The Limitations of Legalism and Identity Labels in Post-apartheid South Africa

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Abstract

The roots of identity crisis in post-apartheid South Africa are embedded in systemic failures reflected in the design and content of various legal documents, including application forms for registering a birth, school or university entrance, acquiring an identity document, registering a marriage, employment, and a death. A key requirement in the forms is that individuals identify themselves, based on race, gender, and nationality. Consequently, the information collected through these forms reproduces racial divisions and recreates old identities of the apartheid and colonial past—namely Blackness, Whiteness, Nationalism, or Otherness. Many such identities; including gender, created through these legal documents are distorted, and, therefore, misrepresent the actual descriptions of who the individuals are. As a result, individuals are forced to identify themselves, based on laws passed during apartheid. This article explores the identity crisis in South Africa, where identity labelling seems to be particularly highly racialised and ethnicised as a result of the social classification of humans according to race, ethnicity, gender, and nationality, applied in the colonial and apartheid era. By conducting a meta-analysis of application forms for the registration forms for births, deaths, marriages, school and university entrance, as well as acquiring national identity documents, the article argues that the current legalistic identity imaginings in South Africa are anachronistic to the ways in which individuals might otherwise want to self-identify.

Keywords: colonialism; post-colonialism; South African; apartheid; race; racial divisions; identity labels

Introduction

The question of identity remains a pertinent one in post-apartheid South Africa. Older generations attribute the identity crisis to ''the apartheid mission to assign racial categories to Black South Africans.'' The number of Africans (a term adopted only for Blacks, who are not culturally homogeneous, post-apartheid), Coloureds and Indians or Asians officers was expected to place in different racial categories and led to exhaustion and significantly contributed to the current identity crisis in post-apartheid South Africa. Due to their exhaustion, such officers applied crude techniques, including pinching to speed up the process. Those who exclaimed *eina* (an exclamation used by Coloured people when in pain) were classified as Coloured, whereas those who shouted out *eicho* (an exclamation used by those classified as Black under apartheid when in pain) were classified as Blacks.

The mission of the apartheid architects was to divide and separate Black people. Apart from the fact that Black people's names were changed because they were difficult for the officers to pronounce, the racial classifications by which individuals were supposed to self-identify when filling out application forms were flawed. Post-apartheid, it remains a legal requirement for individuals to identify themselves in terms of race, gender, and nationality. Consequently, this classification continues to promote racial hierarchies between the superior minority and the disadvantaged majority, who faces exclusions in terms of employment and other benefits, and those considered the ''other'', as Fabian (1990, 75) asserts. This is problematic, in the sense that the apartheid mission was to separate Blacks from Whites and from each other, and this is not different.

The classification, then, raises critical questions, which the article unpacks in relation with the ''rainbow nation''—a concept used by Nelson Mandela during his inauguration as president of the Republic of South Africa in May 1994. The article scrutinises the continued use of the apartheid racial categorisations of people according to race. Further, it argues that South Africa should rethink the apartheid racialised, genderised, ethnicised, and nationalised classifications that are still a legal requirement when filling out application forms, without rebutting the fact that Blacks (Africans, Coloureds, and Indians) have been discriminated against, but should do so taking the historical past of the country into account.

Application Forms that Assign Racial Categories and their Impact on Africans

In South Africa, as elsewhere, filling out application forms is a necessary step in obtaining legal documents, such as birth certificates, identity cards, and other related documents. These forms show how the legal/official identity labels are inflicted with apartheid colonial categories. South Africans are expected to answer the question *Who are you?* or rather *Who am I?* as illustrated in the table below.

An Example of Current Government Employment Application Forms

B. PERSONAL INFORMATION

Surname
First Names
Date of Birth
ID number
Race   *African /White/ Coloured /Indian*
Gender   *FEMALE MALE*
Do you have a disability?
                                           YES/ NO
Are you a South African
Citizen?   *YES/ NO*

Source: www.gov.za

Foster (2010, 28) asserts that to answer the question *who am I?* is of fundamental importance to being human. In recent years CAPTCHA (Gil 2015)—a test used to determine if a person submitting the form online is a real human (Form Assembly) has become an important requirement in online applications. The same requirement is enforced on individuals to specify their race, gender, ethnicity, or nationality. These identity differentiations perpetrate colonial segregations. For decades, these divisions perpetrated, and still promote notions of the superiority or inferiority of one race, ethnic group, gender, and nationality over another. Mamdani (2012) argues that the White race was perceived as ''pure'' and superior; the Black race as dirty, stupid, and inevitably inferior; while the Yellow race was perceived as sharing in deception and cowardice.

