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South African Water Rights and the Legacies of Apartheid

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Submitted in Partial Completion of the
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Bridgewater State University

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Introduction and Historiography

On the outskirts of Durban there is a township called Chatsworth, where the government forced thousands of Indians to move during the era of apartheid in South Africa, and which is now a poor community of Indian, African, and Coloured South Africans.¹ In 2000, Thulisile Manqele, a resident of Chatsworth, was fighting her case in the Durban High Court for access to water. Apartheid had ended with the democratic election of Nelson Mandela in April 1994, but democracy had not brought economic justice for many black South Africans like Manqele. Unemployed since 1995, Manqele was struggling to provide for the seven children she was responsible for. Manqele had four children of her own, and she had taken in three other children from relatives who could not care for them. Without a steady income, Manqele could not afford to pay for her rent, water, and electricity services. Due to her inability to pay, officials cut off Manqele's electricity in August 1999, and even worse, in early 2000 she lost her access to water. In order to keep her family alive, Manqele was forced to beg for water from her neighbors. However, this source was severely limited, as Manqele's neighbors were afraid they would not be able to afford their bill if they continued to help her, and they could not risk having their own water cut off. After that, Manqele tried to survive by collecting water from a nearby leaking pipe or by catching rainwater. But during Durban's dry season, she could not collect enough water using these methods, so Manqele was driven to take water from a still-standing stream near her home, which was contaminated and unsuitable for drinking. Manqele's situation became so dire that an urgent application was sent to the Durban High Court to have her water service

¹ After coming to power in 1948, the apartheid government passed laws to strengthen existing racial segregation, creating four officially designated racial groups: Africans (indigenous ethnic groups speaking Bantu languages, such as Xhosa and Zulu people), coloureds (mixed-race people), Asians (mostly descendants of Indians who came as indentured workers during 19th century British colonialism), and whites (including Afrikaners—descendants of 17th century Dutch settlers—as well as English-speaking South Africans from across the British Empire and elsewhere in Europe). This paper will use the term “black” to refer to the non-white groups oppressed under the system of apartheid—Africans, coloureds, and Asians—as a whole.

reconnected. In June of 2000 Manqele went to court, and in February 2001, the judge presiding over her case ruled that as long as she failed to pay, Manqele's water would remain disconnected, and she would receive no basic water supply from the government. Years after the end of apartheid, with a new democratic government and a progressive constitution that promised access to basic services such as water, how did this happen?

Despite having one of the most progressive constitutions in the world, many South Africans continue to be denied access to water. South Africa is located in an area that is historically very vulnerable to drought, with the average rainfall measuring well under the world's average. Although the threat of a water shortage and sustainability concerns influence South African water policies, the state has failed to implement regulations equitably across social lines. Often due to geographical location and economic status, millions of South Africans, mostly black, have limited water access because of faulty infrastructure, cut-offs, and prepaid meters. While water is undeniably vital to human survival, access to water is also inextricably linked to other social and economic opportunities such as education and employment. Accepting the importance of water to the health, dignity, and overall well-being of people, it is necessary to figure out why the new government and its laws have failed South Africans like Thulisile Manqele. This paper will examine how the racial and economic institutions of apartheid influenced water policies during the apartheid era, and how these legacies continue to affect water access in South Africa under democratic rule despite policy changes during and after the 1990s. This research question is important in determining the disconnect between policy and practice, and why inequalities in South African water access persist today.

History plays a vital role in determining the cause of the disparity between policy and practice in water access in South Africa. Although apartheid ended in 1994, the racial and

economic barriers constructed during the apartheid era have yet to be dissolved, and in some cases are even upheld, by the democratic government. As a result, these legacies of apartheid continue to hinder equal water access in the present. This is why an examination of apartheid economic ideologies, water legislation, and water access is incredibly important to gaining a better understanding of the issue today. Few studies have focused on water legislation and access during the apartheid era, and while much research exists on post-apartheid water issues, few researchers use a historical approach. This paper will elaborate on post-apartheid water issues by focusing on water policies and access during apartheid, a less explored area of history. This paper will also expand on this existing body of work by considering the issue from multiple perspectives, examining both the creation and motivation behind official water legislation as well as the lived experiences and daily effects of these policies during and after apartheid.

By examining the issue from a historical perspective, I argue that South Africa's current predicament is largely a continuation of the racial and economic legacies of apartheid. While in power from 1948 to 1994, the apartheid government used racist policies to pursue economic interests, forcing black South Africans into economic instability and inadequate rural and urban living conditions that often had lasting effects for generations. Looking through the lens of water, this is reflected by unequal water access that remains skewed along racial lines. Despite the repeal of apartheid policies under the democratic government in 1994 and the implementation of a progressive constitution in 1996, many black South Africans remain in poverty and lack access to water. This is because like the apartheid government, the democratic African National Congress (ANC)-controlled government continues to pursue economic and capitalist interests over promised progressive policies and the provision of basic services, like water, to South African citizens.

One of the few historical studies done specifically on water legislation and access during apartheid was recently published by Johann Tempelhoff, a South African historian who focuses on the cultural dynamics of water.² In his article Tempelhoff discusses the content of the Water Act of 1956, the government's motivations behind the legislation, and its effects on black South Africans in the context of apartheid. As one of the only studies of its kind, Tempelhoff's 2017 article shows that while political human rights violations during apartheid have received much attention from historians, the lack of access to basic services such as water under apartheid has largely been neglected. This paper takes research on apartheid water policies further by analyzing both water legislation, as Tempelhoff does, as well as apartheid era accounts of ordinary people's water access in order to provide a fuller picture of this aspect of South Africa's history. The originality of Tempelhoff's article suggests that this emerging field of historical study is becoming more important as unequal water access continues to plague South Africa even after the end of apartheid, an issue that other researchers have explored.

While few studies have specifically examined water under apartheid, much research has been done on the state of water access since the end of apartheid and transition to a democratic government. South African scholars and activists such as Patrick Bond and Ashwin Desai have used their research to bring continuing inequalities to light in post-apartheid South Africa. Widely-cited, Bond's 2003 book *Unsustainable South Africa: Environment, Development, and Social Protest* offers analysis into the forces behind the persistence of injustice in South Africa after the end of apartheid. By "relinking empirical observations and daily ebbs and flows of social conflict, especially class struggle, back to underlying processes associated with the accumulation of power and capital," Bond argues that apartheid has been replaced by a new

² Johann Tempelhoff, "The Water Act, No. 54 of 1956 and the First Phase of Apartheid in South Africa (1948–1960)," *Water History* 9, no. 2 (2017): 189-213.

“class apartheid” fueled by neoliberal government policies, which continue to hurt black South Africans in similar ways to apartheid.³ While Bond’s analysis looks at water issues from the perspective of power, Desai’s 2002 book *We Are the Poors: Community Struggles in Post-Apartheid South Africa*, provides analysis from the perspectives of the oppressed. The story of Thulisile Manqele and her fight for access to water is one of the predicaments featured in Desai’s book, which attempts to document many different lived experiences and human cost of the ANC-controlled government’s submission to capitalist interests.⁴ Together, Bond’s and Desai’s research provide all around insight into post-apartheid water issues in South Africa.

Other studies on post-apartheid water issues include Antina von Schnitzler’s *Democracy's Infrastructure: Techno-Politics and Protest after Apartheid*. Like Desai’s *We Are the Poors*, von Schnitser offers further insight into the daily lives of township residents and local resistance organizations and efforts. Uniquely focusing on water infrastructure, von Schnitser uses a historical approach to explore “how administrative links to the state became a central political terrain during the antiapartheid struggle and how this terrain persists in the post-apartheid present.”⁵ Von Schnitser’s analysis demonstrates that infrastructure like pre-paid water meters is a legacy of apartheid: officials first installed these meters to prevent blacks from having equal water access and are still hindering access after the end of apartheid. Finally, J. Kemerink, R. Ahlers, and P. van der Zaag’s 2011 article "Contested Water Rights in Post-Apartheid South Africa" emphasizes four main challenges to providing equal water access, which are lack of access and control over water resources, unfavorable interpretation of water policies, prevention

³ Patrick Bond, *Unsustainable South Africa: Environment, Development, and Social Protest* (Pietermaritzburg: University of KwaZulu-Natal Press, 2002).

⁴ Ashwin Desai, *We Are the Poors: Community Struggles in Post-Apartheid South Africa* (New York: New York University Press, 2002).

⁵ Antina von Schnitzler, *Democracy's Infrastructure: Techno-Politics and Protest after Apartheid* (Princeton: Princeton University Press, 2016) 4-5.

of participation in decision making processes, and the apartheid political and racial ideologies that underlie water law.⁶ With its focus on these obstacles, this article provides important analysis on the disconnect between post-apartheid water policies and practice. This paper will use a variety of post-apartheid work as a basis to work backwards from, exploring the history behind the unequal water access that continues to be experienced today by many black South Africans.

This paper's evidence is rooted in a variety of primary sources covering perspectives both from positions of power and the lived experience of the oppressed. In order to look at the issue from above and examine the goals of apartheid water policies, this paper will analyze excerpts from apartheid water legislation such as the Water Act No. 54 of 1956, as well as post-apartheid documents like the South African Constitution, adopted in 1996, the National Water Act No. 38 of 1998, and the Water Services Act No. 108 of 1997. Passed to control water usage across different sectors of the economy, the Water Act of 1956 provides important insight into how the economic goals of the apartheid government had effects on the formation of water legislation, and how these policies ultimately impeded equal water access from the administrative level. Documents written during South Africa's transition to a democratic government in the 1990s, like the Constitution and the National Water Act, demonstrate how officials struggled to combat legacies of apartheid and follow through with progressive promises, such as providing basic water services to citizens. Because legislation is only half of the story, primary source accounts of the effects these policies had on daily life are also necessary to provide a full picture.

In order to understand perspectives from both the level of policy and practice, this paper will feature first-hand accounts of restricted water access during apartheid. While rarely the sole focus of

⁶ J. S. Kemerink, R. Ahlers, and P. van der Zaag, "Contested Water Rights in Post-Apartheid South Africa: The Struggle for Water at Catchment Level," *Water S. A.* 37, no. 4 (10, 2011): 585-594.

these accounts, limits to black South Africans' water access under the apartheid government are evidenced by a variety of primary sources. The lack of equal water access for black South Africans is mentioned frequently in Cosmas Desmond's 1971 book *The Discarded People*.⁷ In his book, Desmond, a white Catholic priest originally from an Irish family in Britain, uses his privilege as a white man to travel across South Africa and document the living conditions of resettlement camps established under apartheid. Desmond began his journey visiting the rural African reserves called "homelands" or Bantustans in March 1969, traveling for six months examining apartheid's forced resettlement schemes. After finishing his tour, Desmond returned to some of the settlements to see if conditions had changed, but often still found appalling conditions and few improvements, if any, had been made. For each resettlement scheme, Desmond reports on the status of basic services and amenities. For water, the apartheid government often only provided one source for the entire settlement, which could require a mile walk in order to access it. In addition to limited water sources, Desmond also reports on the lack of sanitation, employment opportunities, shops, medical clinics, and schools provided by the government. Desmond's attempt to record and bring light to the misery of the people in these resettlement camps provides a valuable account of the conditions black South Africans were forced to live in as consequences of apartheid's system of 'separate development,' described below. Because *The Discarded People* is one of the only detailed accounts of water access during apartheid, it will be examined extensively in this paper.

