

NON-RACIALISM AS AN EFFORT TO ASSIMILATE TO WHITENESS

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SUMMARY OF DISSERTATION

South Africa is one of the most unequal countries globally, and inequality is distributed along racial lines. The impoverishment of black people and its endurance is a product of colonialism and apartheid projects. The PIU problem (poverty, inequality and unemployment) is thus a manifestation of the *longue durée* of colonialism and apartheid. The notion of the *longue durée* focuses on deeply embedded and enduring traits of the social, economic and political reality.

This study focuses on the concept and discourse of non-racialism, and it shows that it exists as a political idea, a constitutional value and a social guideline. The concept of non-racialism is used in the title and is central to the research problem identified here: black impoverishment and sustained racial inequality. This study explores the role of these three interlocutors: non-racialism, neo-liberalism and whiteness in the *longue durée* of impoverishment and inequality.

The main arguments presented in this dissertation are three-fold. First, the ANC's idea of non-racialism is based on white grammar; secondly, the dominant societal perception of non-racialism is based on liberal sentiments and ideas. Finally, that neo-liberal economic policy does not fundamentally challenge the structural underpinnings of racial inequality.

Having traced the historical evolution of the discourse of non-racialism in liberation parties' emancipatory visions and in constitutional jurisprudence, this study ultimately grapples with the question whether non-racialism in its current form can contribute to a society that reflects racial justice.

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CHAPTER ONE: INTRODUCTION

1 1 Motivation

The most recent statistics released by the World Bank rates South Africa amongst the most unequal societies globally.¹ The impoverished condition of the majority black population and the endurance of this phenomenon is an outcome of apartheid policies and the colonial project.² The PIU problem (poverty, inequality and unemployment) is thus a manifestation of the *longue durée* of colonialism and apartheid.³ The notion of the *longue durée* focuses on deeply embedded and enduring traits of what is identified as the social, economic and political reality.

The Constitution declares non-racialism to be a key value in a democratic, liberal constitutional society. The PIU problem poses a direct challenge to the goal of non-racialism.⁴ This study focuses on the concept and discourse of non-racialism, demonstrating its existence as a political idea, a constitutional value, and a social guideline. The concept of non-racialism is used in the title and is central to the research problem which identifies black impoverishment and sustained racial inequality as the field of interest. This study explores the role of the three interlocutors, non-racialism, neo-liberalism and whiteness in the assessment of the *longue durée* marked by impoverishment and inequality.⁵

This study argues that the value of non-racialism as expressed by the ANC and the broader civil society is based on a 'white grammar'.⁶ In that context it is maintained the ANC state has not adequately addressed the structural underpinnings of racial

¹ Anonymous "South Africa Overview" (2019-10-09) The World Bank <<https://www.worldbank.org/en/country/southafrica/overview>> (accessed 25-01-2021).

² The reason for not capitalising 'black' in this study is to indicate that the racial categories of black and white (and a variety of others) do not carry scientific significance in this study. Race is considered an invented social category. The purpose is not to deny the significance of race as this study will make clear.

³ In this thesis PIU (poverty, inequality and unemployment) is used interchangeably with the term impoverishment. The reason for this will be elucidated in the chapters following.

⁴ The Constitution of the Republic of South Africa, 1996 (hereafter the Constitution).

⁵ In this study 'whiteness' is used to represent several features of white identity, ideology and experience. These features include racism motivated by white supremacist dogma; teleological whiteness referring to the attainment of 'whiteness' as the highest ideal of human progress and white privilege.

⁶ I develop the concept of 'white grammar' in relation to Bonilla-Silva's notion of racial grammar. See E Bonilla Silva "The invisible weight of whiteness: the racial grammar of everyday life in contemporary America" (2012) 35(2) *Ethical and Racial Studies* 173-194.

inequality so as to eradicate poverty. Instead, it is averred a 'post'-apartheid South Africa is witnessing the incorporation of black people into an economy built on white terms. This study explores how liberalism is a dominant and pervasive element in the collective idea of non-racialism and asserts that a liberal conceptualisation of non-racialism ultimately informs and aids in the maintenance of black impoverishment.

There is a recognition of law's limitation and that the "possibilities of change are primarily found in politics", nevertheless it is argued the law has a distributive function; law regulates access to social and economic resources.⁷ By extension, it is indicated that law legitimises access to and control over life-making mechanisms (for example, public and social services, healthcare, transport).⁸ On that basis the study avers it is the task of law-makers and jurisprudence to critique contemporary law's response to the legal system inherited from a colonial and apartheid past and, crucially, how law alters or maintains systems of oppression and exclusion.

1 2 Problem statement

In accordance with the factors identified above the statement of the research question is that the South African model of non-racialism operates as an effort to assimilate to whiteness and is contrary to a non-racialism that is defined by *Afrikan* humanness. The main difference between these models identified by the study is that liberal non-racialism drives a project of incorporating excluded groups into an "existing legal, political and economic regime" that was built to exclude them, whereas *Afrikan* humanness first seeks to establish cultural, spiritual and political justice.⁹ Thus, *Afrikan* humanness grapples with deeply embedded and enduring traits in terms of the social, economic and political realities stemming from colonial and apartheid 'pasts'.¹⁰

⁷ C Albertyn "Contested substantive equality in the South African Constitution: Beyond social inclusion towards systemic justice" (2018) 34(3) *SAJHR* 441 459.

⁸ I owe the use of the term 'life-making mechanisms' to Mx. B Deyi. They developed this concept in line with Foucault's conception of population management for a forthcoming PhD thesis, University of Pretoria.

⁹ MB Ramose cited in JM Modiri "Race, history, irresolution: Reflections on City of Tshwane Metropolitan Municipality v Afriforum and the limits of 'post'-apartheid constitutionalism" (2019) *De Jure Law Journal* 27 34. T Madlingozi *Mayibuye iAfrika?: Disjunctive inclusions and black strivings for constitution and belonging in 'South Africa'* Dphil thesis School of Law, Birkbeck, University of London (2018) 119.

¹⁰ Much of the structural and systemic racism that was legitimised by past regimes is still operational in the present.

It is represented that the idea of non-racialism has undergone change. At the time of the liberation struggle the idea of non-racialism served a utilitarian function as a tool for political engagement and functional alliances. Through political developments and ideological evolution non-racialism has become incorporated into South Africa's constitutional framework. The Freedom Charter's non-racial vision, which seemingly accepts what Ramose describes as "the right of conquest", has found its way into the Constitution.¹¹

I describe the version of non-racialism that dominates the collective societal imagination as liberal non-racialism. This version is endorsed by the Freedom Charter and the Constitution, as I will show. Chapter Two explores the Pan African Nationalist Congress of Azania (PAC) and the Black Consciousness Movement (BCM) visions of non-racialism and presents them as directly opposing liberal non-racialism.

This study lodges its critique of non-racialism in the context of South Africa's PIU problem, which it considers an outcome of the projects of colonialism and apartheid. Furthermore, it claims the economic approach adopted in the negotiated settlement maintains and reproduces the PIU problem. It is proposed the *Strategy and Tactics* document, adopted at the ANC's 1969 conference in Tanzania provides an unambiguous commitment to economic emancipation: "To allow existing economic forces to retain their interests intact, is to feed the root of racial supremacy..."¹²

To an extent the redistributive schemes, such as the mass roll-outs of RDP housing, have alleviated extreme poverty but critics express the view that poverty has been *deepened and reproduced* as a result of a fundamental problem that these economic policies are not structurally transformative.¹³

¹¹ "Right of conquest" refers to a process whereby Europeans automatically acquired property rights in native lands and gained governmental, political, and commercial rights over the Indigenous inhabitants without their knowledge or consent. See RJ Miller "The international law of colonialism: a comparative analysis" (2011) 15 *Lewis & Clark Law Review* 847 849 & MB Ramose "Towards a post-conquest South Africa: beyond the constitution of 1996" (2018) 34(3) *SAJHR* 326 332.

¹² V Padayachee & R Van Niekerk *Shadow of Liberation: Contestation and Compromise in the Economic and Social Policy of the African National Congress, 1943-1996* (2019) 3.

¹³ Albertyn (2018) *SAJHR* 161. Own emphasis.

The following statistics on the PIU problem draw into question the realisation of economic emancipation. First, income inequality – black people accounted for 79% of the population in 2008 but they captured only 44% of income and 41% of total expenditure. Whites, who accounted for 9.2% of the population, captured 40.3% of income and 40.9% of total expenditure.¹⁴ Furthermore, “between 2011 and 2015, a white person earned R24 646 per month on average, more than three times the R6899 of black counterparts.”¹⁵ The expanded unemployment rate amongst black people is 46,5%, while it is 14,3% for white people.¹⁶

Secondly, in respect of a more general overview of poverty in South Africa the Pietermaritzburg Economic Justice & Dignity Group’s latest affordability index (December 2020) reports that more than half (55.5%) of the population lives below the upper-bound poverty line (R1 268 per person per month); a quarter (25.2%) live below the food poverty line (R585 per person per month). The median wage in South Africa is R3 500 and each wage earner supports 4.2 people (R833,33 per person).¹⁷ The following is a statistic on households in major metros:

“According to Stats SA, of the 7.5 million households in major metros, approximately 28% are classified as poor – where monthly expenditure is less than R2 500 a month. Of these 2.1 million poor households, almost 700 000 have children aged between 7 and 18.”¹⁸

¹⁴ Anonymous “Rising inequality in South Africa: Drivers, trends and policy responses” (2012-10-29) Polity <<https://black.polity.org.za/article/rising-inequality-in-south-africa-drivers-trends-and-policy-responses-2012-10-29>> (accessed 2020-12-05).

¹⁵ D Webster “Why South Africa is the world’s most unequal society” (2019) Mail & Guardian <<https://mg.co.za/article/2019-11-19-why-sa-is-the-worlds-most-unequal-society/>> (accessed on 2020-02-28).

¹⁶ Pietermaritzburg Economic Justice & Dignity Group “Household Affordability Index” (2020-12-16) <https://pmbejd.org.za/wp-content/uploads/2020/12/December-2020-Household-Affordability-Index-PMBEJD_16122020.pdf> (accessed 2020-12-18).

¹⁷ Pietermaritzburg Economic Justice & Dignity Group “Household Affordability Index” (2020-12-16) <https://pmbejd.org.za/wp-content/uploads/2020/12/December-2020-Household-Affordability-Index-PMBEJD_16122020.pdf> (accessed 2020-12-18) & Anonymous “This is how much money the poorest are living on each month in South Africa” (2019) Businesstech <<https://businesstech.co.za/news/finance/332553/this-is-how-much-money-the-poorest-are-living-on-each-month-in-south-africa/>> (accessed 2020-01-28).

¹⁸ Anonymous “A shocking number South African households are living on less than R2,500 a month” (2019-05-30) Businesstech <<https://businesstech.co.za/news/finance/319698/a-shocking-number-south-african-households-are-living-on-less-than-r2500-a-month/>> (accessed on 2020-01-22) (accessed on 2020-01-28).

The child support grant is 25% below the food poverty line, thus is not enough to feed a child a nutritionally complete meal (R693 on average).¹⁹

The literature relating to the drivers of ANC economic decision-making is rich and varied. Padayachee and Van Niekerk argue that the ANC made a series of miscalculations and misjudgements that did not bring about the economic, social and political reform the country desperately needed.²⁰ Terreblanche argues that the ANC betrayed the black majority through the elite compromise and the adoption of neo-liberal globalisation and free-market fundamentalism.²¹ This evaluation is accounted for as a result of the ANC being under immense pressure because (among other factors) the National Party (NP) had the implicit support of Western governments. At the same time, the ANC's access to resources was extremely limited in the face of the stranglehold of the government and the white business sector.

This study does not employ dichotomous reasoning in its analysis. While I argue that the ANC's idea of non-racialism is based on 'white grammar', I do not contest that during the struggle for liberation, the ANC desired a non-racial future and the liberation of black people. The study identifies as a problem what it considers the ANC's version of non-racialism which aligns with an integrationist agenda. This agenda is what Madlingozi refers to as the "anti-black economy of recognition, incorporation and distribution".²² The dominant, liberal idea of non-racialism is premised on an assumption that 1994 signifies a decisive break with the colonial and apartheid pasts, however the study presents an opinion that this conceptualisation maintains and reproduces economic 'unfreedom' for the majority of black people. The liberal democratic constitutional framework prioritises integration/incorporation above dealing decisively with a racialised impoverishment

¹⁹ Anonymous "This is how much money the poorest are living on each month in South Africa" (2019-08-01) *Businesstech* <<https://businesstech.co.za/news/finance/332553/this-is-how-much-money-the-poorest-are-living-on-each-month-in-south-africa/>> (accessed 22 January 2020) & Pietermaritzburg Economic Justice & Dignity Group "Household Affordability Index" (2020-12-16) <https://pmbejd.org.za/wp-content/uploads/2020/12/December-2020-Household-Affordability-Index-PMBEJD_16122020.pdf> (accessed 2020-12-18).

²⁰ Padayachee & Van Niekerk *Shadow of Liberation* 64 & 146.

²¹ SJ Terreblanche *Lost in Transformation* (2012) 69 & 73-74.

²² T Madlingozi "Social justice in a time of neo-apartheid constitutionalism: Critiquing the anti-black economy of recognition, incorporation and distribution" (2017) 1 *Stell LR* 123 147.

arising from historical and structural realities.²³ Prioritising the integration and incorporation of black people into a world that has been created on white terms provides compelling evidence that the ANC's version of non-racialism reflects a white grammar. This is the central premise of the argument that liberal non-racialism operates as a system built on aspiring to assimilate to whiteness.

The main arguments presented in this thesis are three-fold. First, the ANC's idea of non-racialism is based on a white grammar; secondly, the dominant societal perception of non-racialism is based on liberal values and ideas. Finally, a neo-liberal economic policy has not challenged fundamentally the structural underpinnings of racial inequality.

It is important to make the distinction between non-racialism, anti-racism and non-racism. Non-racialism implies doing away with the invented categories of race. The project of non-racialism involves the critical evaluation of how black/white signifies different positions such as privilege/disadvantage or supremacy/subordination. Anti-racism moves beyond non-racialism in that the concept opposes the capitalist structures that rely on the concept of race to perpetuate subordination and oppression.²⁴ Lastly, non-racism is commonly used to refer to the prohibition on expressions of racism, that is, prejudice/antagonism against a person/group of a specific race. This study centers non-racialism.

Having traced the historical evolution of the discourse of non-racialism in the emancipatory vision of liberation parties and in constitutional jurisprudence, this study ultimately grapples with the question whether non-racialism in its current form can contribute to a society that reflects racial justice.

²³ T Madlingozi "On Settler Colonialism and Post-Conquest Constitutionness: The Decolonising Constitutional Vision of African Nationalists of Azania/South Africa" (2016) 14. Forthcoming chapter for a book project edited by Prof Boaventua de Sousa Santos. Manuscript on file with author.

²⁴ R Suttner "Understanding Non-racialism as an Emancipatory Concept in South Africa" (2012) 59 *Theoria* 22 27.

1 3 Significance of study

This study's critical intervention serves to implicate the idea of liberal non-racialism in the concept of *longue durée* in respect of black impoverishment and connects the notion of non-racialism to whiteness, neo-liberal policy and black impoverishment.

The proposed implication of non-racialism is a complex presentation. First, in chapter three, I examine liberal non-racialism as invoking 'colour-blindness' and masking racial inequality. In chapter four, non-racialism is implicated directly by ascribing to it a role in maintaining poverty, inequality and unemployment through neo-liberal economic policy.

This study frames non-racialism as a political idea, constitutional value and a social guideline, representing it as a fluid category. I argue that non-racialism has not had a meaningful impact in addressing racial inequality in the 'New South Africa'. The study ascribes the failure by contemporary liberal non-racialism to impact the PIU problem substantially to the co-optation of non-racialism by colour-blind strategies with the consequence that the discourse circumvents questions of conquest, restitution and justice. To undertake its critique, this study considers the integrity of non-racialism in the constitutional framework and the societal imagination.

1 4 Research questions

1. Is the ANC's development of the concept of non-racialism based on white grammar?
2. How does non-racialism inform/influence substantive equality?
3. How does non-racialism maintain and reproduce white hegemony and black impoverishment through neo-liberal policy-making?

1 5 Methodology/approach

This study combines several approaches. First, the historical method will be employed to trace the development of the concept of non-racialism. Secondly, the study draws on Critical Race Theory. This approach rests on interrogating what it perceives as overt and covert ways in which racial inequality is maintained structurally through a claim to unmask white supremacy as an organiser of society and a foundational element of liberal non-racialism. Thirdly, this study employs Critical Whiteness Studies. This approach aims to expose the invisible structures that produce and reproduce white

supremacy.²⁵ The importance of using critical approaches that centre race is captured in this epigram by DiAngelo: “[I]f whites cannot explore alternative racial perspectives they can only reinscribe white perspectives as universal”.²⁶

Decolonial theory features in the study by the claim to identify whiteness (and its relation to non-racialism) as being part of a greater problem of colonialism and colonality. In the context of a study that contends non-racialism operates as an effort to assimilate to whiteness, Decolonial theory is a key if light is shed on ‘true’ non-racialism which aligns to the quest for *Afrikan* humanness.²⁷ The approach questions the integrity and the impact of the value of non-racialism as a foundational feature of post-1994 constitutionalism. Madlingozi sets out two pillars in this approach. The first is the assumption that 1994 is not a marker of the onset of decolonisation. The second is that post-1994 constitutionalism constitutes a form of neo-colonialism.²⁸ Thus, enduring systems of exclusion and racism (specifically impoverishment) are represented as evidence of the continuity of pre-1994 power relations.²⁹ In these terms the Constitution as a whole is implicated in “the continuation of colonial-apartheid power relations, value systems and subjectivities”.³⁰

1 6 Literature review

Current writings on non-racialism can be divided into two groups. The first group includes works that celebrate the value of non-racialism in the constitutional framework. These works approach the law from what is described as a constitutional optimist position. There may be elements of critical scepticism in this group, but, in general, this group ascribes the PIU problem to a lack of implementation caused by poor political will,

²⁵ Definitions available at <<https://oxfordre.com/education/view/10.1093/acrefore/9780190264093.001.0001/acrefore-9780190264093-e-5>> (accessed on 2019-10-09).

²⁶ R DiAngelo *White Fragility* (2018) 111.

²⁷ T Madlingozi *Mayibuye iAfrika?* 119. See also MB Ramose “An African Perspective on Justice and Race” (2001) *Polylog* <<http://them.polylog.org/3/frm-en.htm>>.

²⁸ T Madlingozi “South Africa’s first black lawyers, amaRespectables and the birth of evolutionary constitution – a review of Tembeka Ngcukaitobi’s *The Land is Ours: South Africa’s First black Lawyers and the Birth of Constitutionalism*” (2018) 34(3) *SAJHR* 516 519.

²⁹ JM Modiri “Conquest and constitutionalism: first thoughts on an alternative jurisprudence” (2018) (34)3 *SAJHR* 300 304-305.

³⁰ Modiri (2018) *SAJHR* 305.

corruption, and maladministration.³¹ An example is the work of McKinley, which considers the ANC-government's inconsistent policies and poor execution as the leading cause of failed economic redress.³² Padayachee and Van Niekerk can also be included in this group.³³ They lodge compelling criticisms against the ANC government's mismanagement and miscalculations but maintain that the non-racial vision of Nelson Mandela and Oliver Tambo held emancipatory potential.

The second group of writers are sceptical of the manner in which non-racialism has been used to circumvent questions of conquest, restitution and justice. These authors call for a re-making of society, which involves a re-thinking of the categories of race and, by extension, of non-racialism. These writers frequently view the Constitution as a fundamentally flawed document unsuited to bringing liberation to black people. The leading scholar, Mogobe Ramose, argues that the Constitution constitutionalised the right of conquest. Following his argument, Modiri argues that the Constitution as a document "designed in the image of Western liberal democracy" is wholly ineffective to achieve racial justice. He bases his argument on what he describes as a "fundamental (dis)continuity between the historical-fact of colonial conquest and settler colonialism in South Africa".³⁴ Madlingozi argues that the current constitutional dispensation is one of neo-apartheid constitutionalism: the majority of black people are not a part of the 'new' society but remain socially excluded and racially dehumanised.³⁵

For the purpose of this study a distinction is made between the two groups in respect of their views on non-racialism. The first group does not reject liberal non-racialism, whereas the latter diagnoses liberal non-racialism as being a significant role player in what is termed the *longue durée* of colonialism and apartheid.

My viewpoint corresponds to that of the second group. I am critical of the version of non-racialism that dominates legal discourse and the societal imagination because of what I see as its role in maintaining continuity with the colonial and apartheid 'pasts'. My

³¹ For the categories of "constitutional optimists" and "critical scepticism" see Modiri "Introduction to special issue: conquest, constitutionalism and democratic contestations" (2018) 34(3) *SAJHR* 295 296-297.

³² DT McKinley *SA's Corporatised Liberation* (2017).

³³ See Padayachee & Van Niekerk *Shadow of Liberation*.

³⁴ Modiri (2018) *SAJHR* 305.

³⁵ Madlingozi (2017) *Stell LR* 123-124.

critique of non-racialism relies on Critical Race Theory, Critical Whiteness Studies and Decolonial Theory. The main reason for my position is that I regard what I perceive as “[t]he overwhelming constitutional drive towards the preservation of white people’s material, psychic and cultural interests”³⁶ as irreconcilable with racial justice and true non-racialism, driven by *Afrikan* humanness. This protection and preservation of whiteness in my opinion is evident in the viewpoint that the constitutional framework accepts the right of conquest.³⁷

In tracing the historical evolution of the discourse of non-racialism in the emancipatory vision of liberation parties, I draw, firstly, on Everatt for a liberal account of non-racialism.³⁸ I rely on Madlingozi and Dladla for an Africanist response to liberal non-racialism.³⁹ Soske’s nuanced study of the evolution of non-racialism serves to offer a theoretical thread to the genealogy of the concept.⁴⁰

Biko’s formulation of what non-racialism could truly look like after the dissolution of white supremacy, serves as a benchmark for this study. His work sketched “a vision of a common humanity and the affirmation of a society founded on justice, without any privilege or considerations for minorities”.⁴¹ This idea stands in stark contrast to contemporary liberal non-racialism, which is presented as being consistent with the idea that incorporating black people into existing legal, political and economic systems is a praxis for attaining equality and racial justice.⁴² These systems are seen as being fraught with “unquestioned assumptions that embrace white values”.⁴³ The role which non-racialism fulfils as a political idea, constitutional value and social guideline has

³⁶ Madlingozi “On Settler Colonialism and Post-Conquest Constitutioness” (2016) 8.

³⁷ Miller (2011) *Lewis & Clark Law Review* 848-849.

³⁸ D Everatt *The Origins of Non-Racialism White Opposition To Apartheid in the 1950s* (2009).

³⁹ Madlingozi *Mayibuye iAfrika?*; Madlingozi (2017) *SAJHR* 123-147; Madlingozi “On Settler Colonialism and Post-Conquest Constitutioness” (2016) & N Dladla “Contested Memory Retrieving the Africanist (Liberatory) Conception of Non-racialism” (2017) 64(4) *Theoria* 101-127.

⁴⁰ J Soske “The Impossible Concept: Settler liberalism, pan-africanism, and the language of non-racialism” (2015) 47(2) *African Historical Review* 1-36.

⁴¹ B Pityana “Reflections on 30 years since the death of Steve Biko: A legacy revisited” The Steve Biko Lecture UNISA (12 September 2007) cited in Albertyn (2018) *SAJHR* 449.

⁴² MB Ramose *The African Philosophy Reader* 570 cited in JM Modiri “Race, history, irresolution: Reflections on City of Tshwane Metropolitan Municipality v Afriforum and the limits of ‘post’-apartheid constitutionalism” (2019) *De Jure Law Journal* 27 34.

⁴³ S Biko quoted in G Budlender “BC and the Liberal Tradition: Then and Now” in Pityana et al (eds.) *Bounds of Possibility* 229.

implications for the vision Biko describes. One such an implication is that the liberal idea of equality itself reveals “unquestioned assumptions that embrace white values”.⁴⁴

Albertyn’s engagement with the contested approaches to substantive equality brings non-racialism into question.⁴⁵ I respond to her argument for a framing of equality that reaches “beyond social inclusion towards systemic justice” by arguing that any conceptualisation of equality consistent with liberal non-racialism obstructs the quest for racial equality. My argument stems from Madlingozi’s assertion that ANC’s idea of non-racialism endorsed by their model of recognition-incorporation-distribution “cannot dislodge white supremacy, institutional racism and structural exclusion”.⁴⁶

In respect of the empirical reality of the PIU problem, Terreblanche offers an insightful account of how the problem has been entrenched.⁴⁷ He argues that the settlement for the ‘New South Africa’ negotiated between the “corporate sector and a leadership core of the ANC before 1994 exonerated the white corporations and the white citizens from the part they played in the exploitation and deprivation of blacks”.⁴⁸ He argues that the PIU problem is mainly a remnant of segregation and apartheid, but shows how the ANC’s economic policies effectively intensified the PIU problem. I follow Sibanda’s argument that the Constitution’s *raison d’être* is not the eradication of poverty and assert his contention in implicating liberal non-racialism in maintaining and reproducing conditions of impoverishment.⁴⁹

1 7 Chapter outline

Chapter two traces the historical evolution of the discourse of non-racialism in the emancipatory vision of liberation parties. The development of non-racialism is traced in three different sites: i) the lexicons of white liberal discourse; ii) the liberation language of the African National Congress; and iii) the Africanist anti-racist agenda. This chapter

⁴⁴ Biko quoted in G Budlender “BC and the Liberal Tradition: Then and Now” in Pityana et al (eds.) *Bounds of Possibility* 229.

⁴⁵ Albertyn (2018) *SAJHR* 441-468.

⁴⁶ Madlingozi (2018) *SAJHR* 132 & 136.

⁴⁷ Terreblanche *A History of Inequality in South Africa 1652-2002* (2002) & *Lost In Transformation* (2012) 101-115.

⁴⁸ Terreblanche *Lost in Transformation* 109.

⁴⁹ S Sibanda “Not purpose-made! Transformative constitutionalism, post-independence constitutionalism and the struggle to eradicate poverty” (2011) 22(3) *Stell LR* 482-500.

concludes by arguing that the Freedom Charter's vision of non-racialism as the version which manifested in the Constitution is based on white grammar.

Chapter three considers whether the Constitution as a non-racial document can deliver substantive equality. This inquiry necessitates an evaluation of how non-racialism informs substantive equality. First, this chapter considers how the metaphor of the 'rainbow nation' impacts civil society's ideas of non-racialism, equality and justice. Secondly, the chapter contrasts the liberal egalitarian idea of substantive equality with the Africanist conception of equality which, I argue, reflects true non-racialism and *Afrikan* humanness. In other words, chapter three considers how the symbolic language of non-racialism shapes the national consciousness and is manifested in constitutional discourse.

Chapter four presents two arguments. First, non-racialism as a political idea, constitutional value and social guideline has not made a meaningful impact on South Africa's PIU problem. Second, the PIU problem is distributed along racial lines with the consequence that non-racialism has been (and continues to be) beneficial to white people and sustains white hegemony. I argue that the logic behind ANC policy is to integrate black people into the "white" world with the result that much of the structural racism of colonialism and apartheid remains intact. Chapter four concludes by setting out how non-racialism operates as an effort to assimilate to whiteness.

CHAPTER TWO: A HISTORY OF THE CONCEPT OF NON-RACIALISM

*For the liberals, the thesis is apartheid, the antithesis is non-racialism, but the synthesis is very feebly defined.*⁵⁰

2 1 Introduction

The dominant idea of non-racialism in the 'New South Africa' is founded on liberal terms. Contemporary liberal South Africans, as well as the organisations which endorse a liberal conception of non-racialism, occupy powerful positions where they exercise complete/partial control over the media, universities, academic journals the publishing industry and the economy. As a result, it is the dominant perception of non-racialism and "has manifested itself concretely in knowledge, culture, language, social and political life".⁵¹ This chapter traces the fundamental premises of liberal non-racialism in an attempt to visibilise the prevalence of liberal non-racialism as a political idea, constitutional value and social guideline in the 'New South Africa'.

This chapter is structured as follows. First, the development of liberal non-racialism is discussed. Secondly, the ANC's idea(s) of non-racialism is considered. This section draws on the early 'actor-thinkers' who constructed the ideological foundations for the establishment of the South African Native National Congress (SANNC) in 1912, up to the split between the ANC and the PAC in the 1950s. Thirdly, the anti-colonial ideologies of the PAC and the Black Consciousness Movement (BCM) are considered. The development of the concept of non-racialism is thus traced in three different sites, namely: the lexicons of i) white liberal discourse; ii) the liberation language of the ANC; and iii) an Africanist anti-racist agenda.

⁵⁰ Biko *I Write What I Like* (2017) 99.

⁵¹ Dladla (2017) *Theoria* 102.

2 2 Liberal non-racialism

2 2 1 Introduction

In order to argue that liberal non-racialism assists in the reproduction of systems of inequality and impoverishment, it is necessary to deconstruct the liberal imaginary to expose the premises that are tolerant, or even encouraging, of sustained injustice. Consequently, it is crucial to consider how the broad liberation movement adopted liberal ideas of non-racialism and how these ideas manifest as leading to assimilation to whiteness.

Liberalism, and its contemporary form, neo-liberalism, is endorsed widely by the South African state and public.⁵² The phenomena of contemporary liberal non-racialism and the economic implications of neo-liberalism are the material of chapters three and four. These chapters aim to show that the economic integration of black people is the main objective of non-racial and neo-liberal politics. The implications of liberalism on the non-racial imaginary of South Africa necessarily are considered before proceeding to the economic dimension, although the two are inextricably interwoven. In this chapter the idea of integration as emancipation is introduced as a premise of liberal non-racialism.

2 2 2 Introductory note on the arrival of white settlers

This chapter does not allow for a comprehensive historical account beginning with the arrival of the first white settlers, a short note will suffice. European settlers did not come to southern Africa as immigrants to learn the way of life of the peoples that they encountered or to form a part of an existing social, political and economic dynamic. White South African historiography's representation of settlement as something akin to immigration is misplaced and hinges on the two false dogmas. The first is that the territory of southern Africa was uninhabited (besides the *Khoi-Khoi* and *San* peoples) and that the Bantu-speaking people arrived as did the Europeans. The inferred conclusion is that the territory of South Africa was *res nullius*. The second relates to the later event that the reason for this empty land was the *Mfecane*. This doctrine of Discovery propelled the idea that "Europeans automatically acquired property rights in native lands and gained governmental, political and commercial rights over the

⁵² Dladla (2017) *Theoria* 103-104.

