Protecting Identity by Ignoring It? A Critical Look at the French and Rwandan Paradoxes

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This article seeks to critically examine political and legal practices of “racial blindness” by comparing two countries that have most enthusiastically embraced it as an official policy and even ideology: France and Rwanda. By highlighting the differences but also the significant commonalities between the two, it seeks to dynamically emphasize their explicit and implicit construction of race and ethnicity. The case for racial blindness is first presented in the terms in which it is largely understood in those countries, and taken seriously as an effort to deal with their unique legacies and political circumstances, notably as part of a desire to transcend some of the toxic consequences of “race” and “ethnicity.” However, the clear limitations of pretending that races and ethnic groups do not exist officially are also underlined and racial blindness is found to be wanting as a model of anti-racism historically, functionally and in principle.

Cet article s’attache à examiner les pratiques politiques et juridiques de « cécité raciale » en comparant deux des pays qui se sont engagés dans cette voie avec le plus d’enthousiasme, à savoir la France et le Rwanda. En faisant ressortir les différences mais aussi les similitudes entre les deux, il tente de mettre en exergue la construction dynamique des notions de race et d’ethnicité qui en résulte. Les politiques de cécité raciale sont dans un premier temps présentées dans les termes selon lesquelles elles sont largement comprises dans ces pays et prises au sérieux comme partie intégrante d’efforts adaptés à une histoire et des circonstances spécifiques, à même de transcender les conséquences toxiques de la « race » et de l’ « ethnicité. » Cependant, les limites d’un modèle consistant à prétendre que les races et les ethnies n’existent pas officiellement sont soulignées comme ne constituant pas une posture antiraciste viable historiquement, fonctionnellement ou par principe.
Introduction

I. Protective denial of identities: The best case

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“If ethnicity is an invention, then it can be abolished and ignored; if it is primordial, then it is unchanging and extraneous to policy concerns; if it is contextually defined, then it is the responsibility of the political actors both to recognize it and to attenuate its salience as a political force.”\(^1\)

“On ne naît pas noir, on le devient.”\(^2\)

Introduction

Race and ethnicity are sometimes understood to exist as forms of identity that ought to be protected as such. But what precisely is the relationship of racial and ethnic identity and the state? Human rights norms make a strong case against negative discrimination: one ought not to suffer as a result of one’s skin colour or ethnic affiliation. But how far should the state become involved in positively protecting such identities? In particular, should the state be ready to identify certain groups in terms of their ethnic or racial identities? What if in doing so it risked further entrenching irreducible differences between citizens? When does benign blindness to certain types of identity become a form of callous disregard for them?

The starting point of this article and its main focus is the paradoxical character of the position that has most come to be associated with France of formally denying, or at least ignoring, the existence of racial and ethnic identities. This denial manifests itself, for example, in a constitutionally protected prohibition on ethnic or racial statistics. The Republican vision

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of a racially neutral citizenship has been the object of renewed pressure in the last decade, notably as a result of an awakening of thought on racialization and ethnicization in France. The denial of race and ethnicity as relevant political categories for the state is of course not presented in Republican discourse as a form of official racism. Quite the contrary, what might be described as public race blindness is presented as one of the very conditions of integration of minorities under the all-encompassing banner of Republican citizenship. France thus stands at the polar opposite of states that develop specific regimes for the protection of certain racialized or ethnicized minorities, or even of states that at the very least take into account the existence of such minorities for the purposes of policy development and legal adjudication.

One might see such policies as simply a manifestation of a weird French exceptionalism (or provincialism) when it comes to issues of race and ethnicity but for two facts. First, turning a blind eye to identities in the name of universal citizenship obviously has a long pedigree in liberal thought. Although liberal polities have diverged over time on how they take into account issues of difference, the model of a universal and undiscriminating citizenship remains a strong reference, even for countries that significantly take into account group identities. Second, and relatedly, France is not as alone in adopting this model as is commonly thought. In fact, although France is arguably an extreme case of racial and ethnic blindness, the seeming “absolute denial of the existence of races coupled with the absence of deeper reflection on the role that race and ethnicity and their underlying changing and adaptable assumptions still play” has been described as endemic to the whole of Europe.³ “Racial blindness” is, in fact, often used to describe the U.S. Supreme Court’s own evolution towards an anti-discrimination politics that does not take into account persons’ racial or ethnic affiliation,⁴ even though U.S. public discourse seems so ready and willing to engage in race and ethnicity “talk.”

In an effort to shed light on the larger problem and to move away from the confines of the relatively idiosyncratic French Republican experience and the specific problem of European racism, this article proposes to analyze that case in parallel with a more recent and less discussed one: that of Rwanda. Since the genocide, Rwanda has adopted a policy of

so-called Rwandicité, the central plank of which is the need to erase all manifestations of racialism and ethnicism. Of course, Rwanda’s racial blindness does not proceed from the same tradition of republicanism, is deeply reactive to a particular event (the 1994 genocide) and unfolds in a very different society structured less by the issue of immigration than the legacy of colonialism. The comparison between France and Rwanda—radically different as these countries’ histories and experiences are—is nonetheless meant to help problematize racial blindness beyond the trajectory of a single country and to suggest a broader type of political experimentation and sensitivity. The hypothesis is that there are sufficient similarities for the comparison to make sense, yet enough differences to help dynamically articulate some general propositions about the differing natures of racial blindness(es).

As a preliminary matter, three broad remarks are in order. First, one of the dangers in contemporary debates about how to deal with race and ethnicity is a tendency to treat such concepts through a multiculturalist lens that does not always deeply problematize them as social constructs. Identities tend to be taken for granted (the debate being about what should be done to protect them), and the politics of protecting them seen as quite distinct from the production of “race” and “ethnicity” as categories. The article will, instead, take seriously the way in which the protection of “groups” also creates them, and contextualize this process in a continuing history of the reification of the identity of groups requiring protection. In other words, it will emphasize the extent to which group identity is not (or at least not only) the problem to which group-oriented policies seek to respond, but also the problem that they create in attempting to resolve it, to the extent that the politics of taking cognizance of racial and ethnic diversity retroact on the very existence of minorities.

Second, I want to pay attention to the fact that one of the key issues when debating racial and ethnic identity is not just whether these should be protected in the abstract, but whether the state should have anything to do with it. There is no reason in principle why we should think of the state as having a role in managing identities (it historically did not have for the longest time, at least before the state became, for all intents and purposes, the nation-state). Of course, it is in those terms that many states have ended up thinking of themselves in the last few centuries, long

5. An analogy here would be with well-known debates on nationalism, and whether nations pre-existed the modern state, or whether the modern state created nations. This is obviously a fraught and complex question that I will not tackle here, but there is a sense in which the nation-first explanations have always been suspect of historical simplification and normative obfuscation: Craig Calhoun, “Nationalism and Ethnicity” (1993) 19 Annual Rev Sociology 211.
before contemporary debates on forging inclusive societies. The rise of nationalism meant that the state was increasingly conceived as the state of a particular people understood in racial or ethnic terms (the “volk”). Ethnic and racial categorizing helped reinforce cohesion to protect against “both internal disintegration and external aggression.”

Processes of exclusion and the identification of “other” groups have been reactivated in a context of globalization and migration. Interestingly, post-colonial states, perhaps saddled with messy ethnic legacies as a result of colonization, have also seen their function in those terms. The idea of “managing” ethnic diversity has thus gained popularity as a way of conceptualizing one of the stakes of contemporary statehood.

Reconnecting the centrality of the state to practices of managing identity means also liaising with an entire tradition of thought more interested in practices of state power and their more or less contrived and accidental construction of race and ethnicity than ideal theory.

Third, one important insight is that the construction of “race” and “ethnicity” has a lot to do with the law and its operation as modality of knowledge. The particular contribution of the law to practices of identity management and construction is often neglected by political theorists and scientists alike. However, there is reason to think that the law’s contribution is not simply to act as a conduit for state and social prejudices found elsewhere. As Ian Haney López put it, “the law serves not only to reflect but to solidify social prejudice, making law a prime instrument in the construction and reinforcement of racial subordination.”

In France, the first article of a proposed law that would have effectively banned the use of the word “race” in legislative instruments stated: “la République combat le racisme, l’antisémitisme et la xénophobie. Elle ne reconnait l’existence d’aucune prétendue race.” Although the law has to date not been adopted, it was approved by the National Assembly on the 16 May 2013.
“sectarianism” by anyone bold enough to resurrect the dreaded Tutsi/Hutu distinction. The law effectively is thus called upon to provide a bulwark against identity claims based on race or ethnicity.

The article therefore proposes to critically assess the soundness of the particular trajectories of racial blindness illustrated by France and Rwanda by taking them seriously on the one hand, but exposing them to contemporary thinking on race, racism and discrimination on the other. What lies in the refusal to name groups and the failure to acknowledge certain forms of racial or ethnic identity, and on what grounds can it be defended and challenged? The article proceeds in two steps. First, it seeks to take practices of race and ethnic blindness seriously by evaluating them in their context in order to develop a sort of best case for them. In particular, part I highlights the troublesome origins of racial and ethnic identification as part of a number of “darker legacies” of state intervention in the realm of identity, darker legacies which from Vichy collaborationism with the Nazis to the Rwandan genocide are at least partly shared. In part II, the article nonetheless finds actual practices of denial of racial and ethnic identity to be deeply problematic on their own terms and in general. Although part II argues that there is more to the resistance to such categorization than simply a refusal to see the obvious, it also suggests that the French and Rwandan approaches are, at best, the wrong answer to a real problem.