Expanding upon Desmond's work, *The Surplus People Project Report* published in 1982 serves as an updated account to *The Discarded People*, covering the conditions of resettlement schemes beyond the 1970s and into the 1980s. The Surplus People Project was an activist-led national research project on forced removals in apartheid South Africa, conducted through

⁷ Cosmas Desmond, *The Discarded People: An Account of African Resettlement in South Africa* (Harmondsworth, UK: Penguin, 1971).

surveys and field work. The Surplus People Project took a more scientific approach to researching forced removals than Desmond, by gathering information through both observations and the distribution of a household questionnaire. Researchers distributed the questionnaire to about 100 households in each of the various relocation areas selected for in-depth study, and these households were selected on a random basis in order to achieve an unbiased sample.⁸ The household survey contained questions on a variety of conditions, including details of people's arrival, facilities such as water and sanitation, as well as the availability of shops, fuel, and transportation. Published in a total of five volumes, each covering a different region of the country, *The Surplus People Project Report* is a massive and useful primary account that includes details of water access under apartheid.

Other key primary sources from the apartheid era include the illegally filmed *Last Grave at Dimbaza*, produced by the exiled Pan Africanist Congress activist Nana Mahomo.⁹ Though the 1974 short documentary film never explicitly mentions water, it provides graphic evidence to the conditions of resettlement camps, backing up accounts such as Desmond's. The film's purpose is to showcase the lives of black South Africans and the daily effects of apartheid policies, specifically the practice of separate development.

While *The Discarded People*, *The Surplus People Project Report*, and *Last Grave at Dimbaza* provide a picture of water access in the rural resettlement schemes, sources such as Trevor Huddleston's 1956 book *Naught for Your Comfort* offer a glimpse at living conditions in urban townships.¹⁰ Trevor Huddleston, a white clergyman and anti-apartheid activist, includes several references to water service in his account of life in Sophiatown during the early years of

⁸ Surplus People Project, *Forced Removals in South Africa: Volume 1[-5] of the Surplus People Project Report* (Cape Town: Surplus People Project, 1983), 43.

⁹ Nana Mahomo, Antonia Caccia, and Andrew Tsehlana, *Last Grave at Dimbaza* (New York: Icarus Films, 1974).

¹⁰ Trevor Huddleston, *Naught For Your Comfort*, Garden City, NY: Doubleday & Company, 1956.

apartheid. Finally, articles from the *Rand Daily Mail* provides accounts of struggles of black residents living in townships around Johannesburg. Publishing news from 1902 to 1985, the *Rand Daily Mail* was one of the first newspapers to openly oppose apartheid, giving historians valuable insight into the anti-apartheid perspective of events. The use of diverse primary sources from both urban and rural areas will illustrate the negative effects that apartheid economic ideology and water legislation had on the daily lives of black South Africans, regardless of where they lived.

This paper will begin describing the racial and economic systems of apartheid, providing a brief overview of apartheid laws that affected spatial order on the basis of race and policies that created economic inequality. Ideologies behind these laws, such as the Land Acts and labor system are reflected in water legislation under apartheid, like the Water Act of 1956, which will be covered in the following section. After analyzing water legislation during apartheid, this paper will extensively examine water access at this time from both rural and urban perspectives. Beginning with water access in rural resettlement schemes, this paper will provide evidence to the horrific living conditions black South Africans were forced into as a part of the apartheid government's forced removals in 1960s and 1970s. Continuing into rural resettlement schemes in the 1980s, this paper will show that water access remained precarious and extremely limited as the apartheid government forced more people to move to the Bantustans. Water access in urban townships was not much better, as residents frequently experienced cut-offs, which will be covered along with residents' protests to these conditions. Exploring the post-apartheid era, this paper will then cover water legislation and water access in the post-apartheid era, showing that the legacies of apartheid and prioritization of capitalist interests have resulted in continued inequality despite progressive rhetoric and policy. Finally, this paper will conclude with an

examination of important court cases in which South African citizens attempted to fight the post-apartheid government for their right to access water.

Racial and Economic Systems of Apartheid

The election of 1948 gave rise to the National Party, a new Afrikaner¹¹ nationalist government that supported hardened forms of racial segregation in South Africa through its platform of apartheid, literally meaning “separateness.” The promotion of white supremacy and racial purity underpinned the discriminatory policies of the apartheid government, as the ruling party attempted to create a “white” South Africa. Starting in the late 1940s, the newly-elected apartheid government passed laws to strengthen existing racial segregation, creating a “complex system for controlling the labor and movement of Africans and clearly defining and separating the country’s four officially designated racial groups — Africans, coloureds, Asians, and whites.”¹²

Through the apartheid policy of “separate development,” spatial segregation was established by trying to uproot Africans from cities and forcing them to live in separate territories in the countryside called Bantustans, or homelands. Formerly set aside as African reserves by the pre-apartheid, white-led Union of South Africa government under Land Acts in 1913 and 1936, the 10 Bantustans were redefined by the apartheid government based on different ethnicities of Africans.¹³ The government proposed to grant these territories independence, and all black South Africans were supposed to become citizens of one of these territories, in adherence to the Bantu Homelands Citizenship Act of 1970.¹⁴ This policy of separate

¹¹ Afrikaners are descendants of South Africa’s Dutch colonial settlers, who first arrived in the 17th century. Afrikaner nationalism promoted their rights over black South Africans and over English-speaking white South Africans.

¹² Iris Berger, *South Africa in World History* (New York: Oxford University Press, 2009), 114.

¹³ See Map in Appendix A.

¹⁴ Iris Berger, *South Africa in World History*, 127.

development was meant to deny blacks citizenship in South Africa, driving them out of the country in order to achieve the apartheid government's goal of establishing a 'white' South Africa.

Although Africans made up the majority of South Africa's population, the apartheid government set aside just 13 percent of the country's land for the Bantustans. In addition to the limited size of the Bantustans, these territories also lacked the resources needed to support the amount of people the government sent to live there. In this context, under apartheid racial discrimination prevented non-white South Africans from having equal access to land and water, and the opportunities and benefits associated with these resources. In pursuit of separate development and economic goals, the apartheid government used the Bantustans as dumping grounds for black South Africans. Under the apartheid economic system, black South Africans were forced to move to resettlement schemes in the Bantustans, unless they had passes permitting them to live in crowded black townships near 'white cities' like Johannesburg and to work for white employers there; black South Africans, especially men, often had to migrate from Bantustans to 'white cities' to work. New residents of the resettlement schemes were often transported by government vehicles to these areas on short notice. Historian Saul Dubow describes the cruelty of the process, stating that Africans were "dumped onto an open veld" where "only the most rudimentary services were provided" noting that "clean water and firewood were scarce, schools and clinics were a rarity."¹⁵ As a result, living conditions in resettlement schemes were generally very poor. In many cases, black South Africans had been in better living situations before, and it was these resettlement policies that forced them into poverty. The Surplus People Project Report stated, "most people suffer[ed] material loss [when]

¹⁵ Saul Dubow, *Apartheid, 1948-1994* (New York: Oxford University Press, 2014), 114.

they [were] relocated, particularly those moved from situations where they had had agricultural land into situations where they [did] not.”¹⁶ Dubow recognizes that policy of separate development was a “feat of social, demographic, and spatial engineering” and was “achieved an enormous human cost” that continues to have effects on black South Africans in present day.¹⁷ Exemplified by continued inequality in post-apartheid South Africa, “such exclusion has long-term social and economic effects, as the disadvantaged are more likely to remain poor, lacking opportunities for education, employment, and social engagement.”¹⁸ Before examining policies of separate development and how these schemes impacted black South Africans’ access to water, it is important to understand the economic interests behind segregation.

The National Party’s economic motivations drove separate development policies. In addition to defining and controlling South African populations along racial lines, “active state involvement in economic development and modernization was a conspicuous feature of the apartheid era.”¹⁹ After World War II, the apartheid government sought to build South Africa into a more powerful nation on the global stage by expanding the country’s economy. Coinciding with the rise of modern capitalism, the apartheid government’s economic interests boosted South Africa’s economy and increased the standard of living for whites, despite such growth being at the expense of black South Africans. From 1948 to 1973, South Africa experienced an annual 2.2 percent growth in GDP.²⁰ However, despite this economic expansion and rises in employment, during this time the wage gap between whites and blacks increased, and Africans’ percentage of

¹⁶ Surplus People Project, *Forced Removals in South Africa*, 18.

¹⁷ Dubow, *Apartheid*, 113.

¹⁸ United Nations World Water Assessment Programme (WWAP), from “Water for a Sustainable World,” *The United Nations World Development Report*, UNESCO (2015).

¹⁹ Dubow, *Apartheid*, 104.

²⁰ Dubow, *Apartheid*, 177.

the country's income shrank.²¹ This is because white South Africans, both capitalists and laborers, gained significantly from the exploitation of black laborers.²² With these economic interests, the apartheid government needed make sure that black laborers stayed close enough to serve the industries of 'white' areas, while still pursuing their policy of separate development, or segregation. In order to accomplish this, the apartheid government used their power to control the movement and location of black South Africans, resulting in forced removals of those not needed for labor. *The Surplus People's Project Report* noted, "The changing nature of capitalist development in South Africa has resulted in an increased demand for skilled workers" which explains the "attempt on the part of the ruling class to consolidate an urban black population with a stake in the system, and the determination to rid white South Africa of the unproductive, unemployed, disabled, and youth."²³ Women, children, and others not needed for labor who lived in urban areas were resettled to the Bantustans; migrant laborers were forced to return to the Bantustans when their contracts in cities ended. Women's farming in the Bantustans—which became increasingly difficult with overcrowding and erosion—supposedly justified low wages paid to male migrant workers. Racial and economic ideologies of the apartheid government underlie apartheid policies, even water legislation. In the second half of the twentieth century, rising demands for water for urban and industrial purposes led the apartheid government to pursue narrow sector-specific objectives that continued to harm marginalized people.

Water Legislation under Apartheid

After World War II, emerging economic ideologies focused on rapid capitalist development with little concern for sustainability internationally, in what has been called "the

²¹ Jeremy Seekings and Nicoli Nattrass, *Class, Race, and Inequality in South Africa* (New Haven: Yale University Press, 2005), 137.

²² Dubow, *Apartheid*, 101.

²³ Surplus People Project, *Forced Removals in South Africa*, xx.

1950s syndrome.”²⁴ Following along with the international trend, the apartheid government sought to develop South Africa into a strong nation by supporting urban and industrial development. In order to do this, the government needed to craft new water policies to pursue what historian Johann Tempelhoff calls the “industrial hydraulic mission,” referring to the development of water access and infrastructure necessary to foster rapid industrialization and urbanization.²⁵ Thus, the economic interests of the apartheid government underpinned the formation of the Water Act No. 54 of 1956. With the growing mining and industrial sectors making substantial improvements to South Africa’s economy in the first half of the twentieth century, the apartheid government passed the Water Act of 1956 in an attempt to meet the shifting priorities of the state.