Indigenous inhabitants without their knowledge or consent”.⁵³ These claims have been researched extensively and have been rejected.⁵⁴

The historical fact is that white settlers encountered indigenous people when they arrived and proceeded to dispossess and subjugate them by military and other means. These acts of conquering were not to simply defeat by way of victory, but the unjust acquisition of territories and the subjugation of people that follows. In conquest, victory is the justification for the claim to territory and the subjugation of the peoples or the acquisition of the right over peoples.⁵⁵

White historiography has popularly asserted that the African was savage, uncivilised and heathen; an ‘Other’. These and several assumptions about Africa and Africans justify the settler’s right of conquest. Another popular justification is the idea that Africans would “at best be pre-modern” without Western/white ‘intervention’.⁵⁶ Conquest was driven by “completely unchecked ethnocentric assumptions about the universality and centrality of Western civilisation”.⁵⁷

The relevance here is that the categories of conqueror and conquered that were created survive in the *longue durée* of colonialism. Engagements with non-racialism as a political idea, constitutional value and social guideline should take into consideration the ‘right of conquest’ dogma which I maintain prevails in the ‘New South Africa’. In line with this inquiry, the inherent whiteness of liberalism should also be interrogated. By this I mean that in liberal thought whiteness is at the centre of rationality and exhibits a superior set of norms.⁵⁸ In the chapters that follow I demonstrate that liberal non-racialism is consistent with the idea that settlers had the ‘right of conquest’. First, this chapter explores early features of liberal thinking to show how these features are still prevalent in liberal thought today.

⁵³ Miller (2011) *Lewis & Clark Law Review* 849 quoted in Ramose (2018) *SAJHR* 326-341.

⁵⁴ N Dladla “Friends of the Natives: The Inconvenient Past of South African Liberalism by Eddy Maloka” (2015) 11 *New Voices in Psychology* 142.

⁵⁵ N Dladla “Getting over Apartheid with Azanian Historiography” lecture at Stellenbosch University (2019-02-21) available at https://black.youtube.com/watch?v=dDpX_VdA2HE (accessed 2021-12-20).

⁵⁶ Madlingozi “On Settler Colonialism and Post-Conquest Constitutions” (2016) 1.

⁵⁷ Dladla (2017) *Theoria* 106.

⁵⁸ CW Mills “Racial Liberalism” (2008) 123(5) *PMLA* 1380 1394 cited in Dladla (2017) *Theoria* 101-127.

2 3 The Cape Liberal Tradition

The historical account of the development of the concept of non-racialism starts in the Cape Colony. Two pieces of legislation fall within the ambit of this section, the Glen Grey Act of 1894 and the 1910 Constitution.

The Cape liberal tradition is associated with the slogan ‘equal rights for all civilised men’, which endorsed an idea of the ‘civilised native’ versus the ‘raw native’.⁵⁹ This tradition is an important part of the story of non-racialism in South Africa. The purpose of this section is to show how foundational liberal ideas which emanated from the Cape Colony are overtly racist.

The Cape Colony endorsed a qualified non-racial franchise; adult male Cape citizens with a minimum property ownership of £25, (later increased to £75) qualified to vote or to stand for parliament. It is worth noting that in the three decades of its existence the Cape franchise did not produce a single black legislator.⁶⁰ In so far as non-racialism means ‘without regard to race’, there were other criteria in place, such as property ownership.⁶¹

The non-racial franchise afforded a small portion of Africans voting rights, but when the political-consciousness of Africans became a growing threat to white interests African voting rights were systematically curbed from the late 1870s. In 1887 Cecil John Rhodes, prime minister of the Cape Colony, proclaimed: “The native is to be treated as a child and denied the franchise. We must adopt a system of despotism, such as works in India, in our relations with the barbarism of South Africa”.⁶²

A qualified franchise here is viewed as an instrument of exclusion, another, arguably more significant, was constitutionalism. The following statement made by William Porter, attorney-general of the Cape Colony (1839-1865) and drafter of its first

⁵⁹ RW Johnson “The Future of the Liberal Tradition in SA” (2011-08-17) Politicsweb <<https://black.politicsweb.co.za/news-and-analysis/the-future-of-the-liberal-tradition-in-sa>> (accessed 2020-05-10) in M Van Staden “The Liberal Tradition in South Africa, 1910–2019” (2019) 16(2) *Econ Journal Watch* 266.

⁶⁰ Dladla (2015) *New Voices in Psychology* 141.

⁶¹ Soske (2015) *African Historical Review* 19.

⁶² A Fraser “A Long Walk to Universal Franchise in South Africa” (2013-06-03) Helen Suzman Foundation <<https://hsf.org.za/publications/hsf-briefs/a-long-walk-to-universal-franchise-in-south-africa-1>> (accessed on 2020-05-10).

Constitution in 1854 responding to white voters who had become increasingly uneasy over black voting rights.

“Why should you fear the exercise of franchise? This is a delicate question but it must be touched upon. I do not hesitate to say that I would rather meet the Hottentot at the hustings, voting for his representative, than in the wilds with his gun upon his shoulder. Is it not better to disarm them by granting them the privileges of the Constitution? If you now blast all their hopes and tell them they shall not fight their battles constitutionally, do not you yourselves apply to them the stimulus to fight their battles unconstitutionally?”⁶³

The colonisers knew that the threat of revolt could not be negated solely by constitutional and ‘non-violent’ means. Voting rights were of great concern to them. In addition, the Dutch and British settlers in the Cape desired greater land and labour security. What soon followed was legislation that effected land expropriation.

2 3 1 The Glen Grey Act

The infamous Glen Grey Act of 1894 was one legislative instrument in a series of acts that were designed to serve as “an extension of previous efforts to limit the extension of African franchise rights by denying Africans possession of land on the terms laid down in the franchise law...”.⁶⁴ In the Afrikaner-dominated Transvaal and Orange Free State voting rights for Africans were unheard of. In Natal black voters were subject to stringent qualifications. Rhodes enacted the Glen Grey Act to avoid conflict between the growing Afrikaner Bond and the British element in the Cape Colony. Rhodes did not want to mix the ‘race question’ (Boer-Briton relations) with the ‘native question’ (indigenous peoples); at this stage race was used to distinguish between the Boer and British ‘races’ – the indigenous peoples of Africa where labelled ‘natives’. What follows describes developments in the relations between Boers and British which led to the enactment of the Glen Grey Act.

⁶³ G Mbeki “The Struggle for Liberation in South Africa” African National Congress <<https://web.archive.org/web/20120522174733/http://anc.org.za/show.php?id=4605#>> (accessed 2021-01-02).

⁶⁴ R Bouch “Glen Grey before Cecil Rhodes: How a Crisis of Local Colonial Authority Led to the Glen Grey Act of 1894” (1993) 27 *Canadian Journal of African Studies* 2.

In the Cape Colony, the Afrikaner Bond had become a powerful political force by the 1880s and used its power to exert influence on the policies of the colonial government. Since 1806 the Cape had been under British rule and the language of education, the judiciary and parliament was English. The establishment of the Bond was predominantly driven by opposition to the English language which had become the *lingua franca*. This development impaired the dignity of the Afrikaners. At this stage in history, the Cape Dutch could be distinguished from the Afrikaner in that the former group identified the Netherlands or Germany as their fatherland. Afrikaners had neglected parliamentary representation up to this stage, but Afrikaner nationalism became the driving force in the goal of cultural protection.

The abolition of slavery in 1834 caused distress for Boers who relied on slave labour and was a major driver in the undertaking of the *Great Trek*. In this Afrikaner exodus, many of the Cape-Dutch, later to identify as Afrikaners, left the colony. Those who stayed behind in the Colony grew increasingly frustrated with their situation of subjugation.

The Afrikaner Bond held a clear position on race – the indigenous/‘non-white’ peoples were not seen as part of the nation and were destined to serve the ‘civilised race’. The Bond was uneasy about the ‘freedom’ that English liberals afforded the ‘natives’. The indigenous peoples were however used by the English as a pawn in establishing economic relations with the strong Afrikaner Bond against the threat posed by Paul Kruger, the president of the South African Republic (*Transvaal*). His position was explicitly anti-imperial and anti-English, in favour of Afrikaner dominance. The tension between Afrikaners and English in the Cape was evident, but the Afrikaner Bond was linked to imperialist and capitalist policies largely due to the influence of the prominent Afrikaner leader, Hofmeyr, who advocated co-operation between the two “white nationalities”.⁶⁵

To appease both the English and Afrikaners, who both required more land, Rhodes enacted the Glen Grey Act. He referred to this Act as ‘a Bill of Africa’ since it assigned

⁶⁵ Anonymous “The Afrikaner Bond” (2017-06-02) South Africa History Online <<https://black.sahistory.org.za/article/afrikaner-bond>> (accessed 2021-01-02).

menial areas of land for 'African development'. This was one of the many projects launched under the banner of separate development – a convenient term for segregation driven by racist ideology.⁶⁶ Rhodes' reasoning was premised broadly on two concerns. First, there was not enough land in the *Transkei* for the growing population of natives. According to Rhodes "every black man cannot have three acres and a cow".⁶⁷ It occurred to him that: "...there are certain locations for them where, without any right or title to the land, they are herded together".⁶⁸

His solution was to do away with communal land tenure and replace it with individual tenure. Secondly, young Xhosa men, specifically, were proving to be "...a nuisance to every district in the Transkei, to every magistrate in the Transkei, and to every location". To encourage them to work and rid them of sloth and laziness they were to pay labour tax.⁶⁹ This tax was not levied because the taxes already in place had the desired effect. The Glen Grey Act weakened the 'generous' non-racial franchise, but that was not its sole purpose; it was instrumental in setting up legal grounds for the economic exploitation of the indigenous people.

The Glen Grey Act forced Xhosa men to abandon their way of life and to take jobs on commercial farms and industry as worker-servants in the colonial economy. The technique of segregation employed in the Cape, amongst more 'liberal' colonialists bears an uncanny resemblance to the dynamics of what would later become apartheid policy.⁷⁰

The legislature of the Cape Colony identified with the liberal mantra of 'equal rights for all civilised men', however the liberal language of 'civilised native' versus 'raw native' has become attached to the idea of 'teleological whiteness'; a reference to "the idea that being white and the attainment of whiteness are the highest ideals of emancipation and

⁶⁶ A Fraser "A long walk to franchise in South Africa" (2013-06-03) Helen Suzman Foundation <<https://hsf.org.za/publications/hsf-briefs/a-long-walk-to-universal-franchise-in-south-africa-1>> (accessed on 2020-05-10).

⁶⁷ The Glen Grey speech by Cecil John Rhodes South Africa History Online <https://black.sahistory.org.za/sites/default/files/glen_grey_speech.pdf> (accessed on 2020-05-10).

⁶⁸ The Glen Grey speech by Cecil John Rhodes South Africa History Online <https://black.sahistory.org.za/sites/default/files/glen_grey_speech.pdf> (accessed on 2020-05-10).

⁶⁹ The Glen Grey speech by Cecil John Rhodes South Africa History Online <https://black.sahistory.org.za/sites/default/files/glen_grey_speech.pdf> (accessed on 2020-05-10).

⁷⁰ Van Staden (2017) *Econ Journal Watch* 268.

human progress”.⁷¹ This liberal language in the Cape Colony was cemented in liberal non-racial discourse in the 20th century and is evident in contemporary discourse.

2 3 2 The 1910 Constitution and the Native Administration Act

At the time the 1910 Constitution was being drawn up the delegates from the Cape Colony represented the only liberal political tradition.⁷² Faced with the uncompromising and conservative ideas of the Afrikaners, the liberals conceded, holding on to the hope that Afrikaners and white settlers would become more liberal in their outlook on race relations over time. They ultimately accepted that the non-racial franchise would not be extended throughout the Union.

The 1910 Constitution and the Native Administration Act entrenched the inferior status of Africans by (among other measures) setting up a separate legal system for the administration of black people.⁷³ Sibanda argues that these laws were instrumental in establishing a white monopoly over economic opportunities. Psychologically it “constructed [Africans] essentially as constitutional non-subjects to be administered as conquered beings whose existence was tolerated for its ability to advance white economic interests and service to the colony”.⁷⁴ The idea of white trusteeship we can distil here, was essential to the liberal mission as the ‘raw native’ could be guided into being a submissive worker-servant in the colonial economy.

2 4 The Non-Racial Franchise Association

The Non-Racial Franchise Association is of specific importance in the development of liberal non-racialism. It is with the establishment of this association in 1929 that the term ‘non-racial’ begun to surface in conversations about black-white relations. Until this point the concept of ‘race’ had only been used to distinguish between British and Dutch settlers.⁷⁵

⁷¹ Madlingozi (2017) *Stell LR* 129.

⁷² Van Staden (2017) *Econ Journal Watch* 267.

⁷³ Native Administration Act 38 of 1927.

⁷⁴ S Sibanda “Not Yet Uhuru” – The Usurpation of the Liberation Aspirations of South Africa’s Masses by a Commitment to Liberal Constitutional Democracy PhD thesis School of Law, University of the Witwatersrand, Johannesburg (2018) 106.

⁷⁵ Dladla (2017) *Theoria* 106.

The ideology of the Non-Racial Franchise Association drew on the tenets of the early Cape liberal tradition. James Rose-Innes, who is described as one of the first to be concerned with the freedom of 'non-whites',⁷⁶ delivered the inaugural address of the Association; he stated that "...white civilisation in this land, with its diversity of races and its preponderance of colour, will be best maintained, and in the end can only be maintained, by admitting every race to our polity, so far as it is civilised".⁷⁷

Liberal discourse was predominantly preoccupied with a distinction between the 'civilised native' and the 'raw native'. The admittance of "every race to [the] polity" required an extension of civilisation *qua* an undoing of the African's 'barbaric' character.

The Association's objective was to protect the non-racial Cape Franchise. The founders opposed Prime Minister Hertzog's proposed amendment to the 1910 Constitution which would remove black voters from the role. They hoped to extend the liberal Cape tradition throughout the Union by introducing civilisation, not race, as a qualifier.⁷⁸ Liberals were regarded as reasoning with "common-sense moderation" and in advocating constitutional means of reform and non-violence they could claim to be acting in a reasonable and level-headed manner.⁷⁹ Liberal racism was expediently packaged in these claims. The liberals did not succeed in securing a non-racial qualified franchise throughout the Union. In the Cape, African voters were removed from the voters roll in 1936 as an outcome of the *Harris case*.⁸⁰

I now proceed to the 1930s which heralded critical developments in liberal discourse. Liberal theorists, such as RFA Hoernle, introduced group-thinking which debated and developed the idea of four absolute and 'natural' categories of race (white, coloured,

⁷⁶ Van Staden (2017) *Econ Journal Watch* 267.

⁷⁷ J Rose-Innes, address to the first meeting of the Non-Racial Franchise Association, 1929, quoted in J Soske "Unfinished Debates: Settler Liberalism, East Africa, and the Origins of Non-Racialism" (2014) (unpublished) <<https://wiser.wits.ac.za/system/files/seminar/Soske2014.pdf>> (accessed 2021-01-02).

⁷⁸ Anonymous "Henry Burton" South Africa History Online. <<https://black.sahistory.org.za/people/henry-burton>> (accessed 2021-01-02).

⁷⁹ Everatt *The Origins of Non-Racialism* 124.

⁸⁰ *Harris v Minister of the Interior* 1952 (2) SA 428 (A), <<http://joasa.org.za/articles/HARRIS%20v%20MINISTER%20OF%20THE%20INTERIOR.pdf>>.

Indian, black).⁸¹ These categories were the foundational elements that gave rise to the concept of the liberal idea of a multi-racial society.⁸²

2 5 Multi-racialism, trusteeship and economic exploitation (1930s-1940s)

The writings of Hoernle were the “first systematic treatment of the multi-racial society”.⁸³ Hoernle’s series of lectures, titled *South African Native Policy and the Liberal Spirit*, delivered at the University of Cape Town in May 1939 was a response to the country-wide debate over the 1936 Hertzog Native Bills; the collective name given to two parliamentary bills which effected the removal of African voters from the ordinary electoral roll in the Cape Province, and setting up the legal framework for what became apartheid policy.⁸⁴ This series of lectures were prescribed by ZK Mathews (a prominent ANC leader and intellectual) in a module on Native Administration at the University of Fort Hare. Dladla suggests it is worth considering whether Mathew’s embrace of Hoernle’s liberal theory was a factor which informed “the largely multiracial politics of the ANC” and whether this factor featured in the split that would come between the ANC and PAC in 1959.⁸⁵

Mathews commends Hoernle for his thorough knowledge of the topic of race relations. In response to Hoernle’s lecture series, ZK Mathews writes, “We are indebted to professor Hoernle for his appeal to liberals to re-examine the tenets of their faith [in liberalism] with a view to discovering how they can best apply them in multi-racial society”.⁸⁶ Soske notes:

“Liberal discourse considered *multi-racialism* a sensible mode of co-existence. The ANC endorsed multi-racialism before they somewhat ambiguously endorsed non-racialism.”

...

⁸¹ Dladla (2017) *Theoria* 106-107.

⁸² Soske (2015) *African Historical Review* 14.

⁸³ Soske (2015) *African Historical Review* 5.

⁸⁴ R. F. A. Hoernlé *South African Native Policy and the Liberal Spirit* (1945).

⁸⁵ Dladla (2017) *Theoria* 107.

⁸⁶ ZK Matthews “South African native policy and the liberal spirit. Review of Professor R.F.A. Hoernle's Phelps-Stokes lectures” (1940) VII (2) 36 <<http://uir.unisa.ac.za/handle/10500/6189>> (accessed 2021-01-02).

“As the president of the ANC, Luthuli adopted the term ‘non-racial’ in a narrow, constitutional sense in order to clarify the ANC’s position on minority protections”.⁸⁷

At the beginning of the 1950s the term ‘non-racial’ appeared in liberal writings associated with the Cape franchise. Soske writes that for some time “African intellectuals” had avoided the phraseology of non-racialism since it was closely associated “with white unity and (later) colonial trusteeship”. In 1960 Albert Luthuli used the term ‘non-racial democracy’ and by this time the language of non-racialism had proliferated among most anti-apartheid organisations.⁸⁸

At the end of the 1950s the concept of multi-racialism entered debates about race and about political organisation. The concept of multi-racialism had emanated from British colonial policy and the constitutional structure associated with multi-racialism was characterised by group representation and a qualified franchise.⁸⁹ A critical feature of the multi-racial society at the time was white indigeneity. Soske writes that: “[s]ettlers born in Africa had an equal claim to residency and power as the other groups – if not a greater claim given their unique contribution to economic development and promoting civilisation. They were truly ‘African’”.⁹⁰

The multi-racial society thesis contended that “competition between racial groups could only be resolved through separate representation”.⁹¹ The conception of a multi-racial society developed as liberation discourse advanced; the version of multi-racialism endorsed by the ANC diverged from the British notion of a multi-racial society in essential respects. Soske notes that two significant shifts occurred during the Freedom Charter campaign (1954-1955). First, the ANC used the term ‘multi-racial’ to refer to the South African nation’s nature. The implication is the rejection that democracy could function only in a homogenous nation.⁹² For Luthuli the aim was that separate identities

⁸⁷ Soske (2015) *African Historical Review* 27.

⁸⁸ Soske (2015) *African Historical Review* 4.

⁸⁹ Soske (2015) *African Historical Review* 4.

⁹⁰ Hansard, House of Lords Debates, 7 July 1952, vol. 177, cc726-832 in Soske (2015) *African Historical Review* 12.

⁹¹ Soske (2015) *African Historical Review* 14.

⁹² See A Luthuli, ‘Our Vision is a Democratic Society’ in *Voices of Liberation*, 2nd edition, 116; ‘Luthuli Sends Message to Nyerere’, *New Age*, 3 November 1960 in Soske (2015) *African Historical Review* 14.

could grow into a shared identity based on shared ideals.⁹³ The second shift was that the ANC declared the Freedom Charter to be the collective will of all South Africans and that the document lay a new foundation for the nation itself.⁹⁴

The ANC first endorsed multi-racialism before endorsing non-racialism. The distinction between non-racialism and multi-racialism is illustrated in Sobukwe's statement to the *Golden City Post*: "We reject multi-racialism in favour of a non-racial democracy because multi-racialism suggests a maintenance of racial groups."⁹⁵

Robert Mangaliso Sobukwe was the founder and first president of the PAC. For Sobukwe and the PAC a multi-racial society was a means of securing white domination or, in other words, the grammar of liberation *qua* multi-racialism does not challenge the racist, exploitative idea of separate development and the protection of (white) minority rights. Sobukwe contends multi-racialism provides "a method of safeguarding white interest irrespective of population figures".⁹⁶ In conclusion, the idea of a multi-racial society cannot effect the equitable co-existence of peoples in a white supremacist society; multi-racialism is posed as an alternative to African majority rule.

In the way multi-racialism has been presented as not being a break with white domination, "feebly defined" liberal non-racialism, similarly, offers integration by black people into a world of domination.⁹⁷ The ideas of non-racialism that emanate from the PAC and Black Consciousness create a demand to dissolve white supremacy and by extension the right of conquest. These two broad premises have implications elsewhere, as for the resolution of the National Question.

In his inaugural speech in 1959 at the convention for Africanists, Sobukwe provides a brief explanation of the problem he identified with the concept of multi-racialism:

⁹³ Soske (2015) *African Historical Review* 14.

⁹⁴ Soske (2015) *African Historical Review* 15.

⁹⁵ "3 Africanists Tipped for New 'Presidency'", *Golden City Post*, 9 November 1958 in Soske (2015) *African Historical Review* 23.

⁹⁶ RM Sobukwe and Pan Africanist Congress of Azania *Speeches of Mangaliso Sobukwe from 1949–1959 and Other Documents of the Pan- Africanist Congress of Azania* (1978) 20 cited in Dladla (2017) *Theoria* 119.

⁹⁷ Biko *I Write What I Like* (1996) 90.

“[m]ulti-racialism is in fact a pandering to European bigotry and arrogance. It is a method of safeguarding white interests irrespective of population figures. In that sense it is a complete negation of democracy. To use the term ‘multiracialism’ implies that there are such basic inseparable differences between the various national groups here that the best course is to keep them permanently distinctive in a kind of democratic apartheid. That to us is racialism multiplied, which probably is what the term truly connotes”.⁹⁸

Sobukwe emphasised that the construction of racially-distinct groups should be interrogated as categories created to differentiate people and justify conquest. For a brief period the ANC Youth League contested the ANC’s multi-racial agenda but Madlingozi contends that: “...the Freedom Charter swept aside an emergent discourse of African nationalism in favour of a liberal national-building project”.⁹⁹

I now turn to Hoernle’s work and the ‘liberal spirit’. Hoernle’s thinking, and indeed the group-thinking of liberals at the time, is firstly premised on the assumption that there are fixed categories of race captured as ‘Whites’, ‘Blacks’, ‘Indians’, and ‘Coloureds’. The second assumption is that these ‘groups’ can peacefully co-exist by means of setting up mechanisms of a multi-racial society. For liberals this was a viable option for political stability and, importantly, an alternative to black majority rule. At the time of Hoernle’s lecture series the apartheid policy and framework had not yet been adopted but Sobukwe’s description of multi-racialism as ‘democratic apartheid’ is seen as a useful indicator that segregation/separate development is a liberal project of keeping civilised (white) and uncivilised (non-white) apart. An array of terms describing different types of separation existed. For Hoernle all of the following systems are compatible with liberalism and the multi-racial society: parallelism (which envisages different institutions for the different racial groups but substitutes domination for ‘co-ordination’); assimilation (‘raw natives’ are to assimilate to white/Western norms and culture to become ‘civilised’); and separation (which fragments multi-racial society into different racial

⁹⁸ RM Sobukwe and Pan Africanist Congress of Azania *Speeches of Mangaliso Sobukwe from 1949–1959 and Other Documents of the Pan- Africanist Congress of Azania* (1978) 20 cited in Dladla (2017) *Theoria* 119.

⁹⁹ Madlingozi “On Settler Colonialism and Post-Conquest Constitutioness” (2016) 13.

components).¹⁰⁰ It is clear that Hoernle, and indeed most liberal thinkers of the time, did not take issue with a racial hierarchy.

Hoernle opted for complete separation as the best means of surmounting white domination. The liberal idea of separate development later became a central plank in apartheid policy. In his lecture series, Hoernle criticised the housing conditions and the living environment of miners but he does not take issue with the exploitation of black labour. This is illustrative of liberal concerns – black exploitation should be packaged to have a somewhat more ‘humane’ face, mostly so that white liberals do not become too uncomfortable with what is clearly morally indefensible. Hoernle further represents the liberal project of ‘civilising’ and incorporating the ‘raw native’ into colonial society. On a reading of Hoernle’s *Liberal Spirit* “an attitude of good-will” can be distilled as a central element of liberal self-perception. Liberal thought grant white supremacist ideology a ‘kinder face’ in that white trusteeship is presented as a good-willed intention to steer ‘uncivilised blacks’ in the direction of civilisation.¹⁰¹

Dladla argues that Hoernle’s is a biological understanding of race which demonstrates biological justifications for the inferiority ascribed to black people. On the other hand Soske argues that Hoernle was not fixated on an archaic biological conceptualisation of race as he used the terms ‘race’ and ‘civilisation’ interchangeably.¹⁰² The latter approach is viewed as a ‘less racist’ upgrade of the former as liberal discourse came to reject eugenic models after the humanitarian crisis of the Second World War.¹⁰³ The civilisation qualifier supposedly represents a break with racism and liberals came to represent those who reason with “common sense moderation”.¹⁰⁴ I contend that the distinction between the two views is less important than what they have in common: white supremacist ideology.

The dominant redeemable feature of liberalism (for liberals) is its ‘good-willed nature’ or what Dladla describes as “attitudinal generosity”.¹⁰⁵ He argues that liberal non-racialism

¹⁰⁰ Soske (2015) *African Historical Review* 5-6.

¹⁰¹ Dladla (2017) *Theoria* 107.

¹⁰² Soske (2015) *African Historical Review* 6.

¹⁰³ Dladla (2017) *Theoria* 107.

¹⁰⁴ Everatt *The Origins of Non-Racialism* 124.

¹⁰⁵ Dladla (2017) *Theoria* 107.

can be described as “racism without races” in that liberals reject the notion of black people as being sub-human but preserve the conditional acceptance of black people as human.¹⁰⁶ Their recognition of black people as ‘equal’ is conditional upon black peoples’ attainment of Western norms of civilisation (read whiteness). This view maintains that liberals were fearful of black majority rule, trusteeship was thus a means to ensure that whites remained in control while letting go of the term ‘domination’ and replacing it with ‘guidance’.¹⁰⁷

Van Staden defines the liberal doctrine of trusteeship as the notion that oppressed people in ‘developing countries’ are to be uplifted to attain the rights enjoyed by the civilised nations of the West. The liberal perspective’s approach to poverty, generally, does not link the ‘underdevelopment’ in ‘developing countries’ to the wealth accumulated elsewhere and to the exploitation of indigenous populations.¹⁰⁸

The doctrine of trusteeship is reflected in both the Cape liberal tradition and apartheid policy. The Nationalist Party (NP) employed a paternalistic version of the notion whereas liberals viewed trusteeship as a temporary arrangement, a form of responsible government. The basis of the notion of trusteeship is the idea that white people are superior to black people.¹⁰⁹

When one considers trusteeship and black exploitation in tandem with the Christian civilising mission, it becomes clear why liberal discourse did not take issue with policy that was designed to exploit black labour. Findlay argues that for theorists such as Hoernle, the ‘capitalist necessity’ of exploiting black labour was consistent with the will of the Christian god.¹¹⁰ By extension, the paternalistic character of trusteeship portrayed as the good-willed nature of liberals is a scheme that instils and naturalises the

¹⁰⁶ E Balibar “War, racism and nationalism” (2015) available at <<https://black.versobooks.com/blogs/1559-etienne-balibar-war-racism-and-nationalism>> cited in Dladla (2017) *Theoria* 107.

¹⁰⁷ S Biko “Black Consciousness and the quest for a true humanity” (1978) 8 *Ufhamu: A Journal of African Studies* 10 11.

¹⁰⁸ T Hayter (1981) *The Creation of World Poverty* 19.

¹⁰⁹ Van Staden (2017) *Econ Journal Watch* 268.

¹¹⁰ G Findlay “South African Native Policy and the Liberal Spirit” Reviews of Professor R.F.A. Hoernle's Phelps-Stokes Lectures” (1940) 2 (VII) *Race Relations* 32-34 & 39. <<http://uir.unisa.ac.za/handle/10500/6189>> (accessed 2021-01-02).

rendering of black people as condemned to hard labour or menial tasks at minimum remuneration.

Findlay uses Hoernle's argument on taxation to make his point. Hoernle addresses the topic of taxation in his lectures by dividing the sources of tax income into white sources and black sources. Findlay contends that the "white sources are mere conduit pipes of wealth from black sources".¹¹¹ The white owners of the means of production were protected by a legal scheme that secures their position *vis-à-vis* black exploitation. In this view, there are two intertwined but separate entities: a white imperialistic semi-independent state and a black colony.¹¹² White trusteeship was key in guarding white economic interests since it enabled a level of control that did not resemble overt racist exploitation – at least in the liberal imagination.

Hoernle serves as a representative of liberal thought. What has been made apparent is that liberals did not take issue with the subjugation of black people as worker-servants in the colonial economy. Liberal arguments relied on trusteeship as a means of educating and converting the 'raw native'.

The conclusion drawn is that in the Cape Colony of the late 1800s, non-racialism was used to suppress and appease black resistance by extending generous, yet conditional, voting rights to a civilised few. In the early 1900s around the time of the establishment of the Union of South Africa the term 'non-racial' described the pro-imperial unity between Afrikaner and Briton. Later, liberals developed the thesis of white trusteeship and liberal thinking supported the colonial praxis of separate development and black exploitation. What transpires in this brief exploration of the liberal imagination is that liberal thinking, by its very nature, does not examine its own premises of civilisational racism. Hereby, liberal thinking preserves the "unquestioned assumptions that embrace white values"¹¹³ and ideas on race and justice. The paternalistic character of liberalism

¹¹¹ G Findlay "South African Native Policy and the Liberal Spirit" Reviews of Professor R.F.A. Hoernle's Phelps-Stokes Lectures" (1940) 2 (VII) *Race Relations* 32-34 & 39.
<<http://uir.unisa.ac.za/handle/10500/6189>> (accessed 2021-01-02).

¹¹² M Harmel "Observations on Certain Aspects of Imperialism in South Africa" (1954) 1(3) *Viewpoints and Perspectives* 29 cited in Everatt (2009) *The Origins of Non-Racialism* 92.

