludes that folk notions of race are limited to being ideas only of the mind, and not found in nature. She says ‘there is no reason to believe that there are any kinds in the world which correspond to the ideas that the words “black race” and “white race” name’ (2001:50).

Finally, Zack argues that the application of race does not meet the requirements of the new theory of reference in terms of natural kinds, and is, as a result, false. According to this theory, natural kind words are similar to proper names, meaning that ‘black race’ refers to those who

under the folk notion of race are classified as black. This further means that, unlike nominalism, 'black' is not a semantics issue of theories in the mind, but it is rather 'its real world extension' (Zack 2001:51). In addition, Zack asserts that genes which are responsible for physical traits or phenotypes can be studied scientifically and the result of such studies does not correlate with folk understandings of race. This means that folk conceptions of race may be stereotypical since they make reference to phenotypes rather than genes (2001:51). Moreover, for Zack, 'the core problem is that race does not qualify as natural kinds' (2001:53). Not only are there no racial essences or sufficient and necessary conditions, there are also no genes which specifically pertain to race. Zack claims, 'It is not merely that a person designated black or white at a certain time and place might with the same physical traits be otherwise racially designated in a different time and place... rather, there is no purely racial sub-structure *per se*, to which morphology that is perceived or judged to be racial on a folk level, can be necessarily or (even contingently) connected' (2001:53). In other words, while there are morphological genes connected to traits like hair texture and body structure, there are no genetic markers at a chromosomal level indicative of one being black or white, and this 'lack of a genetic racial substructure means that race is not necessarily associated with those traits' (Zack 2001:54). Thus, Zack concludes, folk conceptions of race do not satisfy the requirements of the new theory of meaning as a natural kind, making them non-existent especially since this theory works with other natural kind terms (2001:56).

Therefore, it is evident that racial eliminativists, as argued extensively by Appiah and Zack, claim that there are no biological races and any kind of race talk does not refer to anything in the world, making race futile. However, there are those who do not share the sentiments of the eliminativist camp, referred to as racial constructivists.

Racial constructionism

Paul Taylor (2000) defends du Bois from Appiah's criticisms by claiming that du Bois was not referring to biological races but rather, to socially constructed races. Taylor argues that when du Bois speaks of common history as a criterion of race, he is referring not to an abstract, single group history which Appiah alludes to, but rather to individuals who have similar experiences regarding certain social circumstances such that they can be grouped together. Taylor (2000:109) says, 'to be black on this

account, is to have experiences of being seen and treated in certain ways'. Thus, when speaking of why du Bois is black even when he has Dutch ancestors, Taylor believes that it is because du Bois was perceived as being black which made him have typically black experiences. This means that race is dependent on how the community one resides in views race. As a result, Taylor asserts, du Bois views the existence of race to be due to collective intentionality, a kind of social behaviour which leads to the creation of certain facts, like money, existing (2000). These facts, including race, are institutional facts. This means, as Taylor explains in the case for money, that through a community's choice of practices, it can bring into reality that which may have not existed if these practices and institutions did not take place, irrespective of how just they are. He says '...Du Bois argues that a variety of practices in the modern West have brought races and racial identities into being, and that the institutions and practices remain in force even though we've thoroughly undermined and criticized their original foundations in the theories of biological racialism' (2000:110). Therefore, according to Taylor, it is evident that du Bois was not talking about biological races but rather socially constructed races brought about by certain practices and institutions, and this is the thesis racial constructivists seek to defend.

Another constructivist, Michael Root, likens race to crime in that both are inventions of society. He claims that for crime, 'no one would be guilty of theft had we not invented or recognized the relevant laws or drawn any property lines' (2000:S630). Furthermore, Root believes that these inventions did not come from nothing but rather from history: for example, property crimes stem from the regulations in economic systems, and racial categories from curiosity as to the origins of mankind, and how biology influences the differences within the species (2000). This is why he claims that 'there would be no blacks or whites had there been no theories of race in the 18th and 19th centuries or arguments concerning the native varieties of the human species' (2000:S630). Paul Taylor (2000:113) refers to these theorists, like David Hume and Immanuel Kant, as *Classical Racialists* because they believed that races are biological kinds or populations who carry some kind of essence which determines that population's culture, character, value, as well as certain physical similarities. However, as has been argued vehemently by racial eliminativists and constructionists, racial theories of the past are incorrect because there are no biological races (Appiah 1992, Zack 2001, Mallon