In addition to economic interests, the Water Act of 1956, like other apartheid policies, was backed by racial ideologies. Tempelhoff argues, “In South Africa’s water history, legislation and amendments tended to dovetail neatly with many ideologically-inclined policy objectives cherished by the government of the day,” and asserts that the Water Act of 1956 “was clearly loaded with hydro-political objectives.”²⁶ As stated in the Water Act of 1956, the purpose of the law was “to consolidate and amend the laws relating to the control, conservation and use of water for domestic, agricultural, urban and industrial purposes.”²⁷ In response to increasing water scarcity, the act gave the government control over water sources, specifically giving an official the ability to bring “control areas” under the state’s jurisdiction “if he is of the opinion that it is

²⁴ Christian Pfister, “The ‘1950s Syndrome’ and the Transition from a Slow-Going to a Rapid Loss of Global Sustainability,” in Frank Uekötter (ed.), *Turning Points in Environmental History* (Pittsburgh: University of Pittsburgh Press, 2010), 90-117.

²⁵ Johann Tempelhoff, “The Water Act, No. 54 of 1956 and the First Phase of Apartheid in South Africa (1948–1960),” *Water History* 9, no. 2 (2017): 190.

²⁶ Tempelhoff, “The Water Act, No. 54 of 1956,” 191-192.

²⁷ Water Act (Act No. 54 of 1956), Union of South Africa, 1956, S1.

desirable in the public interest that the abstraction, use, supply or distribution of water in the area be controlled.”²⁸ Able to defend their control over water as being for the good of the nation, the apartheid government used their authority to pursue objectives to please their Afrikaner base, mainly through the allocation of water supplies for urban and industrial purposes.

The demographics in South Africa at the start of apartheid demonstrate how the interests of whites were linked to urbanization and industrialization. According to the Tomlinson Report of 1956, together Africans and Coloureds made up 76.2 percent of the South African population, while whites only accounted for 20.9 percent.²⁹ The Tomlinson Report also documents the growing urbanization in South Africa, stating that while less than 25 percent of the population lived in urban areas in 1904, by 1951 that number had risen to 42.6 percent.³⁰ However, apartheid policies and segregation prevented different racial groups from urbanizing equally, with 77.5 percent of whites and only 27.1 percent of Africans living in urban areas. With the context provided by these demographics, it is clear that that government’s promotion of urbanization through the Water Act of 1956 was for the benefit of the white minority.³¹ The Water Act was designed to promote economic development and water access for domestic and industrial use in urban areas where the majority of South Africa’s white population lived. Because the Water Act of 1956 advantaged the white minority, it reflects the racial biases of the apartheid government.

Despite the apartheid government’s efforts to segregate the South African population as much as possible, black South Africans were inevitably drawn to predominantly white urban

²⁸ Water Act (Act No. 54 of 1956), Union of South Africa, 1956, S28.

²⁹ "The Tomlinson Report - Extract from the Summary of the Report of the Commission for the Socio-Economic Development of the Bantu Areas Within the Union of South Africa," *South African Medical Journal* 30, no. 36 (1956): 869.

³⁰ "The Tomlinson Report," 870.

³¹ "The Tomlinson Report," 870.

areas in pursuit of employment and other opportunities. Africans who worked in urban areas often lived in townships on the outskirts of cities, as the Urban Areas Act of 1923 had reserved most urban neighborhoods for white residents. Small black neighborhoods, such as Alexandra and Sophiatown in Johannesburg, became increasingly dense as they developed, generating hazardous living conditions. Due to the discriminatory beliefs of apartheid, granting sufficient housing and water access to predominately black areas such as townships was not a priority for the government, and as a result “water supplies in [...] urban slums on the periphery of the large industrial urban centers remained hopelessly inadequate.”³² According to Tempelhoff, government officials were unmotivated to provide adequate water infrastructure and services to townships because they feared that residents could not afford to pay for such services.³³ Because of this suspicion, proper access to clean water and sanitation barely existed in predominately black residential spaces, which undoubtedly endangered the health and well-being of Africans and raised concerns over human rights violations.

In response to the glaring inequalities between white and black residential spaces, Africans increasingly fought back against these conditions in the 1950s. As Tempelhoff indicates, “water stress, like hunger and poverty is a hidden driver of community anger and potential concomitant of violent protest.”³⁴ African grievances such as inadequate access to water and sanitation are reflected in the publication of the Freedom Charter in 1955. Though written one year before the passing of the Water Act of 1956, the Freedom Charter was the culmination of African National Congress-led resistance to racist policies in the early years of the apartheid government’s rule. The defining statement of the Freedom Charter is that “South

³² Tempelhoff, "The Water Act, No. 54 of 1956," 203.

³³ Tempelhoff, "The Water Act, No. 54 of 1956," 204.

³⁴ Tempelhoff, "The Water Act, No. 54 of 1956," 206.

Africa belongs to all who live in it” implying, among other principles, that the government did not have the right to limit any citizen’s access to resources such as land or water. In relation to the unequal status of townships, the writers of the Freedom Charter demanded, “There shall be houses, security, and comfort!”³⁵ More specifically, protestors asserted that “All people shall have the right to live where they choose, to be decently housed and bring up their families in comfort and security,” a sentiment similar to Article 25 in the UN’s Declaration of Human Rights which proclaims that everyone has the right to a standard of living adequate to sustain his/her health and well-being, which includes services such as water, food, and housing and medical care.³⁶ The Freedom Charter was an important product of African resistance to apartheid, as it provided a foundation of principles that would later influence the democratic African National Congress government and its development of the South African Constitution in 1996.

Water Access under Apartheid: Forced Removals and Crises in Rural Areas

Well-studied apartheid policies relating to separate development and the Bantustans often had direct impacts on black South Africans’ access to water, yet this specific, and potentially deadly, effect has largely been neglected in historical research. Forced removals greatly affected black South Africans’ access to water. Relocation, (forced) removal, and resettlement are all terms used to refer to “overall policy and the process involving in the massive state-sponsored removals of people (almost all of them black) from one area to another that have characterized the apartheid system.”³⁷ Sometimes, the land that the government forced people to leave had

³⁵ Congress of the People, “The Freedom Charter” (1955), Federation of South African Women Papers, University of the Witwatersrand, Johannesburg.

³⁶ Congress of the People, “The Freedom Charter” (1955); The United Nations, *Universal Declaration of Human Rights*, 1948.

³⁷ Surplus People Project, *Forced Removals in South Africa*, xvi.

been lived on by their family for generations, demonstrating the absurdity of the so-called “homelands” the government relocated them to. While it is impossible to calculate exactly how many South Africans were affected by forced removals conducted by the apartheid government, the Surplus People Project calculated that from 1960 to 1982, around 3,500,000 removals took place.³⁸ The apartheid government used resettlement as a means to eradicate ‘black spots,’ land held and lived on by black South Africans outside of the Bantustans. Because black spots were located outside of the Bantustans, they often infringed on what the apartheid government considered ‘white’ areas. Under the racial and economic ideology of apartheid, black spots had to be cleared from ‘white areas’ and Africans who had “become, for some reason or another, no longer fit for work or superfluous in the labour market” had to be moved out of sight to the Bantustans.³⁹

The design of resettlement schemes left Africans limited access to water, as standards only sought to provide the bare minimum of necessary basic services. Cited in Desmond’s *The Discarded People*, General Circular No. 25 of 1967 describes the apartheid government’s official design of resettlement schemes, outlining policy on removals and defining different types of settlements to be established. Urban townships⁴⁰ often only had “rudimentary services” where water was “normally laid on only at convenient places in the streets in pillar-faucets.”⁴¹ In the “more sparsely populated residential areas” in Bantustans called ‘closer settlements,’⁴² “a common source of water where the inhabitants can fetch their water, either a borehole(s)

³⁸ Surplus People Project, *Forced Removals in South Africa*, 5.

³⁹ Desmond, *The Discarded People*, 1.

⁴⁰ Townships refer to residential areas set aside for African, Indian, or Coloured laborers, usually situated adjacent to or within commuting distance of a white urban area on which they are economically dependent. Facilities in townships varied, but these areas were generally better off with regard to water access than closer settlements.

⁴¹ Desmond, *The Discarded People*, 37-38.

⁴² Closer settlements refer to a type of residential settlement located in the Bantustans established for African people removed from black spots and white farms. Closer settlements often had more rudimentary facilities than a township, provided with not much more than a communal water point, if that.

equipped with pump(s), a fountain, river, or dam is a prerequisite.”⁴³ Though these standards indicate that some sort of water source must be provided to residents of resettlements, Desmond recognized that “even if the regulations were strictly adhered to,” which was not always the case, “it would still mean that people could be dumped in the veld with only a tent and a water supply of some kind. There need be no employment, health, education, or any other facilities.”⁴⁴ This was often the case, as entire families living in one tent or a tiny tin hut, malnourished and ill children, lack of or polluted water supplies, and lack of industry or opportunity for employment were all common realities in rural resettlement schemes.

Recorded in Cosmas Desmond’s book *The Discarded People* are the many different living conditions of resettlement schemes across South Africa, including the variety of ways residents accessed water. In order to provide a picture of the overall conditions of a resettlement scheme, Desmond begins his account with a close examination of Limehill, a resettlement camp close to where Desmond lived in Natal, in a territory that would become part of the KwaZulu Bantustan. Desmond described the process as people he knew were forced to move there. As with many settlements, the government made few preparations before people arrived. This is reflected in the lack of basic services provided by officials. Desmond reported that officials had not established shops or medical services, and the settlement lacked basic sanitation. Upon arrival, the government only gave each family a tiny plot of land on which they were supposed to build their own homes. But with men usually away working, building was often left to women and children, and some families remained living in tents for months.⁴⁵ While the living conditions of resettlement schemes varied, the situation at Limehill was common. In regard to

⁴³ Desmond, *The Discarded People*, 38.

⁴⁴ Desmond, *The Discarded People*, 40.

⁴⁵ Desmond, *The Discarded People*, 9.

water, Desmond stated that there was a “chronic, perennial shortage of water” at Limehill.⁴⁶ Demonstrating the lack of preparation made by government, water was kept in uncovered tanks “some distance from the settlement” for five months. Residents complained that the water had a bad taste, and people were advised to boil it before consuming it, speaking to the poor quality of the water provided. Some residents of Limehill chose not to access water from the source the government provided, which was not an uncommon action in resettlement schemes. Desmond reported seeing “women and children scooping water from holes in a river bed rather than drink water from the tanks.”⁴⁷ While Limehill’s water was kept in government tanks, other types of communal water sources in resettlement schemes include water taps, boreholes, nearby rivers or streams, and in some cases, water had to be transported into an area by government trucks.