¹¹³ Biko quoted in G Budlender "BC and the Liberal Tradition: Then and Now" in Pityana et al (eds) *Bounds of Possibility* 229.

illustrates the superior position of whiteness which signifies the role of the perpetual teacher while blackness fills the role of the perpetual student.¹¹⁴

2 6 The inferiority of the native as represented in liberal discourse

Liberal discourse is interpreted as speaking to the elimination of the 'raw native' and conversion to a 'civilised worker-servant' in the service of the colonial economy. In this way, the exploitation of black labour enabled the project of settler-colonialism.¹¹⁵ The elimination of the native involves an "inferiorisation" on a psychological level in order to successfully subjugate him/her to his/her colonial position.¹¹⁶ Consider Rhodes' statement in parliament on 30 July 30 1894:

"At any rate, if the whites maintain their position as the supreme race, the day may come when we shall all be thankful that we have the natives with us in their *proper position*. We shall be thankful that we have escaped those difficulties which are going on amongst all the old nations of the world."¹¹⁷

His reference to the problems of the 'old nations' alludes to the scarcity of workers elsewhere as opposed to the the abundance of cheap black labour in South Africa. Rhodes displays a sense of gratitude that the 'native question' is inadvertently tied to the labour question.¹¹⁸ The Glen Grey Act assisted in securing this relationship.

The destruction of the material and spiritual life-worlds of black people presented an opportunity for liberals to construct a kinder posture towards black people. Liberals were able to take the middle ground between 'conservatives' and black people by means of their position of common sense moderation, attitudinal generosity and good-willed nature.¹¹⁹ It has never been on the liberal agenda to challenge white supremacy, the right of conquest, the exploitation of black people or the shattering of their spiritual and

¹¹⁴ Madlingozi (2017) *Stell LR* 143.

¹¹⁵ P Wolfe "Settler colonialism and the elimination of the native" (2006) 8 *Journal of Genocide Research* 3-4.

¹¹⁶ Sibanda *Not Yet Uhuru* 106-108.

¹¹⁷ The Glen Grey speech by Cecil John Rhodes South Africa History Online <https://black.sahistory.org.za/sites/default/files/glen_grey_speech.pdf>. Own emphasis.

¹¹⁸ The Glen Grey speech by Cecil John Rhodes South Africa History Online <https://black.sahistory.org.za/sites/default/files/glen_grey_speech.pdf>.

¹¹⁹ Dladla (2017) *Theoria* 116 & Everatt *The Origins of Non-Racialism* 124.

cultural worlds. Rather, I argue that liberalism always inherently is “racialised” because it is driven by a notion of teleological whiteness.¹²⁰ As Dladla argues: “...the liberal doctrine of non-racialism is not incompatible with white supremacy but in fact supports its existence”.¹²¹

I now turn to the developments in the early ANC.

2 7 The early African National Congress

2 7 1 Introduction

This study argues that for more than three centuries white interests have been prioritised in South Africa in an intentional scheme to exploit black labour. The reproduction of these conditions of impoverishment in the ‘New South Africa’ leads decolonial scholars to argue that the current Constitution is an extension of colonialism rather than representing a rupture with the past. Dladla notes that it is a historical reality that indigenous conquered peoples have suffered intellectual and political domination by programmes and perspectives that serve the interest of their oppressors.¹²² The purpose of the next section is to show how colonial society simultaneously summons and rejects black colonial subjects and how the battle to be recognised as human often led to neo-colonial sentiments. The early influencers and thinker-actors of the ANC played a critical role in the development of non-racialism in the 20th century. Their proximity to the white settlers and the ideas emanating from white interests demanded strategic politics. To the detriment of an anti-colonial project, their survival strategies often took the form of assimilation to whiteness.

2 7 2 Late 1800s: The New African Movement

In 2018 Ngcukaitobi published a contested account of the African anti-colonial project.¹²³ I juxtapose his account with Madlingozi’s response to the publication.¹²⁴ Ngcukaitobi argues that the ANC-aligned elites pursued an anti-colonial agenda since

¹²⁰ CW Mills “The Racial Contract” (1997) cited in Dladla (2017) *Theoria* 108.

¹²¹ Dladla (2017) *Theoria* 116.

¹²² Dladla (2017) *Theoria* 103.

¹²³ T Ngcukaitobi *The Land Is Ours* (2018).

¹²⁴ Madlingozi “South Africa’s first black lawyers, amaRespectables and the birth of evolutionary constitution” (2018) *SAJHR* 516-529.

the inception of the South African National Native Congress (SANNC) which was the first national political movement of Africans.¹²⁵ He further argues that this anti-colonial struggle helped produce, and indeed influenced the core of, the current Constitution. I set out to illustrate that the early ANC's ambivalence towards colonial praxis is a major influencer in the adoption of liberal non-racialism.¹²⁶

The two figures discussed in the next section are Tiyo Soga and Pixley Ka Isaka Seme. These men are described as New Africans, and their work and philosophy lay the foundations of the New African Movement.¹²⁷

Tiyo Soga was the first black missionary to return to South Africa in 1857 after completing his missionary education in Scotland. He approached his people, the amaXhosa, and pleaded with them to embrace Western civilisation and Christianity in order to survive in the 'new world'. According to Ngcukaitobi his approach was to usurp colonial values in fighting the system and at the same time to employ "distance keeping" in order not to conform to a colonial identity.¹²⁸ Soga encouraged the amaXhosa to accept Western modernity and convert to Christianity without completely renouncing their amaXhosa traditions and customs as pillars of identity.¹²⁹

The year of Soga's return to the Eastern Cape coincides with the year of the devastating amaXhosa 'cattle killing mania'. There had been events/battles before this crisis that fuelled the idea of European invincibility, but this event had a major impact on the colonial relations in the Eastern Cape. AmaXhosa groups, relying on a prophecy foreseeing the return of their ancestors, destroyed their crops and killed their cattle in the belief that their ancestors would bring forth new cattle and drive the English settlers into the sea. The prophecy failed and an estimated 400 000 amaXhosa died of starvation. Many surviving amaXhosa handed themselves over as labourers in the Cape

¹²⁵ Madlingozi (2018) *SAJHR* 527.

¹²⁶ Madlingozi (2018) *SAJHR* 524.

¹²⁷ New African figures are Christians trained by missionaries to become "Westernised". See Madlingozi (2018) *SAJHR* 523 and L de Kock 'Sitting for the civilizational test: the making(s) of a civil imaginary in colonial South Africa' in L de Kock, L Bethlehem & S Laden (eds.) *South Africa in the Global Imaginary* (1996) 117.

¹²⁸ Madlingozi (2018) *SAJHR* 522-523.

¹²⁹ Madlingozi (2018) *SAJHR* 523.

Colony. Starving Xhosa people were collected from their villages and sold to farmers and other employers for anything between one to five pounds.¹³⁰

This event was a major accelerator of the submission of indigenous people to the colonisers. The event surrounding the 'cattle killing-mania' "strengthened the notion that indigenous weapons and ancestors were powerless to resist material, social and spiritual colonisation".¹³¹ Intra-Xhosa rivalry caused some leaders to align themselves with the white settlers of the Cape Colony before the 'cattle-killing mania' took place. When the predicament of hunger and starvation fell upon the amaXhosa, these leaders had established useful relationships with the Colony and they encouraged their sons to convert to Christianity and access a Western style of education.¹³²

It is important to establish whether these leaders had developed an anti-colonial consciousness or whether the possibility of such a conscience was negated by the desire to be incorporated into the settler-colonial order.¹³³ Survival was vital in motivating the leaders and elites: i) to submit to the trusteeship of the colonial order; and ii) to appropriate the tools of Western modernity in the anti-colonial struggle.

Madlingozi is sceptical of the assertion that the leaders and elites relied on legal methods because they did not have a military option available to them. He argues that they were not interested in a military struggle, "or any form of struggle that could result in the dissolution of the white system", but rather some leaders and elites chose the strategy of conversion to the colonial order.¹³⁴ Their ambivalence toward the colonial order is thus not one of effective 'distance keeping'. He argues that the ambivalence of these leaders is induced by the ambivalence at the heart of "colonialist-praxis"; the colonial order simultaneously summons and rejects the colonial subject.¹³⁵

Many of Soga's statements are rooted in Pan-Africanism but there is no substantial engagement with an anti-colonial vision. Following Madlingozi, I interpret Soga's

¹³⁰ Ngukaitobi "How the Land was Lost" in *The Land is Ours* (2018) 18-19.

¹³¹ Madlingozi (2018) *SAJHR* 522.

¹³² Madlingozi (2018) *SAJHR* 522.

¹³³ Madlingozi (2018) *SAJHR* 522.

¹³⁴ Madlingozi (2018) *SAJHR* 522-523.

¹³⁵ Madlingozi (2018) *SAJHR* 523.

ambivalence towards the 'colonial praxis' as an attempt to remain fixed in an African identity while fundamentally aligning to the colonial system. In my view, this alignment is enabled by Western education's objective of converting the 'raw native' into a 'civilised black colonial subject'.

The first link I make between liberal non-racialism and the early African leaders' alignment with the colonial order is their ambivalence toward the colonial praxis. I argue that the New African Movement captures the early signs of a 'pseudo-liberatory' stance that the ANC came to adopt.

The next important figure in Ngcukaitobi's work is Pixley ka Isaka Seme, the founder of the SANNC in 1912. His political journey is illustrative of the manner in which elite Africans bought into the liberal idea that 'raw natives' could be progressively civilised. Seme built on the New African Movement which found its philosophical basis in the writings of Soga whose elite-nationalism outweighed his Pan-Africanist radicalism. Seme advocated for the extension of civil and political rights to 'civilised people'. His letter of motivation for the establishment of the SANNC sets out a clear commitment to non-discrimination and inclusiveness but these terms are conditional on the 'raw native' being afforded 'equality' on the basis of conforming to white norms and standards. Seme's elite-nationalism has much in common with the liberal idea of incorporation as emancipation and I contest that an ambiguous ideological basis such as his and Soga's amounts to a truly anti-colonial consciousness.

Ngcukaitobi argues that the early African leaders and elites formulated anti-colonial constitutional documents whose contents later became a basis for the current Constitution. He posits the ANC's 1923 and 1943 Bill of Rights as home-grown documents and not the result of an imposition by foreign powers or a reflection of a Eurocentric mindset. Madlingozi and other decolonial scholars oppose these claims.¹³⁶

Ncukaitobi's claim that "[t]he idea of the Bill of Rights was a negation of colonial violence" is important.¹³⁷ The African Claims document of 1943 contains an extensive

¹³⁶ Madlingozi (2018) *SAJHR* 529. See also Dladla (2017) *Theoria* 101-127; T Madlingozi (2017) *Stell LR* 123-147; Modiri (2018) *SAJHR* 300- 325.

¹³⁷ Ngcukaitobi *The Land is Ours* 2 cited in Madlingozi (2018) *SAJHR* 529.

list of claims and rights that rightly may be described as a legal tool to extend civil and political rights to black people. If this document had been accepted by the government of Jan Smuts, the result may very well have been a negation of colonial violence. However, this approach is limited; the best result could have been a liberal extension of civil and political rights to a 'civilised few'.¹³⁸

The second link between liberal non-racialism and early African leaders' alignment with the colonial order is whether the idea of incorporation as emancipation developed in the discourse of early African elites is present in contemporary liberal non-racialism. In other words, is there a commonality between the New African Movement and liberal non-racialism prioritising the (conditional) extension of civil and political rights to the 'civilised'?

The New African Movement illustrates the effect of the "ambivalence at the heart of the colonialist-praxis" on the indigenous subjugated peoples.¹³⁹ Madlingozi explains this phenomenon as follows: conversion and becoming 'civilised' does not lead to the integration of colonised subjects in the polity of 'civilised people'; the 'native' is perpetually non-white in a white world.¹⁴⁰

New Africans did not adopt a radical anti-colonial position. Their appropriation of colonial tools led largely to their psycho-social destabilisation and not to an anti-colonial consciousness. Instead, the colonial order instilled a longing for recognition and integration and because assimilation and co-existence are viewed as impossible in the colonial context, they often suffered feelings of rejection and abandonment.¹⁴¹

For this reason Ncgukaitobi's claim that those African leaders who fought for the extension of civil and political rights practiced distance-keeping and did not assimilate to Western Christian norms and ways of life is rejected. The New Africans accepted the sovereignty of the colonial state and advocated for the recognition and incorporation of Africans into this state.¹⁴² The importance of my argument lies in the claim that early

¹³⁸ Madlingozi (2018) *SAJHR* 529.

¹³⁹ Madlingozi (2018) *SAJHR* 524.

¹⁴⁰ Madlingozi (2018) *SAJHR* 524.

¹⁴¹ Madlingozi (2018) *SAJHR* 524.

¹⁴² Madlingozi (2017) *Stell LR* 130-132.

ANC ambivalence towards the colonial praxis was a major influence for the adoption of liberal non-racialism in ANC discourse later on. These ideas of incorporation were opposed by the African nationalists who asserted that “the pursuit for recognition-incorporation-distribution into the settler-created polity amounted to assimilation to perpetual defeat”.¹⁴³ This line of thought is later advanced by the PAC and BCM.

The final link between liberal non-racialism and the New African Movement is the consistency both projects display in negating colonial violence without dislodging its basis. The New Africans remained perpetually non-white in a white world.

2 8 The African National Congress and non-racialism

The ANC was initially founded as the South African Native National Congress (SANNC) in 1912. Among the founders were proponents of the New African Movement, including Pixley ka Isaka Seme. The organisation was formally renamed the African National Congress (ANC) in 1923. From its inception until the early 1950s the ANC was not open to Indians, Coloureds or whites. In 1953 the ANC formed a part of the multi-racial Congress Alliance together with the Indian and Coloured Congresses and Democrats. In 1955 the Freedom Charter was born from this multi-racial alliance and after its adoption non-racialism becomes a feature of the ANC’s liberation paradigm. The ANC’s notion and the instrumentalising of non-racialism are contested; the Freedom Charter is used as evidence in the contestation.¹⁴⁴ Soske notes that the Charter presents the ANC’s contradictory strands of thought quite aptly since it pairs the concepts of non-racial democracy and a multi-racial society.¹⁴⁵

In the early 1960s Luthuli, as the leader of the ANC, declared that the ANC had always endorsed non-racialism as part of a unifying nation-building project.¹⁴⁶ Many authors argue that the ANC endorsed an anti-essentialist form of non-racialism.¹⁴⁷ The late ANC stalwart Ahmed Kathrada ascribes the ANC’s focus on democratisation above

¹⁴³ Madlingozi (2017) *Stell LR* 132.

¹⁴⁴ F Anciano “Non-racialism and the African National Congress: Views from the branch” (2014) 32(1) *Journal of Contemporary African Studies* 35-36.

¹⁴⁵ Soske (2015) *African Historical Review* 32.

¹⁴⁶ F Anciano “Non-racialism and the African National Congress: Views from the branch” (2014) 32(1) *Journal of Contemporary African Studies* 36.

¹⁴⁷ See Anciano (2014) *Contemporary African Studies* 38; R Suttner “Understanding Non-racialism as an Emancipatory Concept in South Africa” (2012) *Theoria* 59(130) 22-41.

decolonisation to its “significant commitment to a non-racial destiny”.¹⁴⁸ Although the ANC’s relationship with non-racialism is contested, by contrast, the message that emanated from the PAC was explicit: these Africanist thinker-actors took issue, first, with the multi-racial structure the ANC adopted in the 1950s and, secondly, with the version of non-racialism that did not prioritise the dissolution of the white power base.

In the next section the chief developments in the ANC will be outlined to show how non-racialism was defined and instrumentalised by the ANC, its allies and its critics.

2 9 The African National Congress Youth League (ANCYL)

In their 1944 manifesto the ANCYL, established in 1943 under the leadership of Anton Lembede, critically engages with the liberatory paradigm of the mother body (ANC). The Youth Leaguers are critical of white trusteeship:

“...[t]rusteeship has meant, as it still means, the consolidation by the White man of his position at the expense of the African people, so that by the time national awakening opens the eyes of the African people to the bluff they live under, White domination should be secure and unassailable”.¹⁴⁹

The manifesto charges African youth to refocus the gaze of the ANC on the system of white supremacy *vis-à-vis* black exploitation. The Youth Leaguers expressed their concern that ANC senior leadership showed signs of “pseudo-liberalism and the conservatism of appeasement and compromises”.¹⁵⁰ At this stage, the ANCYL was asserting an Africanist ideology and wanted to impose it on the mother body which, according to them, strayed from the African liberatory paradigm. Lembede, amongst other proponents of African nationalism, was “critical of the tenability of interracial solidarity and camaraderie in the struggle for African freedom against European domination”.¹⁵¹

¹⁴⁸ Anciano (2014) *Journal of Contemporary African Studies* 36.

¹⁴⁹ “ANC Youth League Manifesto 1944” South Africa History Online
<<https://black.sahistory.org.za/archive/anc-youth-league-manifesto-1944>>.

¹⁵⁰ Everatt *The Origins of Non-Racialism* 59.

¹⁵¹ Dladla (2017) *Theoria* 118.

2 10 The Congress Alliance

The most prominent site of interracial solidarity during the 1950s was the Congress Alliance. This multi-racial, anti-apartheid political coalition was committed to majority rule and the attainment of democracy. The Congress of Democrats (COD), a predominantly white organisation with a membership of 500 people, had the same vote in the Congress Alliance as the ANC with a membership of 10 000. This imbalance is worrisome and most probably indicative of the white stronghold within the Congress Alliance. The founding of the COD was premised on the need to find an adequate white response to the Defiance Campaign (1951-1953), to highlight principle above race and to avoid extreme nationalism.¹⁵² Those who later broke away with the PAC were opposed to the significant influence of the COD.

The interracial solidarity and camaraderie within the COD played a role in guarding white interests by advancing what Biko called “the myth of integration”. The myth is premised on an idea that “because it is difficult to bring people from different races together [...] achievement of this in itself is a step towards the total liberation of the blacks”.¹⁵³ This myth attaches a sense of achievement to multi-racialism that for Sobukwe manifests as “racialism multiplied”.¹⁵⁴ The problem identified here by Biko and Sobukwe extends beyond the problematic objective of integration as emancipation; white involvement in the struggle often centred around preventing armed struggle propelled by strands of what was considered ‘extreme’ African nationalism. White liberals affiliated with the SACP (who later made up a large portion of the COD) supported the militancy the ANCYL injected into the ANC while resisting what they labelled ‘exclusive nationalism’, by which they meant the radicalisation of the ANC from 1943 under the leadership of Mda and Lembede.¹⁵⁵

According to Padayachee and Van Niekerk the ‘exclusionary’ Africanist position changed in 1952 under the leadership of Tambo and Mandela. During this time (1950s)

¹⁵² Everatt *The Origins of Non-Racialism* 110.

¹⁵³ Biko *I Write What I Like* (2017) 70.

¹⁵⁴ M Sobukwe and Pan Africanist Congress of Azania *Speeches of Mangaliso Sobukwe from 1949–1959 and Other Documents of the Pan- Africanist Congress of Azania* (1978) 20 cited in Dladla (2017) *Theoria* 119.

¹⁵⁵ Everatt *The Origins of Non-Racialism* 117-119 & Padayachee and Van Niekerk *Shadow of Liberation* 13.

a strand of liberal non-racialism permeated the ranks of the ANC. Biko writes that only at the end of the 1950s, did blacks demand that they were their own guardians. The end of the 1950s signify the break-away of the proponents of African nationalism from the ANC. For Sobukwe and the PAC, non-racialism has to rise from a platform of an African-created polity that recognises and incorporates whites into a truly African society, not the other way around.¹⁵⁶ The fundamental differences regarding the idea of non-racialism were a significant driver of this split. The break-away took place after the Congress Alliance sponsored Freedom Charter was adopted in June 1955 at Kliptown, Soweto. At the same time Biko's Black Consciousness Movement gained momentum.

In the foreword to a 1960s document titled *Face the Future*, published by the Congress of Democrats, Chief Albert Luthuli, President-General of the ANC at the time, thanks those whites "who have taken a stand to make common cause with us in our struggle", claiming that they have done so "at great cost to themselves".¹⁵⁷ He concludes by declaring that these whites are comrades-in-arms with the black people fighting for freedom and that they contribute to mirroring a truly non-racial democratic South Africa.¹⁵⁸ These words allude to something of the integrationist agenda of the ANC.

2 11 The Pan-Africanist Congress of Azania (PAC) and the Freedom Charter

Those who identified as Africanists broke away from the ANC in 1958 and formed the PAC under the leadership of Sobukwe. The members of the PAC held that the ANC had left the ranks of the liberation movement. The PAC relied on an Africanist conception of non-racialism which rendered impossible non-racialism as a *means* – only once the system of white supremacy was destroyed could non-racialism be realised as an *end*.¹⁵⁹ Thus: "[I]t is only after the defeat of white supremacy that non-racialism can exist as a social and political reality".¹⁶⁰

¹⁵⁶ Madlingozi (2017) *Stell LR* 130.

¹⁵⁷ AJ Luthuli "Foreword" in Congress of Democrats "Face the Future" (1960) Historical Papers Research Archive, University of Witwatersrand available at <<http://historicalpapers-atom.wits.ac.za/uploads/r/historical-papers-research-archive-library-university-of-witwatersrand/f/e/a/fea7b79106919cb3c6aa52077e31d32a0a63688f79d14d45e448b398efc4b144/A3337-B2-01-jpeg.pdf>> (accessed 2021-01-25).

¹⁵⁸ Congress of Democrats "Face The Future" (1960) Historical Papers Research Archives, University of Witwatersrand <<http://historicalpapers-atom.wits.ac.za/face-future-with-foreword-by-l-publication-of-congress-of-democrats>> (accessed 2021-01-25).

¹⁵⁹ Dladla (2017) *Theoria* 120. Own emphasis.

¹⁶⁰ Dladla (2017) *Theoria* 120.

The concept of trusteeship over Africans was a cause of great rage among PAC members who resisted all forms of allegiance with whites. For Africanists, 'Africanism' is an ideology of continued resistance against colonialism and the restoration of the sovereignty of the indigenous peoples. Sobukwe's version of non-racialism, as depicted by Dladla, is unconditionally anti-racist.¹⁶¹ For Sobukwe, racism is a false dogma created by the conqueror to justify conquest.¹⁶² Sobukwe and the PAC were critical of the ANC and the Congress Alliance's ideas on race and racism. Their engagements with ANC ideology shed light on the ANC's adoption of liberal non-racialism.

Sobukwe opposed the concept of minority rights inherent in multi-racial rhetoric. First, Sobukwe argues that multi-racialism enabled minority groups to "gang up in the policy-making body against the majority".¹⁶³ Secondly, the justification of minority rights collapses if the very thing that is being fought for is group exclusiveness. In this view, non-racialism as an end can give rise to individual liberties which are "the highest guarantee necessary" – there is thus no need for minority rights that would secure group exclusiveness.¹⁶⁴

The Africanist critique of the ANC's endorsement of multi-racialism takes issue with white domination. The PAC rejected the Freedom Charter for the declaration that "South Africa belongs to all who live in it" on the grounds that it casts those who dispossessed and subjugated the people they encountered as equals of the dispossessed.¹⁶⁵ Sobukwe describes the problem of the Freedom Charter and the ANC's endorsement as follows:

¹⁶¹ Dladla (2017) *Theoria* 120.

¹⁶² Robert Sobukwe and Pan Africanist Congress of Azania *Speeches of Mangaliso Sobukwe from 1949–1959 and Other Documents of the Pan-Africanist Congress of Azania* (1978) 18 cited in Dladla (2017) *Theoria* 113.

¹⁶³ J Ngubane *An African Explains Apartheid* (1963) 100 cited in Dladla (2017) *Theoria* 119.

¹⁶⁴ Robert Sobukwe and Pan Africanist Congress of Azania *Speeches of Mangaliso Sobukwe from 1949–1959 and Other Documents of the Pan-Africanist Congress of Azania* (1978) 20 cited in Dladla (2017) *Theoria* 113.

¹⁶⁵ Robert Sobukwe and Pan Africanist Congress of Azania *Speeches of Mangaliso Sobukwe from 1949–1959 and Other Documents of the Pan-Africanist Congress of Azania* (1978) 42 cited in Dladla (2017) *Theoria* 121.

“They are too incredibly naïve and too fantastically unrealistic to see that the interests of the subject peoples who are criminally oppressed, ruthlessly exploited and inhumanely degraded, are in sharp conflict and in pointed contradiction with those of the white ruling class”.¹⁶⁶

The imperative of post-colonialism for the PAC was the end of white supremacy and the return of the land to the rightful owners: the indigenous peoples.¹⁶⁷

The PAC fundamentally rejected the liberal conception of non-racialism. Sobukwe argued that in a truly free Africa “...colour will count for nothing”.¹⁶⁸ The PAC did not refer to ‘black’ people but rather to ‘Africans’. Their stance was that skin colour was used to support the false dogma of race; that there are no fundamental biological differences between people of different skin colour. For them, the white system used these ‘differences’ to propel the idea of racial superiority/inferiority. PAC thinking asserted that non-racialism had been co-opted by liberal forces and transformed into a colour-blind project aimed at maintaining white hegemony though extending civil and political rights to black people who were progressively civilised in line with white norms. Sobukwe warned against the subtle premise of liberal non-racialism: “racism without races”.¹⁶⁹

2 12 Biko and the Black Consciousness Movement

Biko was active in the Black Consciousness Movement (BCM) from 1969-1972. The ideologies of BCM and the PAC shared some premises, especially those relating to the position of white liberals in the struggle against apartheid. Biko described white liberals as “the people who argue that they are not responsible for white racism and the country’s inhumanity to the black man” and they claimed to “... feel oppression just as

¹⁶⁶ Robert Sobukwe and Pan Africanist Congress of Azania *Speeches of Mangaliso Sobukwe from 1949–1959 and Other Documents of the Pan- Africanist Congress of Azania* (1978) 42 cited in Dladla (2017) *Theoria* 121.

¹⁶⁷ R Sobukwe “The State of the Nation on National Heroes Day 2 August 1959” in T Karis & GM Gerhart (eds.) *From Protest to Challenge: A Documentary History of African politics in South Africa 1882-1964* (1977) 542 545-546 cited in Madlingozi (2017) *Stell LR* 132.

¹⁶⁸ Robert Sobukwe and Pan Africanist Congress of Azania *Speeches of Mangaliso Sobukwe from 1949–1959 and Other Documents of the Pan-Africanist Congress of Azania* (1978) 25 cited in Dladla (2017) *Theoria* 120.

¹⁶⁹ E Balibar “War, racism and nationalism” (2015) available at <<https://black.versobooks.com/blogs/1559-etienne-balibar-war-racism-and-nationalism>> cited in Dladla (2017) *Theoria* 104.

acutely as the blacks.”¹⁷⁰ Biko’s criticism of white liberals was two-fold. First, he argued that in a deeply anti-black country a strategy of non-racism benefitted only white liberals. Generally, white people did not want to associate with radical and violent means of resistance and could not be relied on to effect radical change. The “totality of white power” as Biko described it was not challenged by non-racial rhetoric.¹⁷¹ Secondly, for Biko, the place of white liberals is among white people – their activism and resistance should be aimed at the white minority which sustains and benefits from white supremacy and racist laws. White liberals had no right to claim non-racialism as a relational reward for being non-racist. If liberals truly were vested in the struggle for black liberation, their effort would be aimed at dislodging white supremacy; to demonstrate solidarity liberals should interrogate white structures of knowledge and power.

Biko was critical of what he called “farcical non-racialism”, especially in multi-racial organisations led by white liberals.¹⁷² I focus on this idea since, in my view, much of what Biko criticised is present in contemporary liberal non-racialism.

Biko contended that many black people had fallen into the trap of taking liberal sentiments to heart. According to Biko white liberals’ “characteristic arrogance of assuming a monopoly on intelligence and moral judgment” instilled a feeling of inferiority in black people.¹⁷³ White liberals saw it as their mandate to determine what black people should fight for and how they should go about it. An example he presents is their insistence, that “groups opposing the *status quo* must necessarily be non-racial in structure”.¹⁷⁴ Commenting on student politics at the University of Natal, Biko asserted that white people expected black people to assimilate to organisations that were essentially white organisations. He insisted that non-racialism served liberals well in that they could invoke anti-racist slogans to “calm the masses down”, while engaging in negotiations on behalf of black people, negotiations he claims were ultimately fruitless.¹⁷⁵ Biko insisted that black people do things for themselves and in doing so it was not an attempt to increase visibility, a liberal assumption. BCM maintained that “only

¹⁷⁰ Biko *I Write What I Like* (2017) 69.

¹⁷¹ Madlingozi *Mayibuye iAfrika?* 131; also see Biko *S I Write What I Like* (2017) 69.

¹⁷² Biko *I Write What I Like* (2004) 13.

¹⁷³ Biko *I Write What I Like* (2017) 71.

¹⁷⁴ Biko *I Write What I Like* (2017) 69.

¹⁷⁵ Biko *I Write What I Like* (2017) 69.

‘black people’ could become the constituent power for a non-racist and anti-racist society”.¹⁷⁶

Before studying medicine at the University of Natal, Biko had been an avowed non-racialist who believed that racism could be overcome by co-operation between black and white people. Later, he regarded the “totality of white power” in a different light. Now the mandate clearly lay with black people:

“...any changes which are to come can only come as a result of a programme worked out by black people – and for black people to be able to... defeat the one main element in politics which was working against them: a psychological feeling of inferiority which was deliberately cultivated by the system”.¹⁷⁷

The BCM sought to destroy this sense of inferiority. Black Consciousness philosophy opposes liberal non-racialism in that it challenges the idea of black and white co-operation as a praxis for dislodging white domination. Instead, Black Consciousness theory shows how the agenda of including black people into a world which runs according to white norms and on racist terms is at the centre of liberal non-racialism. The latter is captured by Biko as the “myth of integration” and is premised on the idea that “because it is difficult to bring people from different races together [...] achievement of this in itself is a step towards the total liberation of the blacks”.¹⁷⁸

BCM, the early ANC Youth League and the PAC share a mode of resistance to inter-racial solidarity and camaraderie.¹⁷⁹ Liberal responses to BCM and Africanist claims were generally that these approaches are narrow minded, essentialist, exclusionary, and dangerous. Liberals took issue with black people who resisted white guidance and leadership. Biko argued that white liberals felt entitled to prescribe to black people how they should wage their struggle against the anti-black system. He contended that whites believe that black people are unable to formulate and execute their own thoughts and ideas without white guidance. He specifically takes issue with this arrogance since white

¹⁷⁶ Madlingozi *Mayibuye iAfrika?* 132.

¹⁷⁷ Biko *I Write What I Like* (2014) 163.

¹⁷⁸ Biko *I Write What I Like* (2017) 70.

¹⁷⁹ Biko *I Write What I Like* (2017) 70.

liberals benefitted from the *status quo* regardless of their moral reservations against the system.¹⁸⁰ He adds that white liberals were “eager to demonstrate [their] identification with black people” but that they still had a vested interest in the privilege and protection offered by whiteness.¹⁸¹ In defining white liberals, Biko alludes to their conviction that they are as acutely oppressed as black people and that they should therefore be “jointly involved in the black man’s struggle for a place under the sun”.¹⁸² In this regard former Justice Albie Sachs recalls an exchange with Moses Kotane (Secretary-General of the SACP 1939-1978):

“You whites, you all love running to the location. You get big cheers from the people... Water always follows the path of least resistance. We don’t have access to the whites, we can’t organise amongst them. That is really where you people have to be, but you always run away from that. Because it is more difficult”.¹⁸³

The PAC and BCM ultimately sought to re-constitute South Africa as Azania. In conclusion, the ANC’s emancipatory programme is typified by the claims of civil and political rights for black people, democratisation, and incorporation into a transformed South Africa. In contrast, the liberation vision of the PAC and BCM demands decolonisation before democratisation because in an undecolonised context minority rights enable white hegemony. The ultimate goal here is the creation of a polity that recognises settlers but that is, first and foremost, built on African terms and systems of justice.¹⁸⁴

2 13 The ANC’s endorsement of liberal non-racialism

In an ANC document, titled Strategy and Tactics, drafted at the Morogoro conference in Tanzania, 1969, the ANC leadership declared:

¹⁸⁰ Biko (1978) *Ufahamu: A Journal of African Studies* 12.