I. Protective denial of identities: The best case

Although hardly absent, ideas of “colour blindness” in the U.S. and in Canada operate in a context where visible minorities are commonly acknowledged as a matter of law and policy; by comparison, they have been at the very heart of officially condoned policies in countries such as France and Rwanda. Although such policies notably in their French variant are often derided as implausible in much of the Anglo-American world, this section will try to take them seriously as long-term efforts to think through issues of race and identity and how they relate to the organization of society. How do policies of racial and ethnic blindness come about, and what are their justifications? Here the similarities and differences between France and Rwanda must be drawn out carefully.

France is a country with a long tradition of formal and legal ethnic blindness that has nonetheless always coexisted with forms of social and political racism, xenophobia and anti-Semitism. France built itself, particularly after the Revolution, on a concept of national and civic...
identity that saw the central government increasingly assimilate provinces into a common identity. Although the model found its limits with slaves in the Caribbean and colonial expansion more generally, it paved the way for a very unitary and Jacobin concept of citizenship that envisages individuals as being theoretically assimilated into the polity regardless of their skin colour, language, religious beliefs and so on. This model was a deep reaction to an ancien régime society in which identification and the juridical status that flowed from it had been primarily based on class. It also reflected, of course, the ability of the central power to successfully impose this Republican compromise on what was quite a diverse country. Where racial blindness is a relatively late post-civil rights reaction in the U.S. (where it helped pave the way, in some specific contexts, from extreme racialism to race denialism), it can at least claim a long and continuous tradition in France, to the point of coming very close to an official ideology.\textsuperscript{12}

In the last 50 years, in a context of post-war migration and diversification of French society, the debate on the nature of citizenship and France’s relationship to its minorities has nonetheless re-emerged. Most recently, debates on the hijab and on how to deal with the Roma have served as veritable lightning rods for debates on French and minority identity. The use of ethnic statistics, in particular, has precipitated a debate that has been described as being of a “rare violence.”\textsuperscript{13} Asked about the constitutionality of the production of data that would denote the racial or ethnic origins of persons, the Conseil constitutionnel censored the law on that point, arguing that it ran against article 1 of the Constitution and the value of equality.\textsuperscript{14} As has been seen, efforts were launched to expunge the word “race” from French codified law, including the Constitution, lest “race” provide a basis for racism.\textsuperscript{15} Even if such efforts have stalled, it is important to note that this was not because of an embrace of the reality of race and ethnicity as socially constitutive categories; rather it was because of a feeling that further stipulating such an absence from the law was superfluous given how committed the polity is to treating these categories as not politically operative. Although its racial blindness

\textsuperscript{12} See article 1 of the French Constitution of 4 October 1958 (Texte intégral de la Constitution du 4 octobre 1958 en vigueur, JO, 5 October 1958, 9151, art 1).
is constantly challenged by the extreme right—and even, as will be seen, by some minority members themselves—as wrongheaded and naïve, it holds a unique sway on French political imagination. Legally, this ethnic blindness of course does not extend to prohibiting discussion of racial and ethnic issues, but it certainly has a chilling effect on taking race or ethnicity into account in public discourse.

Rwanda embraced its own form of racial and ethnic blindness through a very different route but with not entirely dissimilar results. Rwanda is a young country, previously a German and then Belgian colony, that has a history of officially condoned racial and ethnic separation that remains deeply associated with the 1994 genocide. Its evolution towards a supposedly rigorously non-ethnic society is, in fact, a post-genocide development, and more explicitly corrective to an over-ethnicized past. One might have thought that the victory of the Rwandan Patriotic Front ("RPF") would have translated into a rehabilitation of the Tutsi, at least as a socially constructed form of identity, now further solidified, if nothing else, by the experience of genocide. However, at least on the surface, the new Rwandan government chose an entirely different path: a form of relatively forceful de-ethnicization though the denial of the continued existence of the, however constructed, Tutsi and Hutu identities.\textsuperscript{16} The post-genocide project has thus been very much one of construction of a civic nationalism, as well as an attempt to forge a truly post-colonial identity. It has led the country to embark on a vigorous path of ethnic and racial denial with a view to creating a unified form of citizenship and a common form of Rwandan identity promoted as “Rwandicité.”

Hence perhaps paradoxically, post-genocide Rwanda, which has been dominated by an anglophone and anglophile Tutsi diaspora, has adopted with a vengeance a model of national construction that is very much like the model of (otherwise much hated) France. Irony aside, Rwanda’s purported de-ethnicization is justified on higher grounds of avoiding a repeat of the genocide by denying any expression to some of the conditions that characterized pre-genocide Rwanda. As such, it is not just a measure of political prophylaxis but also more deeply an epistemological challenge to what had gradually become the accepted view by many in the years running up to the genocide, namely that Rwandan society was defined by its opposition between the Tutsi and Hutu ethnic groups. Its laws on the matter are much harsher than French laws in that they repress the crime of “ethnicism” defined vaguely as the use of ethnic categories in public.

This section proposes to take these evolutions and projects at face value, in an effort to judge them on their own conceptual terms. Moreover, it proposes to make the best case for them, that is, to assume that they are in good faith and that the claims made on their behalf are at least minimally credible. In this respect, the argument will not necessarily be the same as the one effectively produced by the French and Rwandan authorities, although it will include many of the ideas that are typically adduced in both contexts. What, then, can we make of such projects, different as they are?

There is of course the problem that claims that “there are no ethnic groups in France or Rwanda” do not pass the laugh test and immediately appear as part of a very dubious politics of invisibility. For example, before the Committee on the Elimination of Discrimination Against Women in 2009, the Rwandan delegate affirmed that “[t]he country of Rwanda does not have Pygmy children.”17 While this is presumably better than reducing pygmy children to their ethnicity as part of a process of extermination, it is also callous and nonsensical. Similarly, the French government has been repeatedly excoriated by international human rights treaty bodies for failing to acknowledge the existence of minorities. The Human Rights Committee, for example, commenting on France’s periodic report, insisted that it “remains unable to share [France’s view] that the abstract principle of equality before the law and the prohibition of discrimination represent sufficient guarantees for the equal and effective enjoyment by persons belonging to ethnic, religious or linguistic minorities of the rights set out in the [International Covenant on Civil and Political Rights].”18 There is a sense of a profound denial of reality involved in a-ethnic policies in multi-ethnic societies.

However, we should perhaps not make too much of this descriptive implausibility. The claim should be construed as much more normative and political rather than strictly social-scientific. No one could accuse anyone in France or Rwanda, least of all in government circles, of not knowing there are minorities in their midst. The arguments typically adduced against ethnic differentiation in official statistics, policy, law and even public discourse have to do with the project of creating forms of citizenship

that do not marginalize or victimize minorities. Indeed, they are explicitly and emphatically rooted in anti-racist ideas that see projects of nation-building as the best protection against marginalization of minorities. For example, the rapporteur of the law banning the word “race” from French law before the French Assembly insisted: “[T]he concept of race, each one recognizes, has served as a foundation for the worst ideologies and has led to the death of millions of human beings. The concept scientifically aberrant does not have a place in the legal order, even if it is to condemn all discrimination based on a presumed race.”

Similarly, the Commission nationale de l’informatique et des libertés, the main official privacy watchdog, flagged a series of problems associated with developing ethno-racial categories in France, such as “[t]hreats of reinforcement of stereotypes, stigmatization, communalism, classification uncertain, non-scientific, reductive, approximative.” Similarly, the Rwandan experience is very much rooted in the notion that it was the very racial engineering of the Hutu and Tutsi concepts that sowed the seeds of pogroms and genocides in the 20th century. Evidently such enterprises require at the very least the possibility of designating certain groups as such.

More fundamentally therefore, the reluctance to think and talk in terms of race and ethnicity reflects the deeply held belief that these concepts are more than problematic, that they are, in fact, at the very root of racist, colonial and even genocidal policies. In that respect, French and Rwandan thinking illustrate a particular sensitivity that ties the critique of racial and ethnic identification to various darker legacies of ethnic identification, which has proved considerably influential. Interestingly, that critique is based on the fact that various regimes of oppression of racial minorities have been nominally defended on the basis of the need to protect such minorities. For example, as Wally Morrow suggests in the South African context:

We think of colonialism and Apartheid as so thoroughly unjust and evil that it is difficult for us to imagine that they could once have been plausibly defended, and by people of good will. A constant theme in the official justifications for these oppressive regimes was the need to recognize and respect the differences between the different groups which
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compose the society, and to protect and perpetuate group integrity.²¹

Practices of group identification have thus often been framed in benevolent and paternalistic language (at least at first) that professed to care for minorities (and which, as such, even found occasional willing collaborators within the minorities in question). At the same time, there is no doubt that these benevolent discourses coexisted with a practice of severing the relevant groups from the benefits of citizenship, in some cases explicitly aiming to stunt their development by consigning them to their own supposedly inescapable and backward “culture.” As a judge once put it, “[i]t is an understatement to note that attempts to place individuals in distinct racial groups frequently serve only to facilitate continued discrimination and postpone the day when all individuals will be addressed as such.”²²

For example, even the Nuremberg laws were at the time understood in ambiguous terms, with the Reich emphasizing that “the German people has [sic] no objection to the Jew as long as he wishes to be a member of the Jewish people and acts accordingly,” such that “the new laws could be perceived as offering German Jews the opportunity to establish themselves as a ‘national minority’ comparable to discriminated minorities in other countries” with some Jews “even regard[ing] the legal solution as somewhat acceptable.”²³ Indeed, even the “Jewish Final Solution” long remained cloaked in rhetoric about facilitating Jewish “emigration” to a homeland. To this day, the separate education of Roma children in some countries of Eastern Europe, which has been found to be incompatible with their right to education and to be free from discrimination, is presented as remedial action designed to address educational disadvantages.²⁴ Many cases of differential treatment may really be discrimination in sheep’s clothing.