In some settlements, water taps, freestanding pipes located outside to dispense water in areas without running water supplied to buildings, were installed by the government to serve as the area’s communal water source. While water taps were one of the more convenient communal water sources found in resettlement schemes, officials often did not install them until months after families first arrived at resettlement schemes. Once installed, there were usually very few taps in one area, and they were not always reliable. In Weenen in KwaZulu-Natal, the only water source at first was a furrow about a half mile away from the settlement. There was no other water source for as long as nine months after the settlement’s establishment and officials made no temporary accommodations. When Desmond revisited Weenen in August of 1969, three water taps had finally been installed within the settlement. Even so, officials turned the taps off in the middle of the day on Saturday until Monday morning, meaning residents lacked access to water

⁴⁶ Desmond, *The Discarded People*, 11.

⁴⁷ Desmond, *The Discarded People*, 10.

for over a day.⁴⁸ In Mnxesha, located in the Eastern Cape, there was no permanent water source when families first began to arrive in December of 1967. Instead, government trucks brought in water once a day Monday to Friday, twice on Saturday, and not on Sunday. The quality of this water provided was questionable as officials advised people to boil it before using it. Officials did not install taps in the ‘streets’ until February 1969.⁴⁹ Also in the Eastern Cape, the settlement called Ilingi only had a few taps in the streets as a communal source of water. Desmond estimated that there was one tap for every forty houses.⁵⁰ Describing Mpungamhlophe, located in KwaZulu-Natal, Desmond provided a vivid picture of how little infrastructure there was in the area, and how it affected living conditions. He stated, “The whole place had a general air of shabbiness with a number of overgrown, empty plots, many very poor, dilapidated houses, some half-built houses and no proper roads. Ragged, hungry-looking children surrounded the few taps that were installed to the ‘streets’ in 1965. There was no sign of any form of sanitation.”⁵¹

Sometimes, there was no adequate water source in the area, so water had to be transported in to resettlements by government water carts or tankers. Bringing water in from other areas was often a ‘temporary’ solution to the lack of water, until water taps could be installed. In Mondlo, located in KwaZulu-Natal, there was no natural water source, along with no fuel, building materials, shops or schools. As a result, water had to be brought in by water cart, which was not always reliable. Water shortages were common, as Desmond reported, “Everybody I talked to complained about the shortage of water. On 27 and 28 August 1969 there was no water at all in the settlement, it had to be brought in government tankers.”⁵² Water

⁴⁸ Desmond, *The Discarded People*, 59.

⁴⁹ Desmond, *The Discarded People*, 84.

⁵⁰ Desmond, *The Discarded People*, 94.

⁵¹ Desmond, *The Discarded People*, 50-51.

⁵² Desmond, *The Discarded People*, 57.

shortages in Mondlo forced residents to “dig for seepage from the surrounding hills” but this was dangerous, since where they dug was within yards of pit latrines, which Desmond argues likely contributed to typhoid outbreak that began shortly after their arrival.⁵³ Water shortages in areas with no natural water source demonstrate the lack of preparation and action on the government’s part to provide Africans with adequate access to water. Furthermore, forcing people to move to areas that cannot sustain residents in the first place reveals the government’s neglect of people’s basic needs and their desperation to remove Africans from ‘white’ areas.

Boreholes were a very common communal water source in resettlement schemes, especially in the Bantustans around the Transvaal province. A borehole is deep narrow hole in the ground where pipes are installed to pump groundwater up to the surface where it can be accessed. Because boreholes were located near and relied on a natural water source, they were often far from residences and had the potential to dry up. In Morsgat in the Western Transvaal, the communal source of water was one borehole located a half mile from the settlement. In addition to the distance, access was inconvenient due to the mechanisms, as it had to be operated by a hand pump that required multiple people to push it around in order to collect water.⁵⁴ When a widespread outbreak of stomach disorders occurred in the summer of 1969, Morsgat residents reportedly blamed the illness “largely on the water,”⁵⁵ suggesting the quality of the water was potentially dangerous. In Rietspruit, also in the Western Transvaal, the only water source for all of the residents was one borehole, located as far as a mile away from some parts of the settlement.⁵⁶ The one borehole in Mogogokela, located in the Central Transvaal, often ran dry because it was the only source of water provided for the entire settlement, leaving people worried

⁵³ Desmond, *The Discarded People*, 56.

⁵⁴ Desmond, *The Discarded People*, 148.

⁵⁵ Desmond, *The Discarded People*, 152.

⁵⁶ Desmond, *The Discarded People*, 155.

about water access. When this occurred, water had to be brought in from the Apies River, which was sold to residents by officials, not provided. Desmond commented “having seen the Apies River,” he was “not keen on drinking [the water].”⁵⁷ Forced into similar situations, residents of Nanedi in the Northern Transvaal and Bultfontein in the Orange Free State were not provided with any shops, clinics, toilets, or schools. Each settlement had one borehole about a mile away, which in the case of Nanedi was shared with another nearby village. Showing how little people living in resettlement schemes were provided by the government, Desmond expressively describes Bultfontein’s single borehole as “the only amenity provided on an otherwise completely bare stretch of open veld.”⁵⁸ But perhaps the most inhumane situation was the one residents of the Pietersburg District in the Northern Transvaal were in. With the nearest communal water source as much as five miles away, accessing water was extremely cumbersome. Water had to be carried by hand back to residences, meaning that fetching and carrying water was a “large part” of residents’ daily lives.⁵⁹

In the Central Transvaal, Desmond provided a detailed account of conditions in a settlement called Stinkwater. As its name would suggest, Stinkwater’s biggest problems were those relating to water, including access and quality. In general, living conditions in Stinkwater were poor. Upon arrival, officials lent one tent to each family for three months, and the government expected residents to build their own houses before that period was up. The government did not provide any facilities except for one communal water point, which was supposed to service two thousand people.⁶⁰ Unlike many other rural settlements, Stinkwater received much attention from the press in South Africa, appearing in the *Pretoria News* and

⁵⁷ Desmond, *The Discarded People*, 159.

⁵⁸ Desmond, *The Discarded People*, 211.

⁵⁹ Desmond, *The Discarded People*, 198.

⁶⁰ Desmond, *The Discarded People*, 122.

Rand Daily Mail on multiple occasions. In a June 14, 1968 *Pretoria News* article, the Dean of Pretoria, Mark Nye, commented on the quality of the water in the settlement and the government's hastiness in the establishment of resettlement schemes. Nye stated;

The river is foul tasting and the families complain that it is causing serious diarrhea. Cattle drink from the same water holes and river, so it is hardly surprising that there is an outbreak of illness... Africans are moved to these areas before any facilities are provided. Why don't the authorities construct the facilities like clinics, schools, and water supplies before the move? This seems only logical, but they do not.⁶¹

Nye's statement further illustrates how little Africans were provided when forced to move to resettlement schemes, as the government typically only supplied the bare minimum, a communal water source. Even then, the communal water sources may not have been safe for consumption, or sufficient to sustain the number of people sent to a settlement. Both were problems at Stinkwater. In early 1969, Stinkwater's communal water source dried up, leaving residents without safe access to water. On February 4, 1969, the *Pretoria News* published a story on the water shortage that ensued, reporting;

The water crisis became serious last week when water points dried up completely leaving thousands of families without water for several days. Dirty water, scooped from the sands of the river bed where cattle gather, has led to serious outbreaks of enteritis and diarrhea amongst the children... An African man told a reporter that his wife spends all day at the river bed trying to scoop enough water for her five children to wash and drink.⁶²

Over a week later, on February 16 1969, the Bantu Affairs Commissioner of Hammanskraal denied there was a water shortage in an official statement, claiming that water was being supplied to the settlement from government borehole pumps and tankers, and that the residents of Stinkwater were digging for water in the river beds because they preferred the taste.⁶³ However, reports revealed that the people claimed to be illegally charged for the

⁶¹ Desmond, *The Discarded People*, 122.

⁶² Desmond, *The Discarded People*, 123.

⁶³ Desmond, *The Discarded People*, 123.

government-provided water, which they could not afford, forcing them to dig for water.⁶⁴ Also on February 16, 1969, a spokesman for the Bantu Affairs Department (B.A.D.) was quoted in a *Pretoria News* article, claiming that if there was a water shortage, it was because the residents were too lazy to walk to government-provided water supplies. The spokesperson stated, “[Stinkwater residents] want water provided on their doorsteps.”⁶⁵ Countering this claim, Desmond offered some perspective, arguing that the average distance that residents of resettlement schemes have to travel for water access varies from 800 yards to three-quarters of a mile. Meanwhile, most European houses had a minimum of six taps, a standard similar to those of white South African households. Considering this drastic difference in water access, Desmond argued that it was absurd to call settlement residents “lazy” if they are unhappy having to walk three-quarters of a mile, or more, for water.⁶⁶ Especially given that the water source officials provided was not always safe.

The hardships experienced by the residents of Stinkwater include details eerily similar to those in the post-apartheid story of Thulisile Manqele. At Stinkwater, the government failed to provide safe drinking water to residents, and as a result people had no other choice but to access water from dangerous contaminated sources, like the river that was also frequently used by cattle. In addition, while officials claimed water was provided to residents, evidence suggests that the government expected people to pay for the water, which they did not have the means to, again forcing them to resort to accessing water from unsafe sources. Over thirty years later, when Manqele’s access to water was ordered to remain cut off by officials, the government failed to provide a vital resource to South Africans. Like the woman mentioned in the 1969 *Pretoria News*

⁶⁴ Desmond, *The Discarded People*, 123.

⁶⁵ Desmond, *The Discarded People*, 124.

⁶⁶ Desmond, *The Discarded People*, 124.

article, Manqele was responsible for many children, and in desperation resorted to collecting unsafe water from a limited and potentially dangerous source. As a result, one of Manqele's young children became ill from contaminated water, just like the residents of Stinkwater did during apartheid.

Water Access under Apartheid: Deepening Inequalities in the Bantustans in the 1970s-1980s

Desmond's accounts of the horrific living conditions of resettlement schemes detailed in *The Discarded People* are backed up by the 1974 documentary film *Last Grave at Dimbaza*. Like Desmond, filmmaker and activist Nana Mahomo used his project to bring to light the injustice of forced removals. In the film, the Bantustans are described as "cesspools of poverty, ignorance, and disease" because the apartheid government provided "practically no services or facilities for those forced to live in the Bantustans."⁶⁷ The film presents footage of women carrying water in settlements, supporting Desmond's reports of limited water access, as well as the fact that residents often had to travel distances to retrieve water, since there may be only one source for an entire settlement. By providing images and footage of life in the Bantustans in contrast to life in white areas, Mahomo powerfully illustrates the inequality, in both wealth and health, that existed in apartheid South Africa. At one point, the film jumps back and forth between images of malnourished and dying African children to white South Africans at a cattle auction. In this moment, Mahomo is attempting to highlight the irony of the situation. Historically, Africans were known for and thrived as pastoralists before Europeans conquered their land, stole their cattle, and destroyed their way of life. Centuries later, during apartheid, the descendants of European colonists continued to own cattle and enjoy general wealth while the government

⁶⁷ Nana Mahomo, *Last Grave at Dimbaza* (New York: Icarus Films, 1974).

denied Africans basic services such as water, food, sanitation, education, and access to medical care. This contrast emphasizes one of Desmond's points in *The Discarded People*. Importantly, Desmond reminds readers everything he describes took place in the late 1960s and early 1970s in one of the richest and most advanced countries in Africa. At the time Desmond was writing, South Africa had a rapidly growing economy and white South Africans enjoyed a high standard of living, as *Last Grave at Dimbaza* shows.⁶⁸ This perspective underscores the injustice of Africans' experiences in resettlement camps. There were enough resources and wealth to go around that would have allowed a greater number of South Africans to live in safe conditions. Yet, due to the policies of the apartheid government, Africans' did not have equal access to such resources and opportunities to accumulate wealth.

