

Rodrigo's Eleventh Chronicle: Empathy and False Empathy

RICHARD DELGADO

In Which Rodrigo Offers a Solution to the False-Empathy Dilemma, and Suggests Two Roles for White Reformers and Fellow Travelers

We picked out our desserts, which the waiter quickly brought, Rodrigo's a creamy French-Vietnamese pastry of some sort, mine a tangy lemon sorbet. After eating for a few minutes in tacitly agreed-to silence, I looked up at Rodrigo.

"I hope that my real dessert will be that you tell me what your solution is to the predicament in which we find ourselves. Reformers and minorities get little if any genuine empathy in courts, or indeed anywhere, and can count on no one but themselves to climb out of poverty and despair. Life's road is hard going. Can't we find confederates? If we can't look to our liberal friends, to whom can we turn?"

"Empathy would work in a just world, one in which everyone's experience and social histories were roughly the same, unmarked by radical inequality. In such a world, we would have things to trade. There would be reasons for needing to get to know others, for understanding what they feel and need. But we don't live in such a world."

"And since we don't," I said, "what should we do? We can't give up, can't just sit around bemoaning our plight or plotting revolution. There must be a strategy, a set of procedures for operating in an imperfect world."

"I do have a plan," Rodrigo said, drawing a deep breath. "It contains three provisions. It's all based on the idea that false empathy is worse than none at all, worse than indifference. It makes you over-confident, so that you can easily harm the intended beneficiary. You are apt to be paternalistic, thinking you know what the other really wants or needs. You can easily substitute your own goal for hers. You visualize what you would want if you were she, when your experiences are radically different, and your needs, too. You can end up thinking that race is no different from class, that blacks are just whites who happen not to have any money right now. You can think that middle-class blacks or ones with professional degrees have it made, need no solicitude or protection, when their situation is in some respects worse than that of the black who lives in an all-black, working-class neighborhood."

"Your solution, Rodrigo, your solution," I urged.

"Oh—as I mentioned, I think the solution lies in three parts. The first is essentially to

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give up on the very idea of empathy as any sort of primary tool for our advancement. We must realize that persons of radically different background and race cannot be made vicariously to identify with us to any significant extent. Their help, if any, is likely to be misguided, paternalistic, mistaken, and unhelpful. This is especially so if they are lawyers and other court officers. Legal empathy is even rarer and less trustworthy than other kinds. Law carves up your story, serves it up to an uncomprehending judge, atomizes your claim, and sparks real resistance when it tries to do something—as it does every century or so.”

“And then what?”

“The next step—after abandoning hope in liberal empathy and cross-race, cross-class identification—is to urge one of two strategies that I think *will* work. Would you like to hear them?”

“Yes, yes,” I said impatiently.

“The first role for white folks who would like to be helpful is what Noel Ignatiev and John Garvey call the race traitor.¹ Have you heard of the idea?”

I strained to remember. “I think I have. Don’t they have a magazine by that title?”

“Yes,” Rodrigo replied. “I brought you a copy. It’s in that envelope back in your office. But I see you know about it already. Just when I think I have an idea or approach that will surprise you, it turns out you know about it already. It’s kind of discouraging talking with you, Professor.”

“Stop the flattery. You’re miles ahead of me in most respects. I just have a little more experience than you. Tell me how you see the race traitor idea applying to our empathy dilemma.”

“White people who want to help can become traitors to the white race. As Ignatiev and Garvey put it, ‘Treason to whiteness is loyalty to humanity.’² For example, if a white person is in a group of whites and one of them tells a racist joke or story, the white can look up in surprise and say: ‘Oh, you must have told that story in front of me because you assumed I am white. I’m not. I’m black. I may look white, but my ancestry is black. And let me tell you why I found that story offensive.’”³

“In other words,” I said, “they identify with blacks radically and completely, not by imagining how they would feel if they were black, but by identifying themselves with blacks when other whites ask for their help in reinforcing white supremacy.”

“Yes,” Rodrigo continued. “And that includes rejecting white privilege, so far as a white-looking person is capable of doing that. In dozens of encounters in life, one takes on the role of being, acting, and speaking out as though one were a black—that is, one of us.”

“I’m not sure how that is possible,” I said. “Could you give me an example?”

