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Coastal Concern: Virtue Ethics and Local Planning in Durban, South Africa

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Abstract:

The coast just to the north of Durban is a magnet for tourists, with pristine beaches, dramatic cliffs, verdant sugar cane fields, and well-appointed hotels. This thin strip of spectacular land was once reserved for whites only. With the ending of apartheid, Zulu people who lived far inland but who worked in the coastal hotels and restaurants began to settle in small squatter settlements tucked away in valleys and undeveloped lands within the coastal strip. No political will existed to remove their shacks, and in time these settlements became more established and larger in size.

In 1997 the new multiracial local government of the North Local Council of Durban faced a dilemma. Should they formalize these settlements and accept that racial and economic diversity was now an inevitable component of the coastal tourist strip? If so, who would pay the legal land owners for the land, and who would pay the adjacent wealthy land owners for the dramatic loss of value in their lands caused by the proximity of their less well heeled neighbors? What was the ethical –and virtuous – response?

Introduction

In South Africa, recent history leaves behind an abrasive texture. The legacy of apartheid is apparent everywhere; in fact it is inescapable. The sins of the fathers are visited upon the sons and daughters of white South Africans, as the tally now is made of the damage inflicted upon those disadvantaged by decades of immoral policies. The privileges granted to the few by past regimes continue to support an entrenched economic apartheid, in which certain racial minorities retain inequitable historical rights to the most valuable lands, resources, private education, and the many fruits of the private sector economy. Such rights entitle them to vastly disproportionate benefits as compared to their numbers.

Where is the justice, the fairness, in this? Are such economic and political trade-offs acceptable to the poor? Must the majority population, still severely disadvantaged in so many ways, wait patiently so that their children or perhaps grandchildren might begin to enjoy an equitable slice of the pie? What do the citizens of the new South Africa expect from their leaders?

There are strong utilitarian arguments justifying why this unfortunate reality must persist. Accordingly, a too-rapid redistribution of economic and social goods, or a too-dramatic change in who has access to scarce resources would destroy the vitality, security, and growth of the South African economy. Change must take place gradually, not by evicting the wealthy from their estates, but by slowly improving the plight of the least well off. Under this argument, the impact of years of disadvantage and disrespect will be ameliorated slowly but reliably, without loss of security and stability. South Africans, exposed to the chaos and suffering resulting from radical change in neighboring Zimbabwe, Zambia, and Mozambique, have ample reasons to value the continuance of security and a smooth socio-economic transformation. Yet transformation is not without cost; the utilitarian argument fails to say whether the requisite sacrifice must be borne – disproportionately – by those already historically disadvantaged. Related questions abound; should the institutions of government be obliged to seek opportunities to ameliorate this burden when possible? If so, then who ought to pay?

While many people reject the “slow transformation” economic argument as simply perpetuating the status quo for as long as possible, others question how – and on what basis – the benefits granted to a white minority under apartheid rule and the consequences that still flow from such benefits now ought to be re-evaluated, reversed, or redistributed. Clearly those who benefited under apartheid did so at a terrible cost to others – the loss of freedom, dignity, and often the lives of those disadvantaged by the system. What does it say about the values and the virtues of the leaders of the new South African government if these unjust, inequitable benefits – purchased at such a grave historical cost – are not revisited and rectified if and when clear opportunities present themselves. How will “slow transformation” affect the expectations of those governed by such leaders?

The Durban Context

In 1996, under a local governance structure that no longer exists, the metropolitan area of Durban, South Africa, was sub-divided into six local government units¹. The North Local Council (NLC) was one such unit that served as the democratically elected local municipal government for a section of Durban famous for pristine Indian Ocean white sand beaches, dramatic rocky cliffs, well-appointed hotels and palatial homes – all set against the backdrop of seemingly endless verdant sugar cane fields. The NLC’s constituency, however, embraced more than just the inhabitants of this attractive, narrow strip of coastline. Moving inland, the boundaries of the NLC included the humble homes of the coastal hotel and restaurant workers. There too were found large agricultural enterprises, small industrial holdings, markets and small shops, outdated and often derelict sugar processing facilities, small farms, and many unemployed, poorly educated, and poor persons. Except for the presence of severe pockets of poverty, this socio-economic and ethnic diversity might have been admirable were it not for its sinister spatial distribution.