¹⁸¹ Biko *I Write What I Like* (2017) 71.

¹⁸² Biko *I Write What I Like* (2017) 69.

¹⁸³ Former Justice Albie Sachs quoted in J Frederikse *The Unbreakable Thread: Non-racialism in South Africa* (1990) cited in Everatt *The Origins of Non-Racialism* 119.

¹⁸⁴ Madlingozi (2017) *Stell LR* 130.

“To allow the existing economic forces to retain their interests intact is to feed the root of racial supremacy and does not represent even the shadow of liberation. Our drive towards national emancipation is therefore in a very real way bound up with economic emancipation”.¹⁸⁵

This declaration represents an objective to decisively break with the white economic power base which produces black impoverishment. This objective was not sustained and was not realised post-1994. Chapter four expands on this point.

In this sense there is a link between the non-realisation of economic emancipation as outlined in the document above and the anti-colonial statements of the early New Africans. The non-realisation of economic liberation manifested in neo-colonial economic realities (which are explored in chapter four), while the anti-colonial statements of the New African leaders, similarly, did not manifest as substantial anti-colonial mandates. The contention is not that the ANC did not desire a truly non-racial future and black liberation but that liberal non-racialism was absorbed into their discourse over time. The effect of this adoption is that ideas inherent to liberalism became part of the ANC’s liberatory paradigm. These ideas include deeply embedded notions of teleological whiteness which manifested in the desire to be incorporated into the colonial system. The claim is that liberal non-racialism has been instrumental in translating white domination into white hegemony. The ‘New South Africa’, though transformed into a democracy, reproduces the problems of poverty, inequality and unemployment (PIU) along racial lines. Liberalism allows racial hierarchy to survive despite yearnings for the recognition and incorporation of black people as a means of achieving equality and racial justice.

The liberal version of non-racialism captured in the Freedom Charter, manifested in the Constitution. The claim is that this idea of non-racialism does not interrogate the categories of white/conqueror and black/conquered but invokes a liberal quest for incorporation. Here “racism without races” is given a contemporary platform in that the settler-created society lives on; the South African state is formally deracialised but the

¹⁸⁵ African National Congress “Strategy and Tactics” Morogoro Conference, Tanzania, 25 April – 1 May 1969 cited in V Padayachee & R Van Niekerk *Shadow of Liberation* 37.

PIU problem is maintained and reproduced. Liberal non-racialism's success has been that its logic of incorporation together with its status of common-sense-moderation, attitudinal generosity and good-will popularly trump strivings to re-make society. Generally, liberalism labels strivings to fundamentally re-make society as violent, exclusivist, nationalistic, and, ironically, racist.

Liberal non-racialism obscures the reality of white hegemony and enables an evasion of the perpetuation of racial injustice by presenting a fundamentally flawed version of non-racialism as the antithesis of racism. In the words of Biko: "For the liberals, the thesis is apartheid, the anti-thesis is non-racialism, but the synthesis is very feebly defined. They want to tell the blacks that they see integration as the ideal solution".¹⁸⁶

In order to engage with and undo the process of "feebly defining" non-racialism, the history of South Africa's making and the complicity of liberalism in oppressing and exploiting black people must be interrogated. This would entail considering history as *the present*, not as a past so that it transpires that "racism [...] is not the product of misguided or venal individuals" but of an entrenched logic that is traced to the rhetoric of liberal non-racialism.¹⁸⁷

2 14 Conclusion

This chapter explored the concept of non-racialism in three different sites, namely, the lexicons of: i) white liberal discourse; ii) the liberation language of the African National Congress; and iii) the Africanist anti-racist agenda. The emphasis is on a pervasiveness of liberal sentiments and how they came to be endorsed by the ANC of the 20th century. This chapter considered the philosophy of the PAC and the BCM as a critical response to the ANC's stance on multi-racialism and non-racialism.

The next chapter considers contemporary liberal non-racialism as its ideas pertain to the value of substantive equality.

¹⁸⁶ Biko *I Write What I Like* (1996) 90.

¹⁸⁷ S Saul & P Bond *South Africa – The Present as History From Mrs. Ples to Mandela & Marikana* (2014) 15-16. Own emphasis. K Nunn "Law as Eurocentric Enterprise" (1997) 15 *Law & Inequality* 329.

CHAPTER THREE: SUBSTANTIVE EQUALITY AND NON-RACIALISM

Much has changed in South Africa. Or not much has changed; depending from what perspective you are looking at our ugly past.

What has changed is the physiognomy of white power, which allows a white minority to maintain hegemony under the guise of non-racialism.¹⁸⁸

3 1 Introduction

Chapter two set out developments in the concept of non-racialism. This study argues that a liberal idea of non-racialism dominates in the ANC co-sponsored Freedom Charter of 1955 and constitutional discourse. By a liberal idea of non-racialism, I mean the conditional project of affording black people equal recognition based on their integration into a settler society and their assimilation to white norms. This study contends that the ANC, in its approach to liberation, adopted a version of liberal non-racialism that is informed by whiteness. This version is also reflected in the Constitution and is predominant in (i) the societal imagination influenced by 'rainbow nation' imagery and (ii) constitutional discourse.

In this chapter, I argue that a radical shift in imagining non-racialism is necessary to bring about substantive equality. If the dominant perception of non-racialism is not scrutinised, it will stunt the possibility of dismantling systemic inequality inherited from colonial and apartheid systems. I will show that contemporary liberal non-racialism is counter-productive in dismantling institutional racism, structural inequality, and conditions of impoverishment. In other words, liberal non-racialism is inimical to a decolonial project and to the extent that non-racialism as a constitutional value applies to substantive equality it is unable to challenge (i) white hegemony and (ii) the idea of incorporation and assimilation as the ultimate transformative project.

In questioning whether the Constitution, as a non-racial document, can effect substantive equality, this study must clarify the overlap between substantive equality and non-racialism.

¹⁸⁸ L Nkosi "The ideology of reconciliation: Its effects on South African culture" in L Stiebel & M Chapman (eds.) *Writing Home: Lewis Nkosi on South African Writing* (2016) 149.

This chapter is structured as follows. Part one considers how the metaphor of the rainbow nation has impacted the societal imagination with regard to notions of non-racialism, equality and justice. Part two contrasts the liberal egalitarian idea of substantive equality with the Africanist conception of equality.

3 2 The metaphor of the ‘rainbow nation’ as a pervasive denial of difference¹⁸⁹

3 2 1 Hopes of a rainbow nation

With the history of South Africa’s making in mind, any engagement with the concept of non-racialism necessitates an interrogation of the existence and predominance of white supremacy in ‘post-apartheid’ South Africa. This interrogation questions whether contemporary liberal non-racialism is a hindrance in the realisation of substantive equality by questioning how the realisation of substantive equality is perceived. First, the requirement is to examine the social constructs and perceptions manifested in the language South Africans use to relate to each other as having a substantial effect on how society imagines equality; in particular the image of the rainbow nation.

The term ‘rainbow nation’ was coined by Archbishop Desmond Tutu around 1994 as a hopeful description of a future South Africa where people of ‘different races’ and cultures co-exist harmoniously. Nelson Mandela, as the first democratically-elected President of South Africa in 1994, further popularised the term, in my view consolidating the ANC’s liberal multi-racial constitutional vision on a symbolic level.

Rising inequality and levels of poverty and unemployment pose a serious challenge to the ideal of the rainbow nation. I contend that there is social, economic and political continuity with the colonial and apartheid ‘pasts’ rendering the rainbow nation wholly unattainable. Valj captures the non-reality of the rainbow nation image succinctly: “South Africa did not on that April day of the first democratic elections, step across a threshold of violence, racism and anger into a beautiful rainbow of peace, harmony and unity”.¹⁹⁰

¹⁸⁹ This title derives from the following article: P Gqola “Defining people: Analysing power, language and representation in metaphors of the New South Africa” (2001) 41 *Transformation* 104. Available at <http://digital.lib.msu.edu/projects/africanjournals/> (accessed 2020-02-07).

¹⁹⁰ N Valj *Creating the Nation: The Rise of Violent Xenophobia in the New South Africa* (2003) Unpublished Master’s Thesis, York University <<https://csvr.org.za/docs/foreigners/riseofviolent.pdf>> (accessed 2021-01-02).

The vision of the rainbow nation can be summarised as follows: first, a society in which the colours of the rainbow represent different cultures, languages, and ethnicities. Secondly, that in a multi-racial and multi-cultural society individual people will peacefully co-exist. In this process, the arbitrary categories of race ultimately dissolve so that skin colour does not represent advantage or disadvantage. Archbishop Tutu's vision of unity among the culturally-diverse peoples of South Africa presents an image of a post-racial society; Tutu did not deny difference but portrays a belief that the "rainbow people of God" can unite in spite of difference.¹⁹¹

President Thabo Mbeki's *I am an African* speech can be related to the idea of the rainbow nation and the ANC's approach to liberation. In this speech, Mbeki presents the idea that settler invasion and conquest are now irrelevant historical factors.¹⁹² This declaration of unity is regarded as being in spite of pressing and unresolved questions of historical justice.¹⁹³ Gqola argues that the label of "rainbowism" became an authorising narrative which assisted in the denial of difference thereby emptying the essence of Tutu's vision.¹⁹⁴

A post-racial society is a society wherein we can truly move beyond the invented categories of race, but we must do so methodically and with the intention of addressing conquered/conqueror legacies. One implication of attaining a post-racial society is that the features of the making of South Africa has to be interrogated, resolved and reconciled. These features include generational wealth accumulated on a platform of white opportunity *vis-à-vis* black oppression and exploitation. The resolution can come through (i) relinquishing of the benefits that flow from conquest on the part of the conqueror and (ii) an integration of the settler into an inclusive African state.¹⁹⁵ A post-racial society is the ultimate project of true non-racialism and cannot come into being through liberal non-racialism.

¹⁹¹ Gqola (2001) Transformation 47 98 <http://digital.lib.msu.edu/projects/africanjournals/html/item_detail.cfm?recordID=787> (accessed 2021-01-02).

¹⁹² Madlingozi *Mayibuye iAfrika?* 54.

¹⁹³ Madlingozi "On Settler Colonialism and Post-Conquest Constitutioness" (2016) 15.

¹⁹⁴ 'Rainbowism' signifies the idea and vision of the rainbow nation. The concepts 'rainbow nation' and 'rainbowism' are used interchangeably.

¹⁹⁵ Madlingozi "On Settler Colonialism and Post-Conquest Constitutioness" (2016) 15.

Further inquiries in this chapter relate to why rainbow nation rhetoric retains a hold when inequality and impoverishment are distributed on racial lines and whether the rainbow metaphor made a meaningful contribution in imagining the dismantling of institutional, socio-economic inequality and cultural hegemony. I argue that the rainbow metaphor instead presents a culture of “the pervasive denial of difference” which allows the language of inclusiveness and equality to obscure the reality of inequality and the *longue durée* of poverty and inequality.¹⁹⁶

The Freedom Charter of 1955 is an essential point of reference in examining the rainbow metaphor. This Charter declares that: “South Africa belongs to all who live in it, black and white”. I argue that there is a fundamental problem with this stance if it is not preceded, firstly, by a relinquishing of the benefits accrued to white people via the exploitation and oppression of black people, and secondly, a decisive rupture with the political and economic systems of the colonial and apartheid ‘pasts’.

The Kliptown meeting signifies the moment of divergence for the PAC, which left the ranks of the Charterist tradition because of fundamental ideological differences pertaining to the future of the country, including the vision of non-racialism. This split is read as a rejection of the rainbow nation and ‘multi-racialism’ if not preceded by retribution. The ANC Youth League briefly contested the vision of multi-racial national-building, “[but] the Freedom Charter swept aside an emergent discourse of African nationalism in favour of a liberal national-building project.”¹⁹⁷

The PAC and others cautioned against the sentiments of ‘rainbowism’ before the term rainbow nation was officially coined. Sobukwe rooted scepticism and resistance to the notion of multi-racialism in an argument that the arbitrary distinction between black and white had been invented for the sole purpose of justifying the conquest and exploitation of black people. According to him, there exists only the human race. Following this sentiment, Sobukwe saw multi-racialism as multiplying the effects of racialism.¹⁹⁸ Drawing on notions of multi-racialism and liberal non-racialism, rainbowism does not

¹⁹⁶ Gqola (2001) *Transformation* 104.

¹⁹⁷ Madlingozi “On Settler Colonialism and Post-Conquest Constitutioness” (2016) 13.

¹⁹⁸ Robert Sobukwe and Pan Africanist Congress of Azania *Speeches of Mangaliso Sobukwe from 1949–1959 and Other Documents of the Pan- Africanist Congress of Azania* (1978) 20 cited in Dladla (2017) *Theoria* 119.

disrupt the settler-colonial structure but instead evades an interrogation of racial inequality and enduring racism.

The link between rainbowism and multi-racialism lies in the ignorance of the power differential between black and white. The problem with multi-racialism and the Freedom Charter's declaration that "South Africa belongs to all who live in it" is that there is a commitment to the equitable sharing of land and wealth (that has been concentrated in white hands), which effectively consolidates the historical inequity and accepts the *status quo*.¹⁹⁹ The question of black impoverishment as opposed to white accumulation is deferred to be decided by the future democratic government of a multi-racial South Africa. Liberal non-racialism aids the denial of power differentials because it calls on the same tropes of 'inclusivity' and 'nation-building' as rainbow nation rhetoric.²⁰⁰

If the project of rainbowism or the attainment of the rainbow nation does not revolve around undoing institutional socio-economic and cultural arrangements, and by implication "settler-created house", it is inimical to the decolonial project.²⁰¹ In the same vein a version of non-racialism that does not interrogate the pretence of white supremacy maintains and reproduces inequality. Liberal non-racialism is sustained by rainbowism. The rainbow metaphor, supported by contemporary liberal non-racialism, is a powerful and discursive tool employed in 'post'-apartheid South Africa. I now consider how the rainbow metaphor is employed in societal discourse.

The metaphor of the rainbow has been drawn on by both progressive and conservative voices. The former employ it to urge 'unity in diversity' and to calm heated political debate or racial tension. The latter relies on the metaphor to defend a claim of minority group rights. In her article titled *Defining people: Analysing power, language and representation in metaphors of the New South Africa*, Gqola illustrates how "...rainbowism is evoked at specific points where a certain kind of non-racialism, though not necessarily anti-racism, needs to be stressed. We are not always rainbow people, only some of the time when the need arises".²⁰² I offer as examples of the rainbow

¹⁹⁹ Madlingozi *Mayibuye iAfrika?* 49.

²⁰⁰ Gqola (2001) *Transformation* 98-100.

²⁰¹ Madlingozi "On Settler Colonialism and Post-Conquest Constitutioness" (2016) 3.

²⁰² Gqola (2001) *Transformation* 100.

metaphor, operating as a device for the denial of difference and stifling discussions of the power differentials, two topics; #AfrikaansMustFall and #StrongerTogether.²⁰³

3 2 2 #AfrikaansMustFall

Universities present a microcosm of broader society.²⁰⁴ Afriforum opposed the 2015/2016 #AfrikaansMustFall movement. One of the popular arguments asserted by this group was akin to: “Why does the University of Pretoria not develop Sepedi as an academic language instead of removing Afrikaans from classrooms?”.

I present this as an example of employing the notion of ‘diversity’ to serve a claim for minority rights. Such claims obscure the power differentials inherent in Afrikaans and whiteness. In addition, the social reality of inaccessible Institutions of Higher Education is underplayed. What I mean by this is that Afrikaans as a language of instruction is a contributor to the inaccessibility of these institutions. I will not go into great detail as to why this is the case. It will suffice here to say only that Afrikaans as a language of instruction plays a major role in maintaining an exclusionary (if not racist) institutional culture. The arguments ‘for diversity’ and the preservation of Afrikaans very rarely make the necessary connections between their mandate and maintained inequality and inaccessibility. Self-preservation and the protection of Afrikaner identity and minority rights takes precedence over communal welfare, but rainbow rhetoric is still invoked to claim minority rights under the banner of ‘diversity’. For the proponents of #AfrikaansSalBly (#AfrikaansWillStay) rainbowism is an instrument to circumvent questions of institutional, socio-economic and cultural arrangements that arose during colonialism and apartheid.²⁰⁵ The rainbow metaphor is a useful discursive tool that avoids implicating Afrikaner/white identity in sustained inequality and racism.

3 2 3 #StrongerTogether

The 2019 Springbok World Cup victory featured a popular slogan, #StrongerTogether. Despite the inherent nation-building potential of this slogan, I maintain that the slogan

²⁰³ Gqola (2001) *Transformation* 98.

²⁰⁴ JM Modiri “The Time and Space of Critical Legal Pedagogy” (2016) 27 *Stell LR* 507 517.

²⁰⁵ Madlingozi “On Settler Colonialism and Post-Conquest Constitutioness” (2016) 13.

is employed only for the 'positive returns' of rainbowism; a feeling of unity, solidarity and camaraderie with fellow South Africans.

The argument rests on a notion that these examples "...foreground difference at precisely the moment which it trivialises its implications".²⁰⁶ The intention of advancing unification is not disputed, but rainbowism undermines the unifying potential by suggesting differences can be overcome by a shift in mentality. When these 'differences' are centred around structural and systemic racism such a suggestion trivialises racial inequality.²⁰⁷ Team spirit and spectatorship do not substitute for the deeply discomfiting conversation that has to take place around race and 'difference'.

The slogan #StrongerTogether provide solace for the white minority's existential angst arising from the evident unresolved crisis in South Africa; that it is not a post-racial society nor is it making meaningful strides to get there. For this reason, colour-blindness is conflated with the rainbow metaphor, effectively underplaying the socio-economic implications of race in South Africa and creating a pervasive denial of difference.²⁰⁸

The thesis defended here is that non-racialism, in its contemporary liberal form, presents an effort to assimilate to whiteness. In Mills' words: "The dismantling of racial liberalism cannot be a colour-blind process because that leads to maintained blindness of the historical and enduring whiteness of liberalism".²⁰⁹ This circumstance renders rainbowism as a remedy for racism and division counter-productive.

Drawing support from the rainbow metaphor, these examples play an instrumental role in the construction of society's ideas about non-racialism, equality and justice. Gqola asserts that rainbowism in the 'New South Africa' contributes to the creation of new realities that become new truths. The public rehearsal and the private utterances of rainbowism promote these new truths to become "authorised truths".²¹⁰ The authorised truth is one of peaceful co-existence "in spite of and because of [South Africans' much-celebrated] differences" – at the great cost of "[stifling] rigorous discussions of power

²⁰⁶ Gqola (2001) *Transformation* 100.

²⁰⁷ Gqola (2001) *Transformation* 100.

²⁰⁸ Gqola (2001) *Transformation* 104.

²⁰⁹ Mills "Racial Liberalism" (2008) 123(5) *PMLA* 1394 cited in Dladla (2017) *Theoria* 100.

²¹⁰ Gqola (2001) *Transformation* 96.

differentials.”²¹¹ These examples show how the public rehearsal of rainbowism in the site of sports spectatorship is “paraded as the expression of unity”.²¹²

3 2 4 Imagining equality

The claim is that the factors that are inherently divisive, being inequality and black impoverishment, reduce the rainbow metaphor to a pervasive denial of difference.²¹³

The difference that is obscured in the rainbow metaphor is the disparity in material wealth. The constitutional right and value of substantive equality speaks directly to this disparity.²¹⁴ In the next section I argue that the rainbow metaphor exerts a direct influence on law-making and constitutional discourse.

I maintain that establishing a relationship between the societal imagination, rainbowism, and constitutional discourse is not to make an arbitrary connection. It relies on the idea that language and metaphor used to think about and relate to other people inform our social relations and our legal thinking; social relations translate into demands via a participatory democracy and manifest in policy and law. The specific groups I implicate are the white minority and the black majority and how the former relates to the latter (conflated to a single group of the ‘Other’) via the rainbow metaphor. The relevance of the rainbow metaphor here is that it aids in prioritising white people’s material, psychic and cultural interests via the “authorised truth” of the rainbow nation.²¹⁵ This happens when calls for a rainbow nation (premised on liberal ideas of unity) outweigh calls to interrogate racial inequality. The lack of debate around the power differentials that are still at play in the ‘New South Africa’ poses a great barrier to re-making society in order to establish substantive equality.²¹⁶

Societal perceptions of impoverishment and inequality represent the ways in which we conceptualise and speak of these realities. Dominant societal perceptions manifest in the law and policy. Poverty and inequality are empirical realities which can be measured

²¹¹ Gqola (2001) *Transformation* 98.

²¹² Gqola (2001) *Transformation* 101.

²¹³ Gqola (2001) *Transformation* 104.

²¹⁴ *The Constitution*, s9.

²¹⁵ Madlingozi “On Settler Colonialism and Post-Conquest Constitutioness” (2016) 8 & Gqola (2001) *Transformation* 98.

²¹⁶ Gqola (2001) *Transformation* 98.

and reflected using statistics. These realities however bear psychological implications for the affected people.²¹⁷ In recent years, the corpus of research on inequality and impoverishment in South Africa displays engagement with these psychological effects. Soudien et al., for instance, write that “[i]f the effect of the structure in the South African situation, and particularly in the racialised economy, is to incapacitate South Africans in their bodies and their heads, then it is important that this complexity is confronted clearly”.²¹⁸ An engagement with inequality and impoverishment from this perspective has “put into much clearer perspective the mechanisms which produce poverty and inequality”.²¹⁹

Rainbowism, as a dominant discursive tool, “stifles rigorous discussions of power differentials”.²²⁰ The rainbow metaphor and liberal non-racialism do not interrogate inequality or systemic racism but instead raise a combination of colour-blindness and conditional solidarity that draws a ‘clean slate’ theory in the ‘New South Africa’. The conceptualisation and realisation of substantive equality in this context is a complex issue and is riddled with contradictions.

The white/liberal synthesis for a non-racial society is feebly defined; similarly, the idea of a rainbow nation is counter-productive to the construction of a truly equal society.²²¹ Rainbowism sustains the hegemonic constitutional project and obscures deep-seated problems of structural and systemic racism.

3 3 Substantive equality as an expression of liberal non-racialism in the ‘rainbow nation’

3 3 1 Introduction

Substantive equality is generally understood as:

²¹⁷ BM Magubane “The Importance of Historical Knowledge” in *The Making of a Racist State: British Imperialism and the Union of South Africa 1875–1910* (1996) 371.

²¹⁸ C Soudien, V Reddy, and I Woolman “South Africa 2018: The state of discussion on poverty and inequality” in Soudien et al. (eds.) *Poverty & Inequality: Diagnosis Prognosis Responses* 17.

²¹⁹ C Soudien, V Reddy and I Woolman “South Africa 2018: The state of discussion on poverty and inequality” in Soudien et al. (eds.) *Poverty & Inequality: Diagnosis Prognosis Responses* 17

²²⁰ Gqola (2001) *Transformation* 98.

²²¹ Biko *I Write What I Like* (1996) 90.

“the recognition that equality is not a formal requirement of equal treatment [but rather] a concern with the actual impact or results of social and legal classifications. [T]he problem is not differentiation, per se, but the (systemic) harm that might flow from it”.²²²

In order to assess the ‘systemic harm’ in the context of each case, each lived experience must be weighed to determine “the actual effect of the impugned action”, policy or programme.²²³ I follow Albertyn’s framing of substantive equality as a political idea, constitutional value and a right.²²⁴ In doing so, I draw the concept of substantive equality into the broader framework of contemporary liberal non-racialism. As a comprehensive right in the Bill of Rights, substantive equality implicates constitutional discourse and jurisprudence. Equality, human dignity and freedom are the cornerstones of the South African constitutional democracy.²²⁵ No constitutional value (or right) can be considered in isolation from other values that exert an interpretative influence on the value/right. In this sense, non-racialism and non-sexism have an incremental bearing on what society and all three branches of government (executive, legislative and judicial) envision as equality and how equality is realised or not realised.²²⁶

In part one I identified the problem of rainbowism as “the pervasive denial of difference” following Gqola, and posed the rainbow metaphor as erecting a barrier against re-making society. In part two, I trace the development of the concept of substantive equality in tandem with non-racialism, arguing that white norms and white ideas of justice and transformation, specifically liberal ideas of equality, prevail in the ‘New South Africa’. These ideas encapsulate what is described as the hegemonic constitutional project.

Albertyn argues that the Freedom Charter with its “mediation of liberal, Africanist and socialist influences” came to define the idea of substantive equality in the constitutional

²²² Albertyn (2018) *SAJHR* 456.

²²³ Albertyn (2018) *SAJHR* 456.

²²⁴ Albertyn (2018) *SAJHR* 442.

²²⁵ *The Constitution*, s1.

²²⁶ *The Constitution*, s1.

text.²²⁷ The Freedom Charter signifies a renewed surge of debate on the topics of multi-racialism, non-racialism and equality.

In considering the three models of substantive equality reflected in the Freedom Charter, I argue that the version of substantive equality that is endorsed by the African National Congress and the Constitutional Court reflects contemporary liberal non-racialism and teleological whiteness.²²⁸ The three models are: i) liberal egalitarianism; ii) the Congress Alliance perspective; and iii) Africanist/Black Consciousness perceptions.

3 3 2 Liberal egalitarianism

A model of social democratic/liberal egalitarian substantive equality featured strongly during the transition and subsequently found an “intellectual home” in the jurisprudence of the Constitutional Court.²²⁹ White liberals endorsed the idea of equality as recognition.

I argue that liberal egalitarianism is consistent with liberal non-racialism in that the idea of ‘equality of recognition’ and a more radical progression to ‘equality of condition’²³⁰ at best incorporates a more substantial portion of impoverished black people to the other side of the “abyssal Line”.²³¹ ‘The Line’ signifies a break between who is considered human (existing in the zone of being and recognition) and sub-human (existing in the zone of non-being and *unrecognition*). The imperative of redrawing the Line reflects an epistemological and ontological significance attached to white supremacy as the settler’s way of being in the world is “valorised, violently enforced and constitutionalised”.²³²

²²⁷ Albertyn (2018) *SAJHR* 445.

²²⁸ Teleological whiteness refers to “the idea that being white and the attainment of whiteness are the highest ideals of emancipation and human progress”. See Madlingozi (2017) *Stell LR* 129.

²²⁹ Albertyn (2018) *SAJHR* 442.

²³⁰ Albertyn formulates equality of condition as an idea of equality that “moves beyond a dignity-based concern with social inclusion and sufficiency towards an idea of systemic and material justice”. See Albertyn (2018) *SAJHR* 467.

²³¹ B Santos “Beyond Abyssal Thinking: From Global Lines to Ecologies of Knowledges” (2007) 1 *Review* 45-89 cited and developed in Madlingozi “On Settler Colonialism and Post-Conquest Constitutioness” (2016) 1. The Line signifies a division between human and sub-human. In this framework the “settlers’ way of being in the world is valorised, violently enforced and ultimately constitutionalised.”

²³² Madlingozi “On Settler Colonialism and Post-Conquest Constitutioness” (2016) 1.

Albertyn notes that: “substantive equality, as defined in politics or law, requires a concern with *recognition, redistribution and redress*”.²³³ In the context of liberal politics, specifically during the 1940s and 1950s, redress in respect of ‘discrimination’ would be the product of integration as black people, upon ‘becoming civilised’, grow in economic potential. In this sense, and because of them ‘becoming civilised’ economic emancipation amounts to redress. The settler’s way is thus legitimised and endorsed in order to reconfigure the Line. Equality of recognition is the idea that all human beings are owed equal human rights and the recognition of human dignity. I argue that recognition in this sense is conditional upon white/Western norms and is consistent with the early liberal slogan of ‘equal rights for all civilised men’.

As set out in chapter two in respect of white liberal sentiments, the liberal vision of equality is based on the idea that civil and political rights can be extended to ‘civilised blacks’. Liberal egalitarianism is consistent with liberal non-racial sentiment as it is conditional upon the acceptance of white norms. Notions of ‘race-blind meritocracy’ that underscore economic liberalism are reflected in contemporary societal and political discourse. Economic liberalism dictates that racial discrimination poses a barrier to “the individual pursuit of economic opportunities for black people” and that liberalism argues for an opening of the labour market “to a settled black urban community”.²³⁴ This idea of equality, prevalent in the 1940s and 1950s, reflects thin formal equality and does not address structural racism which dictates the mechanisms through which the economy is fundamentally anti-black, but vouches for a race-blind meritocracy whenever ‘racialisation’ posed a situation detrimental to economic growth.²³⁵ The establishment of a functioning settler-colonial society was dependent on the successful harnessing of the African workforce. Liberal egalitarianism does not problematise the exploitation of black labour and reduces the problem of racial capitalism and impoverishment to a class issue.²³⁶

²³³ Albertyn (2018) *SAJHR* 442. Own emphasis.

²³⁴ Albertyn (2018) *SAJHR* 444.

²³⁵ Albertyn (2018) *SAJHR* 451.

²³⁶ G Findlay “‘South African Native Policy and the Liberal Spirit’ Reviews of Professor R.F.A. Hoernle's Phelps-Stokes Lectures” (1940) 2 (VII) *Race Relations* 32-34 39
<<http://uir.unisa.ac.za/handle/10500/6189>.> (accessed 2021-01-02).

In the Congress Alliance the idea of equality led to a call for “equal political rights and economic opportunities for all South Africans, irrespective of race, colour or sex”.²³⁷ The formal idea of equality evolved from economic rationality to include human dignity, the idea that humans – irrespective of their skin colour have inherent worth. This progression did not interrogate the standard of teleological whiteness – “the idea that being white and the attainment of whiteness are the highest ideals of emancipation and human progress”.²³⁸

The Universal Declaration on Human Rights of 1948 reflects a mainstream global understanding of human rights as the responsibility of the state to protect and recognise the human rights of all people.²³⁹ This declaration followed the humanitarian crisis of World War Two. In 1948 the National Party (NP) came to power in South Africa. Partly as a result of the Declaration, state-sanctioned violence faced increasing scrutiny in the second half of the 20th century. Human rights discourse’s engagement with the predicament of black people in South Africa was somewhat superficial. Madlingozi argues that the Marikana massacre offers evidence that the discourse of human rights collapses when it must speak to the rights of those who exist below the Line.²⁴⁰ This brings me to the question presented by Mignolo: “Who speaks for the ‘human’ in human rights?”²⁴¹ The issue of who is considered human in this sense, and at this time in history, is of vital importance in conceptualising the concept of equality in the liberal lexicon.