In that respect, both French and Rwandan practices of racial/ethnic blindness are powerfully shaped by the notion that racial and ethnic identification have close associations with these darker legacies, and in particular the looming presence of genocide and its memory. French thinking on the issue in particular is deeply influenced by the notion that

Vichy’s identification of its Jewish citizens as Jewish led to deportation and France’s contribution to the Holocaust. The role of legal racial/ethnic classification in promoting genocidal enterprises (often virtually indistinguishable from colonization) is also well documented. The Holocaust relied heavily on the demographic statistics which included racial or ethnic identification compiled by various European states. In effect, anti-Semitic laws legally enacted the ethnic categories that they intended to discriminate against. Vichy France, in particular, made the question of Jewishness into a more explicitly racial issue. Quite apart from what it led to (i.e., the marginalization of Jews from French society, itself leading to the Holocaust), the 3 October 1940 loi portant statut des juifs is perhaps most notable for our purposes for creating a legal category of “the Jew.” The specific importance of this legal designation is that it made Jews in France—henceforth “Juifs selon la loi”—particularly identifiable, and therefore vulnerable. The issue of ethnic statistics in more recent times has therefore perhaps unsurprisingly brought to the fore powerful invocations of the Vichy precedent. Fadela Amara, the former leader of a famous anti-racist organization Ni putes ni soumises, insisted for example that “[p]lus personne ne doit porter l’étoile jaune.” At stake here is an almost compulsive use of slippery slope arguments and the idea that any breach in the Republican consensus will inevitably take France down a path of communitarianism, ghettoization and worse.

In Rwanda, where genocide seemingly occurred yesterday and still deeply structures daily reality and where “ethnicism” is understood as the very foundation of genocide, the fear that classifications will lead down that path is of course not merely a vue de l’esprit. If nothing else, ID cards were used at roadblocks during the genocide to identify victims to perpetrators. Racialist thinking had so penetrated the psyche of Hutu extremists that the threat of the RPF became inseparable from a vision of the entire Tutsi community as an existential threat to the country. In the years leading to the genocide, extremist groups powerfully stoked tensions and prepared the ground for massacres by reifying ethnic categories and presenting them as deeply irreducible.

In both France and Rwanda, in addition, the identification of persons on the basis of their supposed ethnic and racial identity is faulted not so much for highlighting as for perversely creating these identities in the first place. Indeed, to understand Rwandan and French resistance to identification, one must locate them in a deeper critique of the fundamental facticity of racial and ethnic identity. While it may be a simplification to say that race did not exist before the 19th century, it is certainly true that the particular concept of race as a phenotypical essence of individuals and groups from which a number of characteristics could be inferred only emerged by that time. Race, famously described by Ashley Montagu as “man’s most dangerous myth,” is based on a biologization of identity and ascribes to superficial features a determining role in behaviour. Biological ideas are often mixed with scriptural interpretation to produce a potent and deadly mix. There are arguably distant common origins to and more than a passing resemblance between anti-Semitism and anti-Tutsism.

As a biological category with social-scientific explanatory value, race has been thoroughly discredited. Ethnicity is at least focused less on biology than on shared cultural features, but it can be as uncompromising in its sentiment that “cultures” are sustained by organic groups that are largely irreducible to each other. In fact, “ethnicity” is widely believed to have overtaken “race” as a coded expression for racial groups. The very meaning of categories such as race is constantly contested and changing of course, but the suspicion is that the concept’s history is so tied to these earlier legacies as to be irredeemable.

This critique of the facticity of race and ethnicity, then, is linked to a critique of racialist thinking and its production of race as an ordering concept. It is almost impossible to think of race historically independent of mechanisms of domination and exclusion. The discourse on race in particular is impossible to distinguish from the justification of the colonial enterprise, the “civilizing mission” and the superiority of the West.

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28. Ashley Montagu, Man’s Most Dangerous Myth: The Fallacy of Race, 6th ed (Walnut Creek, CA: AltaMira Press, 1997).
served to separate the world into spheres, to locate allies in regions that were being conquered and to bring the colonized countries into systems of exploitation and forced labour. Indeed, the justification of slavery needed race as an intellectual conceit. Race and ethnicity were therefore produced for certain purposes of domination that are hard to ignore.

France and Rwanda offer opposing perspectives from which to view the development of race as a constitutive category. For France, largely oblivious to its own racializing past, the enduring myth of universal French citizenship even in colonial dependencies has safeguarded the notion that the “mission civilisatrice” was not inherently racist. Moreover, the official rejection of race as a category further cemented the notion of a continuity between the Republic and its Empire, through the appeal to the wholesome abstraction of citizenship and a sense of shared destiny between métropole and periphery. In other words, race acts as the great refoulé of the tradition of French Republican thought—one that, as we will see, may help sideline questions of actual oppression and exclusion, but also safeguards a precious fiction.

On the receiving end of (Belgian) colonialism in Rwanda, the distinction between Hutus and Tutsis is, conversely, largely seen as an artefact of the colonial project. If anything, the idea that the “Tutsi” are an ethnic as opposed to social group is a by-product of colonization. Belgian colonizers projected onto what had been a relatively fluid categorization in pre-colonial Rwanda, allowing for exogamy and founded, if anything, on socioeconomic status, their ideas about races (and even the Flemish/Walloon rivalry which was itself understood in strong ethnic terms). The Hutu became associated with the Bantu who lived in the Congo Basin, while the Tutsi were identified with inhabitants of the Nile. Colonial authorities relied on the Tutsi for indirect rule and thereby “intensified the connection between race and power.” The post-independence governments, dominated by the Hutu, appropriated these stereotypes and contributed to their further entrenchment, even as they inverted the relationship of power, for example, through a system of quotas seeking to limit the Tutsis’ influence. In other words, the Rwandan colonial legacy makes evident through a more explicit foregrounding of race what the French colonial past sought to obscure through its discursive obfuscation of race. The current post-genocide Rwandan policy can be seen as an

attempt to deal with this colonial racial legacy by radically turning its back on it and in so doing embracing a form of racial-blindness that is evocative of France’s own trajectory.

In the more radical critique of racial and ethnic identification that one can detect in France and Rwanda, then, it is the identification that creates the identity, not the other way round. Racial and ethnic identity attribution is seen as clearly more than an exercise in spotting what is unproblematically already there. Rather, in many respects, it is the attempt at classification that creates racial and ethnic thought. There are no races or ethnic groups struggling to obtain recognition. Instead what we see is a process in which the state first takes the initiative in delineating racial and ethnic groups as part of its strategies of control and power and, notably, of national identity construction, typically highlighting the relative position of different racial/ethnic groups within the state. This is clear in post-independence Rwanda where the highlighting of “Hutuness” provided a foundation for the contention that the Hutus represented the majority and should therefore rule the country. It is also apparent in the Vichy regime’s “révolution nationale,” and promotion of a French identity against the corrupting influences of the Jews. Hence the need to situate issues of race and ethnicity not so much within intra-social relations between already hypothetically constituted racial and ethnic communities, but within a tradition of sociology of the state that emphasizes the productive (and almost inevitably, under that view, nefarious) character of racializing practices.36

Under such a perspective, there is no reason to think even the most seemingly innocuous measures of identification, such as ethnic or racial statistics, will not involve deep methodological and epistemological problems. They will, for example, inevitably rely on simplifications of a complex, moving reality and entrench divisions.37 This is evident in Rwanda, where it has been argued that the Belgians themselves, after doing much to accredit the theory that there were Tutsi and Hutu ethnicities, could not actually determine who belonged to each group, and eventually settled for an arbitrary material criterion (those with more than 10 head of cattle would be considered Tutsi) that seemed to disprove the

very ethnic basis of the categorization. It is also evident in the byzantine classifications of Vichy France, and the absurdities to which the attempt to legally define Jewishness led. The goal, then, should be to dismantle the racial-categorization apparatus by ceasing to rely on it altogether for any classificatory purpose.

This explains the fear that, even in the course of protecting certain groups, their stable and permanent reality will be affirmed more than would be intellectually wise. In other words, that benevolent ethno-attention will produce malevolent ethno-reification. This self-realizing prophecy aspect of racial and ethnic identification—the idea, for example, that “[i]n time the creation of a new ordering of society by the census will act to reshape that which the census sought to merely describe”—is precisely what has been seen as problematic. In France, Hervé le Bras has argued that ethnicity is part “d’anciennes croyances pré-scientifiques analogues à la croyance dans les fantômes ou les esprits” such that ethnic statistics, by a sort of boomerang effect, “légitimeraient et habitueraient les Français à penser en ces termes, puis, à la longue, à se définir de cette manière d’autant plus facilement que cette tendance existe déjà à l’état latent.” In the extreme, the argument is that racial identification prepares the grounds for the racist backlash of the extreme right. Anti-racism that adopts the language of race, then, feeds racism.