It is quite possible to travel north and south along the NLC’s stunningly attractive thin coastal strip and never venture inland more than even a kilometer. Both quite possible – and quite intentional. The former apartheid regime was adept at segregating land areas, and succeeded in keeping the once coastal preserve of white visitors and residents distinct from the agricultural lands and settlements dominated by people of Indian extraction located just inland. Further inland and further marginalized from the metropolitan boundaries during apartheid, the Zulu people resided in undeveloped areas of land – the areas of land that were least suitable for agriculture or other economic activities. With the ending of apartheid, Zulu people began to migrate into the NLC lands to seek jobs and better land. Those Zulu who worked in the coastal hotels and restaurants faced significant transportation difficulties with an inherited transportation infrastructure carefully designed to impede east-west travel. Confronted with lengthy and expensive commutes, poor Zulu workers began to settle in small illegal squatter settlements tucked away in valleys and undeveloped lands within the coastal strip. Apartheid was already under siege – insufficient political will existed for government to evict them from their shacks, and in time the settlements became more established and larger. They remained, however, illegal

¹ Durban has since been reunified under one metropolitan council, or “unicity”.

settlements, not serviced by electricity, water, sewage, police and emergency services, or other municipal services.

The extent of this situation was not known to many; these settlements were not in easy view of the general public, and the squatter residents – lacking security of tenure – felt disempowered to advocate for better standards of service. In 1996, however, the NLC led the province in being the first municipality to initiate a participatory, integrated development planning process to guide the future growth of the region. This exercise considered spatial, environmental, transportation, economic, and demographic factors, and through a series of participatory workshops allowed residents within NLC jurisdiction to articulate their development priorities. If formally registered by the planners and adopted by the NLC, the NLC Council would be obliged, by the new South African Constitution, to address these development priorities in clearly related budget allocations and action plans. The “formalization” of these squatter settlement areas ranked high among the popular priorities, and if adopted by the NLC would have required the transformation of the settlements into legally held small holdings owned by the current residents and the provision of appropriate municipal services.

The new government leaders of South Africa, and particularly the authorities in the North Local Council of Durban, faced a dilemma. Should they adopt the planners’ recommendations and the articulated demands of the constituents, and formalize these settlements? Should they provide emergency and infrastructure services (roads, water, power, sanitation, schools, clinics, public transport)? More profoundly, should the NLC publicly accept that racial and economic diversity was now an inevitable, even desirable, component of the coastal tourist strip? If so, who – if anyone – ought to pay the current legal land owners for the reallocation of this land and who – if anyone – ought to pay the adjacent wealthy land owners for the dramatic loss of value to their lands caused by the proximity of their less well-heeled neighbors?

What were the right choices, the good choices, the virtuous choices for the leaders of the NLC? Ought such decisions to have been solely the result of political trade-offs and negotiations based on murky power relationships, or was this situation a moral dilemma that ought to be confronted? This paper accepts that it is in the nature of governance to negotiate and exact trade-offs, yet the author – one of the planners involved in this process – contends that the NLC ought also publicly to have faced the moral challenge.

In common perception, the pairing of politics and virtue seems at best old fashioned, and at worst an idealistic notion that blinds us to the selfish nature of human beings. Virtue, after all, was advocated by the ancient Greek philosophers – even the word “virtue” is derived from the ancient Greek *arete*, meaning functional excellence. Aristotle distinguished between “human virtues” and “virtues of the soul”, meaning excellence in human functions (doing a task well and honing one’s intellectual faculties) and moral virtues respectively².

In the context of developing democracies, the arguably anachronistic ideals of civic virtue may seem particularly hollow, as we commonly see a leadership of small elite groups who exhibit little interest in the welfare and development aspirations of their less well off countrymen and women. We, in more mature democracies, commonly retain some expectation that integrity, humility, tolerance, patience, commitment, concern for the common good, and honesty are virtues that ought to characterize elected leaders, yet (in what I believe to be a clear double-standard) it would appear far less common for these same citizens of more mature democracies to apply this expectation to emerging democracies and less developed countries.

So how does the leadership of the NLC score on the index of virtuous civic leadership? One important distinction must be noted in such a query. The morality associated with virtue operates not at the level of what leaders (and citizens) ought to *do* and *not do*, but instead what kind of people they ought to *be*.