Historiographical Origins on the Limitations of Legalism and Identity Labels in Post-apartheid South Africa

In apartheid South Africa, this categorisation has marginalised Africans. The aim was to deny them an opportunity to advance themselves economically and educationally. In 1998 the democratic government introduced Affirmative Action, through the Employment Equity Act (Act no.55 of 1998)—four years after apartheid was legally abolished. According to an African National Congress document:

> This, as some suggest – meat for some and poison for others, is considered a long overdue chance to start enjoying the good things the country has to offer. For others, particularly those who live comfortable lives today, it signifies a new form of discrimination and injustice, a vengeful form of juggling around race quotas …. [which] threaten their livelihoods and security. (African National Congress 2015, 2)

Similarly, the ANC report rejects the idea of the new South Africa as meat for some and poison for others. Seekings (2007) suggests that South Africans continue to inhabit social worlds that are largely defined by race, and many express negative views of other

racial groups. He further observes little integration in residential areas, as well as inter-racial interaction in "Model C" schools for children coming from middle-class families, but note that this attempt is not exhibited in application forms.

Race, for example, is largely flawed, and it constitutes a distortion when persons are classified ''Coloured'', and have to identify themselves as such, when both their parents fall within African groupings. It is equally a flaw when Africans, who are born from mixed-race parents are classified as Black. This raises a critical question: *what makes these individuals Coloured or Black?* These individuals are either African or of mixed-race/Coloured, according to the apartheid racial classifications.

In the same manner, prejudices exist against individuals who refer to themselves as ''Indian''—when they are, in essence, South African, and were classified as Black under the apartheid classification system. Why is this problematic? The fact is that ''apartheid deliberately created divisions'' among Africans, as described by Geertz (1972). Inter alia, there are three critical domains, which constitute requirements in application forms that render the application invalid if not provided: *race*, *gender, nationality, and disability. Race* is a key aspect. ''Paradoxically'', as Posel (2005, 139 observes, ''one of the principal legal instruments for redressing the racial imbalances of the apartheid past is the Employment Equity Act (Act no. 55 of 1998). This Act[1]reproduces the racial categories enacted in the Population Registration Act (Act no. 30 of 1950) as a basis for instituting and measuring affirmative action. This feeds the apartheid mentality. Race determines whether an individual qualifies for employment—and this can be to the detriment of some applicants. In the last few years this distinction has been subtle, but is still discriminatory.

An equally problematic domain with regard to filling out application forms is sex (which is often referred to as *gender*). This *biological* aspect describes an individual's sex—that is the attribute of either being male or female. Consequently, it excludes individuals who identify themselves as bisexuals or transgenders, etcetera. Where and how do we place these individuals? In May 1996 South Africa became the first jurisdiction in the world to accord constitutional rights to lesbians, gays, bisexuals and transgenders through the Lesbian, Gay, Bisexual, Transgender and Queer (LGBTQ) Rights (Sachs 2016). Section 9(3) of the South African Constitution prohibits discrimination in terms of race, gender, or sexual orientation. While this has been repealed as of January 2008, currently, government application forms for employment still exclude these individuals and "violate" their rights as stipulated in the Bill of Rights.

Feeney (2013, 1) gives an example of ''Gentili'', a transgendered, blonde-haired woman. On paper, Gentili's legal name and documents do not match her contested identity, and navigating through that discrepancy has become ''a daily struggle'' and exerts ''awkwardness, humiliation, or discrimination, and makes credit card and

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1   Employment Equity Act (Act no. 55 of 1998).

important purchases or applications extremely difficult." In South Africa, what then, should individuals such as Caster Semenya, the world renowned ''middle distance runner'' (Savulescu 2019) and track race athlete champion, who is described as ''intersex'', or born with XY chromosomes, and belongs in the LGBTQ gender category, include in terms of sex *(gender)* when filling out applications forms? Marks and Trapido (2014, 78) assert that ''if most writers were agreed that the matter of biological differences between the races was in doubt, this did not prevent them, however, from making inferences, based on their own prejudices and suspicion.'' This form of discrimination and existent bias needs to be rectified.