More specifically, the critique of the fundamental facticity of racial and ethnic identities proceeds from and reinforces three narratives that combine a mix of analytic and normative arguments. First, it is part of a national and state construction narrative that sees racial and ethnic identities as obstacles to an otherwise desirable project of political unity.

What one might describe as the traditional French fear of multiculturalism can be understood as a fear that over-investing in race and ethnicity will ultimately create a prison house of beliefs about race and ethnicity as the dominant forms of identification, closing off other possibilities for citizen identification. This then links up with specifically French fears of *communautarisme*, almost invariably seen in France as having deeply troublesome connotations. Ultimately, identity politics would take France (and, indeed, perhaps any other society) on the road to the destruction of society. France fears ghettoization and a culture of collective rights that will largely erase commonality. Paradoxically though, this fear of dissolution from within is also a fear of dissolution into a U.S.-dominated world fantasized more or less correctly as more communitarian. In the case of Rwanda, “ethnicism” is also very clearly seen as an obstacle to the emergence of a Rwandan citizenship, perhaps with even more urgency given its traumatic past and fragile present. In particular, an excessive emphasis on the anti-Tutsi character of the genocide might well diminish the extent to which, for example, moderate Hutus also were targeted, thus closing-off prospects for inclusive citizenship.

Second, the concern with racial and ethnic identification is conceivably linked to a liberal worry with the trampling of individual wishes and identity, particularly of the “minority within the minority” (notably those who do not want to identify themselves as being members of that minority). The existence of legalized racial/ethnic identities, so the argument goes, will invite the state to police and act as ultimate arbiter of group affiliation in ways that will invariably, at least measured against the aspirations of particular individuals, end up being under- or over-inclusive. Under-inclusive because some people who identify themselves as members of the group will turn out to be denied membership in it; over-inclusive because people will be included in the category who have no wish to be so, putting them in a position where they have no choice but to be considered members of a group regardless of their self-identification. More generally, state-enforced ethnic affiliations are viewed with suspicion as unable to deal with the Métis, mulattos, mixed-bloods, mischlings and so on.45 This will create impossible situations for those individuals who do not fit neatly within categories, ejecting at the periphery of political concerns the relatively large numbers of those whose identity cannot be easily captured.

45. The only notable exception is South American countries where “mestisaje” is often at least presented as the dominant identity, albeit “the myth of racial innocence” may also conveniently serve to marginalize the reality of racial oppression. Tanya Kateri Hernández, *Racial Subordination in Latin America: The Role of the State, Customary Law, and the New Civil Rights Response* (New York: Cambridge University Press, 2013).
The disciplining of identities thus seems intrinsically linked to practices of violence and oppression. This is particularly the case when law, with its distinct tendency to answer questions of race in black and white, so to speak, is involved.47

Here, pre-genocide Rwanda stands out as the country in which the unilateral ascription of ethnicity prioritized communitarian and state criteria over self-identification in deeply problematic ways. Children of mixed marriages, for example, would inherit the ethnicity of the father, thus leaving half of their identity hidden. During the genocide they were either targeted as Tutsi (if their father was Tutsi) or forced to take sides with the Hutu (if their father was Hutu) against their own Tutsi relatives (including, in some cases, their mother). In Vichy France, the “contentieux des juifs” at least suggested a similar arbitrariness with identification, making Jewishness the result of a pseudo-scientific calculation of the number of Jewish grandparents. By contrast, particularly in French public discourse, the retreat to a neutral concept of citizenship is presented as better protecting individuals against such tragic choices or state arbitrariness.

Yazid Sabeg, the dynamic French Commissaire à la diversité et à l’égalité des chances, himself a product of North African immigration, has insisted on a series of measures (e.g., anonymity, voluntarism) so that statistics prevent that “quiconque ne soit ou ne se sente enfermé dans une identité particulière.”48

Third, in addition to this liberal approach to racial blindness, there is also a distinct left-wing tradition in French public discourse that essentially faults race as obfuscating the material-economic element of social conflicts. The focus on race and ethnicity can also be understood as a gross level of analysis mistake that obscures, rather than clarifies, social phenomena by seeing race and ethnicity as causal when they are merely consequential. In that respect, race and ethnicity have long been suspected by a Marxist/leftist tradition of acting as a diversion from what should be a deeper engagement with economic and cultural inequality, most notably as it manifests itself in the form of social classes. If anything, race and ethnicity have a role in the ideological superstructure, but cannot as such explain the real structure of society and are less autonomous concepts than

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47. Haney López, supra note 9 at 3.
they are expressions of underlying struggles.\(^{49}\) It is therefore not the state that is doing minorities a favour by allowing them to practice their culture, but minorities who are doing the state a favour by reproducing group hierarchies woven into the fabric of capitalism.

The ensuing emphasis on identity and the need to protect it highlights the issue as the relatively superficial one of “our prejudices,” rather than the result of our social system, and therefore is ultimately exculpatory.\(^{50}\) In its extreme variants, the discourse has race and ethnicity serve as manifestations of a form of false-consciousness by which artificial and “tribal” solidarities are activated in ways that prevent broader forms of solidarity, particularly along class lines. Under this view, race oppression is also directed at poor members of the dominant racial group (i.e., typically, whites) to alienate them from those who would be their natural class allies. For example, “white supremacy” has been presented as “an ideology used by the wealthy and powerful to fool the white poor into being more race-loyal than class-loyal, blinding them to their own interests.”\(^{51}\) Conversely, interesting evidence points out the transformative potential of class-based and inter-racial solidarity to break the “color-caste system” over parallel social but racially exclusive organization.\(^{52}\)

Such views are influential in France where the newfound emphasis on diversity in public debate is sometimes presented as distracting from the real economic issues of wage inequality.\(^{53}\) In the Rwandan context, a critique of the dominant reading of the genocide has emerged that goes beyond colonial ethnic constructions and instead emphasizes the genocide’s specifically economic and political determinants.\(^{54}\) As Johan

\(^{49}\) Immanuel Wallerstein has for example argued that one of the uses of “ethnicity” is to reinforce occupational hierarchies of the workforce in which particular groups come to see certain activities as ones they are naturally suited to. In essence, the modern state outsources to ethnic groups modes of particularistic socialization that its formal commitment to equality would not allow it to promote, especially not at school. As a result, “what is illegitimate for the state to do comes in by the rear window as ‘voluntary’ group behavior defending a social ‘identity’”: Wallerstein, supra note 6 at 386.


\(^{54}\) Newbury & Newbury, supra note 1 at 312-313.
Pottier put it, “[t]he eruption of conflict and civil war in the 1990s, in both Rwanda and eastern Zaire, had its origin in modern struggles for power and wealth” that are ultimately traceable to “[t]he power of shamelessly twisted ethnic argument for the sake of class privilege.”

Demographic pressure, lack of land and the decline of the price of commodities such as coffee all contributed to create an explosive situation. Of course, on its own terms such an analysis does not necessarily dispute the operative effect of a category such as ethnicity, but it does portray it as fundamentally derivative of a material infrastructure.

II. A critique: When obfuscation of identities becomes a form of racism

What, then, should one make of this tendency to turn a blind eye to race and ethnicity? How does it fare, even in its best form, as a specifically anti-racist posture in view of evolving global debates about the nature of race, racism and anti-racism? Drawing on debates that have been more prominent in the Anglo-American tradition, this section will seek to gradually tease out some of the blind spots and limitations of the French and Rwandan postures.

To understand the potential problems of the denial of race/ethnicity in the French and Rwandan context, one must dig deeper into some of the fraught normative foundations of the project of unitary civic citizenship. Many of the critiques of racial blindness, notably as they have emerged as part of the US legal debate, come under the heading of what Avery Gordon and Christopher Newfield have described as a form of “liberal racism” which

 rejects discrimination on the basis of race or color and abhors the subjection of groups or individuals on racial grounds. But it upholds and defends systems that produce racializing effects...it treats the categories through which racism operates, is felt, and is addressed as conceptual errors. It thus directs less attention to the histories, current forms, and social effects of racism (though it agrees racism is a problem) than to the problems of race and racial identity, categories it considers politically troubling and intellectually flawed. Liberal racial thinking seeks to go “beyond race” and does not support racialized perspectives on racism on the grounds that they are a kind of reverse racism.

A first critique in that vein might, for example, point out that although racial blindness can certainly be rationalized as a way of avoiding some of the pitfalls of racial and ethnic categorization, that is not the same thing as saying that racially blind policies were actually adopted for that purpose. Nor is there any reason to presume good faith, take liberal principles at face value, or hypothesize that they are truly guiding policies as opposed to sophisticated rationalizations. In Rwanda, the opportunism of ethnic blindness is less evident given its claimed motivation in avoiding a repeat of a tragedy of the immediate past. In France, however, there is arguably something disingenuous about the extremes to which the discourse of racial blindness has been taken under the guise of avoiding another Vichy. For example, France had adhered to an abstract concept of civil citizenship long before the issue of how to deal with diversified immigration occurred, for reasons that had little to do with those invoked in contemporary debate, and that may, notably, be inimical to a modern agenda of inclusion of minorities. Indeed, the defensive reactivation in France of the discourse of civic citizenship arguably owes less to a continuous evaluation of the Vichy legacy than to a perceived need to close ranks in the context of threatening globalization, a deeply ambivalent relation to immigration from former colonies, not to mention an almost Pavlovian suspicion of post-colonial ideas in vogue in the Anglo-American world from the 1980s onward. The problem of racial or ethnic reification may be a very real one, but racial blindness is not necessarily the response to it that it claims to be.

