

# Identities in Transition: The 1990 High Court Case and Unity Dow's *The Heavens May Fall*

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## Summary

In both her life and fiction, Unity Dow's consuming engagement resides in exploring issues of female entrapment and related notions of identity (or subjectivity) predicated on the idea of the embodied, sexualised and racialised "other", an identity that conforms to the phallogocentric format of the patriarchal imaginary. In her personal struggles (as exemplified by the 1990 High Court Case with her Government over citizen laws) as well as in her fiction, in this case *The Heavens May Fall*, Dow adopts and constructs subject-positions (for herself, her fellow women and children) that are not only creative but also, and more to the point, that present the idea of identity as a matter of becoming, and characterised by nomadic, syncretised and hybridised cultural forms. Drawing on the 1990 court case and the above novel, this article explores the extent to which Dow's life and her fiction embody the kind of subjectivity that allows for multiple modes of belonging and celebrates borderlands of cultures. The article argues that Dow not only challenges the phallogocentrism (and related misplaced forms of modernity) but also relocates the idea of culture in multiple locations, routes and movements.

## Opsomming

In sowel haar lewe as haar fiksie lê Unity Dow se intense betrokkenheid in die verkenning van die vrou se verstrikking en haar gepaardgaande identiteitsbegrippe (of subjektiwiteit) wat berus op die idee van die vergestalte "ander" waaraan seksuele en raskenmerke toegedig word. Die identiteit van hierdie "ander" word bepaal deur die fallogosentrisme van die patriargale denkbild. In sowel haar persoonlike stryd (soos geïllustreer deur die hooggeregshofsaak van 1990 teen haar regering oor burgerwetgewing) as in haar romans, in hierdie geval *The Heavens May Fall*, skep Dow subjekposisies (vir haarself, ander vroue en kinders) wat nie net skeppend is nie maar, meer relevant, lei tot die idee dat identiteit oor wording gaan en gekenmerk word deur nomadiese, gesinkretiseerde en verbasterde kultuurvorme. Met verwysing na die 1990-hofsaak en die bostaande roman verken hierdie artikel die mate waarin Dow se lewe en werk gestalte gee aan die soort subjektiwiteit wat velerlei maniere van behoort moontlik maak en die grensgebiede van kulture verheerlik. Daar word aangevoer dat Dow nie net die fallogosentrisme (en verwante misplaaste vorme van moderniteit) aanval nie, maar ook die idee van kultuur na talle plekke, bewegings en allerlei roetes herlei.

The argument in this article is that Unity Dow's court case of 1990 over citizenship laws in Botswana, as well as her fourth novel, *The Heavens May Fall*, deals with and exemplifies the concept of identities-in-transition or as a matter of becoming. In other words, both the court case and the novel not only challenge cultural constructions of the subject but also articulate the mobility of cultural formations in the modern, globalised world. In particular, *The Heavens May Fall* constructs the idea of culture as no longer based on (African) tradition which assigns subject-positions based on such fluid categories as gender but rather on the constituted and ever-constituting concept of modernity, in this case read as postmodernity, – “a major transition in human history” (Anderson 1995: 7) characterised by our “emerging from out of the security of our tribes, traditions, religions and worldviews into a global civilization that is dazzlingly, overwhelmingly pluralistic” (p. 8). In the context of *The Heavens May Fall*, for example, modernity and postmodernity are revealed through the patent ideals of enlightenment and modernisation/urbanisation – the legal system, technology, language, dress, to mention just a few examples. Read through Homi Bhabha's version of the postcolonial, all four of Unity Dow's novels hold up to question the ways in which we southern Africans or Africans (in particular black Africans) have perceived and continue to perceive identities in oppositional categories and straitjacket ways. Dow's fiction reflects her own vision of a changing world and enables the reader to gain an acute awareness of the instability of language, the social construction of reality, and hence the fact that identity can no longer be perceived simplistically.

As Homi Bhabha, renowned scholar in the field of postcolonial theory, writes,

[t]he native intellectual who identifies the people with the true national culture will be disappointed. The people are now the very principle of “dialectical reorganization” and they construct their culture from the national text translated into modern Western forms of information technology, language and dress. The changed political and historical site of enunciation transforms the meanings of colonial inheritance into the liberatory signs of a free people of the future.