2004). Hence, constructivists argue that what exists are sociological populations represented as races and these, according to Taylor, 'were brought into being by the institutions and practices of classical racialism' (2000:114). Moreover, Root points out that 'norms of racial separation and difference' are what caused there to be divisions between blacks and whites, and in dividing themselves and staying true to those divisions, humans created a causal order which brought about racial categories, thus making them inventions of society (2000:S633).

Thus, it is clear that racial constructivists agree with eliminativists that there are no *biological* races, but the former camp claims that race does exist as a social construct. Ron Mallon (2006) divides constructivists into three accounts of race: *thin constructivism*, *interactive constructivism* and *institutional constructivism*. *Thin constructivists*, according to Mallon (2004:647) base race on the usual superficial features people have which include bodily appearance, ancestry, culture, and experience. It is constructivist because these criteria are not by themselves proven to constitute race, but communities tend to practice them as being constitutive. *Interactive kind constructivists* claim that one belongs to a certain race because of experiences which pertain only to that race and which stem from racial labelling; in other words, being labelled black causes one to be black. *Institutional constructivism* views race as a social institution like money, marriage, and governments (Taylor 2000), where one belongs to a certain race only if they are in a community where race is understood to be a certain concept used to divide people. This is typical of Roots' view of race which states that 'where R is race, a person is R at a site only if R is used there to divide people' (2000:S632). This means that being categorised as a particular race depends on a certain community's view of what counts as the criteria for being race R.

Moreover, it is evident that constructivists not only claim that race exists as a social fact, but that it is conserved by societal institutions (Taylor 2000) and norms (Root 2000). This is why Root claims that 'the reality of race depends on what we (collectively) have made of race and, in particular, whether we regulate or discipline each other by race. Should we divide but not regulate by race, we would retain races but not conserve their reality' (2000:S635). Thus, for Root, racial division is not enough to conserve race, but there needs to be other constant practices which make regular usage of race. This is why Root says that social scientists and governments conserve races by using racial categories in their research as

well as policies like affirmative action and civil rights laws (2000:S637). He says ‘social scientists can employ racial classification in their research and remain silent on the questions of conservation and legitimacy, but their use of race does contribute to the racial consciousness of their subjects’ (2000:S638). This means that the usage of racial categories by institutions and other practices does play a role in maintaining the reality of race.

The inadequacy of the two normative camps

Another argument racial eliminativists make other than the one which exposes the falsity of biological races, is that race does not refer to anything specific in the world, and as a result, should be abolished. This argument was raised above by Naomi Zack (2001) but it is Appiah’s argument which this section will focus on, as well as the responses to it made by racial constructivists (Taylor 2000, Mallon 2004, 2006) in order to provide a more critical analysis of the issue of race.

Kwame Anthony Appiah separates the semantics theories into two: the ideational and the referential account, with the concept of race failing to meet the requirements of each theory. For Appiah, the ideational approach speaks of ‘how people think about races: what they take to be the central truths about races; under what sorts of circumstances they will apply the idea of race; what consequences for action will flow from that application’ (1996:56). In other words, this account says that to have an idea of race is to know when the term is applicable such that, since there are criterial beliefs which people share about race, if one does not share these beliefs, they do not comprehend what race means (1996). He continues to say that this theory ‘would also require that if we collected all these critical beliefs about race and took them all together, they could be thought of as defining the meaning of the word “race”’ (1996:58). Thus, for this account, race only exists if it meets the criteria for race. Appiah calls this the *strict criterial theory*. However, most philosophers do not support this theory so Appiah conjures up the *vague criterial theory* which claims that race needs to meet most and not all of the criterial beliefs. The referential account on the other hand ‘suggests that to explain what the word “race” means is, in effect, to identify the things to which it applies, the things we refer to when we speak of “races”’ (1996:56). This theory speaks of how there can be a correct classification or account of something while the description is incorrect. From this account is the *causal theory*

of reference, which can be understood as ‘if you want to know what object a word refers to, find the thing in the world that gives the best causal explanation of the central features or uses of that word’ (1996:63). Thus, for a *causal theory of reference* pertaining to race, it needs to be ascertained whether there is a good causal explanation of the talk of race. In other words, there needs to be something, X, such that when people talk about races, then X is the best available referent, even if those people were not aware they were talking about X (1996:63).