More importantly, France’s Republican assimilationist agenda in effect long coexisted with actual exclusion based on race and ethnicity, making the contemporary case for neutral citizenship in order to avoid reifying categories and imposing individual identification a particularly ambiguous one. For example, slavery was reintroduced in the French colonies after being briefly banned during the Revolution. When colonial France found it convenient to develop ethnic statistics for its dependencies, it did so without much concern for Republican principles. Nor did ethnic blindness before Vichy protect France from severe bouts of anti-Semitism. While it may have been the official and legal policy, this does not mean that attention to race did not powerfully shape currents of thought and the reality of

relations of social domination. The suspicion thus emerges over time that racial blindness is less about avoiding some of the pitfalls and excesses of classification (as claimed in the “best case”) than it is about ignoring race and ethnicity for the wrong reasons. In fact, racial blindness may conveniently help de-problematize race relations and serve as little more than a “legitimizing ideology.” Where in Rwanda ethnic blindness is part of an effort, however misguided it may otherwise be in its manifestations, to move beyond the obvious colonial roots of the Hutu/Tutsi dichotomy, in France racial blindness manifests a deep continuity with its colonial past. Nonetheless, it is not implausible even in Rwanda and despite the a priori more justifiable and recent character of anti-ethnicism there, that it effectively only serves to de-problematize under a national abstraction the relative exclusion and marginalization from power of the Hutu. This is nowhere more visible, for example, than in the commemoration of the genocide, notably in schools, as exclusively against Tutsis at the expense of Hutu victims.

Second, we cannot easily assume that processes of de-ethnicization are free of their own ethnic bias and are not in fact a more or less covert agenda of pushing one national-ethnic project at the expense of minorities. In fact, de-ethnicization of a sort may be merely replaced by some form of ethnic nationalism. As McCrudden and O’Leary put it:

[W]hat is deemed to be civic is rarely devoid of ethnic content and therefore rarely neutral. The civic is rarely a true fusion of diverse ethnic influences; it is more usually a “secularized” version of the culture of the dominant group.... The dominant group, or the most likely dominant group, tends to define itself as civic and to deem its minority challengers as ethnic. Differently put, when the dominant ethnic group controls public institutions, it is able to define what is “civic.”

For example, as the work of Andrea Purdeková has shown, the de-ethnicization of post-genocide Rwanda has really been another form of

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national re-ethnicization. Rwanda did not so much make the transition from ethnic-based allegiances to civic-based ones, as the switch from several ethnic identifications to a national one, based on a reimagined vision of a pre-colonial Rwandan ethnos. This construction has been criticized as largely arbitrary and historically tendentious. What this reminds us is that the republican state’s own identity is often framed in the same univocal terms that it decries: nationalism, even abstract universalist nationalism, often partakes in the project of foregrounding a particular group. We thus have reason to be sceptical of processes of de-ethnicization which are in essence part of an identity grab, in diverse societies, by one ethnic group over others, even though they may be more or less subtle about it (for example, the “tutsification” of Rwanda or Israel as a “Jewish” state).

In fact, even in cases where the de-ethnicization is more clearly framed as linked to the construction of a polity based on civic citizenship, it will often be hard to exclude some lingering element of more or less covert ethnic nationalism. For example, in France the official discourse on Republican citizenship in practice coexists and has always coexisted with a popular discourse with strong nativist undertones about who is really French. Racial blindness is often only prevalent within a particular elite, and at times not even there. Moreover, political citizenship in France has long coincided with actual patterns of exclusion based on racial or ethnic stereotyping, which, for example, effectively excluded black and Arab former colonial subjects from citizen assimilation. In fact, even a concept of political citizenship can, over time, develop its own quasi-ethnic undertones, as if attachment to certain values defined the French nation in exclusive terms in relation to an “other” (i.e., the migrant) that is increasingly seen as incapable of assimilation because he holds fundamentally incommensurable values. It is notable in this context that one commentator of the Conseil constitutionnel decision which struck down the provision of a law that would have permitted ethnic statistics praised the Conseil for acting as an “interprète du pacte politique et social français” and notably the “mythe fondateur: l’égalité républicaine,” almost as if ethnic differentiation hurt Frenchness more than the fight

66. Purdekova, supra note 16.
against racism. In contemporary Rwanda, being Rwandan is often understood by the Hutu as being Tutsi.\textsuperscript{69}

Indeed, because the politics of civic citizenship are suspected of being for a particular political group, they are also naturally suspected of being against others. The politics of building a political citizenship may draw on processes of differentiation within and without the polity that have clear distributive costs. Some—those who do not fit into the newly dominant national values—will be asked to sacrifice more than those who implicitly already correspond to the national socio-type. For all their apparent neutrality, universal and civil policies are occasionally specifically designated at denying minorities certain rights. In France, for example, laws that apply equally to all on their face are regularly suspected of being conceived with certain minorities in mind and therefore a significant factor in indirect discrimination.

Several examples come to mind. First, the debate on the veil (hijab, chador, etc.) was often a thinly disguised attempt at targeting a particular group that could not be explicitly designated in ethnic terms, but in a context in which everyone understood who was referenced (i.e., Muslim women). The second example is the gypsies of France. The category “gens du voyage” in French law presents itself as applicable to all kinds of nomads when, in effect, it is implicitly understood to apply exclusively to the Roma.\textsuperscript{70} Even when laws are not explicitly conceived as applying to certain groups, administrative or police practices may reorient them in that direction (for example, ethnic profiling in the post 9/11 context in France).\textsuperscript{71} Third, while the dominant a-racial narrative in Rwanda has not gone as far as to make it impossible to talk about the genocide in ethnic terms, it has contributed to the exclusion in the post-genocide context of


\textsuperscript{71} The North African minority is much more likely to be stopped and searched in France: Indira Goris, Fabien Jobard & René Levy, Profiling Minorities: A Study of Stop-and-Search Practices in Paris (New York: Open Society Institute, 2009) at 10. Interestingly, while ethnic statistics are generally prohibited, the one agency to make use of them in France is the Direction centrale du renseignement intérieur, which does so for security reasons. It is as if statistics were seen as less problematic when they permit the further surveillance of certain minority groups.
the narrative of the indigenous Twa as a henceforth unrecognized and almost invisible group. 72

Third, in some contexts the denial of ethnic identity raises familiar liberal concerns linked to human rights and the protection of basic liberties. The denial of identity is prone to and dependent on violence. This is as evident in the construction of France (and, to a degree, its colonial expansion) as it is in the construction of post-genocide Rwanda. The symbolic violence of republican-assimilationist ideals lies in the degree to which one’s belonging to a group other than the nation may be a significant part of individual experience. It decrees from above the relevant identity on the basis of the needs of a particular national project rather than what may be the aspirations of some individuals. Put simply, identities that are not reducible to the national one are sidelined, their existence minimized. In France this has historically translated into the official marginalization of minority languages, the reduction of minority cultures to folklore, and the regimenting into a unitary identity.

As Stanislas Marie Adelaide, Comte de Clermont-Tonnerre argued on 23 December 1789 in the French National Assembly, “[w]e must refuse everything to the Jews as a nation and accord everything to Jews as individuals… It is repugnant to have in the state… a nation within a nation.” 73 In this quotation it is evident that the French nation is the relevant unit—the “we” is the subject, whereas the Jews are the object. Identity is relegated entirely to the private sphere, and is seen as incompatible with the affirmation of collective existence within the public sphere. To partake in the nation as a full citizen was typically framed, particularly in the colonial context, as exclusive of other seriously practiced cultural affiliations. Although colonized peoples might exercise citizenship, it was always as a result of forsaking their non-French identities and acculturating thoroughly. This basic pattern has re-emerged in post-colonial France, where citizenship is increasingly seen as something that should result from a prior process of thorough acculturation. In other words, the universalism implicit in the concept of citizenship is in practice dependent on new entrants being considered “sufficiently like us” to partake in the life of the polity.

Notably, the construction of a civic identity may in many cases depend greatly on a form of authoritarian politics. In Rwanda, there is little doubt

73. Natan Sznaider, Jewish Memory and the Cosmopolitan Order: Hannah Arendt and the Jewish Condition (Malden, MA: Polity Press, 2011) at 1848 [emphasis added].
that “whilst public expression of political identities has been largely ‘de-racialized’, this has been done in a very top-down and authoritarian manner.”

In effect, the prohibition of “ethnicism” in Rwanda, as arguably in the rest of the African continent, is an instrument wielded by the government to ban opposition political parties and to shrink political space. It has the effect of stifling expression about legitimate grievances, and indeed may even compromise the very memory of the genocide by giving a distorted view of its causes. The trial and conviction of political opponent and presidential hopeful Victoire Ingabire, in particular, has illustrated the difficulty of fully shedding light on the grievances of the Hutu in a context where to even mention ethnicity puts one at risk.

