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'To All Who Live in It':

An investigation of the dilemmas of, and prospects for, inclusive citizenship in South Africa

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degree of Master of Philosophy in Politics – Justice & Transformation

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Abstract

The extension of full citizenship and equal rights to all South Africans after centuries of racial oppression in the form of slavery, colonialism and apartheid must be applauded as a tremendous achievement for the nation. However, despite the 1996 Constitution's exemplary representation of an inclusive, liberal citizenship, the provision of political and civil rights to all citizens, and the recognition of basic human and social rights for citizens and non-citizens alike, South Africa remains a country characterised by deepening inequality, widespread poverty, violent crime and social unrest. This study is a literature-based analysis of the prospects for inclusive citizenship in light of the contradiction between formal political equality and the reality of socio-economic inequality within the context of post-apartheid South Africa. In approaching the topic of citizenship, I will employ T.H. Marshall's conceptual framework of three-fold citizenship to establish the civil, political and social elements and associated sets of rights within citizenship. In particular, I will focus on the element of social citizenship and the inherent social rights to a minimum of welfare provision for citizens. I will then consider the contemporary concept of inclusive citizenship, which aims to understand the meaning of citizenship 'from the perspective of the excluded' (Kabeer 2005: 1). I will articulate several dilemmas, which obstruct or complicate the development of inclusive citizenship in post-apartheid South Africa. I will then explore a few of the possible ways forward for post-apartheid South Africa to develop inclusive citizenship so as to reduce the gap between the entrenched rights in the Constitution and the prevailing legacies of poverty and inequality.

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List of Abbreviations

AbM - Abahlali baseMjondolo
ANC - African National Congress
BCM - Black Consciousness Movement
BEE - black economic empowerment
CA - Constitutional Assembly / Constituent Assembly
Codesa - Convention for a Democratic South Africa
COSATU - Congress of South African Trade Unions
CSO - civil society organisation
DOE - Department of Education
GEAR - Growth, Employment and Redistribution
GNU - Government of National Unity
HSRC - Human Sciences Research Council
IMF - International Monetary Fund
LPM - Landless People's Movement
MPNP - Multi-Party Negotiating Process
NGO - Non-governmental Organisation
NF - National Forum
NP - National Party
OBE - Outcomes-based education
PAC - Pan-African Congress
PLAAS - Institute for Poverty, Land and Agrarian Studies
RDP - Reconstruction and Development Programme
SACP - South African Communist Party
SAMP - South African Migration Project
SASO - South African Students Organisation
TAC - Treatment Action Campaign
UDF - United Democratic Front
UN - United Nations

Chapter 1 - Introduction

1.1 Introduction

The advent of political democracy in South Africa must be applauded as a tremendous achievement for the nation. Centuries of racial oppression under slavery, colonialism and apartheid ended when full citizenship and equal rights were extended to previously excluded 'African', 'Coloured', and 'Indian' South Africans¹, effectively a transition from an exclusionary to an inclusionary citizenship. The country's first democratic election in 1994 enabled all citizens to exercise their political freedom of universal franchise. Under the leadership of Nelson Mandela the newly elected government of South Africa declared its commitment to create a people-centred society in pursuit of 'freedom from want, freedom from hunger, freedom from deprivation, freedom from ignorance, freedom from suppression and freedom from fear' (Mandela 1994). The Bill of Rights contained in the 1996 Constitution is considered a consummate expression of inclusive citizenship. The document formally granted an array of civil, political, and social rights to all South African citizens, as well as inclusively affording non-citizens entitlement to basic human rights. At the time the nation's post-apartheid and democratic transition was regarded as a beacon of hope to other struggles for justice, freedom, and peace.

¹ Racial terminology and classifications during the colonial and apartheid period in South Africa were variable and contested, which complicates the writing of an historical account. My aim is to conceptualise 'race' as a social construct emerging from political discourses of power. There is a complex history of terminology in itself as well as a critical need to recognise the nuances between the ascriptive and official classifications and the political self-identification of individuals and communities. For the purposes of this paper, I will use the term 'white' to identify South Africans who were classified as such under apartheid and the term 'black' when referencing South Africans given the classifications of 'African', 'Asian'/'Indian', and 'Coloured' under apartheid legislation. (The choice to utilise the term 'black' as an inclusive reference to 'Africans', 'Coloureds', and 'Asians' is associated with the Black Consciousness Movement from the mid-1970s.) In addition, I have put several terms in quotation marks at first use in an effort to indicate the derogative use of language to ascribe identity and maintain categories of difference during the apartheid and colonial eras. I am aware of the tension between re-inscribing racial categories and acknowledging the inequalities that persist beneath the categories.

In contemporary South Africa, however, the liberated people-centred society envisioned by Mandela is far from the reality. Despite the 1996 Bill of Rights' exemplary articulation of an inclusive citizenship, providing political and civil rights for all citizens, and recognising basic human and social rights for citizens and non-citizens alike, South Africa remains a country characterized by deepening inequality, widespread poverty, violent crime and social unrest. Economic and social inequality entrenched by the country's racialised history continues to divide the rich from the poor in contemporary South Africa (Bond 2000; Marais 2001; Seekings 2003). According to an annual report released by the South African government's National Planning Commission, in 2009 the Gini coefficient used to measure inequality was calculated at 0.679 on a scale of 0-1, with 1 being absolute economic inequality, giving South Africa the dubious distinction of having the most unequal economy in the world (Development Indicators 2010: 25). The continued economic dominance by mostly white-owned corporations and the rise of a new black middle class and political elite is in marked contrast to the conditions of an impoverished black majority (Bond 2000). As of 2009, 65 percent of South Africa's population subsisted beneath a poverty line of R551.78 per capita per month, while a quarter of South Africans survived on less than R149.08 per person, per month (Development Indicators 2010: 26). Unemployment is a key factor in the continuation of poverty (Seekings and Nattrass 2005). Meanwhile, workers in key South African industries—such as education, medical, transport—regularly strike with demands for higher wages. Disillusion with the 'new' South Africa has led to a recurrence of national labour strikes and other expressions of social unrest (Desai 2008: 29-52). The momentous 1994 transformation that extended political equality and citizenship to all South Africans has not resulted in an extension of socio-economic equity.