Despite the cautionary voice of the PAC that Africans ought not to “make any demands for freedom and human rights against the colonial state, let alone seek human recognition from ‘oppressors’”, the ANC and Congress Alliance supported human rights discourse, as is reflected in the Freedom Charter.²⁴² The positions of the PAC and the Black Consciousness Movement (BCM) are discussed later in this chapter.

²³⁷ The Congress Alliance was an anti-apartheid political coalition formed in South Africa in the 1950s. Led by the ANC, the CA was multi-racial in makeup and committed to the principle of majority rule. Everatt *The Origins of Non-Racialism* 19 cited in Albertyn (2018) *SAJHR* 444.

²³⁸ Madlingozi (2017) *Stell LR* 129.

²³⁹ Albertyn (2018) *SAJHR* 445.

²⁴⁰ Madlingozi (2017) *Stell LR* 138.

²⁴¹ Mignolo “Who Speaks for the ‘Human’ in Human Rights?” (2009) 5 *Hispanic Issues Online* 7-8.

²⁴² PN Raboroko “Congress and the Africanists: (I) the Africanist Case” (2017) South Africa History Online <<https://black.sahistory.org.za/sites/default/files/DC/asapr60.5/asapr60.5.pdf>> (accessed

The idea of the 'human' was invented by European humanists of the 15th and 16th centuries in contradistinction to the 'non-European barbaric Other'.²⁴³ Mignolo challenges the globally accepted (liberal) idea that all people are equal by questioning the implication of this assertion on the issue of conquest. The primary reason for the invention of 'human' is the justification for conquest and drawing a line between human/white/European and sub-human/black/savage which enabled colonisers to rationalise and justify conquest by dehumanising the 'Other'.²⁴⁴

The invention of the 'human' served several purposes. Liberals, such as Hoernle, did not invoke biological reasons to justify racism, as I have mentioned above, but the idea of 'equal rights to all civilised men' which he did endorse, reflects the 15th and 16th century ideas of who is considered human. Liberal egalitarian ideas of equality are also premised on notions of white supremacy.

The liberal egalitarian approach that is captured in the Freedom Charter hinges on the concept of equality of recognition that is fundamental to human rights discourse. I suggest that 'recognition' presupposes the existence of a *recognised* group and of others outside that group. The progression in the liberal egalitarian idea of equality: from equality of recognition to equality of condition does not interrogate the Line which divides humans and sub-humans but proposes integration as a remedy. The logic of (conditional) integration that is inherent to liberal egalitarian thought frames the liberal idea of substantive equality and reflects its ties to teleological whiteness.

3 3 3 The Congress Alliance

If non-racialism was a politically convenient way for white liberals to unite in opposition to apartheid, for the Congress Alliance it was a direct response to racial domination and racial capitalism.²⁴⁵ This thesis does not offer an in-depth analysis of the alleged neo-colonial motives of the ANC (referred to as *selling out*), but argues that the ANC endorsed a fundamentally flawed version of non-racialism, and subsequently, a version

2021-01-03) cited in Madlingozi "On Settler Colonialism and Post-Conquest Constitutionness" (2016) 132.

²⁴³ Mignolo (2009) *Hispanic Issues Online* 7-8.

²⁴⁴ Mignolo (2009) *Hispanic Issues Online* 7-8; Madlingozi *Stell LR* (2017) 136.

²⁴⁵ Albertyn (2018) *SAJHR* 444 & 450.

of substantive equality that is inclusive but not fundamentally transformative.²⁴⁶ It is important to note that the primary vehicles of change are found in politics and government and not in the courts.²⁴⁷ The equality-centred Constitution was intended as a framework which enabled government to develop policy and programmes that address the profound structural legacies of colonialism and apartheid.²⁴⁸

The ANC did not adopt a version of liberation/emancipation that incorporated land reclamation and the restoration of sovereignty to the dispossessed and impoverished black majority. Instead, the ANC opted for inclusion and democratisation in constituting the 'New South Africa'.²⁴⁹ I propose that white notions of equality and justice have exerted an overwhelming influence on the democratisation project as represented in the notion of *equality of condition* that developed out of the liberal egalitarian idea of *equality as recognition*. The Congress Alliance's call for non-racialism as a response to racial domination is rooted in the logic of recognition and incorporation. The problem of the unquestioned white values that inform the idea of liberal non-racialism persists.²⁵⁰

Albertyn argues for a re-thinking of substantive equality in order to "enable more remedial, redistributive and transformative ends, and a more deeply systemic and material justice".²⁵¹ Her position relies on constitutional equality to advance an anti-colonial and anti-racist project and to lean towards *equality of condition*.²⁵² I am sceptical of whether a more transformative idea of equality (like the one Albertyn is proposing), within the hegemonic constitutional project, can truly deliver a non-racial egalitarian society. A distinction is made between the projects of transforming society on the one hand and re-making society on the other. The objective of the former is inclusivity. Socio-political rights are extended to previously excluded groups making them a part of an existing system. This project is consistent with liberal constitutionalism and liberal non-racialism. In the economic sphere liberal egalitarianism relies on the model of recognition-incorporation-distribution to emancipate impoverished black people.²⁵³

²⁴⁶ Albertyn (2018) *SAJHR* 442.

²⁴⁷ Albertyn (2018) *SAJHR* 454.

²⁴⁸ Albertyn (2018) *SAJHR* 454.

²⁴⁹ Madlingozi "On Settler Colonialism and Post-Conquest Constitutioness" (2016) 10.

²⁵⁰ Albertyn (2018) *SAJHR* 445 & Biko (1978) *Ufahamu: A Journal of African Studies* 11.

²⁵¹ Albertyn (2018) *SAJHR* 460.

²⁵² Albertyn (2018) *SAJHR* 456. Own emphasis.

²⁵³ Madlingozi (2017) *Stell LR* 127-128.

PAC and BCM philosophy seeks to dissolve the categories of white/conqueror and black/conquered. The quest for Azania is to establish a post-colonial and post-racial community without white or black people, only Azanians. In this understanding, equality is not a right that already belongs to some and is extended to previously excluded groups. For this reason, PAC and BCM theory questions liberal ideas of equality within the liberal constitutionalism framework. One example is the National Question which cannot be separated from other questions of racial equality; in the African sense land is wealth and is connected to livelihood and dignity.

Albertyn's quest for "more deeply systemic and material justice" remains limited in the current constitutional framework.²⁵⁴ This situation demonstrates the connection between liberal non-racialism and the liberal idea of equality of condition and lacks an interrogation of the *longue durée* of black impoverishment. In a sense equality of condition limits fundamental change, the categories of 'conquered' and 'conqueror' remain intact, and the Line is reconfigured. Decolonial scholars challenge the project of transformative constitutionalism.²⁵⁵ Madlingozi argues that transformative constitutionalism "is complicit in the perpetuation of an anti-black bifurcated society" and the reconfiguration of the Line. Transformative constitutionalism's "master framework of social emancipation" makes apparent the limit of equality of condition; the Line remains intact with some movement from the zone of *unrecognised* non-beings into the zone of *recognised* beings, mainly by the expansion of the black middle class and -elite.²⁵⁶

The Constitution reflects a variety of ideological positions on equality, including liberal egalitarianism, Africanist and socialist thought. This study argues that liberal egalitarianism and liberal non-racialism retain a strong hold and is dominant in constitutional discourse. Further, the reality of inequality and impoverishment in South Africa is compelling evidence that non-racialism cannot materialise in a society where white supremacy remains intact. In the last chapter, I consider the value of non-racialism in the societal imagination and in constitutional discourse.

²⁵⁴ Albertyn (2018) *SAJHR* 460.

²⁵⁵ KE Klare "Legal Culture and Transformative Constitutionalism" (1998) 14(1) *SAJHR* 146-188.

²⁵⁶ Madlingozi (2017) *Stell LR* 123.

In conclusion, the version of substantive equality endorsed by the ANC maintains white hegemony and promotes the idea of incorporation as the ultimate transformative project, focusing on the rights to recognition and democratisation above a right to restorative justice.²⁵⁷ Albertyn's formulation of equality as an idea of "systemic and material justice" meaningfully re-thinks inequality and impoverishment as a manifestation of colonial and apartheid mechanisms. However, it does not implicate the Constitution "in the continuation of colonial-apartheid power relations, value systems and subjectivities".²⁵⁸ The imperative is to create a non-racial egalitarian society. This project demands a radical shift in imagining non-racialism and substantive equality as part of an anti-colonial, anti-racist project based on democratic and decolonial African jurisprudence informed by *Afrikan* humanness. I will expand on this idea in the following chapter.

3 3 4 The Africanist and Black Consciousness critiques of liberal egalitarianism

I have used the term 'poverty management' to refer to the way in which 'the poor' are managed in 'post'-apartheid South Africa through technocratic approaches to alleviate poverty.²⁵⁹ Relief and temporary remedies are characteristic of 'poverty management' and are indicative of an inadequate engagement with the PIU problem. An adequate engagement would involve an interrogation of the "political, social and economic conditions, structures, processes and institutions that create and reproduce relations of inequality".²⁶⁰ Pan Africanist Congress of Azania and Black Consciousness philosophy diagnose these problems as evidence of continuity with the colonial and apartheid 'pasts'. The focus of this section is to set out how Africanist and Black Consciousness conceptions of equality challenge liberal egalitarian conceptions.

The PAC's non-racial African nationalism envisions: (i) the relinquishing of the benefits that flow from conquest on the part of the conqueror; and (ii) the integration of the settler into the all-inclusive post-settler colonial state.²⁶¹ The 'giving up' of the identity of the conqueror is not a simple conceptualisation. Madlingozi points out that African nationalist thought instigates but does not resolve this dissolution of the identities of

²⁵⁷ Albertyn (2018) *SAJHR* 442.

²⁵⁸ Modiri (2018) *SAJHR* 305.

²⁵⁹ E Ravenscroft '*Poverty management' in South Africa* LLB dissertation, University of Pretoria (unpublished) (2018) 2.

²⁶⁰ Albertyn (2018) *SAJHR* 462.

²⁶¹ Madlingozi "On Settler Colonialism and Post-Conquest Constitutioness" (2016) 15.

conquered and conqueror.²⁶² What is clear is that non-racial equality is not possible via integration into an un-decolonised context but that the “route is open for [settlers] to become Africans by declaring loyalty to Africa as their only home”.²⁶³ The struggle for the new state, Azania, necessarily takes on a racialised form first as a means of terminating white supremacy.

For Africanists, racial group rights (minority rights) are effectively “techniques of control” in an un-decolonised context.²⁶⁴ Group rights maintain white hegemony in that group exclusiveness is protected and upheld.²⁶⁵ The Africanist position is in conflict with “precisely the group exclusiveness which those who plead for minority rights would like to perpetuate”.²⁶⁶ In an African majority democracy, group rights are replaced by individual liberties because there is no need to guarantee the safety/protection of a group within the whole; equality hinges on communal welfare and not on the protection of separate groups.

Albertyn argues that though the Africanists do not express their ideology in the language of substantive equality, the iteration that democracy is possible only once white supremacy is destroyed and racialised economic exploitation overcome, “directly challenged liberal equality (egalitarian or otherwise) and the idea of social and economic inclusion within the prevailing racial system”.²⁶⁷ I agree with her argument here.

Biko asserted that the white liberal idea of non-racialism is based on the limited idea of integration.²⁶⁸ In addition, he anticipated that emancipation-as-recognition (the liberal egalitarian vision) amounts to an application to become a colonial subject and to be integrated into a society where an inhumane minority rules over subjugated lesser-humans or non-humans.²⁶⁹

²⁶² Madlingozi “On Settler Colonialism and Post-Conquest Constitutioness” (2016) 14-15.

²⁶³ R Sobukwe “Future of the Africanist Movement Questions and Answers by R.M Sobukwe” in T Karis & GM Gerhart (eds.) *From Protest to Challenge A documentary History of African politics in South Africa 1882-1964* (1977) 516.

²⁶⁴ Madlingozi “On Settler Colonialism and Post-Conquest Constitutioness” (2016) 14.

²⁶⁵ Biko *I write what I like* (1996) 70.

²⁶⁶ Sobukwe and Pan Africanist Congress of Azania *Speeches of Mangaliso Sobukwe from 1949–1959 and Other Documents of the Pan-Africanist Congress of Azania* (1978) 24-25.

²⁶⁷ Albertyn (2018) SAJHR 448.

²⁶⁸ Albertyn (2018) SAJHR 449.

²⁶⁹ Madllingozi (2017) *Stell LR* 134.

An Africanist critique features in academia, but the reflection is that these critiques require something more than adaptations/transformations of existing pedagogical frameworks. The reason for this imperative is that decolonial/anti-colonial scholars diagnose the hegemonic constitutional project as offering evidence of the ‘inferiorisation’ of African jurisprudence.²⁷⁰ Loyalty to notions of liberal egalitarianism and liberal non-racialism remain dominant in academia, specifically in legal curriculums.

Universities, specifically Law faculties, tick the boxes of transformation by ‘Africanising’ curricula and by ‘including’ African epistemology and ontology in ways that do not fundamentally challenge the supremacy of white norms and standards in the faculties’ institutional culture and curriculum. Institutions uphold a Western standard of efficiency and rationality as the standard while ‘customary law’ and other non-Western knowledge systems serve as supplemental ‘customary systems’.²⁷¹ Also, there is a reluctance to engage with African philosophy and jurisprudence on the ground, because of its alleged ‘uncodified nature’.

Universities present solution-oriented law modules that lack creative and critical skills. One cardinal principle of African law is the maintenance of stability and equilibrium. If this principle is translated into legal pedagogy, it is a means whereby students can explore mutually constructive ways to relate to one another.²⁷² Black Consciousness theory, for instance, does not offer a liberation agenda *per se*, but a philosophy of a renewed *Afrikan* humanness which emphasises the imperative of decolonising the mind. Theory and literature on Black Consciousness offer an understanding of the manner in which non-racialism and substantive equality exhibit “unquestioned assumptions that embrace white values”.²⁷³ Biko’s conception of African non-racialism is “a vision of a common humanity and the affirmation of a society founded on justice, without any privilege or considerations for minorities”.²⁷⁴ In the same vein, the Africanists of the PAC rejected the New African programme of “interracial social incorporation”,

²⁷⁰ Madlingozi “On Settler Colonialism and Post-Conquest Constitutioness” (2016) 5.

²⁷¹ Nunn (1997) *Law & Inequality* 326-328.

²⁷² T Morrison “Moral Inhabitants” in *A Mouth Full of Blood: Essays Speeches, Meditations* (2019) 43.

²⁷³ Biko quoted in G Budlender “BC and the Liberal Tradition: Then and Now” in Pityana et al. (eds.) *Bounds of Possibility* 229.

²⁷⁴ B Pityana “Reflections on 30 years since the death of Steve Biko: A legacy revisited” The Steve Biko Lecture UNISA (12 September 2007) 8 cited in Albertyn (2018) *SAJHR* 449.

regarding it as a ploy for assimilation and perpetual colonisation.²⁷⁵ The epistemological and ontological bases of Africanism are considered supplementary contributions in contemporary legal and political discourse.

I do not propose that the liberation ideas of the PAC and the theoretical contributions of BC offer a complete solution to problems of inequality and impoverishment. Africanist thought denotes that an equal, non-racial society cannot exist where the Line is a social and political reality. PAC and the BC philosophy advocate for “a complete overhaul of the whole system to achieve a total end of the anti-black world”.²⁷⁶ The notion of substantive equality as equality of condition, as it is currently captured in constitutional discourse, does not pose a fundamental challenge to the injustices of the settler-colonial society.

Madlingozi argues that the reconfiguration of the Line is illustrative of “constitutionalism without constitution”; a situation in which society is not re-constituted with the effect of retaining a bifurcated societal structure.²⁷⁷ In this world, even the quest for equality casts the native black person as the perpetual student to be educated into civilised standards by the white teacher.²⁷⁸ There is no constituting of a new ‘we-ness’ in the ‘New South Africa’, instead we witness: “[t]he overwhelming constitutional drive towards the preservation of white people’s material, psychic and cultural interests and the assimilation of black elites into ‘this side’ of the Line”.²⁷⁹

In this drive the forcefulness of rainbowism is apparent. Gqola argues that the rainbow metaphor undermines its own motif in that “[i]ts stress on a precarious unity is based on the erasure of difference and the minimising of the continuing effects of power differentials on members of the South African body politic”.²⁸⁰

²⁷⁵ Madlingozi “On Settler Colonialism and Post-Conquest Constitutioness” (2016) 14.

²⁷⁶ Sobukwe “The State of the Nation on National Heroes Day 2 August 1959” in T Karis & GM Gerhart (eds.) *From Protest to Challenge* 196 cited in Madlingozi (2017) *Stell LR* 132.

²⁷⁷ See Madlingozi “On Settler Colonialism and Post-Conquest Constitutioness” (2016) 8 where he applies the inverse of Okoth-Ogendo’s paradox of “constitution[s] without constitutionalism”. See HWO Okoth-Ogendo “Constitutions without constitutionalism: Reflections on an African Political Paradox” (1991) in IG Shivji (ed.) *State and constitutionalism: An African Debate on Democracy*.

²⁷⁸ Madlingozi (2017) *Stell LR* 143.

²⁷⁹ Madlingozi “On Settler Colonialism and Post-Conquest Constitutioness” (2016) 8.

²⁸⁰ Gqola (2001) *Transformation* 100.

3 4 Conclusion

The version of equality reflected in the societal imagination, the grammar of the ANC and constitutional discourse is dominated by rainbow nation rhetoric which is largely informed by liberal non-racialism. This chapter shows that this version of substantive equality can be inclusive but that it is not fundamentally transformative.²⁸¹ I argue that a radical shift in the imagining of non-racialism is required to bring about a truly equal society. I have shown how Africanist and Black Consciousness ideas of equality reject the liberal egalitarian logic of integration as the basis of substantive equality. If the dominant perception of non-racialism is not dislodged, the possibility of truly challenging systemic inequality is deferred. Similarly, if liberal notions of equality are not critically assessed for their complicity in maintaining inequality, the Line will continue to be reconfigured but not dislodged.

²⁸¹ Albertyn (2018) *SAJHR* 442.

CHAPTER FOUR: THE POLITICAL ECONOMY OF NON-RACIALISM

*A crucially important dimension of what is going on in South Africa is that escalating struggles over the material conditions of life and livelihood are simultaneously struggles over the meaning of the nation and liberation, as well as expressions of profound betrayal.*²⁸²

4 1 Introduction

The quest for a truly post-racial society is predicated on the dismantling of structural racism and black impoverishment.²⁸³ As argued in the preceding chapters, liberal non-racialism does not fundamentally challenge the racial hierarchy that is maintained and reproduced in the 'New South Africa'. Chapter two engaged with the contested concept of non-racialism and concluded that the ANC has embraced a liberal idea of non-racialism. It is argued that the ANC's rhetoric on non-racialism is "ritualistic but has no deep effect on the incontrovertible truth that South Africa remains a highly racialised society".²⁸⁴ Chapter three considered the symbolic significance of contemporary liberal non-racialism and argued that this version of non-racialism is unfit to execute substantive equality towards a post-racial society.

This chapter turns to the material manifestation of this ineffectual approach (liberal non-racialism) by considering the crisis of poverty, inequality, and unemployment (PIU) in relation to liberal non-racialism. Therefore, this chapter examines the political economy of non-racialism as demonstrated in government policy. As intimated in the previous chapters, the PIU problem is entrenched in the 'New South Africa' and remains distributed along racial lines.²⁸⁵

This chapter is structured as follows. First, this chapter considers the negotiated settlement as forming the economic basis in the 'New South Africa'. I do this by reviewing the economic policy thinking of the ANC from the 1980s to 1996. Secondly,

²⁸² G Hart "Provocations of neoliberalism" in B Maharaj, A Desai & P Bond (eds.) *Zuma's Own Goal* (2011) 71.

²⁸³ F Cachalia "Revisiting the National Question and Identity" (2012) 39(1) *Politikon* 53 60 cited in Anciano (2014) *Journal of Contemporary African Studies* 37.

²⁸⁴ R Taylor "Deepening Non-Racialism in South Africa" (2012) 39(1) *Politikon* 41 42 cited in Anciano (2014) *Journal of Contemporary African Studies* 39.

²⁸⁵ Terreblanche *Lost In Transformation* 122.

I expand on this settlement's outcomes by considering the PIU problem as empirical reality. I argue that the ANC's logic has been to integrate and assimilate black people into a settler-created world; that the project of liberal constitutionalism envisions the "inclusion of blacks into the existing legal, political and economic regime".²⁸⁶ I conclude this study by illustrating how contemporary liberal non-racialism operates in the political economy to assimilate to whiteness. In this final chapter my argument is that non-racialism has not had a meaningful impact on dismantling South Africa's PIU problem. This chapter ends with a brief mention of future possibilities for non-racialism if it were to be re-invented along the lines of *Afrikan* humanness.

4 2 Overview of the economic policy thinking of the ANC from (1980-1996)

It is necessary to undertake a review of ANC economic policy from the 1980s up to the mid-1990s if this thesis is to successfully argue that the ANC's adoption of neoliberal policy has negatively impacted efforts of eradicating poverty and establishing a truly non-racial egalitarian society. By way of introduction, I consider the latest data on the PIU problem in South Africa. First, income inequality: Africans accounted for 79% of the population in 2008 and captured 44% of income and 41% of total expenditure. Whites, who accounted for 9.2% of the population, captured 40.3% of income and 40.9% of total expenditure.²⁸⁷

Between 2011 and 2015, a white person earned R24 646 per month on average; more than three times the R6 899 of black counterparts.²⁸⁸ The expanded unemployment rate among black people is 46.5% and is 14.3% for white people.²⁸⁹

Secondly, a general overview of poverty in South Africa according to the Pietermaritzburg Economic Justice & Dignity Group's latest affordability index (December 2020) shows that more than half (55.5%) of the population lives below the

²⁸⁶ Ramose cited in Modiri (2019) *De Jure* 34.

²⁸⁷ Anonymous "Rising inequality in South Africa: Drivers, trends and policy responses" (2012-10-29) Polity <<https://black.polity.org.za/article/rising-inequality-in-south-africa-drivers-trends-and-policy-responses-2012-10-29>> (accessed 2020-12-05).

²⁸⁸ D Webster "Why South Africa is the world's most unequal society" (2019) Mail & Guardian <<https://mg.co.za/article/2019-11-19-why-sa-is-the-worlds-most-unequal-society/>> (accessed on 2020-02-28).

²⁸⁹ "Household Affordability Index" (2020-12-16) Pietermaritzburg Economic Justice & Dignity Group <https://pmbejd.org.za/wp-content/uploads/2020/12/December-2020-Household-Affordability-Index-PMBEJD_16122020.pdf> (accessed 2020-12-18).

upper-bound poverty line (R1 268 per person per month); a quarter (25.2%) live below the food poverty line (R585 per person per month). The median wage in South Africa is R3 500 and each wage supports 4.2 people (R833,33 per person).²⁹⁰

According to Stats SA, of the 7.5 million households in major metros, approximately 28% are classified as poor, where monthly expenditure is less than R2 500 a month. Of these 2.1 million poor households, almost 700 000 have children aged between 7 and 18.²⁹¹ The child support grant is 25% below the food poverty line, thus not enough to feed a child a nutritionally complete meal (R693 on average).²⁹²

The PIU problem is ascribed mainly as a remnant of segregation and apartheid policy but ANC economic policy decisions effectively intensified the PIU problem.²⁹³ The 'New South Africa' is interpreted as the result of a negotiated settlement between the "corporate sector and a leadership core of the ANC".²⁹⁴ This settlement "exonerated the white corporations and the white South Africans from the part they played in the exploitation and deprivation of [black people]."²⁹⁵

4 2 1 Neo-liberalism in a local and global context

In the 1980s the white business sector, including the stakeholders of the Mineral Energy Complex (MEC) faced the challenge to protect accumulated white wealth in the face of impending political change. The MEC identified the American ideology of neo-liberalism as an ideal economic and political tool to solve "its serious accumulation crisis".²⁹⁶ The 'accumulation crisis' of that time can be described as the dilemma of the white business

²⁹⁰ "Household Affordability Index" (2020-12-16) Pietermaritzburg Economic Justice & Dignity Group <https://pmbejd.org.za/wp-content/uploads/2020/12/December-2020-Household-Affordability-Index-PMBEJD_16122020.pdf> (accessed 2020-12-18); Anonymous "This is how much money the poorest are living on each month in South Africa" (2019-08-01) *Businesstech* <https://businesstech.co.za/news/finance/332553/this-is-how-much-money-the-poorest-are-living-on-each-month-in-south-africa/> (accessed 22 January 2020).

²⁹¹ Anonymous "A shocking number South African households are living on less than R2,500 a month" (2019-05-30) *Businesstech* <https://businesstech.co.za/news/finance/319698/a-shocking-number-south-african-households-are-living-on-less-than-r2500-a-month/> (accessed on 2020-01-22).

²⁹² Anonymous "This is how much money the poorest are living on each month in South Africa" (2019-08-01) *Businesstech* <https://businesstech.co.za/news/finance/332553/this-is-how-much-money-the-poorest-are-living-on-each-month-in-south-africa/> (accessed 22 January 2020).

²⁹³ Terreblanche *Lost in Transformation* 101 – 115.

²⁹⁴ Terreblanche *Lost in Transformation* 109.

²⁹⁵ Terreblanche *Lost in Transformation* 109.

²⁹⁶ Terreblanche *Lost in Transformation* 59.

sector to consolidate and protect white capital in the face of a government takeover by the ANC who was, at that stage, showing signs of a socialist economic orientation and plans for economic redistribution.²⁹⁷ During the 1980s the USA launched a large scale “neo-liberal counter-revolution”.²⁹⁸ The reason for the revolution was that America had begun to lose control of the flow of industrial capital. The global South’s industrial production increased in the 1970s and in an attempt to regain control of the flow of industrial capital, American president, Ronald Reagan, abolished several trade regulations. The effect was that American transnational corporations “were now ‘free’ and ‘empowered’ to act – especially in the global South – as they pleased.”²⁹⁹ It also meant that the MEC and other corporations who had criminally accumulated profits through the exploitation of black labour and African minerals could become independent transnational corporations.³⁰⁰ In the early 1990s the ANC, buckling under pressure from American pressure groups, white business and the National Party (NP), came to adopt the American economic model of neo-liberal globalisation.³⁰¹ This model promised increased direct foreign investment and economic growth for South Africa as long as the ANC maintained the fiscal austerity, deregulation and privatisation measures that were gradually instilled by the NP’s economic policies from the late 1970s.³⁰² Neo-liberalism extends beyond an economic rationality or set of principles.

Neo-liberalism extends to a mode of government, producing and controlling governable subjects.³⁰³ Hart cautions against a generic model of “neoliberalism in general” and urges an understanding of neo-liberal projects that unfold in various ways in different ‘post’-apartheid contexts. In this chapter, two of neo-liberalism’s central features are fore-grounded. First, the casting of lives in terms of market rationality and expecting people to be entrepreneurs of themselves despite a social context and, secondly, the commodification of social services.³⁰⁴

²⁹⁷ Terreblanche *Lost in Transformation* 59.

²⁹⁸ Terreblanche *Lost in Transformation* 26.

²⁹⁹ Terreblanche *Lost in Transformation* 26.

³⁰⁰ Terreblanche *Lost in Transformation* 72.

³⁰¹ Terreblanche *Lost in Transformation* 64-65.

³⁰² Padayachee & Van Niekerk *Shadow of Liberation* 74-76.

³⁰³ A Foucauldian term used to illustrate the state’s objective to produce governable subjects. Following Chatterjee, I have argued that impoverished people and communities are depoliticised, which leads to the governing of these people by the state. See Ravenscroft *Poverty management’ in South Africa* LLB dissertation, University of Pretoria (unpublished) (2018) 3 & P Chatterjee *The Politics of the Governed* (1974) 64.

³⁰⁴ Hart “Provocations of Neoliberalism” in *Zuma’s Own Goal* 83.

As a global phenomenon, the programme of neo-liberalism was supported by Ronald Reagan and Margaret Thatcher, British Prime Minister, during the 1980s. During this time the South African business sector was isolated due to sanctions and international resistance to apartheid. The white business sector in South Africa was keen to adopt a free-market system and a neo-liberal globalisation as a means of consolidating and protecting their capital and interests.³⁰⁵ The link between neo-liberalism and whiteness, it is argued, is demonstrated in neo-liberalism's objective to concentrate economic power in the private sphere. The effect of this approach on the impoverished black majority is discussed in section two below.

The business sector (under significant influence of the MEC) had the task of convincing the ANC to abandon their social democratic inclinations of mass redistribution and to embrace a policy approach that could "...ensure that [white] capitalist corporations would remain in a dominant position *vis-à-vis* the new political authority in the new politico-economic system".³⁰⁶ For the white business sector and the NP a neo-liberal economic approach was instrumental in preserving accumulated white wealth and, at the same time, a means of exonerating white people and corporations from their part in the economic exploitation of black people.³⁰⁷ This programme was the basis of their position in the negotiated settlement.

The 1980s can therefore be seen as a starting point for the intensification and entrenchment of the PIU problem in the 'post'-apartheid era. The next section of this study is mainly an exploration of the ANC's economic choices. The last section illustrates how non-racialism (as informed by whiteness) gave way to a post-1994 economic dispensation that disproportionately protects white interests.

4 2 2 Locating non-racialism in economic policy debates

In this study non-racialism has been identified as a political idea, constitutional value and social guideline. Given the centrality of non-racialism in the constitutional text and the basic principles of participatory democracy and the reality of black impoverishment

³⁰⁵ Terreblanche Lost in Transformation 59.

³⁰⁶ Terreblanche Lost in Transformation 59.

³⁰⁷ Terreblanche Lost in Transformation 59.

in South Africa, non-racialism has to be implicated in economic policy and the PIU problem.

Nelson Mandela and Oliver Tambo brought non-racialism to the fore in politics during the 1950s. Their vision(s) of non-racialism is broadly considered as proposing an inclusive intervention in response to the Africanist conception of non-racialism.³⁰⁸ This study argues that 'inclusive' non-racialism has been unable to guide economic policy debates in a way that can fundamentally alter the reality of the millions of impoverished black people. The main reason identified is that the ANC's notion of non-racialism is lodged in the Freedom Charter's shallow idea of non-racialism. This shallow idea of non-racialism has come to represent a large portion of 'progressive' South Africans' vision of non-racialism. The relevance of non-racialism here is that the economic thinking of the economic policy units set up in the 1980s predominantly follows the Charterist idea of a non-racial South Africa. From its inception ANC economic strategising was aligned to a liberal agenda; presented in this study as being evident in the mandate to incorporate black people into settler-created society and, by extension, an emergent African petit bourgeois interest.