The Mayor, Town Clerk, and the 17 councilors of the North Local Council of Durban faced a decision on one major issue: whether or not to formally adopt the land on which the squatters now resided. The Constitution is vague on some specifics; the NLC was not required to adopt the planners’ recommendations. Furthermore, the legal owners of the illegally occupied lands were not pressing the NLC to take any action. The NLC did, however, face political pressure to act to ensure that these poorer citizens in the squatter areas received at least basic emergency and infrastructure services. This could only be achieved if the ownership question was resolved in favor of the squatters. The question of NLC obligation went deeper, however; did the NLC also bear a moral obligation to respond to this situation, given South Africa’s unique history of past injustice?

As it transpired, this situation gave rise to complex political pressures, and to daunting financial calculations. The white owners of adjacent land and the lands upon which the squatters

² Berkowitz 1999, pp 8-9

had settled were still people of considerable power, influence and wealth, even if they no longer held predominant political power. Those individuals who possessed legal titles to the lands threatened to exert legal and political pressure for fair compensation if their lands were wrested from them by the Council – despite the fact that the existing squatter settlements had made the land unfit for development for any other purpose. Furthermore, the adjacent land owners who already had suffered a loss of value in their own lands due to the “untidy” and uncontrolled state of their “neighbors” would have been afforded a clear opportunity to seek redress in the courts from the Council for this loss of value, if the NLC had chosen to formalize and reallocate ownership of this disputed land.

The ethical landscape was no less challenging. The principal ethical concerns embraced transitional justice (when the new regime must “put right” the injustices of the past regime), accountability by democratically elected leaders to those whom they govern, basic human rights, and respect for universal human dignity. The simple notion of keeping promises, and similar characteristics of ethical leadership were thrown open to question.

Ultimately, the NLC took the path of political expediency and chose not to choose. By failing to act on these specific recommendations, the recommendations were neither rejected nor adopted – they simply lapsed. To this day the lands in question remain squatter settlements, still without basic services or security of tenure.

Ethics as a Guide to Governance

Traditionally, those wishing to evaluate the reasonable range of ethically desirable or permissible actions of stakeholders and decision-makers apply rational reasoning skills within the structure of one or more leading ethical theories. In so doing, they hope to call attention *to those actions* that: 1) lead to optimal consequences (utilitarianism); 2) accord well and are consistent with universalizable principles (Kantian ethics, human rights approaches); 3) result in the most freedom and opportunity for human flourishing (capabilities approaches); or 4) best reflect the ideals of the just society (social contract theory). Each of these approaches leads to important insights that may beneficially guide actions, yet each approach also has significant flaws, and generally fails to motivate or persuade decision-makers to act ethically.

Virtue ethics takes a fundamentally different approach, making no pretense at the establishment of an authoritative moral framework, which can direct people’s actions. Instead, as

philosopher and ethicist Christine McKinnon states, “virtue theories are committed to the importance of evaluating reasons for acting”³. Those reasons, in virtue ethics terms, rest with the *character* of the individual. The first question of virtue ethics is what kind of person should one be? The character of the decision-maker and not her actions is of paramount concern to the virtue ethicist. Does such an approach offer guidance in a dilemma such as the one faced by the local authority in Durban?

Virtue Ethics and Character

To unpack this dilemma from a virtue ethics perspective, we must consider the character of the decision-makers of the NLC and of the stakeholders in the dilemma. What kind of people were they? What expectations did the public have of their leaders? These leaders included the Mayor, Town Clerk and councilors of the NLC, as well as other important stakeholders whose character had an influence – the owners of the land that was illegally settled, the land owners adjacent to the squatter settlements, the coastal employers of the squatters, and the squatters themselves. Before moving in this direction, however, it is appropriate first to explore the basic assumptions of virtue ethics.

Virtue ethics is not monolithic, and the permutations can vary considerably. I am most persuaded by the kind of virtue ethics that considers human character, and character formation, as its principal focus. McKinnon is a leading proponent of such a view, and she summarizes this variant of virtue ethics as follows:

To form a character means to conceive of oneself as an agent responsible for one’s actions, responsible for the desires that motivate those actions, and responsible for the kind of person one is. It further requires that one recognize that one is a social being living with other social beings who are also actively engaged in quests to lead good human lives⁴.