Citizenship in present-day South Africa is not fulfilling its promise to deepen and expand inclusive citizenship and to secure the social rights listed in the 1996 Constitution. The Bill of Rights guarantees equal political and civil rights for all citizens, and recognises basic human and social rights for citizens and non-citizens alike, yet many South Africans continue to live in poverty without the necessary resources to meet their basic needs. Failing to realise these minimum socio-economic provisions for a majority of citizens threatens the integrity and relevance of South Africa's Constitution (Klug 2002; Williams 2008: 226). What are the prospects for inclusive citizenship in contemporary South Africa?

1.2 Problem statement

Citizenship is about the recognition of civic status, assertion of rights, and entitlement to access of scarce public resources. The concept involves both the entitlements conferred by, and the obligations inherent in, membership of a specific political community. Citizens are distinct from *subjects*, who are required to conform to the law yet excluded from membership in the political community (Mamdani 1996: 17). Feminists and Marxists have noted the existence of 'second class citizenship'—characterised by a lesser degree of legal rights, civil rights and economic opportunities due to the limitations of gender or class (Maslan 2004: 362). While there are many forms of *de facto* social and economic inequalities, 'second class citizenship' indicates a formal and state-sanctioned inequality. In apartheid South Africa, 'second class citizenship' for blacks was the result of what Pierre van den Berghe termed a '*Herrenvolk* democracy' in which democratic participation was confined to a racially defined privileged group (van den Berghe 1970). From a citizenship perspective, inequalities *among* citizens are of greater significance

than inequalities between citizens *and non-citizens*. While non-citizens may be ascribed a certain level of basic human rights, citizenship is chiefly concerned with the rights of citizens. Thus the achievement of recognition in citizenship might be described as full membership of the political community, while the assertion of rights involves civil and political citizenship, and access to scarce resources entails a degree of social citizenship.

In order to clarify the relationship between different aspects of citizenship, I will refer to British sociologist T.H. Marshall's conceptual framework of citizenship. Marshall identified three elements of citizenship—civil, political and social—that correspond to particular sets of rights associated with membership in a nation-state. According to Marshall, citizenship rights developed in chronological sequence: civil rights emerged in the eighteenth century, followed by the expansion of political rights in the nineteenth century; eventually, in the twentieth century, basic social rights were recognised. Civil rights include the rights to property, freedom of speech, and equality before the law, while political rights include the right to vote and the right to hold public office. Social rights, associated with social citizenship, refer to the right to a 'minimum provision of welfare' and may include rights to education, housing, food and water, etc. (Marshall 1950 in Marshall & Bottomore 1992: 5-48). The inclusion of welfare provisions in Marshall's notion of social citizenship corresponds to the development of European welfare states in the early 20th century.

When discussing the role of citizenship in relation to the unequal social and economic conditions prevalent in contemporary South Africa, I will consider Marshall's argument for social citizenship that includes a minimum provision of welfare. Marshall's defense of social

citizenship centred on his belief that welfare provision was essential to citizenship in the modern state (Marshall 1950 in Marshall & Bottomore 1992: 21; King & Waldron 1988: 422). Marshall argued that in the context of the modern social welfare state, such as Britain, socio-economic rights function as a necessary component of citizenship, offsetting the poverty and material inequalities of liberal capitalism (Dean 2006: 61). Class inequalities within capitalism contradicted the formal equality of citizenship esteemed as the basis of liberal democratic societies (Turner 1987; Mouffe 1995: 218-221). The adoption of social citizenship served as a means to modify that inequality, effectively restraining class conflict, while maintaining a 'necessary tension' between capitalism and citizenship (Mouffe 1995: 219). Notably, in the case of Marshall's Britain, the rights of social citizenship were neither disseminated nor guaranteed by a written constitution but in and through the introduction of social welfare provisions by the state. This differs from the case of contemporary South Africa, where social rights are constitutional provisions that may be upheld in court.

Marshall wrote in Britain during the early 20th century and post-World War II expansion of social welfare states. Justified by the economic philosophy of John Maynard Keynes, the social services provided by early European social welfare states included education, health care, social security and employment (King & Waldron 1988: 415). In the late 1970s and 1980s, however, economic crises and the rise of 'neo-liberalism' led to the dismantling of some welfare states in favor of a conservative free market approach.² Contemporary discourses of citizenship have criticised the failure of states to provide welfare for citizens, as well as posed alternative

² This approach is often called *neo-liberal* for its revival of classical liberal ideals, though the term itself has acquired a pejorative meaning. In general, citizenship in the liberal tradition is concerned primarily with the role of civil liberties and political rights associated with membership of the nation-state. Within both the classical liberal and neo-liberal paradigms, the social and economic provisions inherent in social citizenship fall within the domain of civil society.

conceptions of citizenship that focus on expanding the capacity of civil society and exploring the *horizontal* dimension of citizenship. Without denying the need for state-led economic restructuring and transformation, I will emphasise the critical role of relationships between citizens in assuring inclusive social and economic citizenship. The role of citizenship should be to provide a space in which individuals may be recognised as members within the polity, assert their civil, political and social rights and defend their entitlement to access to a minimum provision of welfare.

1.3 Research question and research design:

This thesis will explore the prospects for and dilemmas of inclusive citizenship in light of the stark contrast between formal political equality and the reality of socio-economic inequality in purportedly 'inclusive' democratic nation-states. I will contextualize my study in contemporary South Africa. Accordingly the main research question of the thesis may be summarized as follows:

What are the prospects for, and dilemmas of, inclusive citizenship in South Africa, in light of the unresolved contradictions between formal political equality and the reality of socio-economic inequality?

In developing and exploring this research question I have three main objectives:

1. To trace the historical trajectory of conceptions of citizenship generally and the history of conceptions of citizenship in South Africa in particular.
2. To articulate dilemmas of the development of inclusive citizenship in South Africa.
3. To explore the prospects for, and implications of, inclusive citizenship in South Africa.

This thesis will analyse the prospects for inclusive citizenship in light of the unresolved contradictions between formal political equality and the reality of social and economic inequality within the context of contemporary South Africa. I will employ T.H. Marshall's conceptual framework of three-fold citizenship to establish the civil, political and social elements and associated sets of rights within citizenship. In particular, I will focus on the element of social citizenship and the inherent social rights to a minimum of welfare provision for citizens. I will then consider the concept of inclusive citizenship, which aims to understand the meaning of citizenship 'from the perspective of the excluded' (Kabeer 2005: 1). The values of inclusive citizenship are, inter alia, justice, recognition, self-determination and solidarity (Kabeer 2005: 3-6). Inclusive citizenship emphasises the *horizontal* aspects of citizenship, meaning the relationship *between* citizens, rather than focusing solely on the *vertical* relationship between individual citizens and the state (Kabeer 2005: 23). I will consider the prospects for inclusive citizenship in light of the unresolved contradictions between formal political equality and socio-economic inequality in South Africa.