“Ignatiev and Garvey themselves give many. Whiteness is a social construct, basically a readiness to accept many privileges that come to you if you look and act a certain way. If you refuse to be white you begin the process of destabilizing this construction that society relies on to preserve the current system of racial subordination. So, suppose a neatly dressed white person, who happens to be a race traitor, is pulled over by a police officer and then let go with a warning. The person ought to question the officer, ‘Would you have done this if I had been black?’”

“So whites ought to reject racial privilege and challenge manifestations of racism that they observe.”

“Yes. And if enough people do this, the system will collapse, because whites will never be sure which other whites are confederates—are loyal to the white race in the sense of accepting unearned privilege and conspiring tacitly to keep blacks down. The race traitor not

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only opposes racism but seeks to disrupt its normal functioning, and does so from within. Therein lies the concept's power. The color line is not the work of a few racist individuals but of a system of institutions and practices. Race traitors challenge each of these at every turn: tracking in public schools; location of public housing on the other side of the track; so-called meritocratic criteria that firms and institutions rely on unthinkingly, even though they exclude blacks and women. They put their lives on the line."⁴

"So the idea is to show total solidarity with us and our cause."

"Yes, even though this means risking one's job and friendships with whites. If the police and courts could not be sure that every person who looks white is loyal to the system, that system would fall.⁵ For then, what would be the point of extending privileges based on race? Whites would reject loyalty to their own race, rejoin the human race, and the idea of the white race would fall of its own weight."

"A radical proposal, Rodrigo," I said. "I'm not sure many of our white friends would adopt it."

"It does entail a radical commitment," Rodrigo conceded. "But, as I mentioned, if only a small proportion of whites did, it would seriously jeopardize the system of white-over-black hegemony that has reigned in this country for over four hundred years. And the form of identification it would generate would be real. As we were discussing earlier, empathy is not particularly reliable. One learns only from his or her own experience, not that of others. The race traitor role allows people to begin to acquire that experience."

"Could a progressive lawyer be a race traitor? Is this a solution to law's confining role?" I asked.

"I'd like to think so," Rodrigo replied. "But I'm skeptical, for all the reasons we just mentioned. Law is structurally biased against empathy. Of course nothing prevents a lawyer from being a race traitor outside his or her work in a law office, nor from using law strategically, from time to time, to advocate the race traitor objective."

"Very interesting, Rodrigo, and it just might work, even if not for lawyers. But I think you said you had a second plan."

"My second plan sounds almost like the opposite of the first, but as you'll see it's not. It would envision whites working with whites to lift the yokes of oppression that burden both them and us: I wonder, Professor, if you heard the closing speech by the famous white radical at the recent Critical Legal Studies conference."

"I did. It was spellbinding, delivered with great panache. He held the entire room, even without a microphone."

"And I'm sure you recall what he said. He described his own upbringing as a member of the ruling class, as he put it—prep school, Harvard, antiwar rebellions, SDS. He was a creature of the sixties, and when he grew up turned to CLS for inspiration and support."

"He not only turned to Critical Legal Studies, he helped develop it," I interjected. "He was a founding father, helping the new movement carve out such notions as indeterminacy and the theory that law is essentially politics."

"And do you remember what he said, Professor, about his own engagement with racial identity groups?"

"I do. He said he had sided with Black Power and the Panthers, although as a more or less distant cheerleader and fellow traveler. He said quite candidly that he thought he had little role beyond that, and that as a member of the white privileged class he could not do much more, that there is a sort of built-in limitation. Consequently he turned to institutional pol-

itics, the politics of daily life and subvert their own office.

"What's wrong with that, and thought at the time one like him have done it."

"I don't want to seem whom all of us have learned."

"But you feel there is more."

"Yes. I keep thinking more. All it would rather than that."

"And that shift is . . ."

"I think our famous friend of his own race, that is, with the analyses and blue-collar whites, ethnicities. They have turned who helped bring about and racial justice, challenge poor and desperate."

"You are saying that with radical chic social their own blue-collar."

"Yes. They might be. Quite the contrary. Elation from their own maintain unsafe worries at the drop of a interest, all at the expense."

"So you are saying revolution and the time."

"I am," Rodrigo said, their campaign to others, shivered a little of Western legal theory. Empathy—the which is hard work."

"Is it too late?"

"It's never too late. Generous factories, which has a fancy law department led to think we are upward, to the ceiling preparing to do too. Workers and reason he should

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itics, the politics of daily life, teaching elite law students how to survive in the corporate world and subvert their own offices and institutions. That and deconstructing legal doctrine."