In the case of *nationality*, South Africa rewrote its laws governing nationality just after the end of apartheid in 1994. The 1995 South African Citizenship Act (Act no. 17 of 2010) did away with the previous laws of apartheid (1949–1970). The Acts established separate Bantustan citizenship for the country's Black majority, which made people in Bantustans inferior to the rest of the South African population, who was deemed superior. The South African Citizenship Amendment Act (Act no. 17 of 2010), which came into effect in 2012, allows foreign nationals to acquire permanent citizenship or a certificate of naturalisation. This gives foreigners the legal right to be in South Africa. The xenophobic attacks directed at foreign nationals, regardless of their South African citizenship or residential status, seem to threaten the very fabric of this law. While stating one's nationality is a legal requirement, and perhaps a justifiable one, it is problematic if this means that ''foreign nationals'', particularly Blacks, ''do not belong in the societies they occupy.''

The extent at which the xenophobic attacks are happening contradicts late President Mandela's emphasis that oppression by one against another should never occur again. The reality is that these categories, coupled with xenophobic tendencies, oppress "others" and perceive them as less human, or place them in the zone of ''non-being'', as Fanon (1963) suggests. This perpetuates apartheid mentality.

Moore (1994, 62) posits that ''South Africa, being the last state to be liberated from the clutches of apartheid and colonialism, has failed to learn from what Fanon (1963) calls ''the pitfall of national bourgeoisie.'' What is happening in South Africa at the moment is precisely what Fanon deems the national bourgeoisie being ''incapable of learning its lesson.' Fanon's (1963) sentiments evidently predicted this inability to learn, evidenced by the requirements for filling out application forms. National pride, with the aim of degrading individuals; based on race, ethnicity, and nationality, remains a problematic aspect.

Whose Idea was Apartheid?

Factually, apartheid in South Africa was meant to ''keep apart'' or ''separate'' Blacks from Whites, and Blacks from other Blacks, and divide Blacks into different tribes and categories—for example Zulu, Other Zulu, Coloureds, Other Coloureds (Mahoney

2012), Motswana, Mopedi, Mosotho, etcetera, to weaken their majority. The term ''apartheid'' is defined uniquely, although within similar contexts, by various authors. To name just a few, Neocosmos (2006, 22) defines apartheid as ''the character of structural relations historically dominant in the Southern African region.'' Fanon (1963, 67), whose definition is explicit, suggests that ''apartheid was designed not only to separate Whites from Blacks but also to foster parochialism by segregating Blacks into ethnic groups and linguistic [groups].'' Mamdani (2012) equally observes that ''the colonial state ruled through a distinction between citizens and subjects.'' Trevor Noah defines apartheid as ''apart hate – to separate people and make them hate each other'' (Noah 2016). Evidently, apartheid made the majority of individuals to see themselves as subjects in their own country. The ascribed identity labelling became a system and an answer to the ''native problem.'' What is the current motives on ascribed identity labelling at this stage?

Distinguishing Blacks from Europeans created a metaphor for ''otherness'' and a paradigm for difference, as argued by Eze (as quoted by Ndlovu-Gatsheni 2012). The reality is that Whites projected themselves as superior beings. Peruvan provides an insightful analysis on ''separateness'', where he describes the Western identities of being White, and explores two decisive implications—'''dispossession' and 'new racial identities that are colonial and negative which yielded inferior races.'''

Following Britain's colonisation and marginalisation of some of the inhabitants of South Africa, the Nationalist Party (NP), which ruled from 1948 to 1994, reinforced apartheid.