Indicated by the title of the film, Mahomo specifically examined the living conditions at Dimbaza, resettlement scheme established in 1968 and home to 7,000 people forced to move there. Conditions at Dimbaza were also mentioned in the *Surplus People Project Report*, which noted that when residents first arrived, no running water was provided by officials, and overall conditions were "appalling."⁶⁹ The report argues that as a result "by 1969 large numbers of people, mainly children, had died."⁷⁰ In his film, Mahomo graphically demonstrates this fact with footage of Dimbaza's grave yard. By 1973, there were 60 adult graves and 450 children's graves, nearly all of whom died before the age of two.⁷¹ Heartbreakingly, the film concludes with the image of rows of empty holes in the ground, as graves were dug in advance in preparation for each month's death toll. Considering the total population and the short time since Dimbaza's establishment, the number of graves speaks to the dangerous living conditions of the settlement.

⁶⁸ Desmond, *The Discarded People*, 123.

⁶⁹ Surplus People Project, *Forced Removals in South Africa*, 20.

⁷⁰ Surplus People Project, *Forced Removals in South Africa*, 21.

⁷¹ Nana Mahomo, *Last Grave at Dimbaza* (New York: Icarus Films, 1974).

Though the film never explicitly mentions water, it provides visual evidence of both the conditions of resettlement camps like Dimbaza and the wealth of whites under apartheid. The wealth disparity was linked to access to water and other services necessary for survival and physical and economic well-being. Because of this, the contrast is important to understanding the legacies of apartheid. Apartheid was built on the policy of separate development, and the idea that blacks could develop ‘independently’ in the Bantustans. However, as demonstrated by accounts from Desmond and Mahomo, there was not enough land and no industry or services provided in order to successfully live in the Bantustans. As a result, this policy of separate development forced many Africans into poverty and hazardous living conditions. In this way, forced removals had ramifications that impacted generations of black South Africans. This legacy of apartheid continues to maintain the wealth disparity that is still largely divided along racial lines in post-apartheid South Africa.

Published in 1983, *The Surplus People Project Report* serves as an updated and more systematic account of settlements mentioned in *The Discarded People* and *Last Grave at Dimbaza*, both released in the early 1970s. In the closer settlements surveyed in the report, “the desired improvements cited most often were absolute basic, to do with their water supply, the provision of firewood for fuel, or land.”⁷² Despite hopes for improvements in basic services over time, the government continued to lack preparation and provisions as more forced removals took place in the late 1970s and early 1980s. Similar to settlements established a decade earlier, the following resettlement schemes established after the publication of *The Discarded People* lacked sufficient water supplies as families arrived. The government provided no water supply in Mzimhlophe, established in 1975. According to *The Surplus People Report*, there was still no

⁷² Surplus People Project, *Forced Removals in South Africa*, 19.

official water supply system in the area as of 1982.⁷³ At first in Kammaskraal, established in 1980, the only water supplied by officials was brought in by a few water trucks. This was because the government claimed Kammaskraal was only to be a temporary settlement. However, by 1981 there were 100,000 people living there, and the few water taps that had been installed “could not begin to meet the needs of the thousands of families pouring into the settlement.”⁷⁴ The fact that Africans were still being forced into dangerous living conditions in the 1980s demonstrates that the government’s lack of preparedness was not just a bump in the road that might be expected with the implementation of new policy in the 1960s. Rather, the apartheid government’s disregard for the safety and well-being of Africans was simply that, disregard.

To further examine the apartheid government’s neglect of resettlement schemes into the 1980s, *The Surplus People Report* conducted multiple in-depth case studies on specific settlements across the Bantustans. Conducted with household surveys in Sahlumbe, established in 1969, this Natal case study showed how little conditions changed after the establishment of resettlement schemes. In Sahlumbe, no permanent water supply was provided by officials on arrival. Water was brought in by government trucks, but once officials withdrew this source residents had to rely on the Tugela River. The Tugela River was over a half mile or more away from the settlement and “notoriously dirty.”⁷⁵ By 1982, water access in Sahlumbe was still limited. Although the settlement had been established over a decade ago, the government never provided a safe water source. As of 1982, residents were still dependent on the Tugela River for water, while sometimes using closer but less reliable streams and springs.⁷⁶ In a case study from

⁷³ Surplus People Project, *Forced Removals in South Africa*, 21.

⁷⁴ Surplus People Project, *Forced Removals in South Africa*, 21.

⁷⁵ Surplus People Project, *Forced Removals in South Africa: Volume 4[-5] of the Surplus People Project Report* (Cape Town: Surplus People Project, 1983), 312-313.

⁷⁶ Surplus People Project, *Forced Removals in South Africa*, 313.

the Transvaal, a serious lack of water was the main problem in the settlement of KwaNdebele, where most residents arrived after 1977. According to the survey, over 90% of residents did not have access to water and sanitation upon arrival.⁷⁷ There were only a few taps serving as the settlement's water source. Residents complained that access to water was over a mile away, and there were often long waits. For these reasons, in addition to the fact that officials often cut off water without notice, some residents collected water from the nearby river instead, which was reportedly dirty.⁷⁸ The scope of the problem is demonstrated by the fact that almost everyone surveyed cited the water situation as an issue that needed to be addressed by officials.⁷⁹

The case studies in Sahlumbe and KwaNdebele drive home the point that even though a settlement may have been provided with a water supply, it does not mean it was enough. As *The Surplus People Project Report* stated, "Even when official spokespeople can tick off on their lists the shelter, sanitation, water, and other facilities that they have provided in particular areas, these are often totally inadequate for the numbers of people dependent on them."⁸⁰ Both Sahlumbe and KwaNdebele technically had a nearby communal water source, the Tugela River and water taps respectively, but these sources were clearly not sufficient, and even potentially dangerous. Notably, *The Surplus People Project Report* predicted the impact that forced removals would have on South Africa: "It needs to be pointed out that even if population removals were suddenly to come to an end, that would not alter the position for millions of people already relocated, nor undermine, substantially, the major restructuring of South Africa into a 'white' core and ethnic Bantustans on the periphery that is already far advanced."⁸¹ Forced

⁷⁷ Surplus People Project, *Forced Removals in South Africa: Volume 5[-5] of the Surplus People Project Report* (Cape Town: Surplus People Project, 1983), 266.

⁷⁸ Surplus People Project, *Forced Removals in South Africa*, 268.

⁷⁹ Surplus People Project, *Forced Removals in South Africa*, 270.

⁸⁰ Surplus People Project, *Forced Removals in South Africa: Volume 1[-5] of the Surplus People Project Report* (Cape Town: Surplus People Project, 1983), 21.

⁸¹ Surplus People Project, *Forced Removals in South Africa*, 30.

removals are a legacy of apartheid, as the consequences of apartheid separate development policies burden South Africans in the post-apartheid era. Even though apartheid ended in 1994, 25 years later people are still stuck in geographic locations and economic situations that the apartheid government placed them or their families in.

Water Access under Apartheid: Black Urbanization and Water Shortages in Townships

Generally speaking, townships tended to be better off than closer settlements in terms of water access, but not always. While a lack of infrastructure was often the problem in rural settlements, in townships, safe water access was hindered by “the inadequacy and shoddiness of services that [were] available.”⁸² Townships were much more likely than rural settlements to have formal housing. However, “the dreary rows of matchbox housing that [typified] South Africa’s approach to low-cost housing” only sometimes had electricity and running water within each house.⁸³ This is because, historically, townships were designed to be ‘temporary’ residences for black laborers needed to support apartheid’s economic system, so there were very few amenities provided by the government. Lack of safe water access in townships is mentioned in Huddleston’s *Naught For Your Comfort*, an account of life in the township of Sophiatown in the early apartheid years. As a clergymen, Huddleston recorded some of the daily experiences of his black parishioners. Recalling Holy Saturday, Huddleston wrote, “As always in Sophiatown, there is a steady stream of people coming to the door to pay their church tickets or to ask one of the fathers to come and baptize a sick baby or to complain that the water has been cut off by their landlord.”⁸⁴ While Huddleston is describing a particular day of the year in this excerpt, he recalls

⁸² Surplus People Project, *Forced Removals in South Africa*, 19.

⁸³ Surplus People Project, *Forced Removals in South Africa*, 19.

⁸⁴ Trevor Huddleston, *Naught For Your Comfort*, 21.

that many aspects of the day are very typical, such as people's complaints about water access. This suggests that water cut-offs were a regular occurrence for residents of Sophiatown.

Looking beyond Sophiatown, Huddleston also mentioned the living conditions of Albertynville, a "squatter's camp sited on a particularly bleak and barren piece of veldt" outside the city of Johannesburg. Albertynville was just one example of the many camps located on the periphery of the city, and the conditions demonstrate how urban areas lacked safe water access in ways similar to rural resettlement schemes. On Albertynville's services, Huddleston wrote, "Amenities are almost entirely lacking. [Albertynville] is just a conglomeration of lean-to, corrugated-iron and mud-brick dwellings, with water, *of a kind*, not too far away" (emphasis added).⁸⁵ While Huddleston does not go into detail on the quality of Albertynville's water source, his phrasing suggests that it was likely polluted or of low-quality.

In addition to writing of the details of living conditions in urban communities, Huddleston argued why such service problems persisted, and why they were unlikely to be fixed by the government in the future. Huddleston noted, "There has never been any form of representation for its residents at any level. And in the whole long history of its development over the past fifty years, the 'improvements' of made-up roads, water, sewage, and electric light have had to be fought for and won by interested Europeans, often against a dead-weight of official inertia and lethargy."⁸⁶ Because black South Africans could not participate in decision making processes, policy and development was only successfully pushed forward if it was in the interest of white South Africans.

Written in 1956, Huddleston's *Naught For Your Comfort* provides a look at life in an older urban community life Sophiatown before forced removals began. But even as the

⁸⁵ Trevor Huddleston, *Naught For Your Comfort*, 48.

⁸⁶ Trevor Huddleston, *Naught For Your Comfort*, 40.

government relocated people from places like Sophiatown to new black townships outside of ‘white’ cities in later apartheid years, not much changed. Although the apartheid economic system depended on township residents to provide labor in ‘white’ urban areas, the government did not care about the well-being of black South Africans. Huddleston argued;

One of the effects of the race situation in South Africa has always been that blindness. Labour is labour; it is not human if it is black. It must be there, standing ready in your factory or your kitchen or your office, but it must make no demands for the necessities of life. It must have strong muscles for the job, but how they are to become strong is its own concern. It must have clean clothes and a tidy appearance in your home, but it doesn’t matter where or how it is to get the water for washing or the space for drying.”⁸⁷

As long as the interests of white South Africans were met, especially economic gain, the human rights of black laborers did not matter, reflected in government policy and lack of access to basic amenities. In the later apartheid years, safe water access continued to be hindered by poor water quality and cut-offs, and the apartheid government still barred black South Africans from engaging in administrative issues by denying them political rights. However, in the 1980s, black township residents began to fight back against the apartheid government’s neglect in protests known as rent boycotts.