More generally, the Kagame regime has used the fear of ethnicism to portray the curtailment of civil and political rights as necessary to manage ethnic tensions. Even policies of reconciliation may appear to have a dark side when carried out under the slightly Orwellian auspices of an authoritarian government, one prone, for example, to organize re-education camps to help create the new “Rwandans.” The laws that criminalize “divisionism,” “genocide ideology” and “sectarianism,” are wielded quite arbitrarily by the authorities. In the case of the Twa of Rwanda, the government has gone so far as to threaten withdrawing funding from non-governmental organizations as long as the group is designated as an indigenous minority.

One of the dangers of this oppressive refoulement of identities is that they will re-emerge with a vengeance. In France, the rise of the National Front can be seen as paradoxically profiting from a Republican discourse that shuns racializing processes, and in the process allows institutional

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racism to prosper.  
Although the two are often presented as being at loggerheads, they in fact share a certain affinity, and may even make each other possible. Similarly, there is something ominous about Rwanda’s ethnic denialism and some have expressed the fear that in the education context it might “inhibit disagreements—including potentially productive ones—for fear of their erupting into larger and more destructive conflict” in ways that “might actually lay the foundation for further societal violence.”

Fourth, the denial of ethnic identity for the purposes of better integrating minorities should ultimately be assessed functionally on its merits. The question is not simply whether it is the right policy in the abstract, but whether it works in terms of its own stated goals, namely to do away with racializing and ethnicizing thought. In that respect, the verdict of observers on Rwanda is typically gloomy. It has been noted, for example, that “as much as the former regime was overly vested in the idea of Hutu supremacy, these state contemporary practices perpetuate in a much more tacit fashion what they are supposedly eradicating—Hutu and Tutsi sub-cultures or awareness.”

This is partly ascribed to the toxic silence that then inevitably surrounds issues of ethnicity:

[A]voiding reference to ethnicity has allowed participants to avoid addressing directly the nature of ethnicity in Rwandan social process. Ironically, this approach has allowed popular stereotypes to thrive and has contributed to a policy which implicates individuals on corporate ethnic grounds, such that the worst excesses of members of one group are extended to all members of that group, on both sides.

Indeed, much anecdotal evidence suggests that racial blindness has had, if not exactly the opposite of the effect intended, a tendency to merely push racial and ethnic identification below a thin surface, that leaves space for a complex of coded references (victims/perpetrators, French/English speakers, etc.). Others have contended that while ethnic blindness may favour local coexistence in the short term, it also inhibits the emergence of strong critical discourses that would deal with some of the cleavages that

85. Newbury & Newbury, supra note 1 at 294.
led to the genocide in the first place, leading to parallels between ultra-ethnicized pre-1994 Rwanda and its superficially ultra-de-ethnicized, post-1994 version. The trend towards “pathologizing African identity-discourse” has been challenged as obfuscating frank engagement with some of the sources of inequality and violence. Ironically then, abstract universalist discourse is guilty of the same sin of obfuscation that it accuses its adversaries of, because in decontextualizing conflicts that clearly have racialized and ethnicized dynamics (be they proxies for deeper material struggles) it makes it impossible to begin to understand them. This is no small irony given, for example, the Rwandan government’s otherwise consistently stated absolute goal of avoiding a repetition of genocide.

In France, the refusal to entertain notions of race and ethnicity in official discourse even for the purposes of fighting racial and ethnic discrimination has arguably deprived the fight against discrimination of what would be its minimum conditions of knowledge. One cannot fight what one does not know or refuses to see. Or rather, to be more precise, the denial of race and ethnicity as rational categories of public administration has recast racism as the fundamentally irrational activity of a few (for example, members of the National Front and racist “petits blancs”) who are accordingly (and of course rightly) stigmatized while entirely ignoring the role of race and ethnicity as diffuse markers of structural discrimination. Racism is made to appear abnormal rather than endemic. In Rwanda the focus on criminal repression, powerfully reinforced by the post-genocide transitional justice project, also reinforces a sense that racism is the doing of the génocidaires alone rather than anything more fundamental.

At any rate, even if the project were taken at face value and did not appear on its face to be a vehicle for some underlying discriminatory program, its social engineering formula (i.e., stop talking about things and they will go away) is simplistic at best. It appears as little more than a recipe for inaction and is thus easily suspected of being “aveugle au racisme” rather than “aveugle à la race.” In practice, racial blindness coexists with the continuing influence of race and ethnicity as structuring forces in the French and Rwandan public spheres.

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89. Möschel, Hermann & Grigolo, supra note 3.
90. Eric Fassin, “Aveugles à la race ou au racisme: Une approche stratégique” in Fassin & Fassin, supra note 61, 106.
But there is more to this than the mere failure to equip the state and the public sphere with the right administrative and political tools to understand the claims made in the name of race and ethnicity. Racial blindness has more specifically historical and historiographical consequences. Even as a society may aspire to put its more explicitly discriminatory past behind it, the insistence that race and ethnicity do not exist today (even if it were true) can quickly lead to the claim that they did not exist yesterday either, through a sort of retrospective and profoundly revisionist rewriting of history. It makes it impossible to identify members of certain minorities as having suffered specifically from past events of oppression, lest the equality between citizens be challenged by what is understood as, fundamentally, an identity claim. In that respect, the reluctance to acknowledge the presence of victimized minorities in its midst has caught France wrong-footed in terms of dealing with its slave-owning and colonial past. In being blind, therefore, it also risks being deaf to the demands for justice that are advanced by historically victimized communities, who are at best accused of disrupting the Republican consensus, and at worst of being ungrateful communitarians who threaten the country’s unity. That this is ultimately an untenable situation is shown by the fact that the Republic was eventually forced to acknowledge its responsibility for the deportation of Jews during the Vichy period who were, needless to say, not treated simply as French citizens but were targeted because of their Jewishness. However, thus far this has not led to similar recognition of France’s responsibility for la traite des nègres in the context of suspicion surrounding the emergence of a black constituency within the Republic.

In Rwanda, it is of course impossible to deny the Tutsi their victim status as a result of the defence of the Rwandanité, but the project to effect past-looking reparations is clearly in tension with the forward-looking goal of constructing a de-ethnicized society. At every turn, a purportedly de-ethnicized society will be reminded—that not so long ago pseudo-ethnic categories were used to kill a particular group, in ways that powerfully re-inscribe the notion that these categories were not made from thin air. As a result, either victims will be sacrificed

92 Magali Bessone, Réparer les injustices coloniales: Perspective transitionnelle sur la justice réparatrice (2015) [unpublished, archived at GRIPP Montréal].
93 This is even though, unlike French Jews, victims of French slavery and colonization were clearly not French citizens at the time and therefore would have even less reason to be loyal to a Republic that excluded them.
and asked not to put forward claims based on their ethnicity that seem to belie the forward-looking project of reconstruction, or they will push their claims in ways that make a univocal account of Rwandanité highly problematic. In effect, commemorations of the genocide in post-genocide Rwanda offer the somewhat incongruous spectacle of a post-ethnic society very much honouring the ethnicized victims of the genocide, in ways that simultaneously reinforce and undermine the official reconciliation discourse by making it incongruous and “disabl[ing] comprehension”\(^{94}\) of the genocide.

Fifth, the neglect of racial and ethnic identities by the state must be evaluated in light of claims made by minorities for the recognition of such identities and the increasing real world gap between the theory of racial blindness and the practice of racial self-identification. In effect, the failure of assimilationist policies is often betrayed by the performative manifestation of racial and ethnic identity of certain groups. In France, it could be argued that the quite surprising recent activation of ethnic discourses that had been effectively suppressed for decades is a reaction to the failure of the integrationist civic citizenship promise.\(^{95}\) Of course, the mere manifestation of claims for recognition is not a sufficient reason to recognize them. Nonetheless, the failure of the project of neglecting ethnicity in favour of abstract citizenship is put in stark contrast when such minorities argue (which they sometimes do) at cross-purposes with the state over that very issue, and thus seem to constantly belie the myth of neutral citizenship.

Individual and collective self-identification by minorities themselves in (partially) ethnic and racial terms is bound to be a thorn in the heel of projects of racial and ethnic blindness. If the argument for civic citizenship is ultimately the protection of groups through a sort of liberal dissolution into the corpus national, then why do such groups, speaking from what one would assume to be their privileged standpoint to understand what discriminations they suffer from, denounce the (in their eyes) empty promise of civic citizenship? This is ultimately the puzzle that the race/ethnic skeptic must address: the continuing popularity of these notions even among those who, on one reading at least, are or have been the

victims of them, and even in a context where we have come to be sceptical of such notions describing much that is real in the way they were supposed to operate. The risk of an over-racialized or over-ethnicized reading of society, then, should be appreciated in a context in which groups argue vocally for the taking into account of their identity, or at least do not straightforwardly reject the labels that are being ascribed to them. Indeed, when neutral-on-their-face laws operate against a background of daily discrimination, notably in the private sphere, it may be only a matter of time before minorities reactivate identities that are quite clearly framed as a response to the disappointments of civic citizenship.