McKinnon squarely faces the moral burden of leadership in this assessment of character, but she places this burden on the individual – not on some external code or set of results. It is the individual who must be accountable to himself for his actions. The individual must also take responsibility for effectively directing the driving force behind those actions – the desires that motivate one to act (or not act). Finally, the individual must be aware of and respect the fact that

³ C. McKinnon 1999, p 44

⁴ Ibid., p 55

she lives within – and exerts some degree of influence upon – a society comprised of individuals, all seeking to lead worthwhile lives. Being accountable and taking responsibility for one’s desires are attributes or virtues of character – and go towards constituting the “kind of person one is”. To virtue ethicists concerned with character, the development and exercise of such virtues are what constitutes the good and meaningful life. They are not the means to a good life, they *are* the way a good life is conducted.

Good character is not simply the absence of bad desires or evil actions, nor is it an accretion of wholesome habits or a benign personality. Instead, character formation is intentional, and grounded in the development of one’s rational faculties. Nurturing and sustaining good character is a difficult and on-going process throughout one’s life. More importantly to our present considerations, character formation ultimately depends on the ability to recognize the ethical dimensions of situations, and on the desire to respond well to such ethical challenges. A robust and carefully cultivated good character, however, is not a ticket to resolving life’s complexities; indeed many times there will be no “good” response available, and one may have to come to peace with difficult compromises. Arguably, peace in the face of adversity is achieved only through the practice of certain virtues.

Virtue Ethics and Governance

What is the relationship between virtue at the level of the individual, and the civic virtue of the state? Aristotle wrote at length in *The Politics* and *Nicomachean Ethics* on the relationship of local governance and virtue. For Aristotle the virtuous life was the life lived well, and the local government (the *polis*) had responsibility to provide conditions favorable to the welfare of its citizens – the life lived well for and by all⁵. It followed quite simply then, that the government was to do all within its reasonable power to cultivate a virtuous citizenry, so that the citizens would be positioned to lead virtuous, good lives. Modern liberalism, in contrast, rejects the notion that government must create the enabling environment for the virtuous life. To the contrary, government must offer conditions favorable to the life of freedom. Judith Shklar portrays the goal of liberalism as being “to secure the political conditions that are necessary for the exercise of personal freedom”⁶. This divide is not as inseparable as might be construed

⁵ Aristotle 1997, pp xxv,xxvi

⁶ Ibid., p 4

initially; many virtues ground personal freedoms – for example, tolerance, respect for our moral equality, temperance, generosity, liberality, magnanimity, and justice. Similarly, those persons who desire to exercise their personal freedom so as to cultivate virtuous character depend upon government to provide opportunity or access to resources to do so – which in turn require conditions favorable to personal freedom and the satisfaction of basic needs.

Turning to our concrete example, the ethical dilemma the NLC faced required decision-making by the whole Council. What role, if any, does virtue and character play when local leaders meet to decide issues? Is such decision-making simply an aggregate product of the sum of the good character of individual leaders and officials in government?

The dynamics of any non-authoritarian group coming to a decision in nearly all circumstances (excluding perhaps a Quaker business meeting) depend upon deliberation, advocacy, and persuasive leadership. In democracies, certain intellectual virtues are necessary for advocacy and leadership to be effective – for example, the leadership must be both credible and competent. Moral virtues also apply; leadership consistently must demonstrate honesty in keeping important promises, but in those (hopefully) exceptional circumstances when leadership fails to keep promises, the explanations offered must be in the spirit of genuine accountability and trustworthiness. Decision-makers ought to exercise humility and openness, sharing information with their constituents and listening to the views of those whom they represent, even if these views come from people of a different socio-economic status, from the less educated, or from disadvantaged minorities. Decision-makers ought to be compassionate to the plight of their less-fortunate constituents, and they ought to be motivated to find just and equitable solutions to problems. Decision-makers ought to be trustworthy and disinterested stewards for those not competent to participate in governance – the infirm, children, or those with severely diminished mental capabilities. Decision-makers also ought to honor the public trust that comes with (and resides with) their office, so that illicit or improper incentives, bribes, or other corrupt actions do not influence their decisions. In short, under a virtue ethics view, decision-makers ought to be decent, respectable, public-spirited folk known for their good reputations, and characterized by their genuine and demonstrated concern for the common good.