Ndlovu-Gatsheni (2012, 114), who analyses African subjectivity, indicates that:

> Negative perceptions of Africa as a home of inferior people and as a dark space emerged from this imperial scheme of things and African identities have continued to be reconstructed since that time into barbarians, primitives, natives, blacks, Negroes, Bantu, Africans and others in typologies existing across time and space.

The mandate of the apartheid regime was to separate themselves from those, who Ndlovu-Gatsheni further suggests, ''are open to enslavement, i.e. a commodity within a grand imperial design.'' Blackness was also applied to underscore the notion of apartness; that is Blacks were seen as non-partakers in Western civilization; they were closed out of the world of human beings, and were not worthy of being treated with dignity.

Legislation in South Africa classified inhabitants into four racial groups that now seem to be written in stone in democratic South Africa. The categorisation of individuals according to race and gender/sex as requirements should be done away with in official application forms.

Flawed Racial Classifications

When one analyses the apartheid racial categories closely, it becomes evident that they are unjustifiable. Very few South Africans fall within their assigned racial categories. Based on an analysis of 10 communities within South Africa regarding the question of colonial racial categories, one in five of the individuals interviewed indicated that their identities were flawed. In some cases, Africans regard the assumption of a racial identity as a political statement against oppression, whereas professing an ethnic identity has sometimes been interpreted as buying into apartheid's ''divide and rule'' policy (Ferree 2011).

Several authors have interrogated the question of identity. Chipkin (2007) asserts that identity is a topical subject in contemporary South Africa, and this article found resonance with his view of ''imagination''—perhaps South African identities are ''imagined.'' Ndlovu-Gatsheni (2013) asserts that they are ''identity markers with the necessary visible 'other.''' He further suggests that in this context, ''racial identity formation emerged in relation to the negative 'other.''' The concept of the negative ''other'' is vividly embedded in legal application forms.

Based on the example above, as well as on what is illustrated in official government application forms, it is evident that colonial policy frameworks remain dominant in South African identity classifications. The Population Registration Act (Act no. 30 of 1950) defines racial groups relatively loosely, using *finger tips*—a method also applied by officials during the apartheid regime, which required that individuals place their fingertips in ink to acquire legal documents. This meant that the Department of Home Affairs would have a record of people according to race—White, Black, Coloured, Indian or Asian. This made it easier for people to be treated according to their ascribed identity group. This law formed the basis of the treatment of "others" during apartheid.

An example of a Mopedi father and a Motswana mother, whose offspring is deemed a Coloured, or a person born from a Black father and White mother, Black and vice versa, Black is indicative of apartheid's legalistic racialised flawed labelling, which questions the assigned identities. If the maternal grandfather is Asian and the paternal grandmother is Portuguese, how does this make their offspring Black or Indian? Many in these communities do not, in reality, fall under the category ''Coloured'', Black and/or Indian. All this sounds very confusing, but showcases the skewed racialised identities that exist throughout South African societies. The question is, *who are Coloured or Black people?*

Unpacking ''Coloured'' and African Identities

The nature of *Coloured identity*, its history, and the implications it holds for South African society have evoked considerable interest in recent times. Debates around Coloured identity have generated much controversy. Therefore, it is crucial to first

define the term ''Coloured'' people. Encyclopaedia Britannica states that ''Coloured'', as in formally the Cape Coloured, is a person of mixed European "White'' and African ''Black'' or Asian ancestry, as officially defined by the South African government from 1950 to 1991. Reportedly, the designation ''Coloured'' and all the restrictions based on it were supposedly abolished in the 1990s, when the apartheid system was dismantled and the legal classification system done away with. The latter is not true: these classifications still exist.

The apartheid system divided Blacks further into Coloureds and various groups within the Coloured group—''Cape Coloured''—this was the superior group—light skinned with several advantages, and ''other Coloureds''—the inferior group—brown and dark skinned, and included the Khoisan—that is the Bantu African portion. An additional identity labelling flaw is that some Cape Coloureds did not originate from the Cape.

According to the apartheid system's racial categories, a Black person is an individual born from a Black mother and a Black father. According to Fanon (1963), a Black person is identified through his or her skin colour. He provides a parallel between how the ''oppressor'' (the racist, the anti-Semite) formulates and projects his perceptions of Blacks or Jews. He points out that ''without the existence of the racist, a Jew for example is simply 'man.''' But, his identity as an inferior being is cemented by the attitude of the ''man'' who deems himself superior, as Rubin (2011) argues.