1.4 Methodology and thesis structure

This study will be a literature-based analysis of the prospects for inclusive citizenship in light of the contradiction between formal political equality and the reality of socio-economic inequality within the context of post-apartheid South Africa. My focus will be on literature specific to modern South Africa while taking account of literature from other periods and regions to provide a broader historical and comparative understanding of citizenship. While exclusionary processes in contemporary South Africa adversely affect migrants and refugees, my focus will be limited to

'exclusions from within' (Yeatman 1994: 80; Kabeer 2002: 3). In other words, my focus will be on those South Africans who hold formal citizenship, yet remain socially and economically marginalised in the public sphere (Kivisto & Faist 2007: 4).

I will organise my discussion of the literature thematically, using T.H. Marshall's conceptual framework for a three-fold citizenship as a starting point. I will particularly focus on his component of social citizenship and arguments for a minimum of welfare provision (Marshall 1950 in Marshall & Bottomore 1992: 8). My discussion of social rights will be limited to rights as they apply to individual citizens within a specific liberal democratic nation-state, which is, in the context of my discussion, South Africa.

I will structure the thesis thematically. Chapter two will trace the historical trajectory of notions of citizenship from its origin in the Graeco-Roman world to the development of modern liberal citizenship during the European Enlightenment to contemporary discourses of citizenship. I will consider the relevant contributions of Hobbes, Locke, Rousseau, Marx and Marshall. In chapter three, I will contextualise my study of citizenship in South Africa. I will begin with the earliest stages of colonial settlement and civic incorporation, documenting the patterns of racially based exclusion and inequality throughout colonisation, British rule, segregation and apartheid. I will then consider the democratic transition, between 1990-1994, and how it relates to the end of exclusionary citizenship and the expansion of inclusive citizenship in South Africa. Chapter four will explore dilemmas of inclusive citizenship, including legacies of past historical developments that complicate or obstruct the development of an economically, politically and socially inclusive citizenship in South Africa. I will examine the contradictions between the formal political

equality guaranteed by liberal democratic citizenship in the 1996 Constitution and Bill of Rights and the social and economic inequalities reproduced within capitalist development. In the fifth and final chapter, I will explore potential prospects for inclusive citizenship in South Africa.

1.5 Limitations

This paper will be an analysis and discussion of the prospects for inclusive citizenship in light of the unresolved contradictions between formal political equality and high levels of social and economic inequality within the context of South Africa. This study will not be empirical in nature. I will not analyse or document the deep social and economic inequality in South Africa in specific detail. I will provide a brief history on the development of citizenship in South Africa for background purposes only. As a literature-based analysis of political philosophy and sociology, I will not be using methods of statistical analysis, or quantitative economics. I will not attempt to make specific policy recommendations. Within the limitations of a minor dissertation the thesis will attempt an exploratory survey of different basic perspectives on the quest for socially inclusive citizenship in democratic South Africa.

In recent years, a related problem concerning the social rights of migrants and refugees residing in contemporary South Africa has been the topic of increasing academic study and public discourse (Valji 2003; Neocosmos 2006; Nyamnjoh 2006; Hassim et al. 2008; Hadland 2008; SAMP 2008). For the purposes of this paper, I will omit this discussion in order to focus on the social and economic rights associated with *citizenship*. While the extension of social rights to citizens is distinct from efforts to provide basic human rights to all persons, they are related

projects in the sense that both aim to impart dignity and a minimum provision of welfare to their respective constituencies.

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Chapter 2 – Historical Trajectory of Citizenship

This chapter will trace the historical development of notions of citizenship since the origin of the democratic tradition in the Greco-Roman world. I will discuss the evolution of citizenship sequentially, beginning with Aristotelian ideas and concluding with contemporary discourses. In particular, I will discuss the significance of the social contract theories of Hobbes and Locke for modern notions of liberal, democratic citizenship as well as the ideas of social citizenship and social rights posed by T.H. Marshall. I will consider the historical significance and implications of citizenship for greater economic and social equality.

2.1 Origins of citizenship

The earliest conceptions of citizenship emerged within the democratic tradition that had evolved in the ancient Greek state of Athens by the 4th century BC. Athenian citizenship was a form of direct democracy in which a restricted number of citizens had the right to participate in the political activities of the *polis* (city-state). Aristotle's *Politics* described the Athenian tradition of democracy as the active political participation in society of all citizens - i.e. as equals in ruling and being ruled (Aristotle 1887; Frede 2005: 170). Athenian citizens, as distinct from subjects, slaves and aliens, were an elite group of property-owning men entitled and obliged to participate in the political affairs of the *polis*. Citizenship was a privilege of heredity and social status. Consequently, citizens comprised a minority of the population (Mouffe 1995: 218). Among those excluded from citizenship, though remaining *subjects* under the law, were women, foreigners and slaves (Aristotle 1887; Frede 2005: 168). This restricted form of equal and democratic citizenship expressed the Aristotelian idea of 'civic virtue', or of being a 'good citizen' (Heater 1994: 10). Non-citizens were excluded from democratic participation and perforce depended on

citizens for protection (Mouffe 1995: 218). While excluding women, foreigners and slaves from citizenship, Athenian democracy was fully inclusive in providing for equal participation in governance by all qualified citizens.

With the rise of republican and then imperial Rome, the concept of citizenship evolved to represent the entitlement of members of the political community to legal protection by the state rather than active participation in the legislature (Mouffe 1995: 218). Citizenship in the Roman Republic extended legal entitlements not only to full citizens but also to *subjects* including members of the lower classes as well as to conquered foreigners (Gosewinkel 2001: 1852). While this aspect of Roman citizenship was inclusive, the concept of Roman citizenship also allowed for restrictive differentiation among members of the political community. In the Roman Empire the extension of citizenship became a means to officially integrate allies and former enemies into the political community, while limiting the political participation of individuals with a lower civic status. Within the increasingly heterogeneous group of Roman citizens, 'two-tier citizenship was established to distinguish between plebeians and patricians' (Kabeer 2002: 4). Select individuals received the privileges of full Roman citizenship, such as the franchise and legal standing to hold public office, while other individuals had access only to basic protections of citizenship. Thus citizenship in the Roman Empire was notably more inclusive than in the Athenian polis but also significantly differentiated while still functioning to exclude slaves and foreigners.