Similar to the plights of Africans living in rural resettlement schemes, dry taps and water cut-offs were regular occurrences in black townships. Issues over water access persisted into the late apartheid years, even as black South Africans became increasingly vocal about their grievances. In a *Rand Daily Mail* article printed on November 15, 1984, Siphon Ngcobo reported that residents of Dobsonville, a township in Soweto, were “up in arms over water cuts.” Residents complained that officials failed to notify them when cut-offs would occur, and that for four days taps were completely dry. This forced Dobsonville residents to “plead” for water from

⁸⁷ Trevor Huddleston, *Naught For Your Comfort*, 182.

neighboring urban areas, leading some to feel undignified.⁸⁸ One Dobsonville resident reported that she was forced to drive over 3km in order to access water from a friend's house in another township. Dobsonville residents accused officials of "turning a blind eye" to their grievances.⁸⁹ This account of Dobsonville residents' experiences sounds similar to that of Manqele's post-apartheid situation, who also had to beg neighbors for water when officials failed to recognize her hardship. Unlike Manqele, Africans living in townships during apartheid did not have the power to bring their case before a court. Instead, township residents launched protests to get the attention of the apartheid government over issues of water access.

On September 3, 1984, over 2,000 residents of the Vaal Triangle townships launched a protest against new rent and service charge increases. Vaal residents "resolved not to go to work" and schoolchildren boycotted classes as well.⁹⁰ The government aggressively put down demonstrations, resulting in 66 deaths. In continued protest after the killings, Vaal triangle residents collectively refused to pay their rent and service charges. Refusal to pay for water and electricity services during apartheid became "an essential strategy of the liberation movement."⁹¹ Although later rent boycotts would be merged into anti-apartheid resistance strategies for political rights, in the 1980s activists first employed these boycotts at a very local level, usually in protest against administrative policies and charges. At the local level, the goal of the rent boycotts in the 1980s was to make townships 'ungovernable' for the apartheid government. Von Schnitzler points out that, "It was in this increasingly militant and militarized context of the boycotts that engineers began the search for technical solutions to the problem of non-

⁸⁸ *Rand Daily Mail* (Johannesburg, Undefined), November 15, 1984: 1. *Readex: Rand Daily Mail*.

⁸⁹ *Rand Daily Mail* (Johannesburg, Undefined), November 15, 1984: 1. *Readex: Rand Daily Mail*.

⁹⁰ *Rand Daily Mail* (Johannesburg, Undefined), September 3, 1984: 1. *Readex: Rand Daily Mail*.

⁹¹ Antina von Schnitzler, *Democracy's Infrastructure*, 82.

payment.”⁹² A solution the apartheid government employed was the installation of prepaid meters, which would have a lasting impact on water access in South Africa.

Now prevalent in post-apartheid South Africa, prepaid meters were first used in the 1980s by the apartheid government in an attempt to counter anti-apartheid rent boycotts. A prepaid meter is a device that allows the government to automatically disconnect users from a service, such as water, in case of non-payment. In order to gain access to water, customers must purchase credits and upload them to the device using a card or numeric code. The apartheid government’s introduction of metering policies is mentioned in the news article “Koornhof warns of rate increases” that appeared in the *Rand Daily Mail* on January 15, 1983. Writer of the article, Chris Freimond, reported on Minister of Cooperation and Development, Piet Koornof’s, statements regarding the rise in service charges in black townships, including, “Commodities such as water and electricity should be metered and must be paid for according to actual consumption [...] This is Government policy and will increasingly be applied in all black residential areas.”⁹³ Von Schnitzler argues that this type of infrastructure policy, though not focused on by historians, is very important to understanding the lingering inequality in South Africa today. She writes, “While ‘native administration’ from the beginning relied on repressive force, apartheid’s specificity, and its endurance into the present, lay in its intricate accounting of and intervention into private lives via administrative means. [...] It is this intimate form of power not only shaped resistance in specific ways, but also” as von Schnitzler suggests, “makes up its most persistent if often least visible legacy today.”⁹⁴ Before the use of pre-paid meters, township residents could effectively protest against the government by refusing payment while still maintaining access to

⁹² Antina von Schnitzler, *Democracy's Infrastructure*, 120.

⁹³ *Rand Daily Mail* (Johannesburg, Undefined), January 15, 1983: 1. *Readex: Rand Daily Mail*.

⁹⁴ Antina von Schnitzler, *Democracy's Infrastructure*, 78.

water, since service was not cut off immediately in the case of non-payment. To prevent non-payment protests, the apartheid government began installing meters that immediately cut off access to water if payment was not made. Because pre-paid meters were an official strategy to combat anti-apartheid efforts, officials typically only installed them in black townships, creating a spatial apartheid legacy that maps struggles over water access in the post-apartheid era.

Post-Apartheid Water Legislation

After the end of apartheid in the early 1990s, the new democratic government sought to grant water rights to all South African citizens, regardless of race or class. Equitable access to water and other resources was emphasized in light of the discriminatory policies and legacies of apartheid. In addition to addressing social inequalities, new water legislation had to balance these concerns with resource management and sustainability efforts. The importance of these issues is reflected by the democratic government's inclusion of water and environmental rights in the South African Constitution, adopted in 1996. The constitution's Bill of Rights (Chapter 2) addresses the environment and the management of natural resources such as water in Section 24, which stipulates that;

Everyone has the right— (a) to an environment that is not harmful to their health or wellbeing; and (b) to have the environment protected, for the benefit of present and future generations, through reasonable legislative and other measures that— (i) prevent pollution and ecological degradation; (ii) promote conservation; and (iii) secure ecologically sustainable development and use of natural resources while promoting justifiable economic and social development.⁹⁵

Section 27 “Health care, food, water and social security” includes the resolution that “Everyone has the right to have access to [...] (b) sufficient food and water” and “The state must take reasonable legislative and other measures, within its available resources, to achieve the

⁹⁵ Republic of South Africa. *The Constitution of the Republic of South Africa*, 1996, 9.

progressive realization of each of these rights.”⁹⁶ Despite being one of the most progressive constitutions in the world, this last statement highlights the discord that can occur between theory and practice when the government does not have the resources or solutions to fulfill their promises.

Like the constitution, many of South Africa’s laws were rewritten during the transition from apartheid to democratic rule. In regards to water, the democratic government repealed the Water Act of 1956 and attempted to balance the needs to provide water for all and conserve the scarce resource through the National Water Act of 1998. While the National Water Act of 1998 also tried to address the inequalities inherited from the apartheid era, in many cases water access remains “skewed along racial lines.”⁹⁷ Current situations relating to inequality and sustainability are emphasized in the Preamble of the National Water Act of 1998;

Recognizing that while water is a natural resource that belongs to all people, the discriminatory laws and practices of the past have prevented equal access to water, and use of water resources;
 Acknowledging the National Government's overall responsibility for and authority over the nation's water resources and their use, including the equitable allocation of water for beneficial use, the redistribution of water, and international water matters;
 Recognizing that the ultimate aim of water resource management is to achieve the sustainable use of water for the benefit of all users.⁹⁸

In order to achieve its lofty objectives, the National Water Act of 1998 designates the national government, acting through the Minister of Water Affairs and Forestry, as “the public trustee of the nation's water resources” who “must ensure that water is protected, used, developed, conserved, managed and controlled in a sustainable and equitable manner, for the benefit of all

⁹⁶ Republic of South Africa. *The Constitution of the Republic of South Africa*, 1996, 11.

⁹⁷ J.S. Kemerink, R. Ahlers, and P van der Zaag, "Contested Water Rights in Post-Apartheid South Africa: The Struggle for Water at Catchment Level," *Water S. A.* 37, no. 4 (10, 2011): 585.

⁹⁸ Republic of South Africa. *National Water Act (Act No. 36 of 1998)*. 1998. FAOLEX Database, Food and Agriculture Organization of the United Nations. [http://www.fao.org/faolex/ results/details/en/c/LEX-FAOC123836](http://www.fao.org/faolex/results/details/en/c/LEX-FAOC123836). Preamble.

persons.”⁹⁹ This ultimately grants the government “the power to regulate the use, flow and control of all water in the Republic.”¹⁰⁰ With this authority, the National Water Act provides the government with substantial means to combat social and economic inequalities that persist due to decades of discriminatory apartheid policies.

While the National Water Act of 1998 focuses on government responsibilities over water supplies, the Water Services Act of 1997 focuses on the provision of water services on a much more individual level. The purpose of the Water Services Act is to provide individuals the right of access to basic water supply¹⁰¹ and basic sanitation.¹⁰² Despite not defining how much water is sufficient to meet “basic” needs, the act goes on to list how such rights will be guaranteed, stating, “Every water services institution must take reasonable measures to realize these rights.”¹⁰³ Furthermore, the act outlines the procedures for the limitation or discontinuation of water services. The act states that if water services are to be cut, the procedure must be;

(a) be fair and equitable; (b) provide for reasonable notice of intention to limit or discontinue water services and for an opportunity to make representations unless—the consumer has interfered with a limited or discontinued service; and (c) not result in a person being denied access to basic water services for non-payment, where that person proves, to the satisfaction of the relevant water services authority, that he or she is unable to pay for basic services.¹⁰⁴

⁹⁹ Republic of South Africa. *National Water Act (Act No. 36 of 1998)*. 1998. Chapter 1.

¹⁰⁰ Republic of South Africa. *National Water Act (Act No. 36 of 1998)*. 1998. Chapter 1.

¹⁰¹ As defined on page 8 the Water Service Act of 1997, “basic water supply” means the prescribed minimum standard of water supply services necessary for the reliable supply of a sufficient quantity and quality of water to households, including informal households, to support life and personal hygiene.

¹⁰² As defined on page 8 the Water Service Act of 1997, “basic sanitation” means the prescribed minimum standard of services necessary for the safe, hygienic and adequate collection, removal, disposal or purification of human excreta, domestic waste-water and sewage from households, including informal households.

¹⁰³ Republic of South Africa, Water Services Act 1997 (Act No. 108 of 1997), 1997, FAOLEX Database, Food and Agriculture Organization of the United Nations, <http://www.fao.org/faolex/results/details/en/c/LEX-FAOC015982>, 12.

¹⁰⁴ Republic of South Africa, Water Services Act 1997 (Act No. 108 of 1997), 1997, 12.

Because it outlines the procedure for water cut-offs, the Water Services Act of 1997 played an important role in the case of the Thulisile Manqele. However, instead of coming to her aid, the Water Services Act was used to argue against Manqele's right to access water, going against the act's purpose. Manqele's case will be covered later in this paper, but the fact that this act was used against her in court further demonstrates the disconnect between policy and practice in post-apartheid South Africa. While the National Water Act of 1998 and Water Services Act of 1997 are some of the most comprehensive pieces of water legislation in the world, legacies of apartheid continue to influence social and economic systems and challenge equal water access.