Appiah claims that the difference between the ideational and referential theories is that the latter is a historical version of the former. Therefore, he chooses to analyse a historically American and British understanding of race from the lens of Thomas Jefferson and Mathew Arnold respectively. Jefferson believed, according to Appiah, that different races could not share citizenship. Thus, Appiah contends, Jefferson alleged that race ‘is a concept that is invoked to explain cultural and social phenomena’ (1996:67). Moreover, Appiah argues that Jefferson supposed that blacks and whites should not live together because of the physiological and psychological differences between them, which Jefferson thought to be natural; making the latter’s concept of race biological (1996:73). Appiah then analyses the work of English poet Mathew Arnold, and claims that he ‘is convinced that biological inheritance helps determine every aspect of racial capacity’ (1996:77). Thus, Appiah argues that Arnold believed in separating people into small groups called races, who shared, within their groups, certain characteristics (moral, physical and intellectual), which were intrinsic and heritable, and which they did not share with any of the other groups (1996:80). These characteristics form the necessary and sufficient condition for one to belong to that race, or what can be called the essence of that race, and therefore, Appiah claims that ‘Arnold’s concept of race should, then, provide the materials for what I have called a strict criterial theory of the meaning of the term “race”’ (1996:81).

In the past, Appiah continues, there has been the general appeal to Darwin’s theory of evolution to give support to the notion that races are influenced by evolution and are biologically distinct. However, Appiah is of the view that humans have a countless number of genetic characteristics interacting with the environment and each other, and as a result, evolution does not guarantee that by sharing one characteristic (skin colour, for example) a group will share most or all others (1996:95). Thus, according to Appiah, “Race”, then, as a biological concept, picks out, at best, among

human classes of people who share certain easily observable physical characteristics, most notably skin color and a few visible features of the face and head' (1996:96). Therefore, pertaining to the ideational view, the usage of race in the past, from Jefferson to Arnold, has been such that there is great correlation between biological and the psychological or moral features of humans, and that these are explicated by the fundamental 'nature of the members of the race' (1996:98), making these the criteria of belonging to that race. Appiah claims that this has turned out to be untrue because there is 'little systematic correlation between the genes that fix colour and the like and the genes that fix courage or literary genius' (1996:99).

This means that on this view, nothing meets the criteria of race as articulated by Jefferson and Arnold. In other words, this means that there are no biological races. Regarding the referential view, there needs to be something in the world such that it best explains the historical use of the term. The first concept, according to Appiah, is population, but the problem is that this term is susceptible to a variety of meanings and not all correspond to the general understanding of race (1996:100). The second concept denotes those groups defined by phenotypical features divided by continents. However, groups defined in these terms provide no biological interest because even within their regions, there are vast disparities, for example in skin colour, failing to provide a consistent concept of race that can relate to all human beings (1996:101). For Appiah, 'the bottom line is this: you can't get much of a race-concept, ideationally speaking, from any of these traditions; you can get various possible candidates from the referential notion of meaning, but none of them will be much good for explaining social or psychological life, and none of them corresponds to the social groups we call "races" in America' (1996:101).

In response, however, Taylor posits that Appiah is biased in choosing his subjects of analysis when arguing that the usage of race appeals to biological groups which entail racialism (2001:122). Taylor explains, 'he renders the history of race-talk in a problematic and partisan manner, counting as producers and disseminators of racist meaning only those figures who subscribe to the tenets of classical racialism. As a consequence, his explication of "race" is somewhat less than reliable' (2000:122). Taylor also believes that once the history of racial discourse is made to take into account sociohistorical accounts, there is no need for race to refer to the biological populations articulated by Arnold (Taylor

2000:123). Furthermore, Taylor makes an example of William Watkins who responds to a participant in the black American convention movement whose letter sought to eliminate any kind of black race-talk. Watkins dismissed this method by arguing that words like coloured and African have become custom and accepted as ways which refer to certain people. Of this, Taylor says,