The conceptions of citizenship associated with Athenian democracy and the notion of citizenship as it evolved in the Roman tradition may be considered in relation to what Kabeer refers to as the

'two great citizenship traditions' (2002: 1-3) of republican and liberal citizenship in the modern era. Republican conceptions of citizenship entailed active participation and required that citizens perform substantive civic duties. Liberal notions of citizenship, which conceived of citizenship as a position of entitlement, entailed rights-bearing membership in a political community, but did not necessarily entail civic responsibilities. The concept of liberal democratic citizenship emerged during the Enlightenment period, incorporating aspects of classical liberal conceptions of citizenship as well as elements of civic republicanism. Liberal democratic citizens enjoyed equal individual membership in a democratic nation-state, which entailed rights as well as obligations to the state and society. Liberal democratic citizenship is a form of representative democracy – i.e. government by consent. The basis for representative government was developed in the social contract theories of Thomas Hobbes, John Locke, and Jean-Jacques Rousseau.

2.2 Social contract theory

2.2.1 *Hobbes, Locke & the social contract*

The modern concept of liberal democratic citizenship has its origins in the liberal political thought of the Enlightenment. Liberal political thought centres on the values of liberty and equality. Liberal governments are based on the idea of a consensual social contract and rely on the rule of law to uphold fundamental individual rights to life, liberty and property. The English philosophers Hobbes and Locke developed distinct but complementary ideas in their respective versions of social contract theory, from which key aspects of liberal democratic citizenship were derived. The starting point for social contract theory was known as the 'state of nature', meaning the position of human beings prior to the formation of a political community (Hobbes 1991: 89; Locke 1960: 269-78; Held 1987: 48-51). In Hobbes' understanding of the 'state of nature', the

concept of citizenship would not apply since in their natural state human beings were not members of a political community but individuals left to their own devices. Men in the state of nature had the natural right of self-preservation, which included an entitlement to take whatever actions necessary to ensure survival—i.e. to secure basic material provisions such as food, water, and housing—even at the expense of another individual's survival! Violent conflict was likely to arise over issues of rights and resources (Tuck 1989: 67-9). Hobbes famously perceived life in this 'natural state' to be 'solitary, poor, nasty, brutish, and short' (Hobbes 1991: 89); all men were equal, but life was ruled by fear and mistrust.

Hobbes theorised that reason and logic would lead individuals to jointly relinquish their natural rights in favour of a sovereign power, given that only an absolute ruler would be able to maintain the political order required to ensure the survival of individuals. Individuals would choose to enter into a social contract—the founding act of political community (Tuck 1989: 67). Hobbes describes the social contract as the act of 'individuals handing over their rights of self-government to a single authority - thereafter authorized to act on their behalf - on the condition that every other individual does the same' (Held 1987: 49). By entering into the social contract, human beings are no longer conceived as mere individuals but recognise each other as members of a political community. The social contract functions as a consensual agreement regarding the entitlements, rights, and obligations of membership within a particular political community. Notably, the sovereign in Hobbes' theory is not a member of the political community; hence the sovereign is not party to the social contract. There is no *vertical* relationship between the political community and the sovereign, apart from the political community's dependence on the power of the sovereign for security. Instead, in Hobbes' version of the social contract, the

emphasis is on the *horizontal* relationships between individual community members or collectively, *civil society*. This understanding of the social contract is significant as a precursor to the contemporary notion of inclusive citizenship and will be discussed further in forthcoming chapters.

According to Locke's version of the state of nature, before the inception of government, individuals were in 'a state of perfect freedom to order their actions, and dispose of their possessions and persons as they think fit, within the bounds of the law of Nature' without dependence on another person or legislative body (Locke 1960: 269). In their natural state men possessed equal rights and duties, which included the law of Nature and a natural right to private property (Locke 1960: 271). As rights-bearing individuals, it may thus be argued that in the state of nature men exercised a form of 'natural citizenship' with the correlative obligation to obey the law of Nature, though without power to punish violators of the law of Nature. For Locke, the need for security, particularly the need to secure personal freedoms and private property, compels individuals in the state of nature to give consent to governance by a collective decision-making body (Locke 1960: 276; Held 1987: 52-53). As in Hobbes' theory, the agreement of a social contract leads to the founding of a political community, but distinctly in Locke's version of the social contract, the political community *includes* the sovereign and involves correlative relations of rights and duties between individuals and the state. Where Hobbes' notion of citizenship conceived membership of the political community as contained *within* civil society, the Lockean conception of citizenship involves a contract *between* civil society and the state, an emphasis on the *vertical* relationship. Together, the social contract theories of Hobbes and Locke

provide key insight into the horizontal and vertical dimensions of the relationship between civil society and the state within the classical liberal conceptions of citizenship.

2.2.2 Rousseau and the social contract

Rousseau's version of the social contract falls within the tradition of classical republicanism. He theorised that within the state of nature individuals were free and independent equals. In this state, men were subject to natural law, the foremost being the law of self-preservation (Rousseau 1913: 123). The natural liberty of individuals in the state of nature included 'an unlimited right to everything' one could obtain or succeed in obtaining (Rousseau 1913: 195). Citizenship, understood as rights-bearing membership in a political community, did not exist in the state of nature as political community only came into existence after the agreement of a social contract. For Rousseau, the fulfillment of human development and liberty could only be achieved by entering into a social contract 'which established a system of cooperation through a law-making and -enforcing body' (Held 1987: 74). Individuals formed a political community with a general will in order to ensure civil liberty for all. The state was instituted for the common good, as the object of the general will. Rousseau theorised that it was possible for an individual to transcend his or her particular will and realise it in the general will of the people. Thus, the social contract conceptualised by Rousseau did not require a transfer of sovereignty from the people to the state, though it did require the transformation of the particular will of individuals to the general will of the people. This idea made his social contract theory distinct from the theories of Hobbes and Locke. Rousseau's theory of popular sovereignty within the social contract meant that: "As citizens, by the social contract, all are equal; all can prescribe what all should do, but no one has a right to demand that another shall do what he does not do himself" (Rousseau 1913: 225-6).

For Rousseau, citizenship in the political community involves the active participation by equal individuals who, having transcended their own particular wills and perspectives, express themselves in the general will of the collective sovereign.