In their 2011 article "Contested Water Rights in Post-Apartheid South Africa: The Struggle for Water at Catchment Level," J.S. Kemerink, R. Ahlers, and P. van der Zaag emphasize four main challenges to providing equal water access in practice. Despite the strength of the National Water Act of 1998, lack of access and control over water resources, unfavorable interpretations of water policies, exclusion from decision-making processes, and the lingering apartheid political and social ideologies underlying water law all obstruct disadvantaged South Africans from having their right to water fulfilled.¹⁰⁵ Lack of access and control over water resources refers the socio-political and economic influence that wealthy white, and some black, South Africans have over water services and infrastructure. Individuals and companies with capital continue to receive better access to available resources "on economic grounds."¹⁰⁶ This power and wealth is often directly linked to ownership of property and land, which connects back to the spatial segregation of apartheid. Socio-economic power relations also influence the interpretation of water legislation, which can impede poorer South Africans from gaining equal access to water. Kemerink, Ahlers, and van der Zaag point to a provision in the National Water

¹⁰⁵ J.S. Kemerink, R. Ahlers, and P van der Zaag, "Contested Water Rights in Post-Apartheid South Africa," 586.

¹⁰⁶ J.S. Kemerink, R. Ahlers, and P van der Zaag, "Contested Water Rights in Post-Apartheid South Africa," 589.

Act of 1998 to exemplify this. The National Water Act stipulates that “The Minister [...] may expropriate any property for any purpose contemplated in this Act, if that purpose is a public purpose or is in the public interest.”¹⁰⁷ While it may sound favorable that the government has the power to redistribute water sources based on public interest, the concept of public interest can be a matter of perspective. Elites in the agricultural sector have argued that redistributing land and water supplies to the “less-experienced black population” would hurt agricultural production and “negatively influence the national economy” and is therefore not in the public interest.¹⁰⁸

Connected to unfavorable interpretations of water law is the exclusion of disadvantaged South Africans from decision-making processes, with representation impeded by race, class, or gender. While the writing of the National Water Act of 1998 integrated public input, “decision-making spaces are still dominated by whites and some black elites” and “technical expertise and knowledge of water resource management is still white-dominated.”¹⁰⁹ Underlying all of these obstacles to equal water access are the social and economic legacies of apartheid. Kemerink, Ahlers, and van der Zaag argue that the still-dominant capitalistic economic principles of the apartheid era are not compatible the somewhat-socialist ideology of the South African Constitution.¹¹⁰ Coupled with the effects of decades of racial discrimination and segregation, this incompatibility has contributed to the discord between legislation and the reality of water access.

Water Access after Apartheid: Capitalism and Continuing Inequalities

The transition to a democratically elected government officially marked the end to apartheid in 1994, and ushered in a wave of new progressive legislation. However, some reforms create actual change quicker than others. Looking through the lens of water, it is clear that

¹⁰⁷ Republic of South Africa. *National Water Act (Act No. 36 of 1998)*. 1998. Chapter 6.

¹⁰⁸ J.S. Kemerink, R. Ahlers, and P van der Zaag, "Contested Water Rights in Post-Apartheid South Africa," 590.

¹⁰⁹ J.S. Kemerink, R. Ahlers, and P van der Zaag, "Contested Water Rights in Post-Apartheid South Africa," 590.

¹¹⁰ J.S. Kemerink, R. Ahlers, and P van der Zaag, "Contested Water Rights in Post-Apartheid South Africa," 591.

apartheid-era inequalities continue to persist into the present. For example, water infrastructure like prepaid meters map the oppression of apartheid, and their continued use in almost exclusively poor and historically black residential urban areas demonstrates how economic ideologies of the twentieth century effect practices today. Sometimes referred to as “apartheid’s replacement” by historians, neoliberalism and “class apartheid” are doing even worse social and economic damage to poor South Africans.¹¹¹

Despite the change in government in 1994, Bond argues “there was a clear continuity of policy between the late-apartheid era and democracy.”¹¹² This clear continuity involves the prioritization of economic interests over social issues. The transition from the apartheid government to democracy saw the implementation of progressive, socialist-leaning laws. There was also much socialist rhetoric from ANC politicians promising redistribution of land and wealth. However, these progressive ideas come into conflict with the promotion of a free market economy, and in practice, capitalist interests won out as the priority of the government in post-apartheid South Africa. In regard to this conflict, Bond argues, “The commercialization and privatization of services and [water] disconnection due to non-payment are two of the long-standing policies which have made a mockery of the ANC’s ‘lifeline’ promises.”¹¹³

Similar to how the apartheid government pursued white economic interests over the well-being of black South Africans, neoliberal policies and the promotion of a free market economy prioritize the South African economy over both environmental concerns and provision of basic services to people in need. Under this capitalist system, water is paid for as a commodity, denying access to those who cannot afford it. The legacies of apartheid and the effects of

¹¹¹ Patrick Bond, *Unsustainable South Africa: Environment, Development, and Social Protest*, 2002, 2.

¹¹² Patrick Bond, *Unsustainable South Africa: Environment, Development, and Social Protest*, 2002, 405.

¹¹³ Patrick Bond, *Unsustainable South Africa: Environment, Development, and Social Protest*, 2002, 187.

neoliberalism on the lives of black South Africans become clear upon examination of water legislation and access. Because access to safe water is a necessary condition for survival, issues surrounding water policies are “the most controversial when subjected to the laws of capitalism.”¹¹⁴

As many black South Africans continue to deal with cut-offs and unequal water access, Bond proposes a solution with consideration to the economic costs. Bond suggests progressive block tariff on water services, which would allow for a free lifeline amount of water for all lowest-tier consumption with increasing prices charged for additional consumption.¹¹⁵ While this sounds like a realistic solution, Bond recognizes potential obstacles to its implementation in a capitalist democracy. Bond admits that “providing water as an essential staple free of cost for at least a lifeline amount to all residents would require a nationwide water pricing with higher unit amounts for higher-volume water consumers, especially larger firms, mines, and (white) farmers.”¹¹⁶ In order to cover the cost of guaranteeing the poor access to a free lifeline amount of water, the rich would have to pay more for their services. Those that would be most affected by this proposal, large companies and white farmers, are often the ones who have the most power and influence in society. Looking at current inequalities in South Africa, it is clear that power of the wealthy often trumps needs of the poor, and corporations usually get their way because of their influence over government. As a result, the government prioritizes the economic interest of the powerful over the needs and well-being of all South Africans.¹¹⁷ This continued prioritization of capitalist interests means that water access is still largely skewed along racial lines.

¹¹⁴ Patrick Bond, *Unsustainable South Africa: Environment, Development, and Social Protest*, 2002, 26.

¹¹⁵ Patrick Bond, *Unsustainable South Africa: Environment, Development, and Social Protest*, 2002, 157.

¹¹⁶ Patrick Bond, *Unsustainable South Africa: Environment, Development, and Social Protest*, 2002, 28.

¹¹⁷ Patrick Bond, *Unsustainable South Africa: Environment, Development, and Social Protest*, 2002, 32.

Unfortunately for many black South Africans, limited water access is still a daily reality. An elderly Soweto resident, Agnes Mohapi, compares her life under the apartheid and post-apartheid governments. Bond describes her feelings: “Nothing, she said, could compare to life under apartheid, the system of racial separation that herded blacks into poor townships such as Soweto. But for all its wretchedness, apartheid never did this: It did not lay her off from her job, jack up her utility bill, and then disconnect her service when she could inevitably not pay. ‘Privatization did that,’ she said.”¹¹⁸ Though their goal was to dissolve the inequalities of apartheid, neoliberal policies pursued by the ANC-controlled government have not improved life, but have made it arguably worse. Another South African, Orlean Naidoo, leader of the Westcliff Flats Residents Association, makes a similar assertion. Naidoo argues that life is not so different under the new democratic government. In reference to forced removals, and now evictions due to non-payment, she states, “In the past we were moved because of race, now we are being forced out because we are poor. Is this not discrimination? Instead of compensation for the pain and suffering we suffered under apartheid, we’re being exposed to humiliation, violence and evictions under the new government.”¹¹⁹ Under the democratic government, the everyday violence of apartheid continues with the disconnection of services and restrictions of prepaid water meters. But much like township residents did in the 1980s, black South Africans have organized to protest these continued inequalities and dangerous living conditions.

One way that South Africans protested their continued unequal water access was by taking the government to court. Returning to the story of Thulisile Manqele, she went to court in June 2000 to argue her case. Manqele’s lawyer, Maurice Pillemer, focused his argument around post-apartheid water legislation, like the Water Services Act of 1997. Pillemer argued that

¹¹⁸ Patrick Bond, *Unsustainable South Africa: Environment, Development, and Social Protest*, 2002, 186.

¹¹⁹ Desai, *We Are the Poors: Community Struggles in Post-Apartheid South Africa*, 48.

officials did not look at her personal circumstance before cutting off her water, which was required by the act. Pillemer did not demand an unlimited water supply for Manqele, rather the monthly six kiloliters of water that has been widely regarded as a “basic” water supply.¹²⁰ Pillemer also pointed out that in addition to the Water Services Act, the Constitution stated that every South African had the right to “sufficient” water. Despite his appeal to post-apartheid water legislation, Pillemer’s arguments were not enough to convince the court. Judge Vivien Niles-Duner ruled that because the specific regulations for the basic water supply had not been established by the government yet, they could not be enforced. Even after appeals, the Durban High Court ultimately ruled in February 2001 to have Manqele’s water cut off. The court focused on Manqele’s act of illegally reconnecting her water in the past, using this fact to argue that she “could not be trusted not to tamper with any device installed to limit her water flow.”¹²¹ Desai points out the role capitalist interest played in the court’s ruling. He writes, “As a result of her non-payment and her delinquent history, her water [was] to be disconnected as a ‘credit control’ mechanism.”¹²²

Manqele’s case stands as an example of how rights continue to be limited in post-apartheid South Africa due to “the state’s budgetary priorities.”¹²³ During Manqele’s case, the executive director of Durban Water Services submitted an affidavit in claiming that in just the first half of 2000, 23,786 households have had their water cut off due to non-payment.¹²⁴ This shows that sadly, Manqele’s case is not unique, and that her experience is similar to thousands of others’ in post-apartheid South Africa. Even with progressive water legislation in place, the post-

¹²⁰ "Human Right to Water, Decade for Action, 2005-2015," United Nations, May 29, 2014, accessed March 10, 2019, https://www.un.org/waterforlifedecade/human_right_to_water.shtml.

¹²¹ Desai, *We Are the Poors: Community Struggles in Post-Apartheid South Africa*, 76.

¹²² Desai, *We Are the Poors: Community Struggles in Post-Apartheid South Africa*, 76.

¹²³ Desai, *We Are the Poors: Community Struggles in Post-Apartheid South Africa*, 70.