(Bhabha 2004: 55-56)

Bhabha's views expressed in the above quote act as the cue for this article in which I present Unity Dow as a native intellectual insofar as she is actively involved in the affairs of her society. But unlike those intellectuals who identify themselves with so-called true national cultures, and end up being disappointed, in that, as this article will show, she is not afraid of “speaking the truth to power” (Said 1994: 102). In line with Homi Bhabha or Dow, identity is not a function of cultural origins but is rather negotiated in the margins of cultures. As the most influential writer of fiction in Botswana today, Unity Dow coalesces with Bhabha's description of a native

intellectual insofar as she is concerned with representing the truth about her country's culture as best she can. In other words, Dow belongs in the category of "organic intellectuals ... [who] constantly struggle to change minds", to use Edward Said's (1994: 4) appropriation of Antonio Gramsci. For Gramsci saw the intellectual "as a person who fulfils a particular set of functions in the society (p. 8). As will become clear in this article, the court case of 1990 shows the extent to which Dow, the public intellectual, challenges the idea of identity based on antediluvian laws grounded in patriarchal values, just as in *The Heavens May Fall* she articulates the idea of identity premised on transmogrified modernity that now bestows cultural signs, and therefore identity.

Edward Said expounds on the nature of the functions of a public intellectual in his seminal essay entitled "Representations of the Intellectual" where he identifies two types of intellectuals, namely traditional and organic intellectuals. The category of traditional intellectuals, on the one hand, is comprised of groups of people such as "teachers, priests and administrators, who continue to do the same thing from generation to generation" (Said 1994: 4). In Said's view, it is the routine and mundane nature of the work they do that disqualifies these intellectuals from taking centre stage. "[O]rganic intellectuals" (p. 4), on the other hand, "are actively involved in society, that is, they constantly struggle to change minds ..." (p. 4), and are always "speaking out for their beliefs" (p. 12).

It must be pointed out that this view of intellectuals is radically different from Julien Benda's; he sees intellectuals as "super-gifted and morally endowed philosopher-kings", the type who are "totally disengaged, other-worldly, ivory-towered thinkers, intensely private and devoted to abstruse, perhaps even occult subjects" (p. 6). Real intellectuals, in contradistinction to Benda's notion, must speak out for their beliefs, promote the cause of freedom, and uphold justice. The argument here is, by contrast to Benda's view, that, to the extent that Unity Dow addresses the seam at which Western modernity faces "tradition", but without exalting either a simplistically utopian rationalism or a narrow, equally utopian Africanism, she is an intellectual in the Gramscian or Saidian sense.

Always prepared to offer a counterdiscourse, Dow's fiction – as well as the characters she has created – represents, embodies Bhabha's concept of hybrid subjectivities, hybridity according to which identities are not ideas in rigid boundaries, but should be perceived as being located in the fragile and permeable spaces of cultural experiences, variously called borderlands or spaces-in-between, which present culture as in a state of constant transition. In short, for Bhabha, transition is "the culture of the 'in-between'" (2004: 321), "an encounter with the ambivalent process of splitting and hybridity that marks the identification with cultural difference" (p. 321); a "liminality of 'translation', the *element of resistance* in the process of transformation" (p. 321). This particular approach to understanding culture ensures that

oppositional categories which have traditionally been used to define culture in terms of origins and purity are annulled and rendered irrelevant. Instead, the idea of culture is seen as a transitional category or reality which is produced performatively and engenders transformation, resolves ambivalences and regulates difference. It is these spaces-in-between, often known as spaces of liminality, borderlands, contact zones, which inform this reading of Unity Dow's fiction.

Bhabha proposes the transition of identity as follows:

In the postcolonial text, the problem of identity returns as a persistent questioning of the frame, the space of representation where the missing image ... is confronted with its difference, its Other. This is neither the glassy essence of human Nature, to use Richard Rorty's image, nor the leaden voice of "ideological interpellation", as Louis Althusser suggests.

(Bhabha 2004: 66)

According to Bhabha, the postcolonial text unveils a form of representation where claims to holism and the purity of origins and cultures are disrupted and the subject goes through a process called splitting, "a strategy for articulating contradictory and coeval statements of belief" with the result that "signification voids the act of meaning" (Bhabha 2004: 188) and all essentialist notions of identity (based on organic theories that aspire to origins) are thus discounted. This has interesting results for meaning and interpretation. As Bhabha puts it:

The pact of interpretation is never simply an act of communication between the I and the You designated in the statement. The production of meaning requires that these two places be mobilized in the passage through a Third Space, which represents both the general condition of the language and the specific implication of the utterance in a performative and institutional strategy of which it cannot "in itself" be conscious. What this unconscious relation introduces is an ambivalence in the act of interpretation .... The meaning of the utterance is quite literally neither the one nor the other. This ambivalence is emphasized when we realize that there is no way that the content of the proposition will reveal the structure of its positionality; no way that context can be mimetically read off from the content.