2.3 Citizenship and Rights

Conceptions of citizenship and notions of human rights developed on interrelated historical trajectories. While the earliest conceptions of citizenship are rooted in the ancient Greek tradition, human rights discourse derives from the political philosophies of the European Enlightenment (Shafir & Brysk 2006: 276). The rights of man originated in pre-modern western philosophy within the secular philosophy of Natural Law, what was conceived as the natural order of things, and in the related yet distinct theological concept of Divine Law, believed to be established by God the creator of the universe (Campbell 2006: 5-6). In the theories of Hobbes, Locke and Rousseau, men in different ways relinquished their natural rights in order to enter into a consensual social contract and establish political communities. Henceforth citizenship rights were recognized along with the rights of man as those rights to which individual citizen-members of a particular political community were entitled.

In contrast, the idea of natural rights set the precedent for modern notions of human rights. These are conceived as the universal rights inherent in an individual on the sole basis of his or her humanity irrespective of membership of a particular political community (Shafir & Brysk 2006: 277). The French Declaration of the Rights of Man and the Citizen (1789) first articulated the rights of man, namely: equality, liberty, property, security, resistance to oppression and freedom. Reserved exclusively for citizens were the right to equal participation in politics, free speech and

the right to make decisions on taxation. In 1791, the United States similarly introduced a Bill of Rights to the U.S. Constitution, a declaration of basic human rights and a few rights reserved for citizens, such as rights of political participation. Interestingly, the framers of the French Declaration and U.S. Bill of Rights chose to elaborate both citizenship rights and the rights of man within the same legal document, which has raised questions whether these are complementary or conflictual. This has remained a controversial issue in subsequent literature. The young Marx dismissed the rights of man as *bourgeois* rights, i.e. as a capitalist ideological mystification, but recognized positive elements in the political rights of the citizen, a critique that will be discussed in a forthcoming subsection (Marx 1971). German philosopher Hannah Arendt pointed out the irony that lacking membership in the political community (such as through the loss of citizenship status), an individual is no longer recognisably human – a condition clearly illustrated by refugees and stateless persons (Maslan 2004: 361).

Human rights theories, critiques and discourses were largely dismissed and ignored from the end of the 18th century to the mid-20th century and only re-emerged with the 1948 United Nations Universal Declaration of Human Rights. The document brought renewed prominence and institutionalised theories of human rights by universalising an extensive list of rights designated for individuals solely on the basis of their humanity (Basok et al. 2006: 267). Unlike the previous French Declaration, the Universal Declaration focuses exclusively on human rights and does not include citizenship rights. The historical development of human rights notions is often differentiated into three 'generations' of rights. First-generation rights articulated in 18th century rights discourses generally focused on civil and political liberties: 'religious toleration, freedom from arbitrary arrest, free speech, the right to vote, and so on' (Waldron 1992: 578). Second-

generation rights are associated with early 20th century social and economic claims: education, employment, housing, health care, and a minimum standard of welfare provision. Third-generation rights espoused by the latter half of the 20th century may be considered 'aspirational rights', i.e. gender equity, indigenous rights, ecological conservation, etc. "These include minority language rights, national rights to self-determination and the right to such diffuse goods as peace, environmental integrity and economic development" (Waldron 1992: 578). While certain first-generation rights such as the right to vote are clearly associated with membership in the political community of the nation-state and thus with citizenship, the earliest declarations of human rights were primarily concerned with securing civil liberties of all individuals on the basis of their humanity. Second-generation socio-economic rights, in contrast, have been traditionally linked to citizenship in the context of the welfare state, with the exception of the right to property, which has been conceived as an individual human right. Third-generation rights may be relevant to members of specific political communities, e.g. minority groups, women, indigenous peoples etc, as communal rights, but may also have significance as universal human rights.

In the Lockean liberal tradition, citizenship is generally associated with first generation civil and political rights rather than, or even opposed to, socio-economic rights or aspirational rights. In Locke's theory, the rights of man rooted in the state of nature are relatively prominent when compared to citizenship rights (Locke 1960: 276). Thus, Locke implies a minimal and limited state complemented by a greater civil society. Alternatively, in Rousseau's model, citizenship rights have a greater priority, which implies a more powerful state (Held 1987: 79). Within a Lockean liberal framework, second-generation rights such as the right to a minimum of socio-

economic provision fall within the domain of civil society—which in Locke's framework includes the market—rather than the ambit of the state. Limiting citizenship primarily to civil and political rights is therefore part of restricting the domain of the state in relation to civil society and the economy as the private sector. Social citizenship, a concept that will be explored in a forthcoming section, transcends this liberal tradition of Locke and relates to the second-generation rights of a minimum of socio-economic provision. The contemporary notion of inclusive citizenship may be associated with third generation aspirational human rights. Inclusive citizenship will be explored in a forthcoming section in this chapter.

2.4 Marxist critique of rights

During the 19th century, the young Karl Marx offered a seminal critique of human rights as distinct from citizen rights in his 1844 essay 'On the Jewish Question' (Marx 1971). The essay addressed the extension of civil and political rights in the emancipation of Prussian Jews. His argument articulated a broader perspective that incorporated a critical analysis of notions of rights within the context of a liberal capitalist state. Marx distinguished between *political emancipation* involving the extension of political and citizenship rights and *human emancipation* in the realization of a socialist society. In this regard Marx took seriously the relation between the rights of man and the rights of the citizen. He dismissed the former as 'the rights of egoistic man', i.e. of self-interested bourgeois man under capitalism, while considering citizenship rights as anticipations of the type of community envisioned in socialism as the final stages of human emancipation (Waldron 1987: 129-30). He argued that the achievement of human emancipation required a communal formation of society, in which individual rights as guarantors of civil and political liberties would be superfluous. In 'On the Jewish Question' Marx thus noted the

disparity between the communal implications of the rights of the citizen and the atomistic character of the rights of man. In form, citizenship rights entail connection to a political community while human rights lack association with a specific political community and are therefore considered a 'pre-occupation of the bourgeois capitalist individual' (Waldron 1987: 126). The content of citizenship rights is formed by participation in political community. The content of human rights, however, is limited to participation in the capitalist economy as the domain of 'civil society'—a realm Marx considered inhabited by 'egoistic man, man separated from other men and the community' (Marx 1971: 102). Overall Marx argued that rights, in form as well as content, are individualistic, elitist and 'valuable only for' self-centred individuals within the bourgeois social context (Buchanan 1982: 63).