Watkins here attempts to defend race-talk *not* by vindicating its 'questionable inaccuracies,' but by pointing out the extent to which it has become an entrenched way of speaking...he does not defer to Appiah's semantic experts, and he articulates an approach to race-talk that is clearly not that of Jefferson or Amold. (2000:124)

Thus, it appears, Taylor challenges Appiah's choice of subjects of analysis and cites this error as the reason why it seems as though race entails biological racialism. Therefore, in his example of Watkins and others, Taylor shows that there were those who utilised racial discourse but did not believe in biological races.

Mallon, on the other hand chooses to respond to Appiah's appeal to semantics by using the *thin constructivist account*, and he also argues that semantics do not matter when it comes to race. The *thin constructivist* notion can respond to the objection that race does not apply by claiming that race does refer to people who meet the criteria outlined by the folk objectivist account including but not limited to ancestry, and skin colour (Mallon 2006:536). Even if Appiah responds by claiming that such ordinary concepts of race imply racist convictions, a thin constructivist may reply by insisting that 'one may use racial terms and concepts shorn of their racist implications or, to put it another way, that racist theories have been associated with racial terms and concepts but are not essential to their application' (Mallon 2006:537). Nonetheless, for Mallon, semantics is not a proper strategy to employ when deliberating on the issue of race. He says, 'The semantic strategy makes discussions over the correct account of race hostage to issues in the philosophy of language and metaphysics about which there is little agreement' (Mallon 2006:548). He points out that even if philosophers utilised all the plausible theories of reference in order to formulate their answers, there is still no guarantee that all of them would reach the same conclusions (Mallon 2006). In fact, Mallon continues, even if this was resolved, there is no requirement as to what to do once it is discovered whether or not race-terms refer. He explains that

One might coherently hold, for example, that racial labels and concepts do not refer but that we should continue to use them anyway because the practical benefits are so great. Or alternatively, one might think that racial labels and concepts do refer but we ought not use them because we risk being misunderstood as legitimating oppression. (Mallon 2006:549)

Thus, for Mallon, it makes sense that semantic considerations be ignored.

It is clear that from the conservationist perspective, using semantic theories to disprove the existence of race is not very useful in deciding whether race should be conserved or not, for the conservation of race is a normative question on how things ought to be in modern society considering the racialist misunderstandings which plagued past generations. Hence, the constructivist asserts that it is them who have the correct perspective that race should be conserved as a social construct. However, even for this camp, it does not appear as though their account of race is consistent with reality.

The reason why I claim that racial constructivism does not coincide with reality is that most of the accounts of race provided for by Mallon are not particularly the accounts which people tend to use, which makes them counter intuitive. More often than not, people refer to race based on what Mallon calls 'thin endowments'. These include genotype, skin colour, eye colour, self-awareness of race, body morphology, ancestry, etc, all of which have been traditionally associated with racial categories (Mallon 2004). The account which takes this view into consideration is the *thin constructivist account*. However, if this account is applied, then it faces a situation whereby it has to accept that a person's race will remain consistent anywhere they go. This is because, for example, if race is based on the idea that a person is black, then it is only sensible to believe that this person will be black all over the world. Although this appears to be correct, if scrutinised properly, one will ascertain that it is misguided because any social constructivist account of race must be such that the concept of race is localised. This comes from the fact that if race is a social construct, then the nature of its existence depends on the community which uses that account of race, which means that the concept of race can differ from community to community. For example, if one was to come with chess pieces to a community without the concept of the game 'chess', then those pieces are meaningless. Similarly, there can be a case where someone is considered black in South Africa, but be referred to as mixed race in the United States of America, particularly if they are light in complexion.

Root (2000:S631-2) alludes to this constraint on social constructivists when he says 'race does not travel. Some men who are black in New Orleans now would have been octoroons there some years ago or would be white in Brazil today. Socrates had no race in ancient Athens, though he would be a white man in Minnesota'. Mallon (2004:658) calls this 'the no travel constraint' which he explains by claiming that 'on a constructionist account of race, a person's race is dependent upon the culture in which they live'. Therefore, it is evident that the thin constructivist account of race does not meet the 'no travel constraint'.