This support (by members of racialized and ethnicized groups themselves) must be accounted for in ways that are non-paternalistic and do not simply assume political alienation. The discourse of racial “false consciousness,” and in certain cases the reproach of minorities contributing in their own way to “racist ideology,” needs to be critically unpacked. Although for obvious reasons no one is clamouring to be recognized as a Hutu in Rwanda today, the Twa at least insist that their identity, if it is ignored, will be erased. Some groups in France, notably blacks and “beurs” (second or third generation North Africans) are vociferous about their “right to be recognized.” This cannot simply be blamed on a failure to understand the promise of civic citizenship, especially not in a context in which such demands are the product of bottom-up mobilization and the result of intra-community political debate. Indeed, one could argue that the professed racial blindness of some (typically elite) minority group members is itself a form of “false consciousness”—a tendency to work for oneself and one’s group by deliberately minimizing race and ethnicity as grounds of actual discrimination. By pretending that one is already in a racially blind society, one may only seek to weaken the group solidarity of those for whom it has not realized its promises.

Sixth, and perhaps most crucially, absolute racial blindness only prospers as a position because it relies (like all racialist thought) on an impoverished concept of race and ethnicity in the first place. It takes at face value race and ethnicity’s most narrow, problematic and out-dated understandings, to then better ignore the profound traces they have left in society. Starting from the assumption that race particularly, but also

96. See, for example, Parti des Indigènes de la République, “L’appel des indigènes: Nous sommes les indigènes de la République!” (January 2005), online: <indigenes-republique.fr/le-p-i-r/appel-des-indigenes-de-la-republique/>.

ethnicity, are deeply misguided intellectual enterprises, the liberal anti-racialist (or even the dogmatic Marxist anti-racialist) claims to close centuries of racial and ethnic erring by simply abandoning (in the case of Rwanda) or persistently ignoring (in the case of France) any use of the notion. The poor concept of race typically implicit in race blindness then leads to an impoverished concept of racism. If racism is only understood as a form of subjective and conscious feeling of racial superiority (even a manifestation of personal evil), then it can easily be reduced to the problems of racists and extremists rather than a question of ideology. Conversely, the extent to which racism operates on a structural level, is contained in institutions, laws and language, and lives independently and perhaps in the shadow of anti-racism, is minimized.

What is missing is a sense that race and ethnicity retain power as social signifiers long after they have exhausted any definite and reliable scientific meaning. If nothing else, racial ideology goes on to structure social interactions and creates ideological realities of its own. It would be a bitter historical irony indeed if groups that are the objective victims of processes of racialization and ethnicization were denied protection on the basis that we had in the meantime (conveniently) ceased to believe in the criteria of their objective recognizability. Moreover, race and socioeconomic status are not competing factors but categories that powerfully complement each other, one of the great lessons of intersectionality. Indeed, it is possible to conceive a materialist theory of race, one which sees different groups as competing for resources without being blindsided by its apparently more superficial cultural and ideological components. For example, issues that were once largely of a material

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101. It is worth noting that in almost every case before international criminal tribunals where individuals were prosecuted for genocide, they argued that the group in question did not fall under the Genocide Convention’s definition of “protected groups.” This was also the case before the International Court of Justice where the Republic of Yugoslavia challenged Bosnia’s contention that Muslims were a distinct ethnic group.
nature may “take a life of their own” as ethno-racial constructs. Strands of Marxist theory have increasingly sought to articulate concepts of race and ethnicity that do not reduce them to class. In this context, it seems that the French intelligentsia, with few exceptions, has stood on the sidelines of decades of problematization of what race means as a social and political category, rather than as a biological concept. Minorities in France are racialized even if they are clearly not unproblematically racial or ethnic in the 19th century meaning of the terms, because they are constituted as such by cultural, historical, political and social processes. Although voices on the margin are trying to bring critical race theory to bear on the analysis of the French predicament, these remain isolated in view of both the solidity of the Republican consensus and, it should be said, minorities’ own hesitation about the degree to which they want to invest in labels such as race and ethnicity to disrupt that consensus. It is nonetheless likely that the failure to take into account the racialized reality of France is condemned to reproduce racialization, unwittingly or not.

The situation of Rwanda is perhaps the most interesting in this respect because, through the repression of genocide, it has had to simultaneously struggle with the scientific dubiousness and real-world concreteness of labels such as “Tutsi” and “Hutu.” The terms obviously created a somewhat puzzling problem for the International Criminal Tribunal for Rwanda that was tasked by the international community to prosecute the leading authors of the genocide. Was the genocide not, after all, the product of the very reification of dubious and contested racial and ethnic categories? Was there not a very real risk that the Tribunal would hand Hutu extremists an implicit victory by accepting the position about the reality of ethnic divisions that racist theoreticians had held for almost a century? At the same time, denying the Tutsi victims some form of ethnicity would have deprived them of the protection of the Genocide Convention; yet, evidently, the Tutsi were killed and they were killed as a result of being...
Tutsi. In the *Rutaganda* decision, the Tribunal sought to transcend these limitations by holding that

for the purposes of applying the Genocide Convention, membership of a group is, in essence, a subjective rather than an objective concept. The victim is perceived by the perpetrator of genocide as belonging to a group slated for destruction. In some instances, the victim may perceive himself/herself as belonging to the said group.\(^{108}\)

Although the Tribunal has since seemed to endow ethnic and racial groups with a more objective existence\(^ {109}\) lest certain individuals problematically self-identify as members of groups with dubious reality, this case law does hint significantly at a legal notion of ethnicity (and no doubt the same work could have been done with race) that is fluid and contingent, one linked to self-perception and an encounter with one’s tormentor, rather than essential and objective. To those who believe that race and ethnicity have been so debunked that any attempt to combat racism that does not give up entirely on the concept of race and ethnicity is suspected of being racist, it brings a significant retort in the form of rescuing race and ethnicity as forms of contingent identity that continue to have a nefarious influence long after they have exhausted their original pseudoscientific meaning.

The most promising trend, then, is one that aligns the law’s protection of minorities with the more sophisticated understanding of race and ethnicity as forms of subjective racialized and ethnicized identity. Such an effort cannot be suspected of reifying such concepts, since it is precisely about combatting their socially constructed and persistent legacies and disputes any contention that they are biologically determinate. It is worth noting that, even in France, serious official attempts have been made to show that group identification (in the context of ethnic statistics) need not be racist precisely as long as it is based on a “ressenti” of discriminations rather than subsumption in some pre-existing racial or ethnic categories.\(^ {110}\) Ultimately, it is hard to escape the conclusion that racial blindness can become a form of racism in which the facticity and fluidity of concepts

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such as race and ethnicity are manipulated to better deny the reality of their impact.

**Conclusion**

Discussions of race, ethnicity and multiculturalism are increasingly framed by the global circulation of ideas. For example, the emergence of a demand in France for ethnic statistics often invokes cross-Atlantic comparisons, and France’s changing attitudes to race have been somewhat influenced by EU integration. The risk is that the debate will be framed in broad theoretical terms that would be applicable to all societies alike, leading to an unwarranted level of generalization. In effect, debates on race and ethnicity are shaped by actual historical, social and political experiences that cannot be dismissed lightly and must be understood in context. There are imperialist dangers lurking behind the use of global vocabularies, generally produced by the U.S., to discuss issues whose subtle rendering must vary in each context. The U.S. discourse is certainly highly informed by American specificities, notably the significance of the experience of slavery, in ways that have not necessarily similarly shaped the conceptual apparatus of other countries.

To underline only one significant polarity, it may well be that industrialized societies and Global South countries that have been on opposite ends of racial reification processes (France and Rwanda being two among the most significant cases in point) cannot simply trade on the same vocabulary concerning race and ethnicity. Understanding how certain concepts of race and anti-racism are spread through the media and capitalist culture as well as competing and politicized academic discourses is indispensable if one is not to be manipulated by them.

Paradoxically, it is only by recognizing the particularism of national debates on these issues that one can then reconstruct them as part of a global debate both within and between traditions of thought. That it is often a complex and even fraught conversation (for example, Anglo-

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American accusations of French hypocrisy and French contempt at Anglo-American ethnic fragmentation suggests that the debate on race and ethnicity has itself become an inter-cultural debate woven into the fabric of international relations, transnational cultural dialogue and law. In this context, it is important to understand assimilationist or communitarian practices as occurring on a spectrum and increasingly talking in terms of each other. For example, the argument for multiculturalism is often couched in universalist terms—as in the proposition “community identity ought always, as a matter of principle, to be recognized as such.” Conversely, the argument for a civic citizenship neutral about citizens’ identities will often not be couched in pure universalist terms, but as expressing a particular distinct identity that is irreducible and ought to be protected as such—as in “a focus on civic identity is what characterizes us as French citizens.”

This is worth mentioning because the tendency of each argument to construct itself in terms of the other is part of what makes this discussion difficult.

Further, the mix between sensitivity to difference and attachment to an undifferentiated notion of citizenship is one that is highly country-specific and that is particularly difficult to second-guess from outside. We have little reason to believe that debates on race and ethnicity in the U.S., Indonesia, Australia, Nigeria, Guatemala, Senegal, China, Israel, Russia, South Africa, Brazil, Germany, India or Canada are the same, especially if we factor in complex processes of identity construction. While such national traditions ought to be examined critically (including on their own terms), they must also be understood as part of long-term historical processes in which the approaches that have served a society well may not be easily transferrable to another, even as they partake in a broad common liberal heritage.

By the same token, the systematic opposition to certain ideas about race and ethnicity simply because they originated in different countries can make for impoverished intellectual debate. Indeed, this article is premised on the possibility that some practices at least are sufficiently similar (and similarly problematic) to be compared dynamically. That two countries


118. In the French debate, universal republicanism is, paradoxically, a form of nationalism. Hence it is impossible to understand it except as the defense of a particular model that is seen as a form of resistance to globalization.