Marx thus argued in 'On the Jewish Question' that the promise of rights did not produce true freedom or human emancipation. The extension of rights produced a mere political emancipation within capitalism and could not bring about the conditions necessary for human emancipation. Political emancipation, though constituting genuine progress, only succeeded in separating civil society from the political state, thus creating division between 'man' and 'the citizen' (Marx 1971: 95, 108). Marx conceived the state as the source of political life, while civil society determined the economic system and material conditions of life. True emancipation entailed that both man and citizen had power in the realm of civil society. "Full-blooded emancipation, therefore, requires not just the existence of political community, but the involvement of that community in the democratic organisation and running of productive economic life" (Waldron 1987: 31). Marx envisioned a classless society in which all members of the political community participated in shared governance. With the achievement of human emancipation, rights as

guarantors of civil and political liberties become extraneous. Marxist theory thus provided a basis for exploring the contradictions between citizenship and capitalism, a dilemma that will be explored in the fourth chapter.

2.5 Social citizenship and social rights

In the Lockean liberal conception of citizenship, civil and political rights are associated with membership of the political community in relation to the state, while economic and social rights relate to civil society. With the rise of democratic welfare states during the first part of the 20th century, the concept of social citizenship suggested that a level of socio-economic provision fell within the domain of the state. While earlier conceptions of citizenship had assumed separate domains of the state and civil society, the conception of social citizenship extended the reach of the state into the latter domain. T.H. Marshall's study of citizenship in Britain, 'Citizenship and Social Class' (1950), articulated the seminal notion of social citizenship and analysed three components citizenship—civil, political and social—each with an associated set of rights (Marshall & Bottomore 1992). For Marshall, this composite of citizenship rights was the product of historical development. Civil rights, such as the rights of property, freedom of speech, and equality before the law, emerged from the 18th century revolutions. Political rights, including the right to vote and the right to hold public office, expanded during the 19th century. The social rights of citizenship, in particular the right to a minimum provision of welfare by the state, were extended in the early 20th century. But social citizenship was not only a matter of formal rights: "Marshall highlighted that while rights might be enshrined in legislation, the ability of citizens to exercise these rights may be compromised by their position in the polity" (Savigny 2007: 80). In practice, class inequalities within capitalism contradicted the formal equality of civil and

political citizenship enshrined in the constitutions of liberal democratic societies. Social citizenship was a means to modify that inequality, effectively restraining class conflict, while maintaining a 'necessary tension' between capitalism and citizenship (Mouffe 1995: 219).

Marshall's argument for social citizenship centred on his belief that welfare provision was essential to citizenship in the modern democratic state. Social citizenship was primarily conceived as a responsibility of the state, rather than of civil society. In this respect Marshall significantly differed from the Lockean classical liberal tradition, which relegated social and economic rights to the domain of the economy and civil society. Marshall believed that socio-economic rights *ought* to be a necessary component of citizenship (King & Waldron 1988: 422). Furthermore, the formal guarantee of social rights of citizens provided a basis for defending welfare provisions. Marshall outlined a normative argument for social citizenship, arguing that the 'enrichment of equality' was necessary for the maintenance of a democratic society. The aim was not to achieve *equality of income*, but rather an *equality of status* as citizens characterised by 'a general enrichment of the concrete substance of civilised life, a general reduction of risk and insecurity' (Marshall & Bottomore 1992: 33). The 'aim is not a classless society, but a society in which class differences are legitimate in terms of social justice, and in which, therefore, the classes cooperate more closely than at present to the common benefit of all' (Marshall & Bottomore 1992: 36). Efforts to achieve more equal socio-economic status between citizens would create a 'safety net' for the vulnerable, and so ameliorate class conflict and social instability. This conclusion came from an understanding that poverty limits the ability of citizens to participate in democratic politics, while extreme inequality creates division and encourages corruption (King & Waldron 1988: 426).

At the time of Marshall's writing, the economic philosophy of Keynesianism lent support to the creation of welfare programmes and the expansion of social citizenship. Amidst the Great Depression of the 1930s, John Maynard Keynes effectively challenged classical liberal economic theories. "Keynes . . . advocated massive government spending in times of crises to create jobs and lift consumer spending" (Steger & Roy 2010: 6). The Keynesian theory held that an active government fiscal policy could solve economic problems in the short run without harming the long run economy (Karimi 2009: 4). State-sponsored universal social programmes addressing shortages of public goods and employment were regarded as positive ways to counter the material effects of market exigencies and stimulate the economy, even if the programmes required deficit spending. Thus, Keynesianism played a key role in the early 20th century rise of welfare states in Europe.

However, following a post-World War II period of economic expansion, severe economic crises in the 1970s provoked re-evaluation of Keynes's ideas. Factors contributing to the unexpected predicament included 'oil shocks' that quadrupled the price of petrol overnight, the simultaneous occurrence of runaway inflation and rising unemployment ('stagflation'), and falling corporate profits (Steger & Roy 2010: 9). The International Monetary Fund (IMF) and the World Bank advised the following policy changes: (1) Deregulation of the economy; (2) Liberalisation of trade and industry; and (3) Privatisation of state-owned enterprises (Steger & Roy 2010: 14). This policy approach is often termed the 'Washington Consensus' with reference to the involvement of international economic think tanks based in the U.S. capital and the dominant role of the IMF and the World Bank. In practice such policy recommendations brought about the

'restructuring and retrenching of social programmes' and a rollback of state provisions for social citizenship (Karimi 2009: 8).

2.6 Contemporary discourses of citizenship

2.6.1 *Re-emergence of classical liberal notions of citizenship: 'neo-liberal' conceptions*

Following the demise of the notion of social citizenship associated with the rollback of European welfare states from the 1970s, conceptions of citizenship were revised to accord with market-oriented policies and governance. Citizenship has been re-conceptualised, in some contemporary discourses, to incorporate certain aspects of classic liberal notions of citizenship, such as an emphasis on civil and political rights, while relegating social rights to the ambit of civil society. As in classic liberalism, citizenship is once again conceived as primarily concerned with individual liberties, such as free speech and private property rights. On this view the rights of citizens are primarily *negative rights*. These rights, in the Hohfeldian sense, imply a correlative duty on other citizens *not to interfere* with an individual's exercise of a particular right. However, negative rights, unlike *positive rights*, do not generally have direct implications on material resources of other parties, including the state (Dias 1976; Flathman 1976: 38-48). Within contemporary *neo-liberal* conceptions of citizenship, the rights of citizenship are reduced to negative rights—i.e. the right of an individual to housing correlates to the duty of others not to interfere in existing forms of accommodation and property accumulation. Without positive rights, citizens are unable to appeal to state-provision for housing, services and welfare programmes.