4 2 3 Key economic policy documents

The developments in the negotiations are traced according to a timeline. First, the African Claims document, Freedom Charter, and the Strategy and Tactics document (drafted at the 1969 Morogoro Conference) are revised for their significance in establishing a line of thought in respect of the ANC. Secondly, economic policy think-tanks, are considered in this order: the Economics Unit (EU), the Department of Economic Planning (DEP) and the Macro Economic Research Group (MERG). Then the economic policy documents of the early 1990s are considered in this order: the Ready to Govern document, the Reconstruction and Development Programme (RDP) and the Growth, Employment and Redistribution Programme (GEAR).

³⁰⁸ Padayachee & Van Niekerk *Shadow of Liberation* 16.

I rely chiefly on Padayachee and Van Niekerk's comprehensive account of ANC economic policy thinking that is the first of its kind.³⁰⁹ Terreblanche's research is used to supplement their account and findings.³¹⁰

4 2 3 1 African Claims, Freedom Charter and Strategy and Tactics Document

The first document considered is the African Claims document adopted in 1943 as it establishes the ANC's vision of multi-racial liberation. This document was a response to the Atlantic Charter and the wartime conditions of the Second World War. It was drafted by a small number of elites within the ANC to argue for more liberal government policy, seizing the liberal ethos of the time. The civil and political rights contained in the document advocate for the *recognition* of Black people in the colonial order of the 1940s.³¹¹ According to Everatt the vision of the drafters was non-racial citizenship, and that segregation and trusteeship were viable options for constructing such a non-racial society.³¹² This points to the ambiguity of the term non-racialism, especially as it pertains to dealing with the categories of race in a white supremacist society. What however transpired soon after the drafting of the African Claims document, was that black people became wary of calls for 'nation-building' and 'representivity'. The Miners' Strike of 1946 which took place in the Witwatersrand was incremental in this sense because the mine workers rejected these calls out of a deep frustration with their inhumane and unchanging circumstances.³¹³ In short, it is alleged that black people became discouraged by the respectability upheld by the ANCYL under the leadership of Mandela and Tambo (during the 1950s) in the face of their intensified suffering.³¹⁴ A rejection of the calls for representivity and nation-building emanating from both the African Claims document and the Freedom Charter is captured by Sobukwe:

"These leaders consider South Africa and its wealth to belong to all who live in it, the alien dispossessors and the indigenous dispossessed, the alien robbers and their indigenous victims. They regard as equals the foreign master and his indigenous slave, the white exploiter and the African exploited, the foreign

³⁰⁹ Padayachee & Van Niekerk *Shadow of Liberation* (Vishnu Padayachee and Robert van Niekerk is hereafter referred to as *the authors*).

³¹⁰ Terreblanche *A History of Inequality in South Africa 1652-2002* (2002); *Lost In Transformation* (2012).

³¹¹ Madlingozi (2018) *SAJHR* 526. Own emphasis.

³¹² Everatt *The Origins of Non-Racialism* 13.

³¹³ B Turok interview cited in Padayachee & Van Niekerk *Shadow of Liberation* 18.

³¹⁴ B Turok interview cited in Padayachee & Van Niekerk *Shadow of Liberation* 18.

oppressor and the indigenous oppressed. They regard as brothers the subject Africans and their European over-lords. They are too incredibly and too fantastically unrealistic to see that the interests of the subject peoples who are criminally oppressed, ruthlessly exploited and inhumanly degraded, are in sharp conflict and in pointed contradiction with those of the white ruling class.”³¹⁵

In the years that followed, militant resistance against the system increased, and the South African government, in turn, responded with more repressive legislation.³¹⁶ The Congress of the People gathered in Kliptown in 1955 to inaugurate the Freedom Charter. The Charter contained demands for civil, political and social rights that were consistent with a social democracy. According to Padayachee and Van Niekerk “the Freedom Charter provided a programme for a future post-apartheid society but did not specify how this was to be achieved.”³¹⁷ The Charter calls for the return of the wealth of the country to “the people as a whole” but does not deal with the problem of the criminal exploitation of African resources and African people by white people and, in the same vein, does not address the problem of settler invasion and colonialism.³¹⁸ The Freedom Charter further prioritised the nationalisation of mines, banks and monopoly industry.

Williams notes that there are important continuities between the Freedom Charter and the Bill of Rights of African Claims. For Williams they both represent “the interests of working people who were ‘unified by the structures of racial discrimination and oppression’”.³¹⁹ Although the ANC seems to illustrate a shift towards a working-class positionality, the language of the Freedom Charter is somewhat vague and lacks specificity. This made the document politically expedient as it could unite different groups of people (the SACP, workers, small entrepreneurs, professionals).³²⁰ I argue

³¹⁵ Sobukwe and Pan Africanist Congress of Azania *Speeches of Mangaliso Sobukwe from 1949–1959 and Other Documents of the Pan-Africanist Congress of Azania* (1978) 42 cited in Dladla (2017) *Theoria* 119.

³¹⁶ Padayachee & Van Niekerk *Shadow of Liberation* 18. Statutes include the Suppression of Communism Act 44 of 1950; the Criminal Law Amendment Act 8 of 1953 which criminalised any protest against legal reform and the Riotous Assemblies Act 17 of 1956 which prohibited public gatherings which could pose a threat to the maintenance of peace.

³¹⁷ Padayachee & Van Niekerk *Shadow of Liberation* 20.

³¹⁸ Freedom Charter (1955) cited in T Karis & GM Gerhart (eds.) *From Protest to Challenge: A documentary History of African politics in South Africa 1882-1964* (1978).

³¹⁹ G Williams “Celebrating the Freedom Charter” (1988) 6 *Transformation* 73 81 cited in Padayachee & Van Niekerk *Shadow of Liberation* 20.

³²⁰ N Natrass “Politics and Economics in ANC Economic System” (1994) 93(372) *African Affairs* 343 344.

that both the African Claims document and the Freedom Charter call on the liberalisation of government thinking without interrogating the main problem of settler colonialism and white supremacy in any useful way. The Freedom Charter did not establish a clear direction for the project of black liberation and the dismantling of white supremacy but instead seems to utilise the liberal canon of the time without delving into the issues that bar South Africa from becoming a truly non-racial egalitarian society: the question of race and white supremacy and their relation to economic change.³²¹ My claim is supported by Pallo Jordan who contends that restructuring the political economy was not part of the ANC's vocabulary until much later (arguably in the years of exile).³²² Besides delayed strategising and the lack of a plan of action for economic reform, the ANC's ambiguity about what black economic liberation entails and what non-racialism represents becomes a pertinent problem in ANC strategising and policy-design during the transition years (1980s-1990s). This will become clearer as this chapter proceeds.

I now turn to the Strategy and Tactics document drafted in 1969 at the ANC conference in Morogoro, Tanzania which sheds light on the questions of white supremacy, settler colonialism and their economic implication.³²³ This document states:

“To allow existing economic forces to retain their interests intact, is to feed the root of racial supremacy, and does not represent even the shadow of liberation. Our drive towards national emancipation is, therefore, in a very real way bound up with economic emancipation.”³²⁴

This document reflects an idea of liberation that is predicated on the economic emancipation of black people through the dismantling of white economic power. The assessment of ANC economic policy thinking that follows here will show how the ANC largely abandoned this posture. The poor, marginalised, oppressed and exploited seems to have become less of a driving force for the ANC. Instead, the PIU problem has been intensified.

³²¹ Dladla (2017) *Theoria* 121-122.

³²² ZP Jordan “The African Bourgeoisie: A New Look” Unpublished memo cited in Padayachee & Van Niekerk *Shadow of Liberation* 5.

³²³ African National Congress “Strategy and Tactics” Morogoro Conference, Tanzania, 25 April – 1 May 1969 cited in Padayachee & Van Niekerk *Shadow of Liberation* 37.

³²⁴ Padayachee & Van Niekerk *Shadow of Liberation* 247.

Considering these three sources, the African Claims document, the Freedom Charter and the Strategy and Tactics document, I argue that the ANC's initial vision of a future South Africa was of a democratic socialist state that prioritised redistribution to the impoverished black majority.³²⁵ On the day of his release from prison in 1990, Nelson Mandela stated that the ANC's mandate of nationalisation (as stated in the Freedom Charter) is not subject to change.³²⁶ Coupled with the clear mandate of the Strategy and Tactics document to dismantle the white economic power base, the ANC illustrates, at these early stages of the negotiation years, a clear objective to dislodge the white economic power base. The ANC has, since the early 1990s, abandoned much of these objectives.

The purpose in this study is not to argue that had the ANC stuck to this ideological course the PIU problem would have been 'solved'. Such a suggestion would be a naïve over-simplification of the complexities of politics, economics and power and would create its own problems and contestations. The purpose of the study is to consider critically the role of whiteness (in the form of white capital, pressures from Western governments etc.) in tandem with neo-liberal alignment of the ANC. This study does not argue that ANC leadership was led solely by capital and white interests. Rather, this study shows how colonialism, white supremacy and neo-liberal economics are systems that change form, but that their prioritising of white interests remain embedded in the present. This means that they exert influence even where political motives explicitly seek to counter them. To illustrate this point, the economic policy thinking of the ANC is further traced from the 1980s into the 'New South Africa'.

4 2 3 2 The Economics Unit and the Department of Economic Planning

After the Freedom Charter was adopted in 1955 no meaningful progress was made in terms of economic thinking and strategising. The Economics Unit was established in 1982 by the ANC in Lusaka to train economists for a future democratic South Africa. As much as the Economics Unit (and its successor, the DEP) marks the inception of ANC

³²⁵ Padayachee and Van Niekerk argue that the distinction here between social democracy and socialism "matters less than the essential substance of the thinking and ideas". See *Shadow of Liberation* 26.

³²⁶ Sowetan, 5 March 1990 cited in Natrass (1994) *African Affairs* 344.

economic research units, it is worth noting that neither one of them produced policy frameworks or guidelines but functioned instead as “study groups on the economy”.³²⁷

The DEP, established shortly after, in 1987 was for all intended purposes an ‘upgrade’ of the Economics Unit. Its task was to research and develop economic strategy and policy for independent South Africa. Both units organised seminars and workshops on the economic future of South Africa.³²⁸

There were contrasting views and perspectives in these units. According to Walter Sisulu a group of influential individuals within the DEP was convinced that there was no alternative to the neo-liberal globalisation. Their reasoning hinged on their interpretation of “...the balance of forces and economic ideas globally”.³²⁹ On the other hand, Chris Hani, as a member of the Economics Unit, emphasised the essentiality of linking economic thinking in a practical way to the “struggles of ordinary citizens in the townships as opposed to mouthing this or that theoretical line”.³³⁰ Hani further argued that economic policy thinking should prioritise the issue of redistribution and inequality as opposed to merely focusing on poverty.³³¹ In this sense Hani echoes the mandate of the Strategy and Tactics document to overhaul the white economic power base.

A reading of the dealings and debates in the economic units suggests those better connected to the ANC leadership core, big business and white capitalists (especially those who were aligned firmly with a programme of neo-liberal globalisation) were advanced to positions where they could exert more power and influence. In addition, consultative processes which included the impoverished black majority were severely neglected.³³² Returning to this study’s main question about how non-racialism (as a political idea, a constitutional value, and a social guideline) contributes to a post-racial society, it is telling that the impoverished black majority was sidelined since the early stages of negotiations.

³²⁷ M Sisulu interview cited in Padayachee & Van Niekerk *Shadow of Liberation* 39.

³²⁸ Padayachee & Van Niekerk *Shadow of Liberation* 42.

³²⁹ The group of individuals consisted of Trevor Manuel, Alec Erwin, Maria Ramos, Neil Morrison, Moss Ngoasheng, Leslie Maasdorp & Thabo Mbeki. See Padayachee & Van Niekerk *Shadow of Liberation* 67.

³³⁰ Padayachee & Van Niekerk *Shadow of Liberation* 40.

³³¹ Padayachee & Van Niekerk *Shadow of Liberation* 41.

³³² Padayachee & Van Niekerk *Shadow of Liberation*.

Coming back to the Strategy and Tactics document which states that, “[p]reparations for the attainment of genuine economic independence cannot be postponed until freedom day”, there is no evidence that this objective was met.³³³ When 1990 came, the ANC was under extreme pressure to set up efficient economic units which could deliver the necessary economic policies for the future South Africa.³³⁴

4 2 3 3 Macro-Economic Research Group

The Macro-Economic Research Group (MERG) was set up in 1991 to “stimulate and co-ordinate policy research”.³³⁵ This came after Nelson Mandela called upon the broader anti-apartheid movement to invest in “...a better understanding of economic policy issues in South Africa...” during his 1990 visit to Canada.³³⁶ The Canadian development agency, the IDRC, consisting of a group of Canadian and African economists, was established to identify shortfalls within the ANC’s economic policy thinking and offer possible solutions.³³⁷ The shortfalls identified by the IDRC were firstly, that the ANC did not have the human resource capacity for the project of economic policy design and, secondly, that the DEP was understaffed. They made the further point that academics who were sympathetic to the movement produced work that was poorly linked to that of the DEP.³³⁸

In Nelson Mandela’s statement of intent in setting up MERG he declares that the ANC’s economic programmes will be “implemented through *acceptable* policy instruments” and that the policy itself will be based on “realistic objectives”.³³⁹ Padyachee and Van Niekerk note that it is not made clear to *whom* these policy instruments were to be acceptable.³⁴⁰ The developments in relations between the Mineral Energy Complex (MEC) and the ANC leadership core sheds light on the direction in which the ANC core was steering its economic policy and to whose preference it catered.

³³³ Padyachee & Van Niekerk *Shadow of Liberation* 42.

³³⁴ Padyachee & Van Niekerk *Shadow of Liberation*.

³³⁵ Padyachee & Van Niekerk *Shadow of Liberation* 88.

³³⁶ Padyachee & Van Niekerk *Shadow of Liberation* 88.

³³⁷ The group of economists were headed by Gerry Helleiner and included John Loxley and Benno Ndulu. Padyachee & Van Niekerk *Shadow of Liberation* 88.

³³⁸ Padyachee & Van Niekerk *Shadow of Liberation* 88.

³³⁹ Padyachee & Van Niekerk *Shadow of Liberation* 90. Own emphasis.

³⁴⁰ Padyachee & Van Niekerk *Shadow of Liberation* 90. Own emphasis.

On 3 December 1993 the MERG policy framework was presented to the ANC leadership including the DEP. The MERG report set out the strategy necessary to address the “historical, systemic inequalities of the apartheid era and create the conditions for the redistributive path to economic growth.”³⁴¹ According to McKinley, it did not “set out the radically anti-capitalist development path that many in the broad liberation movement desired”, but it seems to have been a workable document, capable of effecting the redistributive requirements envisioned by the Strategy and Tactics document.³⁴²

The ANC and the DEP's executive leadership are reported to have shown minimal interest in the MERG draft chapters that were circulated, seemingly because they were too preoccupied with political power.³⁴³ In line with this, Ronnie Kasrils, in speaking to how the South African Communist Party (SACP) failed to fight these developments states “...we allowed the ANC to succumb to the neo-liberal, free-market economic embrace because some of us were fast asleep”.³⁴⁴

4 2 3 4 Ready to Govern and the Mineral Energy Complex

The ANC's shift from a socialist or social-democratic to a neo-liberal approach was consolidated and confirmed in the Ready to Govern document.³⁴⁵ Terreblanche reports that ANC policy documents drafted from February 1990 until early 1992 invoke the language of “growth through redistribution” but the Ready to Govern document (published in May 1992) omits this phrase entirely. He deduces that the ANC had capitulated under the enormous pressure exerted by the MEC and American pressure groups to adopt neo-liberal globalisation and market fundamentalism at this early stage.³⁴⁶ Since then the ANC has not emphasised the need for a comprehensive *redistribution* policy,³⁴⁷ instead, the economic policy thinking of the ANC after 1990 moved gradually, yet decisively, in the direction of economic orthodoxy despite earlier

³⁴¹ Padayachee & Van Niekerk *Shadow of Liberation* 107.

³⁴² Padayachee & Van Niekerk *Shadow of Liberation* 107.

³⁴³ Padayachee & Van Niekerk *Shadow of Liberation* 93.

³⁴⁴ Padayachee & Van Niekerk *Shadow of Liberation* 94.

³⁴⁵ Terreblanche *Lost In Transformation* 68.

³⁴⁶ Terreblanche *Lost In Transformation* 68.

³⁴⁷ One example is the deliberate failure on the part of the ANC to resolve the National Question. See Madlingozi (2018) *SAJHR* 520.

resistance (in the Economics Unit and DEP) to orthodox and neo-classical theoretical approaches.³⁴⁸

The ANC has been defended against claims of “selling-out”, but in discussing the MEC dealings (among other role-players) I question the compromises the ANC was willing to make and *who* they were willing to sacrifice.³⁴⁹

The MEC played a significant role in: i) securing neo-liberal globalisation and market fundamentalism as the economic approach of choice; and ii) effectively preserving white wealth. The MEC’s rationale has been described as “[the objective to] negotiate a settlement in which the power relations between the two sides of the new politico-economic system would be such that the capitalist/corporatist side would remain in the same dominant position as before 1994”.³⁵⁰ In an economic sense this rationale is considered the explicit formulation of white domination transforming into white hegemony. The quest for true non-racialism is impossible in a context where the politico-economic policy explicitly protects white people’s material, psychic and cultural interests.³⁵¹ For liberal non-racialism to retain its popular hold within a system of white hegemony, it must remain colour-blind and ignorant of this economic reality which bars and obscures true non-racialism.

The elite compromise was settled between the white oligarchs of the MEC and the ANC leadership core and meant that the MEC was exonerated from “apartheid debts” it had accumulated by systematically exploiting black labour.³⁵² A few examples illustrate how the MEC benefitted at the black majority's expense who were exploited for their labour (not to mention the “theft” of natural resources). The MEC’s bargaining chip had been the prospect that their global positioning (as a result of their exoneration after 1994) would attract direct foreign investments in South Africa, but to the contrary, there is evidence of “a large outflow of long-term capital” due to the MEC shifting its listings

³⁴⁸ Padayachee & Van Niekerk *Shadow of Liberation* 56.

³⁴⁹ See Padayachee & Van Niekerk *Shadow of Liberation* 143 (endnote 1) & 144-145. Vishnu Padayachee and Robert van Niekerk state that “We still regard ourselves a part of the Congress tradition of Albert Luthuli, Oliver Tambo and Nelson Mandela in our commitment to non-racialism, non-sexism, democracy and the struggle for a socially just and economically prosperous South Africa.”

³⁵⁰ Terreblanche *Lost In Transformation* 68.

³⁵¹ Madlingozi “On Settler Colonialism and Post-Conquest Constitutioness” (2016) 8.

³⁵² Terreblanche *Lost In Transformation* 72 & 74.

abroad.³⁵³ Their positioning as satellites in the American neo-liberal programme was advantageous to the Mining and Extraction sector but devastated other industries, such as manufacturing.³⁵⁴ The manufacturing industry had to deal with doing away with tariff protection and opening up to a free trade policy which destroyed many employment opportunities. This sector's decline has, for example, played a significant role in the reproduction of impoverishment.³⁵⁵

Black Economic Empowerment (BEE) was an essential component in the elite compromise.³⁵⁶ Moeletsi Mbeki explains that the oligarchs who controlled the MEC industry invented this concept.³⁵⁷ The idea was for well-connected black people, operating in close proximity to the ANC leadership core and big business, to be “bought off” by BEE and Affirmative Action (AA). They were “bought off” at almost no cost because the accumulated wealth was successfully consolidated in the MEC industry and big business. BEE and AA's role was to grant economic access to a small group of black people, and at the same time, it would allow white business interests to metamorphosise into the ‘New South Africa’ under the protection of black business partners. BEE and AA's contemporary impact will be discussed in the next section. An outcome of South Africa's politico-economic transformation is the transfer of neo-liberal capitalism from one administration (pre-1994) to the next (post-1994).

4 2 3 5 Reconstruction and Development Programme

The Reconstruction and Development Programme (RDP) was launched as an ANC economic manifesto shortly before the April 1994 elections. According to Bond, the ANC's acceptance of the RDP “as the basis for post-apartheid reconstruction was a political act”.³⁵⁸ At this stage the ANC had already begun to abandon truly redistributive objectives.

³⁵³ Terreblanche *Lost In Transformation* 72-73 (refer to endnotes 26 & 28).

³⁵⁴ Terreblanche *Lost In Transformation*.

³⁵⁵ Terreblanche *Lost In Transformation* 75.

³⁵⁶ Terreblanche *Lost In Transformation* 70.

³⁵⁷ M Mbeki *Architects of Poverty: Why African Capitalism Needs Changing* (2009) quoted in Terreblanche *Lost In Transformation* 70.

³⁵⁸ Padayachee & Van Niekerk *Shadow of Liberation* 114.

The idea of the RDP programme was first discussed in May 1992. On the timeline constructed here, RDP discussions followed the establishment of MERG. The role of MERG staff in the drafting of the RDP was to bring policy into a clear focus and refining the document as the RDP Base Document mostly consisted of broad sweeping statements.³⁵⁹ The relationship between the two units is a telling example of dissonance in the ANC's economic policy structures. John Sender (an important role-player in MERG) reports that all their proposals were ignored. The next discontinuity observed in economic policy thinking is that the RDP white paper differed substantially from the RDP Base Document that had been used in electioneering. The crucial shift from the Base Document to the final RDP document is that the white Paper showed "a very significant compromise to the neo-liberal 'trickle-down' economic policy preferences of the old regime".³⁶⁰ It is important to note that the NP played a substantial role in the finalisation of the RDP via the Government of National Unity (GNU) established on 10 May 1994.³⁶¹

In their publication, *The RDP White Paper: Reconstruction of a Development Vision*, Adelzadeh and Padayachee expressed concern over the final RDP document.³⁶² They argued that its strategy had the potential to deliver economic growth for an existing white and Indian bourgeois class and, additionally, the black middle class would probably be lifted and expanded, but crucially, for the remaining 60-70% consisting of impoverished black people "this growth path will not deliver economic emancipation or a fundamentally altered economic experience".³⁶³

The ANC experienced its own internal ideological differences about the meaning of non-racialism, the feasibility of large-scale redistribution and the economic model South Africa should adopt. In addition, severe pressure was exerted from outside, (by the NP, the MEC, the private sector and Western governments) for the ANC to adopt the economic rationality of neo-liberal globalisation and capitalism (which is largely driven by white interests). Once again, I do not contend that the ANC was merely led by white interests and capital. What I am distilling is that as an outcome of the ANC's economic

³⁵⁹ Padayachee & Van Niekerk *Shadow of Liberation* 113-114.

³⁶⁰ Padayachee & Van Niekerk *Shadow of Liberation* 117.

³⁶¹ Padayachee & Van Niekerk *Shadow of Liberation* 119.

³⁶² A Adelzadeh & V Padayachee "The RDP White Paper: Reconstruction of a Development Vision" (1994) 25 *Transformation* 16 cited in Padayachee & Van Niekerk *Shadow of Liberation* 117.

³⁶³ Padayachee & Van Niekerk *Shadow of Liberation* 117. Original emphasis.

policy decisions, the material and social well-being of the majority of impoverished black people was not fundamentally altered. What is more is that the ANC neglected consultative processes with their members. Padayachee and Van Niekerk argue convincingly that the majority of impoverished black people were not sufficiently represented nor were they allowed to participate in the policy-making processes that directly affect them.³⁶⁴ This failure is specifically relevant in the RDP drafting-process because COSATU, representing oppressed black workers who formed the majority in the ANC voting base, was the primary driving force behind the RDP. The RDP was used as an electioneering document for the 1994 election to demonstrate the ANC's undertaking to prioritise state intervention to address poverty. The RDP was however dropped shortly after the election.³⁶⁵

The final version of the RDP represents “an uneasy compromise between the feasibility of combining a social welfare state in the ‘developmental sphere’ (*impoverished sphere*) and ‘neo-liberalism in the economic sphere’” (the private sector and big business) in Bond's view.³⁶⁶ This observation can be read as a projection of the politico-economic reality of the ‘New South Africa’. Pithouse describes the situation as “a system of liberal democracy for the middle class and a politics of patronage and repression for the poor”.³⁶⁷ This phenomenon of social and economic apartness is viewed as an essential feature of neo-liberalism as is discussed in the next section.

The body of economic policy thinking in the early 1990s signifies a gradual evolution of neo-liberal sentiments rather than a radical shift from RDP and GEAR.

4 2 3 6 Growth Employment and Redistribution Programme

According to Terreblanche “the American neo-liberal model reached its zenith with GEAR”.³⁶⁸ This section does not include a discussion of the National Party's (NP) economic policy, it should however be noted that the NP economic strategies (with key

³⁶⁴ Padayachee & Van Niekerk *Shadow of Liberation* 116.

³⁶⁵ Terreblanche *Lost In Transformation* 74.

³⁶⁶ Padayachee & Van Niekerk *Shadow of Liberation* 115. Own emphasis.

³⁶⁷ R Pithouse “Shifting the ground of reasons” in J Heather and P Vale (eds.) *Re-imagining the social in South Africa: Critique, theory and post-apartheid society* 141 146 cited in T Madlingozi “Post-Apartheid Movements and Legal Mobilisation” in M Langford et al. (eds.) *Socio-Economic Rights in South Africa: Symbols or Substance?* (2014) 109.

³⁶⁸ Terreblanche *Lost In Transformation* 65.

re-alignments taking place in the 1970s) played a significant role in the policy formulation during the transition years. The announcement of GEAR and the closing of the RDP office brings the NP's role into focus and necessitates an inquiry into the influence the party exerted.

In speaking on the 1993 Normative Economic Model (NEM), the key economic strategy of the NP, FW De Klerk (president from 1988-1994) declared that the NEM set up a framework to ensure that "the ANC would implement the right economic and financial policies".³⁶⁹ The 'right economic policies' were directed solely at protecting and enriching white capital. There is evidence of the plundering of financial resources under De Klerk in the final years of white rule which is proof that the NP was set on consolidating these existing interests.³⁷⁰

President Nelson Mandela reportedly came to know of the NP's attempts to undermine ANC economic policy positions. At a public function on 29 September 1995 Mandela and De Klerk allegedly had a heated exchange. A series of events followed this exchange which had a major impact on ANC economic policy. First, Mandela closed the RDP office in April 1996. On 14 June 1996 the National Treasury of the GNU published the GEAR programme. From its inception the GEAR programme's non-negotiability was made clear by key ANC role players.³⁷¹ The plausible relation between these events is denied by some but Padayachee and Van Niekerk urge readers to draw their own inference.³⁷² Although a shift toward neo-liberal globalisation and market fundamentalism had surfaced in earlier documents, GEAR showed a striking resemblance to Nationalist Party economic policy and thinking.³⁷³

The crux of the NP's NEM is the following: it encourages private sector investment dominated by old (white) South African capital.³⁷⁴ The problem of structural inequality,

³⁶⁹ Padayachee & Van Niekerk *Shadow of Liberation* 123. Own emphasis.

³⁷⁰ See Terreblanche *Lost In Transformation* 58: "During FW De Klerk's tenure of the presidency from 1989 to 1994 the government deficit increased from R91,2 billion to R237 billion [in 2012 rates]. We can regard this outrageous increase in the public debt as part of a reckless white 'plundering' in the final years of white supremacy and, therefore, as another example of Afrikaner/white corruption."

³⁷¹ Padayachee & Van Niekerk *Shadow of Liberation* 122.

³⁷² Padayachee & Van Niekerk *Shadow of Liberation* 123.

³⁷³ Padayachee & Van Niekerk *Shadow of Liberation* 122.

³⁷⁴ Padayachee & Van Niekerk *Shadow of Liberation* 124.

impoverishment and unemployment is left to be addressed by the “trickle-down” effect. This approach is perfected in the neo-liberal GEAR programme.

In speaking about transforming the country’s economy Nelson Mandela was clear on the ANC’s stance. In an interview for the documentary *Apartheid Did Not Die*, Mandela explains that “the best way to introduce transformation is to do so without dislocating any area of public life”.³⁷⁵ This statement is interpreted to mean big business should not be challenged in a way that scares off capital investments. Trevor Manuel, Minister of Finance at the time (1996-2009), affirms this approach and stated that the ANC sought to establish an “environment in which winners flourish”. A neo-liberal approach coupled with a capitalist vision has been described as casting *homo sapiens* as *homo economicus*.³⁷⁶ Despite the material and social inequalities, neo-liberalism expects everyone to be entrepreneurs of themselves.³⁷⁷ The outcome of a neo-liberal approach to economic policy is that white economic power has retained much of its hold. Put differently, what has transpired in the ‘post’-apartheid economy represents a shadow of liberation for impoverished black people.³⁷⁸

4 2 3 7 The ANC’s economic policy choices and the *neo-apartheid state*

This chapter provides an overview of shifts in ANC economic thinking. A mathematical weighting of the factors that influenced the ANC’s economic policy decisions during the transition years is not useful.³⁷⁹ The ambit of this study cannot cover all the factors that played a role, but focuses instead on neo-liberalism, liberal non-racialism and whiteness. I argue that liberal non-racialism can be identified as a key influencer of the ANC’s economic thinking. Reflecting on the economic policy documents discussed above, it is evident that the ANC adopted a neo-liberal economic system to the great disadvantage of the impoverished black majority. White wealth was successfully consolidated and white interests protected as the ANC rushed to form a part of the global economy before dealing decisively with the economic legacy defined by racial

³⁷⁵ J Pilger “Apartheid Did Not Die” documentary (1998-04-21) johnpilger.com
<<http://johnpilger.com/videos/apartheid-did-not-die>> (accessed 2021-01-03).

³⁷⁶ Sentiment expressed by Prof. Madlingozi in consultation 2018.

³⁷⁷ Hart “Provocations of Neoliberalism” in *Zuma’s Own Goal* 83.

³⁷⁸ African National Congress “Strategy and Tactics” Morogoro Conference, Tanzania, 25 April – 1 May 1969 cited in V Padayachee & R Van Niekerk *Shadow of Liberation* 37.

³⁷⁹ Padayachee & Van Niekerk *Shadow of Liberation* 73.

exploitation and inequality. Well-resourced economic institutions of the apartheid state, local big business, international financial institutions and Western governments are all listed as important factors by Padayachee and Van Niekerk.³⁸⁰ Terreblanche's analysis examines many of the same role players but distinctly emphasises the role of the MEC. This overview of ANC economic policy thinking shows how the agenda for economic emancipation captured in the Strategy and Tactics document was replaced by an agenda of "corporatised liberation" with the result that the 'New South Africa' made little difference to many impoverished black people's material and social well-being.³⁸¹

Instead, white wealth accumulated under systems of exploitation and structural racism was legitimised and substantive reparations were not paid by the white collective. The prioritisation of democracy above economic decolonisation condones the 'right of conquest'. Liberal non-racialism aids this condonation as organisations and individuals in powerful positions popularly invoke liberal non-racialism sentiments to call for unification. In turn, neo-liberalism is instrumental in maintaining continuity with the past; neo-liberal policies escalated public service costs, broadened economic inequality, polarised wealth and poverty, granted access to the global economy for the middle and upper class and entrenched the black majority's exclusion from participation in the global economy.