119. George M Fredrickson, “Race, Ethnicity, and National Identity in France and the United States: A Comparative Historical Overview” (Paper delivered at the Fifth Annual Gilder Lehrman Center International Conference at Yale University, 7-8 November 2003) [unpublished], online: Yale University <glc.yale.edu/sites/default/files/files/events/race/Fredrickson.pdf>.

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as different as France and Rwanda should, for their own separate reasons, have developed strict racial and ethnic blindness laws and practices suggests that the phenomenon can be analyzed in a comparative fashion.

Martha Minow once characterized the “[c]hallenge of [d]ifference” in terms that quite adequately echo some of the dilemmas confronting both France and Rwanda:

The dilemma for decision-makers...is how to help overcome past hostilities and degradation of people on the basis of group differences without employing and, in that sense, legitimating those very differences....How can historical discrimination on the basis of race and gender be overcome if the remedies themselves use the forbidden categories of race and gender? ....Social, political, and legal reform efforts to challenge exclusion and degradation on the basis of assigned traits continually run up against the danger either of recreating differences by focusing upon them or of denying their enduring influence in people’s lives.120

In this context, the best that can probably be said is that neither race/ethnic reification nor Jacobin ethnic blindness are inherently pro- or anti-minority. Explicit recognition of racialized or ethnic affiliation could be a way of paternalistically assigning to identities their own irreducible temporalities and geographies or of enlisting the help of communities in the prolongation of projects of state control,121 but it could just as well be part of the complex construction of more inclusive and diverse societies. Civic citizenship can be a form of vigorous and oppressive denial of ethnic groups, but might be some members of these groups’ best chance at inclusion in society.

That this is the case is perhaps reinforced by the fact that members of minorities themselves are often divided on these questions. One can be a member of a visible minority in Canada and either embrace multiculturalism or deplore its perceived excesses—in the context of the so-called “Charter of Values” debate in Québec, there was no absence of individuals with Muslim backgrounds who argued with the Parti Québécois for greater secularism. Similarly, one can be a French member of a minority and clamour for recognition or indignantly defend the Republican status quo. Presumably, there are Tutsis and Hutus on either side of the debate about the reconstruction of a race blind polity in Rwanda. That opinions can be so starkly divided speaks, ultimately, to

the fractured nature of racial or ethnic groups whose political agency is inevitably exercised in contradictory ways, far from an imagined organic “intérêt de race.” It also speaks, therefore, to the fundamental aporia of race, racism, and anti-racism.

In many countries, and aside from the extreme right wing, it is also worth acknowledging that these debates proceed within a fundamentally common anti-racist horizon that is not as superficial as is sometimes hinted. For example, in France the debate on ethnic statistics pits older, more official anti-racist organizations with a long-term commitment to the a-racial anti-racism of the French Republic (such as SOS Racisme, itself traditionally led by “issus de l’immigration” French citizens) against more recent and community-oriented organizations, often with strong ties in the Afro-French or Maghreban “banlieues” communities, and a more vocal post-colonialist discourse (“les indigènes de la République”). Sometimes, organizations reflect what can only be understood as a deep internal ambivalence. For example, the main representative organization of blacks in France, the Conseil représentatif des associations noires, is both in favour of quotas and more active representation of African-French in the public sphere, yet supported François Hollande’s proposed suppression of the word “race” from the Constitution on the basis that race did not really “exist.” This is evidently the stuff of complex politics and it does not serve the debate, for example, to portray minorities as inevitably pro-minority recognition and majorities as inevitably pro-civic citizenship.

At any rate, it is anti-racism itself that is often a complex posture precisely because racism and race are fraught concepts. Instead of justifying a strong stance for or against the public highlighting of racial and ethnic difference, the study of practices of ethnicization and de-ethnicization brings attention to the complex dynamics of obfuscation potentially involved in both, and the need for creative anti-racist politics. If both sets of practices are problematic, it is less on account of some universal notion of how identities should be managed than because of something that goes deeper and which might be linked to how societies “imagine” themselves, and whether they can do so in ways that do not do violence to the reality of aspirations to recognition. Excesses of ethnicization/de-ethnicization often reflect a society’s inability to see itself as it is, either lying to itself about its unity/homogeneity or embracing too willingly its divisions in ways that sacrifice the ideal of common citizenship. Both racialization and de-racialization can be abusive in the right circumstances, therefore, in that both can do violence to the reality to which they contribute. In this context, the continued investment of many racialized and ethnicized minorities in the notion of civic citizenship (few, needless to say, are tempted by
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separatism) combined with a demand for greater recognition suggests a deeply dialectical relationship between racialization and de-racialization that is a far cry from the straightforward opposition posited in French and Rwandan official discourses. In many ways, it is through the recognition of one’s legitimate differences that one aspires to become fully equal.

Still, in the French and Rwandan contexts specifically, it is quite clear that what is problematic are rigid projects of blindness to the continued effects of racialization and ethnicization. One cannot simply proclaim oneself to be a post-racial society, especially not in what remains a deeply racialized environment. To be sure, fears about the reification of race and ethnicity as loaded and potentially reductionist concepts have their place and ought to be taken seriously. In this context, one may have relatively more sympathy for Rwanda’s immediate post-genocide effort to combat the sort of hysterical racialism that was used to incite hatred than for France’s persistent reluctance to acknowledge the systemic problem of racial discrimination (and diversity) in its midst. Rwanda’s is, paradoxically, an effort to construct a post-colonial identity that moves beyond colonially ascribed ethnic differentiation, even if in its rush to do so it also risks reproducing some of the worst travails of Western unitary nation building; conversely, France suggests the urgent need to explore ways of decolonizing the metropolitan territory, even when having dealt with the territorial dimension of the “colonial question” may give the illusion of an issue resolved once and for all.

Moreover, the cognizance of ethnic and racial minority problems cannot be held hostage to the fear that somewhere and sometime, technologies of the state have been deployed to treat these “problems” in ways that were illiberal and genocidal. This is especially the case in a context where vocabularies have emerged that now allow us to speak of matters of race at a safe distance from discourses of racism. Even the project of Rwandanité, therefore, is an eminently precarious and dubious one that seems to have replaced the excesses of ultra-ethnic identification with an artificial and oppressive concept of citizenship. To be clear, the recognition demanded is not a recognition of inherent and irreducible differences (characteristic of the old racialist ways) but of the legacy of racializing processes in the shadow of civic citizenship itself: in a word, discrimination.

122. As an interesting instance of how categories of thought about race cannot easily be transposed from one country to another, “black separatism” has to my knowledge only ever been a (relatively minor) US phenomenon.
Perhaps what is needed, however, as a companion to discourses that take race and ethnicity seriously is a critique of the conditions of production of racial and ethnic labels in the first place, and the fact that one is often forced by a majority to endorse an identity out of defensive solidarity, when one should really never have to make such a choice. Indeed, the privilege of the majority is that it is never called to identify itself, that it does not have an identity, that it is the faceless face of identity assignation to others. This is where “civic citizenship” in a country like France often has it easy because it is never forced to reveal its problematic associations with an implicit ethno-national project that has successfully eluded detection through centuries of assimilationist policies. Identity politics is presented as the business of minorities, one that majorities never feel the need to engage in (until and unless, that is, they think they are treated as minorities, a dangerous meme among some extreme right groups).

Seen in this light, the challenge for ethnic and racial groups suffering from discrimination is not only or even necessarily to obtain their recognition as such; rather, it is to uncover the conditions that make their identification necessary or at least possible, including through the law, in the first place. It is, moreover, to situate these conditions more generally in an analysis of the unfolding of a global, modern and capitalist world order. In order to do this, it is also the majority’s own identity that needs to be problematized. In the same way homosexuality has heterosexuality, or feminism has patriarchy, races and ethnicities have a broad, partly invisible and rarely acknowledged “whiteness” with which to reckon.124 “Blackness” does not exist as a category in the absolute (to state the obvious, it is doubtful any pre-colonial Africans ever considered themselves as “black”) but very much in relation to a historical construction of difference with whiteness. George Lipsitz described “the unmarked category against which difference is constructed, whiteness never has to speak its name, never has to acknowledge its role as an organizing principle in social and cultural relations.” 125 Already in the colonial encounter, “the juridical constitution of racial otherness was integral to determining the boundaries of whiteness” as a “structuring principle of power.” 126

One could argue that regimes of racial blindness are particularly in denial of their *whiteness*. Whiteness is here both a literal whiteness, but also more generally a stand in for the “colour” that either passes as neutral or acts as a referent in society, and could therefore be described differently in other societies. It is the whiteness of the “Français de souche,” of the “pur laines” in Québec, but also the whiteness of the Tutsi in post-Genocide Rwanda, or of the Caribbean creole oligarchy. It is a constantly evolving category that helps to define the “color lines.” Race and ethnicity are structurally determined in relation to shades of belonging. They are at the very source of relationships of domination that reproduce and intersect with relations of power and class and perpetuate privilege. Seen in this light, the struggle against racism is not only (or even so much) the struggle, for example, of “black people” for their rights, but the problematization of what it means to be “black” through a problematization of what it means to be “white.” Only in doing so can one hope to transcend the reproduction of racial relations of domination and truly decolonize the French Republic and contemporary Rwanda.