Race, apartheid, and modern South African legislation

Racial categories and racialism

As a result of the above postulations, it seems plausible for race to exist not as a biological concept, but rather as a social construct based on communities' folk understanding of the term (phenotypes, ancestry, culture, etc), as well as communal institutions and practices still utilising the concept. However, if race is a social construct, then, as demonstrated above, it becomes difficult to consistently place people in separate racial categories as these can differ from community to community, and even from person to person. And this difficulty became apparent in apartheid when countless people did not fully meet folk definitions of race, thus forcing those responsible for assigning people to racial categories needing to utilise other 'objective' tests, like the (in)famous pencil test. Most relevantly, though, is that if race is taken as a social construct, then it will be nothing more than what each community constructs it as, meaning that in the South African context, race is nothing more than what the apartheid government used in the past to demarcate between people. This is because there is no recorded account of what race is and how to allocate people according to race other than what is articulated in statutes introduced during apartheid, particularly in the Population Registration Act of 1950. If this is the case, then it means that the notion of race employed in current government statutes is that which was constructed during apartheid. The reason for this is simply that in race being a social construct, it means that by not explicitly defining what race is, the current government is conserving through their practices (statutes) and institutions, a notion of race used during apartheid.

This means that current government statutes which make use of race and racial categories are committed to controversial definitions of race which

subscribe to the doctrine of racialism. The reason for this is that, according to government policies utilised in today's South Africa, which, as argued for above, conserve a notion of racial categories articulated in the Population Registration Act, a black person (who used to be a 'native' during early apartheid) is 'a person who in fact is or is generally accepted as a member of any aboriginal race or tribe of Africa', a white person is one 'who in appearance obviously is, or who is generally accepted as a white person, but does not include a person who, although in appearance obviously a white person, is generally accepted as a coloured person', and a coloured person is one 'who is not a white person or a native' (Population Registration Act 30 of 1950). Now what is obvious is that these definitions are overrun with basic philosophical fallacies like repeating the term you are trying to define in your definition. What may be less apparent is that these are the definitions which current legislators are using in their failure to explicitly define racial categories. Moreover, what is even less salient is that these categories hinge on what informs that which is 'generally accepted'. In other words, the criteria an individual must meet to qualify as black, for example, is that she needs to be generally accepted as belonging to an aboriginal tribe of Africa. This general acceptance can mean that in her community, most people perceive her to have met the standards or requirements for membership in an African aboriginal tribe.

Thus, on one hand, general acceptance can be interpreted as referring to the number of people in her community such that if 51 per cent of them believe she meets the requirements of belonging to African tribes, then she is black. However, this interpretation makes deriving one's race accurately close to impossible as it is tedious to obtain the views of each member of the community regarding every other member of that very same community. This is because, for example, in a community of a million people, a government official would have to gather nine hundred and ninety-nine thousand, nine hundred and ninety-nine views about one individual in that community, and this would have to be done close to a million times to ascertain the race of each member of the community. Therefore, it seems another interpretation of 'general acceptance' is necessary. Thus, on the other hand, this interpretation can be that for an individual to be black, she needs to meet most of the requirements of being a member of an aboriginal African tribe. This interpretation is less tedious but still needs to establish what the criteria of belonging to that tribe is. For example, if the criteria to belong to an aboriginal African tribe is to

have a height of two meters, white teeth, and laziness, and an individual meets two out of three of the criteria, then this individual is generally accepted as indeed a member of an African aboriginal tribe, meaning that she meets the statutory definition of being black or native. What may be problematic with this particular definition, among other things, is that it is not clear what it is to be an African aboriginal tribe. Furthermore, what the criteria for membership into this tribe are, and whether these can be ascertained without any incoherencies, has not been made apparent; but this is not the scope of this paper.