Being characterized as “decent, respectable, public-spirited” may help one get elected, but not suffice as a proof of civic virtue. Unscrupulous leaders may regularly employ the rhetoric of compassion and concern, deceiving the populace while they pursue self-interest to the

exclusion of the common good. Unlike ethical yardsticks based on arguably quantifiable “utility” or adherence to established external moral standards (e.g. human rights conventions), virtue ethics must explain how such an elusive concept as character might be assessed, monitored, or compared by the public or demonstrated by political leaders. There is no index of virtuous civic leadership – but although we can be fooled, we seem to know civic virtue when we see it lived over a period of time in public office.

The NLC and Civic Virtue

I return now to the dilemma of the NLC, and the principal decision-makers and stakeholders involved. What can be said of their character, and of the public’s expectations of civic virtue in their leaders and influential members of the community?

First, consider the squatters themselves. Their needs are evident – the basic support that all human beings deserve from their government in the way of infrastructure, opportunities, freedoms, and security. Of their civic virtue, one can say little. They had but a small public voice, and scarce time to cultivate a public impression as they struggled to meet their daily survival needs. Others characterized them in very different ways, however. In the popular public media and among their peers they were viewed as noble victims-turned-activists, who had taken the initiative to seize lands that “ought” to have been theirs. They were illegal squatters, yes, but they were also seen as strong individuals righting the wrongs of apartheid and defying the unjust laws begun by the former regime. To the beneficiaries of apartheid, and all those who favored the prolongation of the status quo, these squatters were described as lazy miscreants, taking by force of numbers what belonged to others.

Not surprisingly, the popular views of the civic virtue of the wealthy land owners and coastal employers might also have received radically different appraisals, had such a question been posed. Self-interested, greedy, uncaring, lacking in compassion or remorse for past wrongs, arrogant – these are but a few character attributes that many would have applied to them. A minority view – protective of the status quo – would probably have characterized them as industrious, frugal, hard-working, enterprising, cultivated people – the backbone of the economy, living in honest and faithful adherence to the laws of the land.

And what can be said of the civic virtue of the NLC’s leadership? It is easier to comment on what they did than on who they were – the historical record makes it clear that they failed to

resolve the issue of the settlements, despite the fact that this was articulated by the majority as a high-priority local development objective. Is it fair to suggest, on the basis of this prominent failure, that these leaders were women and men of weak resolve, with little compassion for the welfare of the least advantaged of their constituents? Is it better, perhaps, to say that they never viewed this as a moral issue, but merely as a cool calculation of political advantage? After all, squatters do not vote or pay taxes, and powerful interests were at stake.

Speculation of this kind is of little value after the fact. Anecdotally, I can comment that I saw evidence of a wide range of civic virtue, from the honest and compassionate integrity of the Town Clerk, to the weak and opportunistic complacency of the Mayor, to the broad spectrum of virtues and vices of the many councilors. A foreigner's anecdotes may make good tales to share far away from Durban, but they are not the substance of or motivation for effective democratic change within Durban. What is more significant to note was the complete lack of a forum for citizens to evaluate, deliberate, and discuss the civic virtue of their leaders, or of the stakeholders involved. There were no investigative journalists willing or able to articulate the moral dimensions of this dilemma, or to comment on the values, virtues, and vices of those in the public trust. There was a participatory process involved in the planning exercise, and leaders and prominent stakeholders did participate, but the moral vocabulary was not employed to evaluate either the character or the actions of those involved.

The lesson, I believe, is straightforward. The moral dimension ought to be a well-articulated component of the political and deliberative processes of local governance. Virtue ethics offers a valuable approach to open the way for such deliberations by not evaluating (often after the fact) the actions of others, but instead by demanding that those in the public trust demonstrate, through words, thoughts, and deeds, what kind of people they are. At the same time, the public ought to engage in a dialogue about what kind of people they want their leaders to be – what should “civic virtue” mean, and how might those who most powerfully influence the public good be held accountable to adhere to this ideal? People will fail to live up to ideals, but the *willingness* and *determination* to undertake the effort to articulate and pursue such ideals of public service, trust, and care is the final measure.

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