¹²⁴ Desai, *We Are the Poors: Community Struggles in Post-Apartheid South Africa*, 74.

apartheid government evaded providing the lifeline supply of six kiloliters of water to poor South Africans by claiming they are not entitled to it until they settle or pay all of their debts to the state. But as Desai argues, this is extremely problematic “since the poor all have arrears that they cannot pay, they end up being excluded from the very policy that is meant to be for their benefit.”¹²⁵ Furthermore, many poor black South Africans are poor because of the legacies of apartheid, and by evaluating cases on an individual basis, the courts are ignoring such systematic problems. Ultimately, the ANC-controlled government was not able to fulfill their promises for redistribution of resources or provision of lifeline services. Because even if their rhetoric was genuine, they did not make the effort to back up these principles “by thoughtful, detailed, provisions.”¹²⁶ This is demonstrated by the lack of clarity on the definition or amount of water meant by “lifeline supply.” This is how, despite progressive legislation, the democratic government failed to address inequalities that persist due to the legacies of apartheid.

Conclusion

Even years after the Manqele case, the post-apartheid government continued to fail South Africans seeking equal water access. In a 2008 court case, *Mazibuko v. City of Johannesburg*, five residents from the township of Phiri near Soweto brought the city of Johannesburg to court to argue for their constitutionally guaranteed right to access water. Phiri is one of the oldest areas of Soweto, and the population is generally poor. The Phiri residents, who all lived in different homes, argued that the pre-paid meters installed in their area cut off access to water without fair notice, and that the lifeline supply of water they received on a monthly basis from the city was “insufficient for dignified human existence.”¹²⁷ Furthermore, the residents questioned the legality

¹²⁵ Desai, *We Are the Poors: Community Struggles in Post-Apartheid South Africa*, 76.

¹²⁶ Patrick Bond, *Unsustainable South Africa: Environment, Development, and Social Protest*, 2002, 238.

¹²⁷ Antina von Schnitzler, *Democracy's Infrastructure*, 174.

of pre-paid water meters in the first place, arguing that their installation was racially discriminatory since the government only used the meters in historically black townships. When a ruling came in April 2008, it went in favor of the residents. Judge Moroa Tsoka declared that the enforced installation of prepaid meters in Soweto residents' yards and subsequent water disconnections were "unlawful and unconstitutional."¹²⁸ Tsoka stated that pre-paid meters were an "apartheid style patronization of poor township residents" and that installations "indeed engaged in discrimination solely based on colour."¹²⁹ In this strongly worded quote, Tsoka links current water policies to discrimination under apartheid, demonstrating how apartheid legacies continues to negatively affect South Africans today.

Judge Tsoka also ruled in favor of the Phiri residents on the insufficiency of the free lifeline supply. In addition to declaring that six kiloliters per household per month was not sufficient, Tsoka went a step further and did what the ANC-controlled government had failed to do for years. Tsoka not only overruled existing government policy, but provided a *specific* revision, requiring the city to double the provided lifeline supply from 25 to 50 liters per person per day.¹³⁰ A lack of thoughtful and detailed policy was one of the reasons the post-apartheid government failed to erase apartheid water inequalities. But with a detailed revision to policy in place, it appeared that the government might finally be prepared to provide marginalized South Africans equal access to water. However, in 2009 in an appeal to the case, the South African Constitutional Court overturned Tsoka's rulings, arguing that "the constitution does not require courts to take over the tasks that in a democracy should properly be reserved for the democratic arms of government."¹³¹ The final decision of the Mazibuko case signifies that despite socialist

¹²⁸ Antina von Schnitzler, *Democracy's Infrastructure*, 174.

¹²⁹ Antina von Schnitzler, *Democracy's Infrastructure*, 174.

¹³⁰ Antina von Schnitzler, *Democracy's Infrastructure*, 175.

¹³¹ Antina von Schnitzler, *Democracy's Infrastructure*, 176.

rhetoric of the post-apartheid officials, the government continues to interpret water laws conservatively. In her analysis on why the government has failed to guarantee water rights to citizens, von Schnitzler recognizes that “crucially, the state does not have to fulfill these rights immediately, (which it might be financially unable to do so); rather, it is charged with the ‘progressive realization’ of socio-economic rights by taking ‘reasonable’ measure toward their fulfillment.”¹³² While the Constitution makes progressive promises, conservative interpretations allow the post-apartheid government to deny free basic services by citing economic (capitalist) reasons. This case further demonstrates the disconnect between policy and practice, and the legacies of apartheid, specifically racial and economic inequalities, have still yet to be overcome.

The history of water rights in South Africa demonstrates the direct effects that ruling parties had on policies and the lives of people. When the apartheid government was in power from 1948-1994, their pursuit of separate development based on race and their prioritization of the economic interests of white Afrikaners had a direct effect on water policy and access. The Water Act of 1956 was designed to provide water for the industrialization and urbanization of South Africa, which ultimately only benefitted white South Africans. As long as the apartheid government reaped the benefit of their system, they did not care about the safety or well-being of black South Africans. This lack of regard for black South Africans is further demonstrated by their lack of water access, regardless of where they lived in the country. In rural areas, the segregation of apartheid and the policy of forced removals placed countless black South Africans into poverty and dangerous living conditions, with limited access to safe drinking water. In urban areas, the installation of pre-paid water meters in black townships completely cut off water access for those who could not afford to pay. When apartheid ended in 1994 and South Africans

¹³² Antina von Schnitzler, *Democracy's Infrastructure*, 178.

elected an ANC-controlled government to power, the new democratic system clearly promoted “a fairer structure of water rights structure” that was designed to benefit all South Africans regardless of race.¹³³ However, the implementation of policy is only half of the story, because the geographic and infrastructural legacies of forced removals and pre-paid water meters continue to affect marginalized South Africans in the present day.

Despite such noble promises in the Constitution of South Africa, the National Water Act of 1998, and the Water Services Act of 1997, the political ideologies and economic principles of the apartheid era have become entrenched in society and continue to restrict access to water and sanitation according to racial and class lines. Instead of following through with socialist-leaning promises of redistribution, the democratic government, like those in charge during apartheid, ultimately pursued capitalist interests. As a result, black South Africans who suffered under apartheid continue to be oppressed under a new “class apartheid.” Though they have gained hard-won political rights, for many black South Africans, their daily living conditions have not improved. People like Thulisile Manqele continue to remain stuck in the geographic locations and economic situations that apartheid placed them in. To make matters worse, the post-apartheid government has failed to recognize the rights guaranteed to citizens by the South African Constitution, and instead of working to provide poor South Africans with basic services, they cut off water access when people simply cannot afford it.

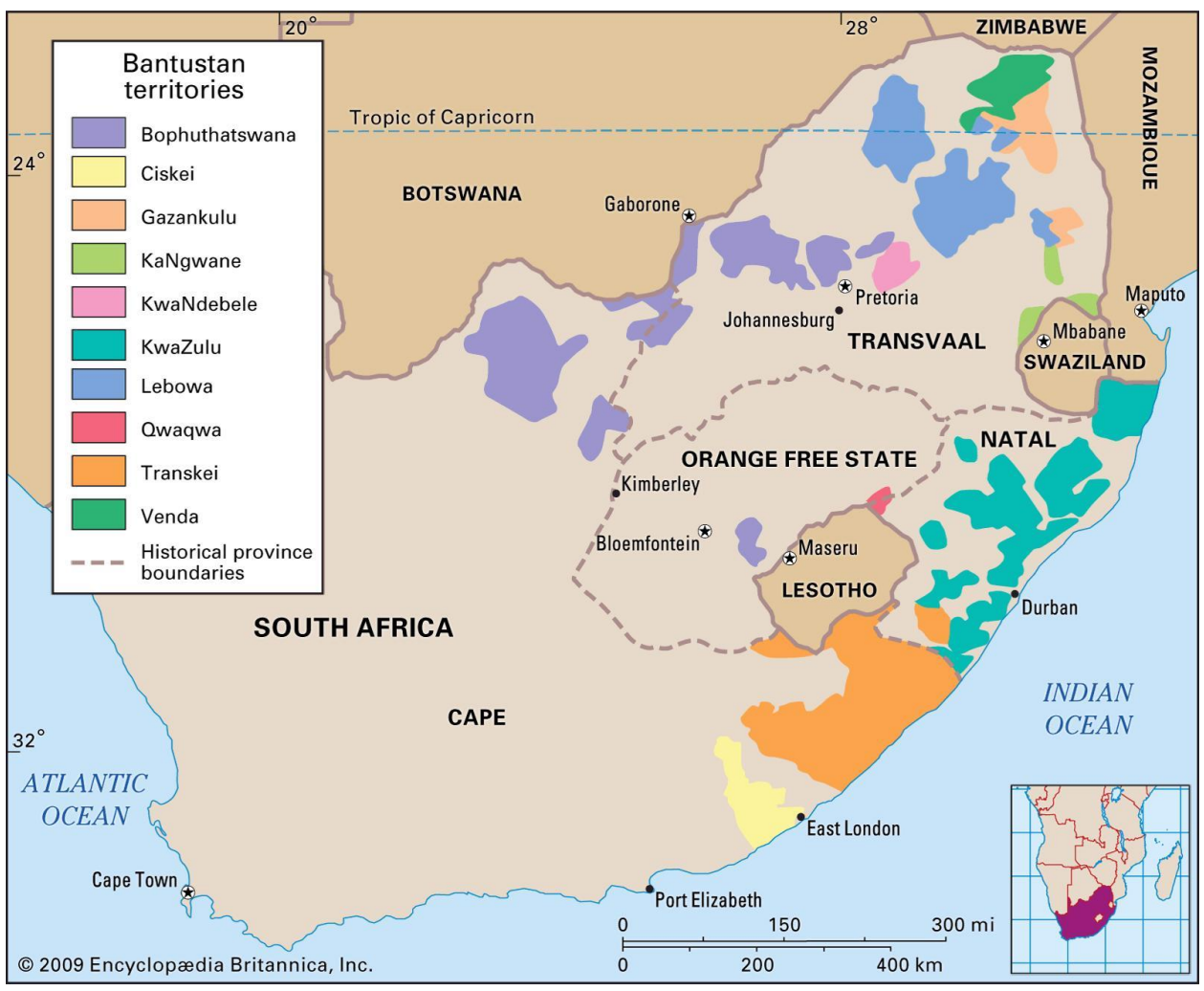
The water rights guaranteed by the post-apartheid South African government can be characterized as a balancing act, with the government trying to promote equal access to water along with economic growth for the country and sustainability, goals that can easily conflict with each other. However, since investments in water and sanitation services promote valuable

¹³³ D. D. Tewari, "A Detailed Analysis of Evolution of Water Rights in South Africa: An Account of Three and a Half Centuries from 1652 AD to Present," *Water S. A.* 35, no. 5 (10, 2009): 706.

economic gains in developing economies, and access to safe water and sanitation are precursors to opportunities for education and jobs, perhaps the objectives of the constitution are not as contradictory as they appear.¹³⁴ Although more time will be needed to dissolve the inequalities of the past, the solutions may lie in the distribution and management of earth's most valuable natural resource.

¹³⁴ United Nations World Water Assessment Programme (WWAP), from "Water for a Sustainable World."

Appendix A



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