Terreblanche and others argue that the PIU problem has been entrenched via the Constitution and policy. The argument is not that the ANC did not desire a non-racial future society, but that the leadership core adopted the shallow version of non-racialism established in the Freedom Charter and a mandate to incorporate black people into a transformed state but not the construction of a different state.³⁸² The problem remains that many of the elements of the pre-1994 era retain their power. Jabulani 'Nobleman' Nxumalo's warning in 1990 that there is a danger of creating a *neo-apartheid* state in which the "structures of white domination could take some new, non-statutory form" rings true.³⁸³ The realisation of this foresight is discussed in the next section.

³⁸⁰ Padayachee & Van Niekerk *Shadow of Liberation*.

³⁸¹ McKinley SA's *Corporatised Liberation* 5-6 & M Buraway "Foreword" in S Mosoeta *Eating from one pot* (2011) vii.

³⁸² L Gordon "A phenomenology of Biko's black Consciousness" in A Mngxitama, A Alexander & NC Gibson (eds.) *Biko Lives! Contesting the Legacies of Steve Biko* (2008) 83 89-91.

³⁸³ Padayachee & Van Niekerk *Shadow of Liberation* 58.

4 3 The anti-black economy of the 'New South Africa'

In section one I showed that the transfer from one administration (pre-1994) to the next (post-1994) did not alter neo-liberal capitalism. The following section focuses on the empirical reality of the majority of impoverished black South Africans. The aim here is to show how social apartness is maintained and how the intensification of the PIU problem is an outcome of the negotiated settlement.

By way of introduction, I preface this sub-section with two matters. First, the issue of poverty among white people in a study that focuses on black impoverishment, secondly, the issues of Black Economic Empowerment (BEE) and Affirmative Action (AA) policies to show that these elements do not negate the argument that the 'New South Africa's' economy is in many ways still anti-black.

There is no doubt that poor white people exist in South Africa. For the purpose of this study which regards black impoverishment as an outcome of the *longue durée* of colonialism and apartheid, only those who represent the majority of the impoverished, unemployed and working-class are relevant. The following statistics are derived from Stats SA:

“Whites [...] earn substantially higher wages than all the other population groups. To put things into perspective, the mean real earnings between 2011 and 2015 amongst employed black Africans was R6 899 (real earnings) per month. For coloureds and Indians/Asians, the corresponding figures are R9 339 and R14 235 per month, respectively. Amongst whites, it was R24 646 per month, or more than three times as high as it was amongst black Africans.”³⁸⁴

Further, the percentage of black South Africans living below the upper-bound poverty line (R1 268 per person per month) is 64.2%. This figure represents about 29,9 million

³⁸⁴ Anonymous “How unequal is South Africa” StatsSA (2020-02-04) <<http://black.statssa.gov.za/?p=12930>> (accessed 2021-01-03).

black people.³⁸⁵ Therefore, PIU overwhelmingly is distributed along racial lines. The implication is not that there has been no change since the ANC took power in 1994; the number in a low estimate of Africans in the middle strata has doubled since 1994. This progress should be celebrated and largely is due to better access to education and skills development, employment equity, and economic empowerment.³⁸⁶ Nevertheless, most black people have not seen their material reality altered. This study declares the significant causes of the problem to be the concept of liberal non-racialism and its relationship to teleological whiteness, together with the ANC's chosen economic path. A crucial element at this point is a consideration of the concepts of BEE and AA policies.

Van Riet makes an essential distinction between two positions on BEE and AA. First, there is the critique of how BEE has been implemented in South Africa and, secondly, arguments against BEE in principle.³⁸⁷ I agree with Van Riet that taking issue with the implementation of BEE and AA “do[es] not justify the type of legal arguments made against the idea of BEE”.³⁸⁸ I find it difficult to comprehend that it is reasonable to view that long term political stability is possible without the idea of AA and BEE, unless the purpose is to propose political and economic revolution. I agree that there is a legitimate critique of BEE and AA as it is implemented. In the context of this study the main problem identified is that only a small portion of black people have benefitted or continue to benefit from BEE.

The income gap between the top 20% of Africans and the poorest 50% has widened since 1994. In 2012 Terreblanche noted that this is an outcome of “all kinds of lucrative privileges that were given to the ANC-orientated political and bureaucratic elite, and the beneficiaries of BEE and AA contracts”.³⁸⁹ Within-group inequality among black people/Africans is growing, mostly due to unemployment at the bottom and rising

³⁸⁵ “Household Affordability Index” (2020-12-16) Pietermaritzburg Economic Justice & Dignity Group <https://pmbejd.org.za/wp-content/uploads/2020/12/December-2020-Household-Affordability-Index-PMBEJD_16122020.pdf> (accessed 2020-12-18).

³⁸⁶ J Netshitenzhe “Competing Identities of a National Liberation Movement Versus Electoral Party Politics: Challenges of Incumbency” (2012-06-20) Polity <<https://black.polity.org.za/article/competing-identities-of-a-national-liberation-movement-and-the-challenges-of-incumbency-2012-06-20>> (accessed 2021-01-03) 4.

³⁸⁷ G Van Riet “The Limits of Political Development and Constitutionalism in South Africa” (2016) 75 *New Contree* 98 106.

³⁸⁸ Van Riet (2016) *New Contree* 106.

³⁸⁹ Terreblanche *Lost In Transformation* 71.

incomes at the top.³⁹⁰ Netshitenzhe presents the danger of BEE-related rapid advancement: “In pursuit of non-racial equality, the Black middle and upper strata aspire to achieve that living standard of the metropolis; and many strive to do so in one fell swoop. Aggravating this is the global culture of short-termism in the conduct of business and material self-advancement.”³⁹¹

This study places its focus on those whose material and social well-being has not fundamentally altered: the 60-70% left behind.³⁹²

4 3 1 *Abahlali baseMjondolo*'s mobilisation against neo-liberal policy

I employ *Abahlali baseMjondolo*'s philosophical and political position as a guide in the discussion of three phenomena: first, the abyssal Line that sets up and maintains social apartness, secondly, neo-liberal economic policies that create and sustain impoverishment and, lastly, the colonialist discourse of recognition-incorporation-distribution present in ANC policy and civil society.

The *Abahlali baseMjondolo* (translated to ‘dwellers of shacks’) Movement is a social movement founded in 2005 out of anger and frustration. The people residing in the Kennedy Road settlement outside Durban mobilised against the selling of a piece of land to a local industrialist. This land was promised to the Kennedy Road community for housing. Since their first mobilisation which involved members from 30 settlements, *Abahlali* has been a voice for impoverished and excluded communities, who are ‘invisibilised’ and are intimidated by politicians, the police and civil society. *Abahlali* resists the “uncritical assumption of a right to lead local struggles of the poor in the name of a privileged access to the ‘global’ (Northern donors, academics and NGOs) that

³⁹⁰ Anonymous “Rising inequality in South Africa: Drivers, trends and policy responses” (2012-10-29) Polity <<https://black.polity.org.za/article/rising-inequality-in-south-africa-drivers-trends-and-policy-responses-2012-10-29>> (accessed 2020-12-05).

³⁹¹ J Netshitenzhe “Competing Identities of a National Liberation Movement Versus Electoral Party Politics: Challenges of Incumbency” (2012-06-20) Polity <<https://black.polity.org.za/article/competing-identities-of-a-national-liberation-movement-and-the-challenges-of-incumbency-2012-06-20>> (accessed 2021-01-03) 3.

³⁹² Adelzadeh & Padayachee (1994) *Transformation* 16.

remains typical of most of the NGO-based left”.³⁹³ In a sense this is also a rejection of liberal non-racialism and its tenets of trusteeship and white guidance.

Their main agenda is to mobilise for land and housing in city spaces but also for access to education, water provision, electricity, sanitation, refuse removal and health care. *Abahlali* resists the commodification of social services under neo-liberal policy.³⁹⁴ *Abahlali* members invoke the term ‘living politics’ in their speeches, media releases and interviews. Living politics describes the everyday struggles of impoverished black people. *Abahlali*’s position is that those vested with political and economic power are in control of the impoverished majority’s lives. *Abahlali* came into being to compel government structures to engage with excluded communities and to “come down to the people”.³⁹⁵

The practice of living politics in this study is a means of engaging with the notions of neo-liberalism, whiteness, non-racialism and impoverishment. It is projected that the *longue durée* of colonialism and apartheid, the embedded social, political and economic realities of systems of racist exploitation and exclusion are visible in *Abahlali* members’ lives. *Abahlali*’s expression of their situation is linked to the discussion in previous chapters. First, in resistance to ANC governance for the way it is consistent with colonial and apartheid systems of power. In chapter two, I proposed the early striving of ANC-aligned leaders was seen as a way to gain access to the colonial way of life and being. Secondly, *Abahlali*’s ‘living politics’ questions the possibility of substantive equality in the current South African context. A member of *Abahlali* describes the workings of neo-liberal policy:

“...neoliberalism (sic)... is a very modern kind of new apartheid. In this new form of apartheid we are still divided into those who count and those that do not, those

³⁹³ Anonymous “A Short History of Abahlali baseMjondolo, the Durban Shack Dwellers’ Movement” Abahlali baseMjondolo (2006-10) <<http://abahlali.org/a-short-history-of-abahlali-basemjondolo-the-durban-shack-dwellers-movement/>> (accessed 2021-01-03).

³⁹⁴ Anonymous “A Short History of Abahlali baseMjondolo, the Durban Shack Dwellers’ Movement” Abahlali baseMjondolo (2006-10) <<http://abahlali.org/a-short-history-of-abahlali-basemjondolo-the-durban-shack-dwellers-movement/>> (accessed 2021-01-03).

³⁹⁵ Anonymous “A Short History of Abahlali baseMjondolo, the Durban Shack Dwellers’ Movement” Abahlali baseMjondolo (2006-10) <<http://abahlali.org/a-short-history-of-abahlali-basemjondolo-the-durban-shack-dwellers-movement/>> (accessed 2021-01-03).

who can live in the cities and those who cannot, those who are allowed to speak and those that are not, those that must burn and those that are safe.”³⁹⁶

A capitalist society dictates that those groups who already have access to the economy and quality of life, continue to benefit. Generally, these voices are reflected in economic policy design and are comprised of the middle- and higher class. Keeping in mind that 64.2% of black South Africans live below the upper-bound poverty line, it is clear which group is socially and economically excluded. This reality is a manifestation of the abyssal Line. The political economy of non-racialism is a reality in which the majority of black lives remain impoverished in a formally deracialised state. *Abahlali*'s members belong to the 60-70% of people left behind.³⁹⁷

In addition to the material change *Abahlali* demands, this study considers it imperative to remodel society and explore the relationship between the abyssal Line and the idea of non-racialism.

4 3 2 Neo-liberalism maintains the abyssal Line

The focus of this section is the manner in which neo-liberal economic policy aids the abyssal Line. Madlingozi writes that South Africa is situated in a time of neo-apartheid constitutionalism, claiming a fundamental continuity with the apartheid era. In this time of neo-apartheid a line exists that divides two groups of people. On one side of the Line people exist who suffer “unremitting dehumanisation and social invisibility”, the people on the other side belong to the “zone of beings”.³⁹⁸ For the former the “main edifice of the ontological structure of colonial-apartheid – white human \geq black sub-human – remains in place”.³⁹⁹ The economic dimension is that people above the abyssal Line have a sense of economic freedom to navigate the neo-liberal landscape, below the line are those whose lives are ruled by patronage, repression and ‘unfreedom’. This reality is viewed as posing a severe challenge to the idea of non-racialism. A sustainable

³⁹⁶ B Mdlalose “Marikana shows that we are living in a democratic prison” (2012-09-22) Abahlali baseMjondolo <<http://abahlali.org/node/9061/>> (accessed 2021-01-03) cited in Madlingozi *Mayibue iAfrika?* 162.

³⁹⁷ Adelzadeh & Padayachee (1994) *Transformation* 16.

³⁹⁸ Madlingozi (2017) *Stell LR* 124.

³⁹⁹ Madlingozi (2017) *Stell LR* 124.

non-racial society cannot be built in a context where poverty, inequality and unemployment are “...still profoundly skewed by a racialised past” and where this reality “continue[s] to produce the same racialised advantages and disadvantages”.⁴⁰⁰

The abyssal Line indicates a bifurcated social structure established by the founders of the Union of South Africa in which black people rendered cheap labour. ‘Natives’ were not exterminated as is the case elsewhere, but in the eyes of the settler-colonisers the black population posed a problem in what was essentially ‘a white man’s country’. This problem became known as the ‘Native Problem’. The line served the purpose of separating (white) human from (black worker-servant) sub-human and banished Africans to the ‘tribal reserves’, forcing them to travel into ‘European areas’ for work.⁴⁰¹

The ‘New South Africa’ reconfigures the Line but does not dissolve it; the line is maintained through the ANC’s agenda to incorporate and assimilate black people into the ‘settler-created world’. This outcome is, in part, due to the ANC’s acceptance of the sovereignty of an unjust and conquered state. This study has questioned the ability of non-racialism (as it is currently popularly understood) to bring about racial equality. The reality is that the majority of black people experience economic ‘unfreedom’ brought on by the PIU problem and this is evidence of non-racialism’s failure to respond to injustice or contribute to a non-racial society.

In everyday life, the abyssal Line is represented in several ways, including unequal access to education, the maintenance of apartheid spatial planning and migrant labour systems. These examples have implications for the idea of non-racialism since the “main edifice of the ontological structure of colonial-apartheid – white human X black sub-human – remains in place”, well into the ‘New South Africa’.⁴⁰²

4 3 3 Neo-liberalism manifests as ‘poverty management’

Abahlali’s mandate is to offer resistance to what is called ‘poverty management’; the ceding of their struggles to politicians who themselves are co-opted.⁴⁰³ I have explored

⁴⁰⁰ Anciano (2014) *Journal of Contemporary African Studies* 40.

⁴⁰¹ Madlingozi (2017) *Stell LR* 130.

⁴⁰² Madlingozi (2017) *Stell LR* 124.

⁴⁰³ Ravenscroft ‘*Poverty management*’ in *South Africa* LLB dissertation, University of Pretoria (unpublished) (2018) 4.

‘poverty management’ as a neo-liberal approach endorsed by the ANC-government which enables the state to cast the value of human lives in terms of market rationality and to govern ‘the poor’ through technocratic approaches to reduce/alleviate poverty.⁴⁰⁴

Abahlali advocates for ‘proper’ engagement between government officials and communities – a process which is a fundamental mechanism of participatory democracy. Robust procedures which enable participatory democracy is important for dismantling the PIU problem because it counters poverty management. By ensuring that people speak for themselves, that their demands are heard and, most importantly, that their demands are reflected in policy, participatory processes guard against generic understandings of neo-liberalism.⁴⁰⁵ When communities can raise their grievances and speak from their specific contexts, we are able to diagnose the impact of economic policies on that community. As noted above, the ANC’s neglect of participatory processes was already evident during the RDP drafting process. Terreblanche argues that the ANC’s attitude towards ‘the poor’ had undergone drastic changes in the early years of democracy. He asserts that their approach shifted from “the deserving poor” to “the *undeserving poor*”.⁴⁰⁶

The link between ‘poverty management’ and non-racialism is presented by asserting that the technocratic management of ‘the poor’ (poverty management) is an expression of the paternalistic character of liberal non-racialism. This approach is not only observed in government policy but also in the actions of NGOs and civil society. *Abahlali* describes this as an “uncritical assumption of a right to lead local struggles of the poor in the name of a privileged access to the ‘global’”.⁴⁰⁷ Madlingozi argues that several “well-meaning academics and activists” propose that recognition and incorporation of “historically marginalised” people offer a solution to socio-economic crises such as the PIU problem. Put differently, that the project of liberal constitutionalism envisions the “inclusion of Blacks into the existing legal, political and economic regime”.⁴⁰⁸ In this sense liberal non-racialism’s main objective is inclusion. This means that black people must be

⁴⁰⁴ Ravenscroft *Poverty management’ in South Africa* 17.

⁴⁰⁵ Hart “Provocations of Neoliberalism” in *Zuma’s Own Goal* 83.

⁴⁰⁶ Terreblanche *Lost in Transformation* 105.

⁴⁰⁷ Anonymous “A Short History of Abahlali baseMjondolo, the Durban Shack Dwellers’ Movement” Abahlali baseMjondolo (2006-10) <<http://abahlali.org/a-short-history-of-abahlali-basemjondolo-the-durban-shack-dwellers-movement/>> (accessed 2021-01-03).

⁴⁰⁸ Ramose cited in Modiri (2019) *De Jure* 34.

included and incorporated into a society founded on white reason and norms. The link to poverty management here is that ‘the poor’ are governed through technocratic approaches which are consistent with the paternalistic character of liberal non-racialism and its ties to the colonial praxis of trusteeship.

The project of teleological whiteness is intertwined with liberal non-racialism. South Africa exists as a formally deracialised state, but black impoverishment is maintained and reproduced because in ‘post’-apartheid South Africa there are fundamental continuities with the pre-1994 political, economic and legal regime. Madlingozi engages the argument that the ANC-government internalises teleological whiteness. He does so by questioning how “a predominantly black government could perpetuate an anti-black bifurcated society”.⁴⁰⁹ He draws on Gordon to argue that, by virtue of being black, the ANC government can employ more rigorous means of disarming excluded groups.⁴¹⁰ This means that, in a formally deracialised state, the economy can still function to operate in the interests of an unequal and racist civil society.⁴¹¹ According to the logic of teleological whiteness ‘the poor’ are less white than the ruling elite which, nonetheless, never is white enough in the settler-created world.⁴¹² In its contemporary liberal form, non-racialism (as a political idea, constitutional value and social guideline) is complicit in maintaining the cycle of economic unfreedom for the majority of impoverished black people.

Here is an example of how neo-liberalism maintains the reality of social apartness. Following the adoption of GEAR, municipalities were faced with gross cut-backs in government allocation. To facilitate the implementation of the cost recovery programmes, ward committees in metropolitan and local councils were introduced. The idea was to create a channel of communication to enable participatory democracy. This objective was not met. In reality, the impoverished are excluded from the decision-making process and are often consulted only because of the committee’s legal duty to

⁴⁰⁹ Madlingozi (2017) *Stell LR* 123 (see fn 3).

⁴¹⁰ Gordon “A phenomenology of Biko’s black Consciousness” in *Biko Lives! Contesting the Legacies of Steve Biko* 91.

⁴¹¹ M Mamdani *Citizen and Subject: Contemporary Africa and the Legacy of Late Colonialism* (1996) cited in Gordon “A phenomenology of Biko’s black Consciousness” in *Biko Lives! Contesting the Legacies of Steve Biko* 91.

⁴¹² Gordon “A phenomenology of Biko’s black Consciousness” in *Biko Lives! Contesting the Legacies of Steve Biko* 85.

do so.⁴¹³ As a result, impoverished communities are ‘managed’ via such technocratic means, rather than being afforded access to participatory processes. This situation created an ideal environment for the power matrix of colonialism to thrive. In this environment liberal non-racialism poses as a benevolent mode which recognises black people as ‘equal’, but, at the same time, the paternalistic nature of elite decision-making masks and enables “the uncritical assumption of the right to lead local struggles”.⁴¹⁴ We can see how neo-liberalism casts the value of peoples’ lives in terms of market rationality. For *Abahlali*’s members the reality is that their economic value is proportional to their ‘voicelessness’. In society, expressions of ‘entitlement’ aimed at ‘poor people’ are often uttered by individuals/groups who exhibit strong liberal non-racial sentiments. These sentiments distort the reality of inaccessible government structures and colonialist discourse prevalent in the ‘New South Africa’.⁴¹⁵

Hart argues that in addition to strengthening the hand of white corporate capital and a new black bourgeoisie, GEAR serves as neo-liberal rationality for the ANC to employ in contrast to apartheid rule. Where the apartheid state economic model signified repression and rigidity, the ANC “takes the market as its model, to which it can articulate freedom, democracy and flexibility – signifying a seemingly clear breakaway from old practices”.⁴¹⁶ The privatisation of systems that were bureaucratised under apartheid rule is a process that is unfolding in ‘post’-apartheid South Africa. Racism remains embedded in civil society and social justice organisations offer incorporation as economic emancipation.⁴¹⁷ The broader project of liberal constitutionalism envisions the “inclusion of Blacks into the existing legal, political and economic regime”.⁴¹⁸ The outcome of this programme is the maintenance of the abyssal Line, an entrenched PIU problem and sustained social apartness.

⁴¹³ T Madlingozi “Post-Apartheid Movements and Legal Mobilisation” in M Langford et al (eds) *Socio-Economic Rights in South Africa: Symbols or Substance?* (2014) 107-108.

⁴¹⁴ Anonymous “A Short History of Abahlali baseMjondolo, the Durban Shack Dwellers’ Movement” Abahlali baseMjondolo (2006-10) <<http://abahlali.org/a-short-history-of-abahlali-basemjondolo-the-durban-shack-dwellers-movement/>> (accessed 2021-01-03).

⁴¹⁵ Ravenscroft *Poverty management in South Africa* (2018) 20. See also T Madlingozi “Post-Apartheid Movements and Legal Mobilisation” in M Langford et al (eds.) *Socio-Economic Rights in South Africa: Symbol or Substance?* (2014) 107-109.

⁴¹⁶ Hart “Provocations of Neoliberalism” in *Zuma’s Own Goal* 84.

⁴¹⁷ Hart “Provocations of Neoliberalism” in *Zuma’s Own Goal* 84.

⁴¹⁸ Ramose cited in Modiri (2019) *De Jure Law Journal* 34.

4 3 4 ‘Recognition-incorporation-distribution’ as the logic of liberal non-racialism

In December 2020, after a year in which the COVID19 crisis magnified the issue of racial inequality, *Abahlali* published the following statement:

“Biko said that ‘We believe that in our country there shall be no minority, there shall be no majority, there shall be just people. And those people will have the same status before the law and they will have the same political rights before the law. In this instance it will be a completely non-racial egalitarian society’. In 2020 the government treats us as if we are beneath the law.

...

The ANC was brought to power by the struggles of the people but it has betrayed every tradition of liberation in this country. It is now up to the oppressed to liberate ourselves.”

The logic of liberal non-racialism dictates that in a liberal society which has rid itself of racist rule and introduced laws that enable liberal constitutionalism, structural oppression will dissolve. Following Modiri, I argue that by defining oppression as “the disadvantage and injustice suffered by certain groups not necessarily because of a tyrannical government but ‘because of the everyday practices of well-intentioned liberal society’” liberal non-racialism is complicit in maintaining impoverishment.⁴¹⁹ Modiri states: “Blacks are oppressed in ways so well-organised at the level of societal structure that whites do not need to be consciously involved in the actual oppression of Blacks.”⁴²⁰

An example of systemic oppression is to be found in the economic reality of the majority of poor black people who occupy low-paying, unskilled jobs such as domestic workers, car and security guards, cleaners, garbage collectors, farm workers, construction workers, miners, drivers, etcetera. In a neo-liberal scheme where people are expected to be ‘entrepreneurs of themselves’ black people in low paying jobs are especially vulnerable to sacrifice and disposal.⁴²¹

⁴¹⁹ JM Modiri “Law’s Poverty” (2015) 18(2) *PELJ* 230.

⁴²⁰ JM Modiri “Law’s Poverty” (2015) 18(2) *PELJ* 230.

⁴²¹ Modiri (2015) *PELJ* 233.

Modiri declares that this reality is symbolic in that it reminds us that “[w]herever there is racism, there is the assumption, more or less enforced, that members of the oppressed racial groups are or ought to be servants of those or some of those, in the privileged group”.⁴²²

In a just, post-racial society people will be able to participate in the economy with relative freedom, have access to basic services and have equal opportunity to participate in the deliberative processes of democracy.⁴²³ The imperative of such a society, set in a post-colonial and post-apartheid setting, is that racial inequality is dealt with decisively. The project of dealing with racial inequality implicates non-racialism as this study has shown. Although never rigid, the concept of non-racialism as a political idea, constitutional value and social guideline must be able to contribute to the project of racial equality instead of merely opting for ‘inclusion’ via liberal non-racialism. In a post-racial society (the ultimate project of non-racialism) ‘blackness’ or ‘whiteness’ would not serve as relative markers of economic ‘freedom/unfreedom’. A trickle-down liberal process that inserts non-racialism as a process of formal non-discrimination reproduces a society where black labour is symbolically akin to worker-servants in the colonial economy. This study has shown how the categories of conqueror and conquered have been ‘prohibited’ but not decisively dismantled. What we have witnessed instead, is an intensification of the PIU problem, the rise of neo-liberal policy and liberal non-racialism.

Drawing on Sobukwe, Madlingozi explains what he considers a key jurisprudential insight emanating from African nationalists as follows: “In an un-decolonised context constitutionalism and (racial) group rights are ‘techniques of control’ to induce voluntary enslavement and secure the ultimate triumph of settler colonialism”.⁴²⁴ He continues to explain that “[t]his triumph is secured by the assimilation of the Black elite into the ‘new’ polity while the majority of Africans remain constricted on ‘the other side’ of the Line”.⁴²⁵

⁴²² D Bell cited in Modiri (2015) *PELJ* 232.

⁴²³ S Liebenberg cited in Madlingozi (2017) *Stell LR* 129.

⁴²⁴ Madlingozi “On Settler Colonialism and Post-Conquest Constitutioness” (2016)14; Sobukwe cited in G Gerhart *Black Power in South Africa: The Evolution of an Ideology* (1978) 187.

⁴²⁵ Madlingozi “On Settler Colonialism and Post-Conquest Constitutioness” (2016) 14; Sobukwe cited in G Gerhart *Black Power in South Africa: The Evolution of an Ideology* (1978) 190.

In economic terms liberal non-racialism plays an important role in what Madlingozi phrases the political and economic pursuit of ‘recognition-incorporation-distribution’ in the settler-created polity.⁴²⁶ In his account of how the assimilationist logic of social justice discourse trumps post-abysal Line politics of liberation he explains that the majority of black people do not form a part of the ‘new’ society but remain socially excluded and racially dehumanised.⁴²⁷ Some black people are incorporated into the ‘new’ society and are thus incorporated to the other side of the Line. As Sobukwe has captured aptly, in an un-decolonised context (racial) group rights are means of securing settler colonialism and the maintenance of the abyssal Line – with some reconfigurations.⁴²⁸

The argument that is presented determines that to critically assess non-racialism in a formally ‘de-racialised’ state, whiteness, neo-liberalism, and embedded impoverishment need to be interrogated if the objective is a truly post-racial state. Such a project draws on all spheres of state and society. The “possibilities of change primarily are found in politics” but the law has a distributive function.⁴²⁹ It regulates access to social and economic resources and confers recognition on people. Law legitimises access to and control over life-making mechanisms (for example, public- and social services, healthcare, transport).⁴³⁰ Law-makers and jurisprudence has the task to be critical of law’s response to contemporary legal systems and, to how the law alters or maintains access to life-making mechanisms.

A critique of the idea of the political and economic pursuit of recognition-incorporation-distribution implicates the Constitution. Sibanda argues that constitutionalism is an expression of “choices made by those collectively responsible for establishing a particular system of constitutionalism” rather than being a generic, definable state form.⁴³¹ This formulation of constitutionalism enables us to ascertain which forces exerted major influence on the particular system of constitutionalism which came into

⁴²⁶ Madlingozi (2017) *Stell LR* 123-146.

⁴²⁷ Madlingozi (2017) *Stell LR* 123-124 & 130.

⁴²⁸ Sobukwe and Pan Africanist Congress of Azania *Speeches of Mangaliso Sobukwe from 1949–1959 and Other Documents of the Pan-Africanist Congress of Azania* (1978) 187 & 190.

⁴²⁹ Albertyn (2018) *SAJHR* 459.

⁴³⁰ I owe the use of the term life-making mechanisms to Mx. B Deyi. See n 6 above.

⁴³¹ Sibanda (2011) 22(3) *Stell LR* 484.

effect in the 1990s. This study has implicated whiteness and its ties to liberalism and neo-liberalism in particular.

I argue that the ANC opted to integrate black people into the colonial state and to exonerate white people from their collective responsibility for the exploitation and oppression of black people. I state that the outcome of this decision was the consolidation and protection of white wealth and its transfer into the private sector of the 'New South Africa'. This path is made possible by the economic principles of neo-liberal globalisation. Thus, I claim that it is accurate to assert that whiteness exerted a major influence on the blueprint for the 'New South Africa'. Lastly, liberal constitutionalism endorses the idea of recognition-incorporation-distribution because it preserves particular power relations: "[t]he overwhelming constitutional drive towards the preservation of white people's material, psychic and cultural interests and the assimilation of black elites into 'this side' of the Line".⁴³²

The problem clearly is not isolated as being an epistemological and ontological problem of white supremacy but includes ways in which whiteness exerts an influence to maintain and reproduce the impoverishment of the majority of black people.

4 3 5 The future: possibilities of *Afrikan* humanness

Iris Marion Young writes: "in modern, liberal societies, individuals involved in the maintenance and reproduction of the systems of oppression are usually simply doing their jobs and living their lives."⁴³³ Liberal non-racialism enables this reality; it has not been an instrument to meaningfully re-make society but instead represents white liberal sentiments. This study has questioned the value of the political idea, constitutional value and social guideline of non-racialism in contributing towards a truly non-racial society. I suggest that the concept of *Afrikan* humanness can serve as a praxis for the creation of a truly post-racial society. Contemporary liberal non-racialism is unable to move beyond a quest to incorporate black people into a settler-created world as it strives for inclusion and not the construction of a different state.⁴³⁴

⁴³² Madlingozi "On Settler Colonialism and Post-Conquest Constitutioness" (2016) 8.

⁴³³ IM Young *Justice and the Politics of Difference* (2011) 42 cited in Modiri (2015) *PELJ* 230.

⁴³⁴ Gordon "A phenomenology of Biko's black Consciousness" in *Biko Lives! Contesting the Legacies of Steve Biko* 89. Own emphasis.

Afrikan humanness can be described as a living philosophy rooted in the fundamental legal doctrine of *Ubuntu* law: *molato ga o bole* – meaning that an injustice remains an injustice until it is rectified.⁴³⁵ *Afrikan* humanness derives from *Afrikan* culture. Mphahlele explains that “...at the base of [*Afrikan*] culture is a humanness that ‘has never sought to shut out anybody. It has always been a humanism that could absorb many things, influences, members.”⁴³⁶ *Afrikan* humanness contains elements of Black Consciousness philosophy in that this its project too, seeks to de-constitute and re-constitute the social world that is separated into a white- and black world.⁴³⁷

Afrikan humanness's ethical prescription of cultural, spiritual and political justice holds significant implications for non-racialism as a political idea, constitutional value, and social guideline.⁴³⁸ I have shown how liberal non-racialism is linked to the maintenance and reproduction of the abyssal Line. For a post-racial society to materialise, there has to be a re-conceptualisation of the concept of non-racialism. In the political terrain the difference between liberal non-racialism and non-racialism (as informed by *Afrikan* humanness) is represented by the different approaches of the ANC and PAC:

“...on the one side, the ANC and its emancipatory praxis of claiming civil rights and of demanding democratisation and incorporation into a transformed South African society. On the other side, we find the PAC's and later the BCM's prefigured politics of decolonisation, liberation, and the pursuits of an African- or black-created new polity that recognises and incorporates settlers.”⁴³⁹

Ubuntu/botho (humanness) is a fundamental ontological and epistemological category in the thought of Bantu-speaking peoples. The purpose of the law is seen as an attempt to pursue and actualise justice so that equilibrium is maintained. This is a people-centred approach, as Murungi writes:

⁴³⁵ Madlingozi *Mayibuye iAfrika?* 165.