Based on my analysis, it is clear that there are several flaws in the apartheid-ascribed identities. One of the misconceptions is that a significant number of Blacks in reality, fall under the ''Coloured'' category—that is Black mother, White father, and vice versa, fathered by British, German and White Settlers. Factually, they are misclassified, showing abrupt ascribed identities—as in the *eicho*! and *eina!* saga.

The apartheid government also separated Blacks, based on their different ethnicities. This separation extended to people who fall within the same ethnic group—as in the case of Zulu, other Zulu etcetera, as described by Mahoney (2012). Individuals misclassified as Coloureds, who originated from these groups (those born of both parents from ethnic origins) were required to speak Afrikaans. Some suggest that because of this classified identities, they had to relocate to Coloured areas and mixed-race individuals had to relocate to Black neighbourhoods. Aware of such misclassifications, and in introducing the Population Registration Act (Act no. 30 of 1950), the colonialists failed to justify legislatively that it was not easy to determine the racial categories of Africans. This is the primary reason for the existence of a long-standing flawed identity labellings in South Africa.

There are *four predicaments* associated with the term ''Coloured''—*one* such a predicament is that an overwhelming number of individuals classified as ''Coloureds'' or ''Cape Coloureds'' did not have their white roots in Cape Town, or did not originate from the Cape. *Secondly,* distinctions were made between Coloured people in terms of

being superior versus inferior, light skinned versus dark skinned, and straight hair versus kinky hair. This distinction created class specificity. *Thirdly,* being classified as the ''other Coloured'' was to the detriment of the affected individuals. *Lastly,* many Coloureds are of pure African origin. Some attested to the fact that their parents and grandparents were all ''Black.''

There are similar *predicaments* in the classification of someone as Black. *One*, a significant number of Blacks are in reality of mixed races; that is black and German, or Black and Colonial or White Settler origins, and should have been classified Coloured. *Two*, these "Coloureds'' had to relocate to designated black locations. *Three*, they were equally required to change their surnames and to speak African languages. *Four,* the apartheid system divided Blacks further into ethnic groups—Zulus, Xhosas, Pedis, Tswanas etcetera, or the ''other'' Zulu, Xhosa or the ''other Xhosa'', and more. Class specifications are also evident in Black identity—Zulus for example, are considered stronger and superior. Sweet (2010) asserts that the ''ethnic question'' lingers beneath the surface of larger debates, and is a potent symbol of contemporary identity. Over the years (re)classifications have often been fiercely objected to by the colonial courts, which made such terms stagnant. These flawed identities are still evident in legal application forms and racially-designated societies. The result is misplaced individuals, who were forced to change their surnames from Ndlovu to Oliphant, Radebe to Rabbie, and vice versa.

Evidently, the flawed apartheid racial classification was based on their dark pigmentation. Few analyses scrutinize this flawed legal identity labelling microscopically to expose the apartheid identity labelling blunder. The epistemologies of races, which include that of Taylor (2013), suggest that ''race, like language, is intuitive, or practical; using [it] involves knowing *how* more than knowing *that''*. Erasmus (2008) suggests that

> perhaps race functioned in a similar manner during apartheid, whether through 'common sense' or intuition.'' In addition, she suggests that ''it seems likely that most South Africans found it relatively easy to classify one another on a day–to–day basis. But, as attempts are made to explain or formalise the underlying rules involved, their arbitrariness, elusiveness, complexity, and ambiguity became all too apparent.

Classifications that distinguish one group from another provide an ''aura'' of—discrimination, superiority and inferiority, being and a non-being, even at the ''death'' of the post-colonial apartheid state. Ndlovu-Gatsheni (2012) argues that ''the politics of South African identity-making continues to be spoiled by racialised and ethicised identities, cascading from colonialism and apartheid.''

Indians in South Africa?