(Bhabha 2004: 53)

The landmark Dow court case, as a social text, necessarily precedes a fuller argument of the novel in which this case features. In 1984, four years after the death of Sir Seretse Khama, Botswana's first president, the Botswana government made patriarchal amendments to the Citizenship Act, effectively doing away with the statute that had allowed for citizenship by birth. During Khama's tenure, citizenship was by birth and by choice. Now, built into the amendment was the idea that culture (and identity) is bestowed through the patriarchal line and the historical past, what Bhabha calls

“culture as epistemology” (2004: 254), where culture is perceived as anteriority, a totality, as opposed to “culture as enunciation”(p. 254). In the former, culture is hypostatised and defined in terms of origins and purity, whereas in the latter it is seen as liminal, a construct, always in process. The amendments were surprising given that the overtly anti-racial first president had married a white English woman with whom he had offspring who were Botswana citizens, and would therefore have opted for the dialogic understanding of culture as a matter of negotiation and meaning-making. But then this act was meant to target, objectify and deny the history of those women who had dared to have children by foreign men. In the present case, patriarchal whims of superiority of Botswana men were bolstered as they could pass their citizenship to their children, without regard for the women they had sired those children with, while their female counterparts were not allowed the same leeway and freedom.

Married to a white American man at the time, and not prepared to identify with or be party to this amendment, Unity Dow took her government to court in 1990, challenging the Act on the grounds that “it discriminated against women” (Dow 2001: 1). What followed was a protracted legal battle lasting approximately four years during which the point at issue, of whether culture was a matter of epistemology or enunciation, was vigorously debated in the court of law. In a court judgment that was delivered in 1994, and seen as a real challenge to male hegemony, Unity Dow won the case, the judgment basing its evidence not on epistemological yet spurious and specious notions of African or Botswana culture, but rather on international conventions of which the postcolonial nation of Botswana was and still is a signatory. The gist of Dow’s argument was that “the local cannot remain isolated and exclusively self-informing, and consequently, the global must inform and influence the local” (2001: 319). This is what Homi Bhabha means when he refers to “engag[ing] with culture as an uneven, incomplete production of meaning and value” (2004: 247). Thus the enunciative and dialogic understanding of culture had won the day. By successfully challenging and rewriting the entire male Botswana cultural hegemony to ensure that those whom history had previously objectified now had agency, or were in charge of their history and destiny, Dow and her children had become an embodiment of the notion of culture in transition, culture as enunciation, a motif which Dow takes up in her fiction, in this case, *The Heavens May Fall*.

In *The Heavens May Fall*, Dow’s fourth novel (published in 2006), modernity (as enlightenment and modernisation or urbanisation), which is clearly informed by the successful High Court case of 1990, has engulfed the new postcolonial nation of Botswana. Naledi, the main character is able to recollect that she was “born and raised in the Botswana of no tar-roads, no running water and no electricity, limited places in school” (Dow 2006: 166-167). But things have changed fast, with her communities assuming a

virtual migrant, diasporic identity, reflected in modernisation as follows: “[T]he huts were replaced by bigger, multiple roomed houses with electricity, indoor plumbing and in some cases telephones. The national diamond wealth had translated, at the individual level, into access to state-subsidised utilities, free education and free health care” (p. 96).

In this way, Dow’s novel represents national peoples as being in a state of transition. The above text demonstrates Dow’s growing awareness of what Benedict Anderson terms “the imagined ... community” (1983: 6) of national belonging, a belonging not “rooted in a homogeneous empty time of modernity” (Bhabha 2004: 8), a discourse which “acknowledges the status of national culture – and the people – as a contentious, performative space of the perplexity of living” (2004: 225). In other words, Dow’s encounters with her present Botswana is suggestive of a society that is disseminating and getting differentiated; her country is a temporality which shatters all notions of cultural homogeneity, particularly as the nation inexorably embraces globalised modernity.