Critics often refer to the contemporary revival of classical liberal ideals as *neo-liberalism*. Neo-liberal values include competition, efficiency and individual self-interest. Neo-liberal ideals on governance and policy have direct implications for citizenship - and particularly for the social rights of citizens (Steger & Roy 2010: 12). This has resulted in criticism of the neo-liberal paradigm. Whereas the commitment to civil and political rights remains a priority within neo-liberal approaches to governance, access to social rights is diminished, as social rights are no longer conceived as obligations of the state. Affordability becomes a paramount consideration in the maintenance of social welfare programmes, leading to a scaling back of state-sponsored social programmes that reduces access to health care, education and welfare provision. This approach contradicts Marshall's ideal of citizenship, which requires a component of social citizenship conceived as a responsibility of the state to ensure a minimum of welfare provision.

2.6.2 *Alternatives to neo-liberal conceptions of citizenship*

Responses to neo-liberal conceptions of citizenship have led to the emergence of two distinct, alternative conceptions of citizenship. The first alternative approach focuses primarily on the vertical relationship between civil society and the state. *Active citizenship* 'moves beyond formal citizenship to a substantive one that concerns an array of civil, political social and economic rights . . .' (Miraftab & Wills 2005: 201). This response calls for an active citizenry, engaged in political participation – such as protest, petitioning and lobbying – with the ultimate aim of shaping their economic, political and social environment (Cornwall & Coelho 2007: 2). *Insurgent citizenship* is a strategic approach utilised by citizens and civil society organisations to demand access to their social rights. For example, in South Africa, citizens involved in the

Western Cape Anti-eviction Campaign resist evictions in assertion of their constitutional right to housing (Miraftab & Wills 2005: 201).

The second alternative approach focuses on the horizontal aspect of citizenship. This response challenges the traditional state-centred approach to citizenship and advocates a broader society-centred approach to citizenship (Kabeer 2002: 2). *Horizontal citizenship* emphasises 'that the relationship *between* citizens is at least as important as the more traditional 'vertical' view of citizenship between the state and the individual' (Kabeer 2005: 23). Whereas previously citizenship status in the nation-state primarily determined inclusion and/or exclusion as citizens, horizontal citizenship suggests that membership of an array of social communities may be the appropriate means for achieving authentic inclusion. The concept of inclusive citizenship takes the importance of horizontal relationships between citizens a step further and aims to understand the meaning of citizenship 'from the perspective of the excluded' due to poverty and other forms of marginalisation (Kabeer 2005: 1). This conception of citizenship is thus concerned with grassroots meanings of citizenship expressed by individuals and local communities. The values of inclusive citizenship are, *inter alia*, justice, recognition, self-determination and solidarity (Kabeer 2005: 3-6).

2.7 Chapter conclusion

This chapter has explored the historical trajectory of conceptions of citizenship. Several relevant concepts emerged and will be explored further in subsequent chapters. In section one on the origins of citizenship, the Athenian conception of citizenship emphasised the need for economic stability and solidarity amongst citizens. The second section on social contract theory explored

the philosophical roots of classical liberal conceptions of citizenship and provided a key insight into the horizontal and vertical aspects of the relationship between civil society and the state. The horizontal dimension, exemplified Hobbesian idea of civil society, emphasises relationships between citizens—an idea that is central to the concept of inclusive citizenship. The vertical dimension, a central aspect of the Lockean social contract, involves correlative rights and duties between citizenry and the state in which the state is obligated to uphold the rights of citizens. Section three on citizenship and rights explored the connection between human rights ('the rights of man') and citizenship rights. The fifth section introduced T.H. Marshall's theoretical framework of three-fold citizenship, comprised of civil, political and social components, each with an associated set of rights. Of particular relevance is Marshall's conception of social citizenship, including a minimum of welfare provision for all citizens. Finally, the section on contemporary discourses of citizenship explored the re-emergence of classical liberal ideals in neo-liberal conceptions of citizenship as well as two distinct approaches to response. Focusing on the vertical dimension of citizenship, the concepts of active citizenship and insurgent citizenship call for a participatory approach to prevent the reduction of state-sponsored social welfare, or at least mitigate its effects. Alternatively, the concepts of horizontal citizenship and inclusive citizenship emphasise the importance of relationships between citizens in order to assure social and economic inclusion for all.

Chapter 3 – Citizenship in South Africa

This chapter will explore the historical development of notions of citizenship in South Africa since the early stages of colonial settlement at the Cape in 1652. Strictly speaking the history of citizenship commenced in 1657, when the Dutch East India Company gave land titles to the first *freeburghers*, as a means to augment Company supplies through local agricultural production. I will discuss the changing civic status of the colonized Khoisan peoples, early Dutch settlers, and subsequent colonists under British rule after 1795. I will then discuss conceptions of South African citizenship from 1910 until the democratic transition of 1994. Particularly, I will focus on how slavery and other systems of *unfree* labour affected civic membership in the colony as well as permeated all aspects of colonial society. During the 1800s imperial conquest led to the incorporation of an increasing number of African communities as colonial subjects who were systematically repressed, discriminated against and denied full citizenship. Following Union in 1910, such segregation practices and policies were sustained in more systematic, explicit and legalistic ways in the name of White Supremacy tempered by Trusteeship. I will discuss the increasing levels of political exclusion and struggle that heightened under apartheid, a legal system of racial segregation and political exclusion of 'black' South Africans, imposed as official policy from 1948-1994. I will then explore the transition from apartheid to democracy in the 1990s and its significance in relation to citizenship. I will conclude with an analysis of contemporary citizenship in post-apartheid, democratic South Africa.