This question is complex and provokes much debate. It should be clear that the term ''Indian'' primarily applies to those individuals' race, but for the most part, the term is

derogatory and makes them foreigners in their own country. This was precisely apartheid's mandate. In fact, many so-called ''Indians'' object to the use of the term and find it disrespectful and insulting. During apartheid they were considered Black. Their actual preference is Asian, Hindu, Sikhs, etcetera. They find the term as unflattering as the term *kaffir*—a racist slur used to refer to a Black person and *boesman*—a derogatory word used to describe Coloured people in South Africa. Referring to individuals as Indians, who are in fact, South Africans, distorts their true identities as indigenous people. While their ancestors originated from India, from 1860 onwards, the majority are in fact, South African; including those who acquired citizenship.

South Africa needs to decolonise colonially-invented racial categories, which were non-existent prior to the colonial period. Welsch (1971) posits that these categories were assigned to ''intruders'', for whom they proposed six or more locations. This trend continues in post-apartheid South Africa and affirms and perpetuates racial and ethnic divisions. While such terms are used in other countries, their use should be prohibited in the South African context, because they have historical implications. The terms inferiorise and dehumanise Africans—this is why such flawed labelling should be abolished in application forms.

The fact is that everyone is included in Mandela's ''rainbow nation.'' Therefore, the description African, for all Black races, or South Africans is adequate.

Who are – **or should be identified as South African?**

The answer to this question is that all who were born in South Africa, or have acquired citizenship are South African. It is, therefore, incorrect to state that South Africans are only indigenous people; that is those who were born and bred in South Africa, as this is a flawed statement. Notions that South Africans are only indigenous Zulus, Sothos, Pedis, Indians, Coloureds, as well as English and Afrikaner Whites, with the exclusion of "those''; particularly Africans, who acquired South African citizenship is misguided. President Mbeki (1996), in his popular speech, ''I am an African'' declares:

> I come from those who were transported from India and China whose being here resided in the fact that they were able to provide physical labour, and who taught me that we could both be at home and be foreign, who taught me that human existence itself demands that freedom was a necessary condition for that human existence. (Mbeki 1996, 1)

There is an intrinsic reality regarding who South Africans are; a reality that is difficult for some individuals to grasp. Ignoring the fact that all who acquired citizenship in South Africa are South Africans is problematic.

The above does not suggest that permanent residents, or those visiting the country automatically become South Africans; if they have not yet acquired citizenship. The argument is that those who acquired citizenship through naturalisation are indeed South

Africans, and should not be regarded as foreigners or ''non-beings.'' Therefore, our failure or refusal to acknowledge this observation raises questions similar to those raised by Chipkin (20017, 1) who, in his analysis questions, *do South Africans exist?* A questions that follow this should be *What qualifies people to be called South African? Birth only? Excluding Naturalisation?* The collective consciousness that ''we are'', reiterated by indigenous South Africans, and ''they are not'' is flawed, biased, and discriminatory when it is conveniently applied to encourage xenophobic behaviour towards those who are deemed "not to be", and are labelled the ''other.'' What is profoundly problematic is when the collective consciousness emerges or becomes significant in the presence of the so-called ''others'' or non-South African. There are antagonistic assertions from those who claim to be South African, based on perceptions that others are not; these assertions have huge implications for our society.

Bloch and Heese (2007 argue that ''when we stereotype, we simply ignore or erase people's individual characteristics.'' They argue that behaviour like this is ''normal'' and suggest that

> … when individuals or groups of people have reason to compete, this behaviour becomes potentially dangerous. It is particularly dangerous when people believe that the group that they have stereotyped is threatening their survival or cultural practices and beliefs. (Bloch and Heese 2007, 5)

This is precisely when the statement ''I am a South African'' is negatively applied—meaning, ''I have a right to everything''—perhaps even the right to the assets of those we consider foreigners, evidenced by the xenophobic attacks in recent years.

Epistemologies on whether or not South Africans exist have triggered much debate in academic circles. Chipkin (2007, 1) asserts that ''South Africa is peopled by subjects, not fully democratic citizens.'' He correctly observes that ''the people of South Africa are still in the process of becoming citizens and should be referred to as authentic national subjects'', and that ''true democracy''—its ethics, institutions and ideals—has not been the driving force in the creation of the New South African nation. This then, question the notion, ''I am a South African'', as it does not consciously describe who is not?