In a very interesting anecdote in *The Heavens May Fall*, the main character reflects on the concept of African beauty and embodiment in the twenty-first century, especially as modernity stares down on this postcolonial nation with all manner of minutiae. Naledi eventually comes to the conclusion that the idea of so-called African beauty is a metaphysical construct and can hardly be defended in this day and age. She says:

But finally, it is by the standards of the glossy magazines that we measure ourselves and it is by those standards that our peers judge us. Our peers are college-educated and many have studied abroad. They watch blockbuster movies and play American music at their weddings. They watch a pop star and complain, ‘she has gained weight!’. This is about a frail-looking woman who is selling her music but also to offer her looks as part of the package.

(Dow 2006: 14-15)

Homi Bhabha has aptly described this kind of space or new world order as follows: “The disjointed signifiers of the present are fixed in the punctual periodizations of the market, monopoly and multinational capital; the interstitial, erratic movements that signify culture’s transnational temporalities are knit back into the teleological spaces of global capital” (2004: 315).

Thus space in the modern postcolonial world is so unrepresentable it can no longer be structured in a binary division. Little wonder that the modern women in the postcolonial nation of Botswana, a country that has embraced globalised modernity, have become liminal figures of a nation-space that readily kow-tows to the imperatives of global capital, as exemplified by glossy magazines and the enduring influence of Hollywood on people’s lives.

Elsewhere, Naledi’s reflection on embodiment calls attention to Gloria Anzaldúa’s fluid concept of the borderlands or *mestiza* consciousness, one

which is arrived at through the politics of language and in which a new, revolutionary subject evades a dualistic ontology of identification by continually traversing cultures. The result of this revolution in the subject is that the matrices of identification are multiplied to a point where she attains the enabling and empowering status of embracing multiple cultures.

Dow's perceptions of identity (in transition) also find expression in the dedication of her work, *The Heavens May Fall*, to her three children, whom she describes as "Africans". She writes:

To my three children, Chileshe, Tumisang and Natasha, three Africans to whom I say: Africa, why are you stoic, hugging your hurts to yourself? Are you afraid they will dislike you? Africa, why are you so secretive, burying your ills deep within yourself? Are you afraid they will judge you? Let them dislike you; let them judge you; but Africa, do like yourself; and above all, Africa, do judge yourself.

(Dow 2006: dedication page)

This scathing address to a somewhat symbolic audience which she calls "Africa", and yet it is to her children, is interesting in that, as a colonial label, the word "Africa" is used and continues to be invoked by "Africans" to perpetrate injustices that are cloaked in the name of "culture". What is odious about this "Africa", Dow contends, is the fact that the continent harbours a great number of ills in her bosom. Dow rhetorically recommends an introspection and a willingness to accept constructive criticism as the antidote, particularly given the fact that the continent's embracing of modernisation is fast and furious.

The question that arises, in the context of the thrust of this article, is: what kind of identity is enacted by Unity Dow's portrayal of Africa here: an Africa that "hugs its hurts", "is secretive", that "buries its ills deep within itself", "afraid of being judged by outsiders", "does not want to judge itself", and so forth. The fact is that Dow's three children, addressed above, have an American father and therefore a dual identity. It is a matter of intriguing irony that in their multiple identity they exemplify what Paul Gilroy calls "double consciousness" (1993: 50), or Homi Bhabha a "doubling of identity" (2004: 72). The argument of this article is that Dow sees the three "Africans" not in essentialist terms, but rather as new national peoples who inhabit an intersubjective moment of hybridity best exemplified by Paul Gilroy's notion of the "Black Atlantic" and the diasporic pathways it produces. As a "transnational space of traversal, cultural exchange, production, and belonging", the Black Atlantic "disrupt[s] contemporary forms of cultural nationalism" (p. 49) or what Gilroy calls "ethnic absolutism" (p. 49). Thus Unity Dow adumbrates the vexed debate of the "counterculture of modernity" in Botswana, the notion of modernity and its incomplete and unquestioned identities. Homi Bhabha calls this notion "a continual displacement" (2004: 213) of the modern nation with "a con-

tentious internal liminality providing a place from which to speak both of, and as, the minority, the exilic, the marginal and the emergent” (p. 214).