"What's wrong with that?" I asked, my voice rising slightly. "I was there when he said it, and thought at the time that he was being commendably honest. What else could someone like him have done in life?"

"I don't want to seem harsh," Rodrigo said quietly. "He's a famous figure, one from whom all of us have learned much."

"But you feel there is more he could have done?"

"Yes. I keep thinking that someone with his charisma and prodigious talent could have done more. All it would have taken would have been a slight shift—a few degrees this way, rather than that."

"And that shift is . . .," I cajoled.

"I think our famous friend should have devoted himself, at least in part, to working with his own race, that is, with disaffected working-class whites. He could have supplied them with the analyses and leadership that they needed, and at a crucial time. Working-class, blue-collar whites, ethnic whites, and poor Southern whites today are arrayed against minorities. They have turned against us with a vengeance. They are the 'angry white men' who helped bring about the Republican revolution that is setting back the cause of social and racial justice, challenging affirmative action, and demanding the end of welfare to the poor and desperate."

"You are saying that if the famous white radical, and people like him, had stopped flirting with radical chic social movements like the Panthers back in the sixties and gone to preach to their own blue-collar brothers and sisters, we would not be in the fix we are in today?"

"Yes. They might have listened to him. Lower-class whites are not our natural enemies. Quite the contrary. But they think they are. Elite whites neatly use them to deflect attention from their own crass materialism, manipulation, and profits—from the way they maintain unsafe workplaces for the workers; pay bare subsistence wages; phase out factories at the drop of a hat, creating real destitution; and send jobs overseas if it suits their interest, all at the expense of workers."

"So you are saying fancy Crits in elite positions at the top schools aided the Republican revolution and the terrible turn things have taken for our people and for the poor?"

"I am," Rodrigo replied with conviction. "They took the easy way out. Instead of taking their campaign to the factories and lower-class tenement districts, they listened to the Panthers, shivered a little, and went and wrote elegant law review articles about the structure of Western legal thought, mostly for each other's benefit. They abandoned their own people. Empathy—the shallow, chic kind—is always more attractive than *responsibility*, which is hard work."

"Is it too late?" I asked.

"It's never too late. Look at what Ralph Nader is doing. He's writing for workers in dangerous factories, consumers who buy unsafe products. He communicates effectively. He has a fancy law degree, yet he addresses his message to those who unfortunately have been led to think we are the cause of their economic pain. He's trying to redirect their attention upward, to the corporate elite that is oppressing us all, much as Martin Luther King was preparing to do toward the end of his life, just before he was assassinated. Robert Kennedy, too. Workers and middle-class whites listen to Nader—some of them, at least. There's no reason he should be working at this alone."

"Nader also spoke at the conference you mentioned. He scolded the Crits for devoting their lives to figuring out how many angels can dance on the head of a pin."

"I missed that session," Rodrigo said. "But I heard it was great. I'm hoping it's on tape. I'd like to see it sometime."

"I think they were taping it," I said. "Maybe your library can get it."

"I'll see when I get home," Rodrigo said. "But, speaking of home, Professor, I think I'd better be moving along soon. Thanks for the company. As usual, you're a great sounding board."

"You've helped me as well. I'd often wondered why empathy for our people, our causes, and for the poor seems to be sharply declining. You've helped me figure out why, and what we might do about it."

Notes

1. See 3 RACE TRAITOR (Spring 1994); 4 RACE TRAITOR (Winter 1995).
2. See, e.g., RACE TRAITOR, *supra* (front covers).
3. See *Treason to Whiteness Is Loyalty to Humanity*, reprinted as Chapter 100 of this book; see also Edward H. Peeples, *Richmond Journal: Thirty Years in Black and White*, 3 RACE TRAITOR 34, 45 (Spring 1994) (describing author's act of "racial sedition" in denying he was white, when confronted by a store clerk who insisted that he could not intend to buy the "colored newspaper").
4. *Treason, supra*, (describing "six ways to fight being white"); see also John Garvey, *Family Matters*, 4 RACE TRAITOR 23, 26-30 (Winter 1995) (describing opposition to school "gifted program" structured to favor white children).
5. *Treason, supra* ("Our strategy seeks to bring together a determined minority, willing to defy white rules so flagrantly they make it impossible to pretend that all those who look white are loyal to the system of racial oppression."); see *When Does the Unreasonable Act Make Sense?*, 3 RACE TRAITOR 108 (Spring 1994) (editorial).

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