Identity Labelling that Distorts who belongs in South Africa

For decades Blacks—inclusive of Africans, Coloured and Indian were not regarded as citizens in their own land. I distinguish between two scenarios here—first, we have Black South Africans who are, and have, for decades, been regarded as foreigners in their own country. Mamdani (1996) argues that colonialism produced colonial states that were divided into citizens and subjects. What emerged from the encounters between indigenous Africans and the colonising Whites was a complicated tale of citizenship; in which the White settler tried to exclude the native from belonging. Mamdani (1996)

describes the problem as ''the settler-native question'' that has continued to affect countries such as South Africa and Zimbabwe, which had large populations of White settlers.

The second scenario describes Africans who immigrated to South Africa, and have become citizens or permanent residents, but seem not to belong, based on their origin and particularly their race. The majority of South Africans, who emphasise their legitimate right to access to resources, excludes the ''others'' who also belong. Hostilities arise when they observe that these individuals cut into the small citizenship pie, which they had, for decades, struggled to get a slice of—and as a result, hold on to colonial labelling or ''identifications'', which are still with us, as Hudson suggests. The Preamble to the Constitution is clear—that South Africa belongs to ''everyone who lives in it.'' A vivid reminder, as Phal (2011, 189) suggests, is that ''Every African of African ancestry in the country had to carry an ethnic identity card that treated them as foreigners in their own country and made them eligible for arrest at any time." Colonial labelling in current legal documents, though not explicit, can be equally damaging

The marginalisation, which Africans encounter on a daily basis emits an ''aura'' that they do not ''belong'' and has led to hostilities towards other Africans who immigrated to the country. The African self, then, blinds them from acknowledging other Africans, who equally have legitimate citizenship or residency, and sharing in their ''marginal emancipation'', resulting in xenophobia and xenophobic attacks. This overt colonial behaviour against fellow Africans in turn, perpetuates the nationality ''labelling.'' This is even problematic when the same yardstick is used in legal application forms.

Fanon (as quoted by Ndlovu-Gatsheni (2012)) ''prophesied' what was to happen on the 'morrow of independence''' in Africa; namely that nationalism or nationality would again be articulated in racial terms when the ''native bourgeoisie'' claim land, mines and jobs as part of the indigenous entitlement. Fanon (2008) asserts that ''from nationalism, we have passed to ultra-nationalism, to chauvinism in its most bitter and detestable form.''

In the case of South Africa, Nationalism labelling has sparked xenophobic violence that has been in existence since time immemorial, only in a different form namely, when the violence was directed at Black South Africans by White South Africans. This was first instigated by British colonialists, who made Africans feel like foreigners in their own country. Could it be that this colonial brainwashing has resulted in South Africans using the same yardstick towards foreign nationals, through the ill labelling and disqualifying identities? Specifically, this raises uncomfortable questions about notions of identity in South Africa, as well as the manner in which lines have been drawn between those who are from within and those who are from outside South Africa. The opening statement in Section 12 of the Bill of Rights read thus: ''Everyone has a right to freedom and security of the person", and ends with ''not to be treaded in a cruel inhuman and degrading way.'' Eradicating the colonial identity labelling of Blacks—that is Black or Africans,

Coloureds and Indians (not all might agree to this) will discard notions suggested by Fanon (1963) that ''it gives concrete meaning to the injunction; the last shall be first, and the first shall be last.''

Perhaps it could be, as Framp-Arp (2015) notes, that ''the people in South Africa are still in the process of becoming citizens and should be referred to as authentic national subjects.'' By analysing the history and meaning of African nationalism, Chipkin (2007) asserts that ''true democracy,'' its ethics, institutions, and ideals have not been the driving force in the creation of the New South African nation, particularly when they do not consider all Africans in South Africa as equally authentic national subjects. This is the case in current legal application forms.

Is it True that South Africa does not belong to anyone?