⁴³⁶ CN Manganyi “Looking in: In search of Es'kia Mphahlele” In CN Manganyi & D Attwell (eds.) *Bury Me at the Marketplace: Es'kia Mphahlele and Company - Letters 1943-2006* (2010) 463 467 cited in Madlingozi *Mayibuye iAfrika?* 123.

⁴³⁷ Madlingozi *Mayibuye iAfrika?* 124 & 151.

⁴³⁸ Madlingozi *Mayibuye iAfrika?* 119.

⁴³⁹ Madlingozi (2017) *Stell LR* 130.

“Each path of jurisprudence represents an attempt by human beings to tell a story about being human. Unless one discounts the humanity of others, one must admit that one has something in common with all other human beings. To discount what one has in common with other human beings is to discount oneself as a human being. *What is essential to law is what secures human beings in their being.* The pursuit and the preservation of what is human and what is implicated by being human are what, in a particular understanding, is signified by African jurisprudence. Being African is a sign of being African and being African is a sign of being human. African jurisprudence is a signature...”⁴⁴⁰

The practice of *Afrikan* humanness is re-making society, which demands an interrogation of the abyssal Line and the elements that maintain the line: whiteness, neo-liberal policy and liberal non-racialism. An implication of African jurisprudence in respect of the proponents of liberalism non-racialism, colour-blindness and integrationist logic is that a debt or feud is not extinguished until equilibrium is restored.

I propose that as a means of re-conceptualising non-racialism in relation to the African ontological position that law exists as a *-ness* (as in *constitutionness*) and not an *-ism* (*constitutionalism*). As an explanation of what it entails I suggest a ‘radical openness’ is implied in the suffix *-ness* as a foundational element of *Ubuntu* philosophy which alludes to the need for the law to be responsive to society's changing dynamics. It also indicates that *being* exists as a continuous wholeness, in contrast to the finite end signified by *constitutionalism*.⁴⁴¹ In consequence it implicates the entire constitutional framework and the concept of non-racialism. The Constitution's failure to construct and represent a non-racial ‘we’ through a fundamental interrogation of the abyssal Line, I assert, is evident in the “still colonial character of South African spaces, mind-sets and power relations...”⁴⁴²

Inequality and economic ‘unfreedom’ in my view persist as symptoms of the negotiated settlement which protects white people’s material, psychic and cultural interests and

⁴⁴⁰ J Murungi (2004) “The Question of an African Jurisprudence: Some Hermeneutic Reflections” in K Wiredu (ed.) *A companion to African Philosophy* 525-526. Own emphasis.

⁴⁴¹ Ramose “An African Perspective on Justice and Race” (2001) *Polylog* <<http://them.polylog.org/3/frm-en.htm>> at par 6 (accessed 2021-01-03).

⁴⁴² Modiri (2019) *De Jure* 27 & 30.

consolidated white hegemony.⁴⁴³ Contemporary liberal non-racialism is a colour-blind response to this reality, on the other hand *Afrikan* humanness seeks to establish multiculturalism as theorised by Es'kia Mphahlele before there can be non-racialism and a post-racial society.⁴⁴⁴ In order to constitute a non-racial 'we-ness' the inherent whiteness of liberalism must be interrogated in its appearance in the legal framework of liberal constitutionalism, in education, in politics and civil society discourse. This study suggests that "unquestioned white assumptions that embrace white values" and dominate knowledge production, including constitutional discourse, must be critically evaluated through the lens of *Afrikan* humanness.⁴⁴⁵ This is a possible means of conceptualising true non-racialism and, in time, establishing a post-racial society.

Madlingozi declares that *Afrikan* humanness driven synthesis is the *sine quo non* of the post-colonial constitution and belonging."⁴⁴⁶ Coming back to Biko's representation of the liberal imagination: "For the liberals, the thesis is apartheid, the anti-thesis is non-racialism, but the synthesis is very feebly defined. They want to tell the blacks that they see integration as the ideal solution", *Afrikan* humanness is presented as a possible synthesis for the construction of a post-racial society.⁴⁴⁷ From the perspective of *Afrikan* humanness and Black Consciousness "good white people' [will have to] confront their own racial melancholia" and grapple with liberal non-racialism's vested interest in preserving whiteness.⁴⁴⁸ From here, we can move beyond a quest to 'include' people into systems which themselves are in need of fundamental de-constitution and re-constitution.

4 4 Conclusion

In section one of this chapter, I traced the developments in ANC economic policy to show how the ANC gradually came to adopt a neo-liberal, free-market economic approach. I have also shown how the 'New South Africa' has, in many instances,

⁴⁴³ Madlingozi "On Settler Colonialism and Post-Conquest Constitutioness" (2016) 8.

⁴⁴⁴ E Mphahlele cited in Madlingozi *Mayibuye iAfrika?* 123.

⁴⁴⁵ S Biko "Black Consciousness and the quest for a true humanity" (1978) *Ufhamu: A Journal of African Studies* 10-11.

⁴⁴⁶ Madlingozi *Mayibuye iAfrika?* 123.

⁴⁴⁷ S Biko *I Write What I Like* (1996) 90.

⁴⁴⁸ Madlingozi *Mayibuye iAfrika?* 151.

brought little change to the material and social well-being of the impoverished black majority.⁴⁴⁹

In section two I identified liberal non-racialism as playing an important role in maintaining a bifurcated society and racial inequality. Here, I argued that the ‘incorporation-assimilation-integration’ agenda keeps the settler-created world alive and with it the maintenance of black impoverishment. I have shown how neo-liberalism is complicit in this process and how it aids the prioritisation of white people’s material, psychic and cultural interests.⁴⁵⁰ Finally, I proposed that *Afrikan* humanness be adopted as a lens in the quest for true non-racialism and as a means towards a truly post-racial society.

⁴⁴⁹ M Buraway “Foreword” in S Mosoeta *Eating from one pot* (2011) vii.

⁴⁵⁰ Madlingozi “On Settler Colonialism and Post-Conquest Constitutioness” (2016) 8.

CHAPTER FIVE: CONCLUSION

This study explored non-racialism as a political idea, a constitutional value and a social guideline. The objective in this study was to demonstrate the way in which liberalism is a dominant element in the collective idea of non-racialism. The thesis defended here is that a liberal conceptualising of non-racialism informs and aids in the maintenance of black impoverishment and is ultimately an effort to assimilate to whiteness: its economic rationality (neo-liberalism) and its conception of human and sub-human.

Chapter two provided a chronology of the development of the concept of non-racialism in liberal circles from the early days of white settlement in the Cape Colony to the formation of the Union of South Africa in 1910 and the establishment of the Non-Racial Franchise Association in 1929. This chapter further considered early ANC ideas on non-racialism and liberation – paying specific attention to the instances of overlap with white liberal ideas. Chapter two concluded with the pivotal moment of the adoption of the Freedom Charter which consolidated the ANC's idea of non-racialism as integration/inclusion.

Chapter three considered the idea of non-racialism as reflected in the Freedom Charter as forming the basis of the idea of non-racialism in the 1996 Constitution. In the 'New South Africa' non-racialism is widely accepted as a pivotal value for a democratic society and an essential component of the system of liberal constitutionalism. In this chapter I question whether the dominant liberal version of non-racialism contributes to a truly equal society by comparing liberal non-racialism to the ideas which inform the ideal of the rainbow nation. This chapter demonstrated how liberal non-racialism is the basis for the limited idea of substantive equality in constitutional discourse. This idea of equality hinges on the assumption that progress is being made by the incorporation of black people into a settler-created society.

Chapter four then considered the economic rationality of liberal non-racialism. I argued that the structural inequalities in South Africa are evidence of liberal non-racialism's inability to imagine and contribute towards a truly non-racial egalitarian society. I opted to use the idea of 'recognition-incorporation-distribution' to show how 'including' black

people into the settler-created society is consistent with liberal non-racialism's aims. I linked neo-liberal economic policy to show how it aids the exonerated of accumulated white wealth and protects white interests in the 'New South Africa'. By doing so I have shown how neo-liberal policy works together with liberal non-racialism to keep the impoverished black majority on the other side of the abyssal Line. Lastly, I proposed the living philosophy of *Afrikan* humanness as a praxis for de-constituting and re-constituting society to truly reflect non-racialism.

I have shown how a liberal version of non-racialism was adopted through the ANC's politics of multi-racialism which later led to incorporating black people into the settler-created world. Throughout the study I have emphasised and questioned the inherent whiteness in liberalism to demonstrate that the 'New South Africa' is not post-racial and cannot aspire to true non-racialism without re-conceptualising the idea in line with *Afrikan* humanness. The inherent whiteness of liberalism is manifested in the societal imagination, constitutional discourse (chapter three) and the grammar of the ANC (chapter four).

This study explored the fundamental problem(s) of liberal non-racialism: its insistence on incorporation/inclusion instead of the re-making of society, its ties to whiteness (including the project of teleological whiteness) and its inability to contribute to a truly non-racial, egalitarian society.

BIBLIOGRAPHY

Books and chapters in books

- Biko, S (2004) *I write what I like*. Edited by Aelred Stubbs. Picador Africa Johannesburg.
- Biko, S (1996) *I write what I like*. Edited by Aelred Stubbs. Bowerdean Press Johannesburg.
- Biko, S (2017) *I write what I like* Pan Macmillan Johannesburg.
- Bond, P (2000) *Elite Transition: From Apartheid to Neo-liberalism in South Africa* University of Natal Press Pietermaritzburg.
- Brown, W (2005) "Neo-liberalism and the End of Liberal Democracy" in *Edgework: Critical Essays on knowledge and politics* Princeton University Press Princeton.
- Budlender, G (1991) "BC and the Liberal Tradition: Then and Now" in Pityana, B Ramphele, M Mpumlwana, M & Wilson, L (eds.) *Bounds of Possibility* New Africa Books Pretoria.
- Chatterjee, P (1974) *The Politics of the Governed* Columbia University Press New York.
- Coetzee PH & Roux APJ (eds.) (1988) *The African Philosophy Reader* Routledge UK London.
- Crenshaw, K; Gotanda, N; Peller, G & Thomas, K (eds) (1995) *Critical Race Theory: The Key Writings that Formed the Movement* The New Press New York.
- DiAngelo, R (2018) *White Fragility* Beacon Press Boston.
- Douglas, S (2017) *Curating Community Museums, Constitutionalism, and the Taming of the Political* University of Michigan Press Ann Arbor.
- Everatt, D (2009) *The Origins of Non-Racialism: White Opposition to Apartheid in the 1950s* Wits University Press Johannesburg.
- Frederikse, J (1990) *Unbreakable Thread: Non-racialism in South Africa* Ravan Press Johannesburg.
- Frye, M (1983) *The politics of reality: Essays in feminist theory* Crossing Press Berkeley.
- Garner, S (2007) *Whiteness: An introduction* Routledge New York.
- Gerhart, G (1978) *Black Power in South Africa: The Evolution of an Ideology* University of California Press Berkeley Los Angeles London.
- Hart, G (2011) "Provocations of neo-liberalism" in Maharaj B, Desai A & Bond P (eds) *Zuma's Own Goal* Africa World Press Trenton New Jersey.

Hayter, T (1981) *The Creation of World Poverty* Pluto Press London.

Hoernlé, RFA (1945) *South African Native Policy and the Liberal Spirit* Witwatersrand University Press Johannesburg.

Luthuli, A (2012) "Our Vision is a Democratic Society" in GJ Pillay *Voices of Liberation* HSRC Publishers Pretoria.

Madlingozi, T (2016) "'On Settler Colonialism and Post-Conquest' Constitutionness': The Decolonising Constitutional Vision of African Nationalists of Azania/South Africa" Forthcoming chapter for a book project edited by Prof Boaventua de Sousa Santos. Manuscript on file with author.

Madlingozi, T (2014) "Post-Apartheid Movements and Legal Mobilisation" in M Langford et al. (eds.) *Socio-Economic Rights in South Africa: Symbols or substance?* Cambridge University Press New York.

Magubane, BM (1996) *The Making of a Racist State: British Imperialism and the Union of South Africa* Africa World Press Trenton, New Jersey.

Maloka, E (2014) *Friends of the natives: The inconvenient past of South African liberalism* 3rd Millenium Publishing London.

Mamdani, M (1996) *Citizen and Subject: Contemporary Africa and the Legacy of Late Colonialism* Princeton University Press Princeton, New Jersey.

Manganyi, CN (2010) "Looking in: In search of Es'kia Mphahlele." in CN Manganyi & D Attwell (eds) *Bury Me at the Marketplace: Es'kia Mphahlele and Company - Letters 1943-2006* 463-494 Wits University Press Johannesburg.

Marais, H (2011) *South Africa Pushed to the Limit: The Political Economy of Change* UCT Press Cape Town.

Mbeki, M (2009) *Architects of Poverty: Why African Capitalism Needs Changing* Pan Macmillan Limited Johannesburg.

McKinley, DT (2007) *South Africa's Corporatised Liberation* Jacana Media Johannesburg.

Mosoeta, S (2011) *Eating from one pot* Wits University Press Johannesburg.

Meister, R (2012) *After Evil: A Politics of Human Rights* Columbia University Press New York.

Mills, CW (1997) *The Racial Contract* Cornell University Press.

Morrison, T (2019) *A Mouth Full of Blood: Essays Speeches, Meditations* Penguin Random House UK London.

- Mphahlele, E (2000) *Es'kia* Kwela Books Cape Town.
- Murungi, J (2004) "The Question of an African Jurisprudence: Some Hermeneutic Reflections" in K Wiredu (ed.) *A companion to African Philosophy* Blackwell Publishing Oxford.
- Ngcukaitobi, T (2018) *The Land Is Ours* Penguin Random House South Africa Johannesburg.
- Ngubane, J (1963) *An African Explains Apartheid* Frederick Praeger Publisher New York.
- Nkosi, L (2016) "The ideology of reconciliation: its effects on South African culture" in L Stiebel & M Chapman (eds.) *Writing Home: Lewis Nkosi on South African Writing* University of Kwazulu Natal Press Pietermaritzburg.
- Okoth-Ogendo, HWO (1991) "Constitutions without constitutionalism: Reflections on an African Political Paradox" in Issa G. Shivji (ed.) *State and constitutionalism: An African Debate on Democracy* SAPESTrust Harare.
- Padayachee, V & Van Niekerk, R (2019) *Shadow of Liberation: Contestation and Compromise in the Economic and Social Policy of the African National Congress, 1943-1996* Wits University Press Pietermaritzburg.
- Pithouse, R (2009) "Shifting the ground of reasons" in J Heather and P Vale (eds.) *Re-imagining the social in South Africa: Critique, theory and post-apartheid society* University of Kwazulu-Natal Press Pietermaritzburg.
- Robertson, CJ (1983) *Black Marxism: The Making of the Black Radical Tradition* The University of North Carolina Press London.
- Rose Innes, J (1949) *James Rose Innes: Autobiography*, B.A. Tindall (ed.) Cape Town, Oxford University Press.
- Saul, S & Bond, P (2014) *South Africa – The Present as History From Mrs. Ples to Mandela & Marikana* Jacana Media Johannesburg.
- Sobukwe, RM (1977) "Future of the Africanist Movement Questions and Answers by R.M Sobukwe" in Thomas Karis and Gwendolen Carter (eds) *From Protest to Challenge: A documentary History of African politics in South Africa 1882-1964* Indiana University Press Bloomington.
- Sobukwe, RM & Pan Africanist Congress of Azania (1978) *Speeches of Mangaliso Sobukwe from 1949–1959 and Other Documents of the Pan- Africanist Congress of Azania* The P.A.C. of Azania Office of the Chief Representative to the United States and the Caribbean New York.

Soudien, C; Reddy, V & Woolard, I (2019) "South Africa 2018: The state of discussion on poverty and inequality" in *Poverty & Inequality: Diagnosis Prognosis Responses* HSRC Press Cape Town.

Steyn, M (2001) *Whiteness Just Isn't What It Used To Be: White Identity In A Changing South Africa* State University of New York Press Albany.

Terreblanche, SJ (2002) *A History of Inequality in South Africa 1652-2002* University of Kwazulu-Natal Press Pietermaritzburg.

Terreblanche, SJ (2012) *Lost in Transformation* KMM Review Publishing Company Johannesburg.

Young, IM (2011) *Justice and the Politics of Difference* Princeton University Press Princeton.

Legislation and cases

The Constitution of the Republic of South Africa, 1996.

Native Administration Act 38 of 1927.

Harris v Minister of the Interior 1952 (2) SA 428 (A).

Glen Grey Act of 1894.

Journal articles and theses

Adelzadeh, A & Padayachee, V "The RDP White Paper: Reconstruction of a Development Vision" (1994) 25 *Transformation* 1-18.

Albertyn, C "Contested substantive equality in the South African Constitution: beyond social inclusion towards systemic justice" (2018) 34(3) *South African Journal on Human Rights* 441-468.

Anciano, F "Non-racialism and the African National Congress: Views from the branch" (2014) 32(1) *Contemporary African Studies* 35-55.

Biko, S "Black Consciousness and the quest for a true humanity" (1978) 8 *Ufahamu: A Journal of African Studies* 10-20.

Bonilla Silva, E "The invisible weight of whiteness: The racial grammar of everyday life in contemporary America" (2012) 35(2) *Ethical and Racial Studies* 173-194.

Bouch, R (1993) "Glen Grey before Cecil Rhodes: How a Crisis of Local Colonial Authority Led to the Glen Grey Act of 1894" (1993) 27(1) *Canadian Journal of African Studies* 1-24.

- Cachalia, F "Revisiting the National Question and Identity" (2012) 39(1) *Politikon* 53-69.
- Dladla, N "Friends of the Natives: The Inconvenient Past of South African Liberalism by Eddy Maloka" (2015) 11 *New Voices in Psychology* 142.
- Dladla, N "Contested Memory Retrieving the Africanist (Liberatory) Conception of Non-racialism" (2017) 64(4) *Theoria* 101-127.
- Farough, S "The Social Geographies of White Masculinities" (2004) 30(2) *Critical Sociology* 241-264.
- Findlay, G "South African Native Policy and the Liberal Spirit' Reviews of Professor R.F.A. Hoernle's Phelps-Stokes Lectures" (1940) 2 (VII) *Race Relations* 31-39. Available at <<http://uir.unisa.ac.za/handle/10500/6189>> (accessed 2021-01-02).
- Gordon, LR "On the Borders of Anonymity and Superfluous Invisibility" (2000) 12(3) *Cultural Dynamics* 375.
- Gqola, P "Defining people: Analysing power, language and representation in metaphors of the New South Africa" (2001) 41 *Transformation* 94-106. (Available at <http://digital.lib.msu.edu/projects/africanjournals/>).
- Hansard "House of Lords Debates" 7 July 1952, vol. 177, cc726-832.
- Klare, KE "Legal Culture and Transformative Constitutionalism" (1998) 14(1) *South African Journal on Human Rights* 146-188.
- Lugones, M "Toward a Decolonial Feminism" (2010) 25(4) *Hypatia* 247-259.
- Harmel, M "Observations on Certain Aspects of Imperialism in South Africa" (1954) 1(3) *Viewpoints and Perspectives* 29.
- Madlingozi, T *Mayibuye iAfrika?: Disjunctive inclusions and black strivings for constitution and belonging in 'South Africa'* Dphil thesis School of Law, Birkbeck, University of London (2018).
- Madlingozi, T "Social justice in a time of neo-apartheid constitutionalism: critiquing the anti-black economy of recognition, incorporation and distribution" (2017) 28(1) *Stellenbosch Law Review* 123-146.
- Madlingozi, T "South Africa's first black lawyers, amaRespectables and the birth of evolutionary constitution – a review of Tembeka Ngcukaitobi's *The Land is Ours: South Africa's First Black Lawyers and the Birth of Constitutionalism*" (2018) 34 *South African Journal on Human Rights* 517-529.
- Magubane, Z "Common Skies and Divided Horizons? Sociology, Race, and Postcolonial Studies" (2014) 24 *Political Power and Social Theory* 81-116.
- Martin-Alcoff, L "What Should White People Do?" (1998) 13(3) *Hypatia* 6-26.

Matthews, ZK "South African native policy and the liberal spirit. Review of Professor R.F.A. Hoernle's Phelps-Stokes lectures" (1940) VII (2) 31-39. Available at <<http://uir.unisa.ac.za/handle/10500/6189>> (accessed 2021-01-02).

Mignolo, WD "Who Speaks for the 'Human' in Human Rights?" (2009) 5 *Hispanic Issues* 7-24.

Miller, RJ "The international law of colonialism: A comparative analysis" (2011) 15 *Lewis & Clark Law Review* 847-922.

Mills, CW "Racial Liberalism" (2008) 123(5) *PMLA* 1380-1397.

Modiri, JM "Conquest and constitutionalism: First thoughts on an alternative jurisprudence" (2018) (34)3 *South African Journal on Human Rights* 300-325.

Modiri, JM "Law's Poverty" (2015) 18 *Potchefstroom Electronic Law Journal* 224-274.

Modiri, JM "Race, history, irresolution: Reflections on City of Tshwane Metropolitan Municipality v Afriforum and the limits of 'post'-apartheid constitutionalism" (2019) *De Jure Law Journal* 27-46.

Modiri, JM "The colour of law, power and knowledge: Introducing critical race theory in (post-)apartheid South Africa" (2012) 28 *South African Journal on Human Rights* 405-436.

Modiri, JM "The time and space of critical legal pedagogy" (2016) 27 *Stellenbosch Law Review* 507-534.

Modiri, JM "Introduction to special issue: Conquest, constitutionalism and democratic contestations" (2018) 34(3) *South African Journal of Human Rights* 295-299.

Moore, R "Resolving the Tensions Between White People's Active Investment in Racial Inequality and White Ignorance" (2018) 16 *Journal of Applied Philosophy* 257-267.

Natrass, N "Politics and Economics in ANC Economic System" (1994) 93 *African Affairs* 343-359.

Nunn, K "Law as Eurocentric Enterprise" (1997) 15 *Law & Inequality* 323-371.

Ramose, MB "Towards a post-conquest South Africa: Beyond the constitution of 1996" (2018) 34(3) *South African Journal of Human Rights* 326-341.

Ravenscroft, E '*Poverty management*' in *South Africa* (LLB dissertation, University of Pretoria (unpublished) (2018).

Santos, B "Beyond Abyssal Thinking: From Global Lines to Ecologies of Knowledges" (2007) 30 *Review* 45-81.

Sibanda, S “Not purpose-made! Transformative constitutionalism, post-independence constitutionalism and the struggle to eradicate poverty” (2011) 22(3) *Stellenbosch Law Review* 482-500.

Sibanda, S ‘*Not Yet Uhuru*’ - *The Usurpation of the Liberation Aspirations of South Africa’s Masses by a Commitment to Liberal Constitutional Democracy* PhD thesis School of Law, University of Witwatersrand, Johannesburg (2018).

Soske “The Impossible Concept: Settler Liberalism, Pan-Africanism, and the Language of Non-Racialism” (2015) 47(2) *African Historical Review* 1-36.

Suttner, R “Understanding Non-racialism as an Emancipatory Concept in South Africa” (2012) 59 *Theoria* 22-41.

Taylor, R “Deepening Non-Racialism in South Africa.” (2012) *Politikon* 39(1) 41-51.

Valji, N “Creating the Nation: The Rise of Violent Xenophobia in the New South Africa” Master’s Thesis (unpublished), York University (2003). Available at <<https://csvr.org.za/docs/foreigners/riseofviolent.pdf>> (accessed 2021-01-02).

Van Staden, M “The Liberal Tradition in South Africa, 1910–2019” (2019) 16(2) *Econ Journal Watch* 258-341.

Vice, S “How Do I Live In This Strange Place?” (2010) 41(3) *Journal of Social Philosophy* 323-342.

Williams, G “Celebrating the Freedom Charter” (1988) 6 *Transformation* 73-86.

Wolfe, P “Settler colonialism and the elimination of the native” (2006) 8 *Journal of Genocide Research* 387-409.

Wolpe, H “Capitalism and cheap labour-power in South Africa: from segregation to apartheid” (1972) 1(4) *Economy and Society* 425-456.

Archival material and periodicals

“3 Africanists Tipped for New “Presidency””, Golden City Post, 9 November 1958.

African National Congress “African National Congress 1969 Strategy and Tactics of the ANC” *ANC Historical Documents Archive*. Available at <https://black.marxists.org/subject/africa/anc/1969/strategy-tactics.htm> (accessed 2021-01-19).

Anonymous “The Afrikaner Bond” (2017-06-02) South Africa History Online. Available at <<https://black.sahistory.org.za/article/afrikaner-bond>> (accessed 2021-01-02).

Anonymous “This is how much money the poorest are living on each month in South Africa” (2019-08-01) *BusinessTech*. Available at

<https://businesstech.co.za/news/finance/332553/this-is-how-much-money-the-poorest-are-living-on-each-month-in-south-africa/> (accessed 22 January 2020).

Anonymous "Henry Burton" *South Africa History Online*. Available at <https://black.sahistory.org.za/people/henry-burton> (accessed 2021-01-02).

Anonymous "Rising inequality in South Africa: Drivers, trends and policy responses" (2012-10-29) *Polity*. Available at <https://black.polity.org.za/article/rising-inequality-in-south-africa-drivers-trends-and-policy-responses-2012-10-29> (accessed 2020-12-05).

Anonymous "South Africa's unemployment rate climbs to 29.1%" (2019-10-29) *Businesstech*. Available at <https://businesstech.co.za/news/business/349673/south-africas-unemployment-rate-climbs-to-29-1/> (accessed on 28 February 2020).

Anonymous "A shocking number of South African households are living on less than R2,500 a month" (2019-05-30) *Businesstech*. Available at <https://businesstech.co.za/news/finance/319698/a-shocking-number-south-african-households-are-living-on-less-than-r2500-a-month/> (accessed on 2020-01-22).

Anonymous "Luthuli Sends Message to Nyerere", *New Age*, November 3, 1960.

Congress of Democrats "Face The Future" (1960) Historical Papers Research Archives University of Witwatersrand. Available at <http://historicalpapers-atom.wits.ac.za/face-future-with-foreword-by-l-publication-of-congress-of-democrats> (accessed 2021-01-15).

Cronin, J "Jeremy Cronin: The Mbeki camp needs to own up to its role in state capture" (2017-06-19) *Business Live*. Available at <https://black.businesslive.co.za/rdm/politics/2017-06-19-jeremy-cronin-the-mbeki-camp-needs-to-own-up-to-its-role-in-state-capture/> (accessed on 21 January 2020).

Mbeki, G "The Struggle for Liberation in South Africa" (1992) *African National Congress*. Available at <https://web.archive.org/web/20120522174733/http://anc.org.za/show.php?id=4605#> (accessed 2021-01-02).

Pietermaritzburg Economic Justice & Dignity Group "Household Affordability Index" (2020-12-16). Available at https://pmbejd.org.za/wp-content/uploads/2020/12/December-2020-Household-Affordability-Index-PMBEJD_16122020.pdf (accessed 2020-12-18).

Pityana, B "Reflections on 30 years since the death of Steve Biko: A legacy revisited" (2007-09-12) *University of South Africa (UNISA)*. Available at <http://uir.unisa.ac.za/bitstream/handle/10500/4338/Pityana.pdf?sequence=1&isAllowed=y> (accessed 2021-01-15).

Provisional Committee of the ANC Youth League "ANC Youth League Manifesto 1944" (1944) *South Africa History Online*. Available at <https://black.sahistory.org.za/archive/anc-youth-league-manifesto-1944> (accessed on 2021-01-15).

Raboroko, PN “Congress and the Africanists: (I) the Africanist Case” (2017) *South Africa History Online*. Available at <<https://black.sahistory.org.za/sites/default/files/DC/asapr60.5/asapr60.5.pdf>> (accessed on 2021-01-15).

The Glen Grey speech by Cecil John Rhodes South Africa History Online. Available at <https://black.sahistory.org.za/sites/default/files/glen_grey_speech.pdf> (accessed on 2021-01-15).

Webster, D “Why South Africa is the world’s most unequal society” (2019) Mail and Guardian. Available at <https://mg.co.za/article/2019-11-19-why-sa-is-the-worlds-most-unequal-society/> (accessed on 2020-02-28).

Electronic and other sources

Applebaum, B “Critical Whiteness Studies” (2016-06-09) Oxford Research Encyclopedias. Available at <https://oxfordre.com/education/view/10.1093/acrefore/9780190264093.001.0001/acrefore-9780190264093-e-5> (accessed on 2019-10-09).

Balibar, E “War, racism and nationalism” (2015) Verso. Available at <https://black.versobooks.com/blogs/1559-etienne-balibar-war-racism-and-nationalism> (accessed on 2020-01-15).

Dladla, N “Getting over Apartheid with Azanian Historiography” (2019-02-21) lecture at Stellenbosch University. Available at https://black.youtube.com/watch?v=dDpX_VdA2HE (accessed 2020-12-20).

Fraser, A “A long walk to universal Franchise in South Africa” (2013-06-03) *Helen Suzman Foundation*. Available at <<https://hsf.org.za/publications/hsf-briefs/a-long-walk-to-universal-franchise-in-south-africa-1>> (accessed on 2020-05-10).

Johnson, RW “The Future of the Liberal Tradition in SA” (2011-08-17) *Politicsweb*. Available at <https://black.politicsweb.co.za/news-and-analysis/the-future-of-the-liberal-tradition-in-sa> (accessed 2020-05-10).

Jordan, ZP P Jordan “The African Bourgeoisie: A New Look”. Unpublished memo.

Luthuli, AJ Congress of Democrats “Face the Future” (2017) *Historical Papers Research Archive, University of Witwatersrand*. Available at <http://historicalpapers-atom.wits.ac.za/uploads/r/historical-papers-research-archive-library-university-of-witwatersrand/f/e/a/fea7b79106919cb3c6aa52077e31d32a0a63688f79d14d45e448b398efc4b144/A3337-B2-01-jpeg.pdf> (accessed 2021-01-25).

Pilger, J “Apartheid Did Not Die” documentary (1998-04-21) johnpilger.com. Available at <<http://johnpilger.com/videos/apartheid-did-not-die>> (accessed 2021-01-03).