Nonetheless, in line with the above postulations, general acceptance into a particular race means meeting most of the requirements to be a member of that race. Moreover, we must recall that since race is a social construct, it means that in order to assign people racial categories, folk definitions need to be invoked. This means that in a community like South Africa, to be allocated a certain racial category, one needs to meet most of the folk requirements of race, which are appearance (phenotypes), ancestry, culture, and behaviour or character. However, the Population Registrations Act offers attempts at defining racial categories, and while it provides what is controversially required to be black (membership of an aboriginal African tribe), the requirements to be white are even more polemic. This is because, according to this Act, to be white is to appear white or to be generally accepted as white, which makes this definition circular. Nevertheless, what is clear is that it makes use of one of the folk requirements, ie appearance, in order to allocate individuals into the white racial category. However, the second part of the definition in this piece of legislation renders appearance inadequate on its own because to be white, one must not be generally accepted as coloured, even if one appears white. Thus, it can be said that not being generally accepted as coloured while appearing white just is to be generally accepted as a white person. If this is the case, then utilising the Population Registration Act alone is insufficient, and thus, to be generally accepted and thus categorised as white, an individual needs to meet most of the folk requirements, which pertain to appearance, ancestry, and character.

While the appearance requirement may be simpler to fulfil as it is based on phenotypes, ancestry brings a problem which pertains to time, and requirements like culture, behaviour or character have racist connotations. As Appiah (1992) asks, if ancestry is going to be used as a determinant of race, how is it to be decided the length of time to go back,

in the history of the individual? Moreover, this question points to an obvious yet hard to swallow fact; that historically, at a certain point in time, all of humanity shares the same ancestor(s). Thus, it seems ancestry is indeterminate when it comes to racial allocation. This leaves the character of the individual. While it was common all over the world in the past for the character of individuals to be indicative of race, to use such a requirement is to subscribe to the doctrine of racialism, a doctrine criticised by some philosophers (Taylor 2000, Appiah 1996, Mallon 2004, 2006) for being racist, as behaviour or culture has nothing to do with race, especially since people of different races can share similar characteristics and practices. As noted above, Mallon brings to light the fact that the existence of race does not on its own entail racialism, however, in reality, folk definitions of racial categories in the past have utilised character as a determinant, and if South African legislators continue to use racial categories utilised by the apartheid regime, then it seems that some of these categories are indeed based on the doctrine of racialism, as exposed above. Thus, to use racial categories the way they are currently used in statutes is to continue dividing people through apartheid methods, and also subscribe to racist categories, something which contradicts the 'Born Free' ideology of non-racialism. Apart from these philosophical issues with the current usage of race in statutes, there are some political reasons which ought to discourage such usage.

Legislation as a basis for racism and reverse racism

Using race in statutes may harbour social disadvantages which include the maintenance of racism, as well as reverse racism. This is because it is not likely that the attitude that black people are inferior, which informed racial segregation in the past, has been completely eradicated since 1994, and the persistence of this mind-set coupled with the statutory usage of race in South Africa may hinder social reform by maintaining racism. The reason for this hindrance is that those who harbour this negative mentality are likely to be opposed to socially reformative policies and practices which seek to be more advantageous to black people. This is because the way race has been understood since its statutory inception in South Africa, a contentious understanding which has not been explicitly dismissed in policies, has led to there being social statuses attributed to individuals based on their race; a practice which has seen black people being placed at the bottom of society. As a result, since modern day race based policies

seek to uplift blacks by putting them in better social positions, people who have the mentality of there being a hierarchy of races with blacks at the bottom are likely to be against such practices. Such opposition to social reform can be construed as racist. Moreover, it is likely that such a mentality of a hierarchy of races, is the foundation for a countless number of racist acts. This is illustrated by how in 2008 white students of the University of Free State decided to feed black cleaning staff members food in which they said they had urinated. Additionally, and more recently, in 2015, when some students at the University of Cape Town were protesting for the statue of Cecil John Rhodes to be brought down a movement known as Rhodes Must Fall other students were commenting on social networks calling their counterparts 'monkeys', disrespecting not the cause being fought for, but the individuals themselves, demonstrating instances of racism.