The Preamble to the Constitution of South Africa recognises that South Africa belongs to **all** who live in it, ''united in our diversity.'' The Constitution of South Africa is the highest law of the land, and no other law or government can supersede its notion of ''united in our diversity.'' Thus, I believe, the Constitution recognises Black and White South Africans, including Africans from other countries, who are often placed in the ''zone of non-being'' (Rubin 2008). The saying that ''South Africa belongs to everyone who lives in it'' speaks to and corrects this anomaly, namely the disenfranchisement of Black South Africans in their own country.

The onus is on South Africa to rid itself from racialised, ethnicised, genderised and nationalised identities ascribed in government application forms. Ndlovu-Gatsheni (2009) argues that:

> racialized and ethicized identities formed under imperialism, colonialism, and apartheid continue to hang like memories of a nightmare over the body politic of the rainbow nation, refusing to go away, and are continuing to throw up toxic questions around the issues of the subject, subjection and subjectivity that impinge on delicate areas of belonging, citizenship, entitlement, ownership and resources like land and mines. (Ndlovu-Gatsheni 2009, 6)

Evidently, South Africa should embrace those deemed ''significant others'', as observed by Fabian (1990). Uniting Africans on the basis of pre-colonial identities will create a sense of community and solidarity that corrects ills of the colonial period, where Africans were regarded as foreigners in their own country. This caused divisions as a result of racialised, genderised, ethnicised, and nationalised legal identity labelling.

Conclusion

Racialised, ethnicised, genderised, and nationalised apartheid identity labelling in application forms is problematic. It causes a division among Blacks and between Black and White in terms of race and ethnicity. It equally eliminates other genders and raises

questions on who Blacks and South Africans, are, and triggers notions of who qualifies to be called South African, what does the term South African mean, and who are the ''others,'' that do not belong.

Flawed racial, ethnicity, nationality, and gender identities continue to mobilise South Africa's skewed identity labelling that is discriminatory and gender biased. Apartheid-ascribed classifications and segregations fabricate the true identities of South Africans. Consequently, apartheid classifications are still evident in legal application forms more than two decades into South Africa's democracy, and continue to promote divisions that should have been abolished post-apartheid. In addition, it continues to place those that were previously marginalised in the zone of ''non-beings'' on the basis of race, ethnicity, nationality, and gender.

South Africans' identity should be based on inclusiveness in a country where identity labelling was aimed at excluding ''others'' for decades, with its consequent lack of humaneness or *Ubuntu.* Foster (2010) describes the concept of Ubuntu as used in South Africa as relating to the concepts of ontological being and identity—it can add richness to the debate of true identity, and what it means to be human and humane. An identity that is not based on true humanity, as ascribed in the legal identity labelling forms is no longer certain in a changing world. Being merely human or African in South Africa should be the norm. This will enable us to look beyond colonially-ascribed flawed racialised, genderised, and ethnicised identities. Questions arise regarding racialised identities, such as *Who are Black People? Who are South Africans? Who belongs, and who does not belong?* And *Is it true that South Africa does not belong to anyone* will then become a distant history.

Twenty-five years into democracy, Black South Africans are still trapped in the chains of apartheid racial classifications in a society that is supposedly free. While the categorisation of individuals is necessary, it should occur under a liberated dispensation that is inclusive rather that inferiorising and superiorising certain individuals. This is the inclusiveness that makes individuals feel like they belong. This would mean that the status quo has changed, and that racial discrimination has finally been abolished, as far as application forms suggest. What should reflect in government and all legal documents and application forms would be a victory for those that were previously marginalised, excluded and dehumanised by the apartheid system. Similarly, it should showcase inclusiveness and an indication that the current dispensation has divorced itself permanently from apartheid mentality by "decolonising" current application forms.

Using the term ''African'' to refer to the previously marginalised will do away with the confusion, which arose because of misclassifications. For instance, some South Africans have been classified as Coloured, when they are in fact, Africans; that is even though they were born from Black parents. This is evidently a flaw. When dealing with gender issues, we should use inclusive language. No one should be made to feel that their gender or sexual orientation is being attacked, as is clear in current forms, which do not

make provision for some individuals to identify themselves in a manner in which they perceive themselves. Perhaps I can conclude that 25 years into democracy, appropriate identity labellings that are inclusive are not applied still.

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