This counterculture is also evident in the day-to-day life of the leading character, Naledi Chaba – a lawyer (and alter ego of Dow) working at Bana-Bantle Children’s Agency. As “a counselling centre for abused children” (p. 40), this agency demonstrates what has become of Dow’s postcolonial state of Botswana. With the protagonist being thrown in at the deep end, matters of child abuse, domestic violence, foster care and divorce are some of the social issues with which the protagonist has to contend. Dow’s Botswana here is very different from the African village depicted in her earlier works such as *Juggling Truths* where a measure of harmony is achieved through communal living; *The Heavens May Fall* deals with a modern state caught in global configurations of power and trying to contend with modernity in its current postcolonial form. In this state, one sees the proliferation of extranational organisations that intrude increasingly in the space of the national – national sovereignty is no longer to be taken for granted” (Dirlik 2002: 612).

Finally, one of the most appealing examples in which Dow shows Botswana’s shifting cultural identity is made evident in Naledi’s serious and challenging job “as the in-house attorney” (Dow 2006: 39) in what used to be a gender-biased society. This involves either representing children who are victims of abuse or women in need of legal aid, or acting as a liaison (for the same women and children) with hatefully portrayed nongovernmental organisations that are prepared to offer various forms of assistance to them through maintenance or education. Against this background, Naledi takes up the case of fifteen-year-old Nancy Badisa who is a victim of rape by a tenant. When the rapist is given a “not guilty” verdict in a civil court, Naledi seeks an order allowing her to take the case to the High Court, and “compelling the respondent to undergo an HIV test for the reason that the respondent has exposed the applicant to unprotected sex” (p. 104). However, because of the “ever shifting goal posts in the legal system” (p. 66), the High Court Judge, a self-willed alpha male with a murky past, throws out the case even before he hears it. It emerges that the defendant is HIV negative. In the end, the case remains largely unresolved.

The above example demonstrates the way that Dow is able to disrupt and disturb assumptions that underwrite issues of gender in her society, a society where the identity of its women is gradually getting unhinged from the grip of patriarchal hegemony. For Dow, the ideas of modernity and gender get an intense probing, showing how her thinking ranges beyond the narratives of cultural origins and unchallenged notions about modernity. While the “not guilty” verdict betrays the pervasiveness of unquestioned modernity, here the Judge representing modernity’s legitimation through language, Naledi Chaba, Unity Dow’s alter ego, finds the necessity to incarnate her convictions about change (in gender relations) that society must gear up for. The main character incarnates that change through her professionalism and real



activism. It is through her pursuit of a career in the legal field that Chaba demonstrates her vigilance and guards against her country's strategies of exclusion and discrimination against women, especially in a profession traditionally regarded as a preserve of the male gender. In other words, *The Heavens May Fall* confounds ideas of gender predicated on biology, showing the extent to which maleness no longer signifies privilege and indexes access to power in modern Botswana and Africa. As Bhabha would put it, Chaba has attained "the moment of transit where space and time cross to produce complex figures of difference and identity" (2004: 4). As a subject, Chaba's identity has been "formed 'in-between', or in excess of, the sum of the 'parts' of difference" (p. 2). Thus through the issues with which Naledi is involved, the reader gets an insight into the nature of Botswana's cultural identity as depicted in *The Heavens May Fall*.

To conclude, in both the High Court case and the issues she raises in her novel, Dow presents a vision of an African cultural identity that refuses to invoke a saving pan-Africanist philosophy that defines culture in terms of origins and purity. To the extent that Dow successfully challenges Botswana citizenship law to embrace women (mothers and children), as well as men, she is a real intellectual in the Gramscian or Saidian sense of "speaking truth to power", and embodies the spirit of true vernacular cosmopolitanism, in the Bhabhaian sense, "which measures global progress from a minoritarian perspective" (2004: xvi). Through her alter ego, Naledi, Dow fights against the pervasive evil of rape and the unequal status of women in Africa (as she had done earlier in the challenge to muti killings in traditional African culture), and questions what she considers to be unworkable aspects of modernity. In both cases, Dow's vision is one that confounds definitions of tradition and modernity that perpetuate the idea of identity based on hierarchies of gender and race and, in the process, allows, opens an in-between-space that inaugurates possibilities of cultural transition that entertain difference that disavows any hierarchies. In sum, Unity Dow neither entertains notions of cultural nationalism that seem "content to celebrate the glories of Africa's past" (Chennels 1996: 50), nor warms to an unquestioned modernity, but endeavours to show culture as lived experience, and identity as a performative act of becoming and therefore always in transition.

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