These examples are not only of racism but they also indicate how the perpetrators are opposed to black orientated social reform, which is a further symptom of the mentality that there is a hierarchy of races. This is because a country like South Africa, with a history riddled with job reservation and the limitation of rights of expression for black people, which resulted in a society full of inequalities, should aspire to bridge those inequalities. Thus, social reform is important for South Africa and one of the ways of achieving this goal is through job creation. Moreover, part of social reform is the retention of the dignity of those whose occupations are regarded as 'low class' especially, because, in this country, most of those who occupy these jobs do so by the design of apartheid. Thus, it makes sense for policy makers to want to afford opportunities to previously disadvantaged people by favouring them when it comes to employment and education. However, feeding black cleaners urinated food is not only racist, but also shows the presence of the mentality that black people should remain at the bottom of the social ladder, since this behaviour is counter to any kind of social reform for the purposes of creating an equal society. Furthermore, there was a time in South Africa where movements like Rhodes Must Fall would have never been entertained by society. Irrespective of the arguments advocates of this movement provide, the fact that society was willing to engage them fully is indicative of social reform. However, those who are against such a movement not because of the failure of its arguments, but because most of the movement's supporters are of a certain race show racism as well as opposition to

social reform since they are perpetuating racial disunity. This shows that the notion of a hierarchy of races did not diminish with the end of apartheid, and using race in statutes in order to create jobs and admissions in institutions of higher learning, coupled with this mentality, can inspire more racism, a grave social cost.

Furthermore, another social cost that the continued use of race in South African legislation can lead to there being reverse racism where the latter refers to the ill-treatment of white people by black people because of the former's race. This is because using race to classify people and as a means to redress past injustices comes necessarily with the acknowledgement of how race was used in the past. The reason for this is that by attempting to rectifying past injustices, there is acceptance that, firstly, black people were ill-treated during apartheid because of their race, and, secondly, that the inequalities which are consequential to this mistreatment have not disappeared, which is why something should be done about them. Thus, this acknowledgement coupled with the usage of race in statutes give justification for reverse racism. This is because the law has a profound effect on civil society since it prescribes how the participants of such a society should treat each other. If one's actions are consistent with the law, one feels justified in performing those actions irrespective of their moral implications. Furthermore, actions like looking down upon black people were implicit in legislation. This is why, for example, one found that black people were refused jobs based on their race due to legal justification, but were verbally abused because of race due to what these kinds of legal justifications implied. Therefore, current usage of race in statutes gives people confirmation that the way race was used in the past was wrong. Moreover, such usage makes it seem as if retribution or pay back is necessary for the wrongs committed during apartheid. In other words, black people may see the need for some pay back against whites as this may be implicit in current legislation. This is displayed by some race-based violence where black people have been found to have murdered white farmers for being white, as well as chants of slogans like 'kill the boer' being made by other black people. This reasoning, in turn, forms the basis for reverse racism.

Thus, it is evident that the current statutory usage of race in our society cannot be endorsed by *Bornfreeism*. The reason for this is that this usage has potential ramifications like perpetuating the racialism prominent in apartheid, racism and reverse racism, which go against the ideals of

Bornfreeism: a united society without inequality, without a dominant class or race, without racialism, and without racism of any sort. Furthermore, racism and reverse racism make it difficult to forget the negative past South Africa has which no amount of economic and political benefits can soothe.

Conclusion

This paper has sought to offer what it calls *Bornfreeism*, an ideology grounded on the ideals of non-racialism, equality of all races, and racial social cohesion. Furthermore, it revisited the normative debate on race and provided an analysis of the *Racial Eliminativism* and *Racial Constructivism* camps, where the former claims that race does not exist because biological races cannot be accounted for, while the latter camp claims that race exists as a social construct due to institutions and practices of society. In addition, it established that these two perspectives are not adequate to answer the normative question of whether race ought to continue being used. The eliminativist camp cannot account for the reality of race as a social construct, while the constructivist camp does not articulate why race ought to be used simply because it exists. However, this paper does lean toward the constructivist camp and argues that the notion of race which closest resembles reality is one based on thin endowments. Moreover, in advocating for the existence of race as a social construct, this paper argued that by not explicitly articulating what racial categories amount to, the usage of these categories in modern South African statutes is thus based on the same categories as those used during apartheid as codified in the Population Registration Act. As a result, this means that these statutes harbour racist connotations, something abhorred in philosophical literature. Furthermore, this essay argued that to continue using race in this manner may maintain racism and give rise to reverse racism, consequences which run contrary to the ideals of *Bornfreeism*.

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