3.1 Colonial settlement and incorporation

3.1.1 *The freeburghers*

During the 16th century, Portuguese, English and Dutch merchants travelling on trade routes along the South African coast began utilizing the Cape of Good Hope as a stopover. In 1652, the Dutch East India Company (VOC) established a refreshment station for crews travelling the long journey between Europe and Asia. A few years later in 1657, a small number of VOC employees were given land titles and permitted to set up farms in order to supply the Company with provisions. These independent Dutch farmers became known as 'free burghers' – a title adapted from the Dutch word *burgher*, meaning 'citizen'. They constituted the beginnings of a permanent white settler population that increased gradually (Du Toit & Giliomee 1983: 1; Guelke 1979: 41). The freeburghers were no longer Company employees but had an independent civic status. In this regard, the founding of a free burgher community in 1657 may be considered the beginning of local citizenship at the Cape. The freeburghers remained subject to the VOC, but were granted certain economic freedoms such as the right to own land (Guelke 1979: 45). Even so, in the hierarchical legal and political order of colonial society freeburghers remained at a relatively inferior status. Although superior to slaves, indentured servants and indigenous peoples, freeburghers had few rights and minimal power compared to the position of Company officials. Assertions of civic rights and conceptions of citizenship amongst the freeburghers only began to appear with the Cape Patriot movement in the 1780s (Du Toit & Giliomee 1983: 4).

3.1.2 *Trekboers, Khoisan and Cape slavery*

The attachment of racial stigma to manual labour meant that few poor white farmers were willing to work in the service of others and instead ventured further into the interior to claim new

lands. These migrant farmers, known as *trekboers*, effectively opened the colonial frontier and furthered the dispossession of indigenous land (Du Toit & Giliomee 1983; van der Merwe 1995). Interactions of trekboers with indigenous groups—the Khoikhoi and the San, referred to collectively as the Khoisan—resulted in continual clashes about land and cattle on the open frontier (van den Berghe 1970: 23). At one level this amounted to a basic conflict between different ways of life and economic modes. The hunter-gatherer and nomadic Khoisan required extensive territories for their transhumant way of life, while colonial agricultural settlements involved exclusive occupation of land and more intensive labour. Thus from the perspective of the colonists a perennial land and labour 'shortage' arose due to the reluctance of nomadic pastoralists to change their way of life and to enter the service of the colonists. To avoid conquest and colonial incorporation some Khoisan simply chose to move beyond settler territory. Those who were pushed off their traditional lands but remained within the Colony were ineluctably incorporated as colonial subjects with little or no civic status or rights. The patterns of incorporation of Khoisan into colonial society involved violence and coercion to 'augment their slave force' (Elphick 1979: 17) along with settler occupation and incremental encroachments on indigenous lands. Khoisan recruitment into the colonial labour force was facilitated by their dire economic circumstances. Aggravated by loss of land and cattle, some Khoisan entered into the service of colonial farmers who provided basic food security in exchange for farm labour (Elphick 1979: 21-28). Dispossessed of their traditional lands, Khoisan could not gain legal title to land within the colony and were thus rendered 'indigenous aliens'.

In 1658 the Company began legally importing slaves and indentured servants (Armstrong 1979: 77). "Slavery and serfdom became the most convenient labour systems at the Cape, since both slaves and serfs were cheaper and more coercible than free wage labour" (Shell 1994: 38). Slaves were incorporated into colonial society as rightless subjects at the bottom of the social, legal and political hierarchy and considered to be property of their owners. Later, Khoisan children were effectively enslaved through a system of 'apprenticeship'. Slavery became the organising principle of the settlement as a whole, affecting all social, civic and legal institutions to the extent that the Cape colony may be considered a slave society. In a slave society such as the Cape the practice of enslavement affected not only the slaves in bondage but also the civic and political status of 'free men' and slave-owners to the extent that the latter could not be conceived as proper citizens (Du Toit & Giliomee 1983: 7, 33-35).

3.1.3 The Cape Patriot movement and the beginnings of civic consciousness

By 1778, a social and economic crisis arose in the colony and spurred the beginning of the Cape Patriot movement echoing the Dutch Patriot movement on the eve of the French Revolution. The colonial crisis was characterised by (1) chronic overproduction – specifically of wheat and wine, (2) lack of career opportunities, (3) the growth of cattle farming on the frontier, and (4) administrative and institutional limitations (Du Toit & Giliomee 1983: 2). The challenges faced by the settler population resulted in political protests against corrupt and autocratic Company officials. The Cape Patriots raised questions of citizenship, identity and the role of colonial government, adapting certain Enlightenment ideas to local circumstances. In terms of citizenship rights, the Cape Patriots considered themselves entitled to the civil rights granted to citizens in their countries of origin, but also as African-born members of colonial society. Notions of

identity shifted as colonists of Dutch, German, or French descent began to call themselves 'Afrikaners', in reference to 'their conception of being rooted in Africa' (Du Toit & Giliomee 1983: 5). In this regard, the Cape Patriots articulated the beginnings of localized notions of citizenship with claims to civic status, entitlement to land and aspirations to political rights.

3.2 From British rule to White Supremacy

3.2.1 *Transition to British rule, emancipation of the slaves and Ordinance 50*

While the Cape Colony had been the commercial property of the VOC, Britain gained control over the territory after a transitional period lasting from 1795-1814. The change from Dutch to British rule also brought about a more effective colonial state and in due course, the beginnings of the rule of law. In the early years of British control, the Caledon Code of 1809 legalised and reinforced the subordination of incorporated Khoisan labour, entrenching previous practices of racial repression (Keegan 1996: 54-55). However, the rise of a new commercial class at the Cape along with humanitarian pressures by missionaries such as Dr John Philip, director of the London Missionary Society, in alliance with the abolitionist movement in Britain brought about a climate conducive to civic and political reforms. "Philip's ceaseless campaign to tie the salvation of indigenes' souls to fundamental political reforms mark an early highpoint in the struggle to secure citizenship, equality of status, and the rule of law" (Dubow 2010: 5). In 1828, the passage of Ordinance 50—known colloquially as 'the Hottentot Magna Charta'—radically changed the legal and civic status of Khoisan within the colony. The law granted equal rights including freedom of movement, property rights and the right to enter into labour contracts. "Ordinance 50 abolished all discriminatory restrictions on Khoikhoi and placed them on a basis of legal equality with the whites; in particular, they were no longer required to carry passes, and

they could legally own land" (Cameron & Spies 1991: 82). Under the 1828 ordinance, former Khoisan were recognised as equal legal subjects and could begin to conceive of themselves as potential citizens. These formal political reforms coincided with an emerging civic consciousness among descendants of Khoisan who resided on missionary settlements such as Bethelsdorp and Kat River. Formerly Khoi-related communities at the Kat River Settlement began to speak a form of broken Dutch and no longer associated with their Khoi heritage (Trapido 1992: 50). The emergence of 'Hottentot consciousness' led to the creation of a new civic identity.

In the 1800s, imperial authorities and missionary activists effected the liberation of slaves among other liberal reforms. The emancipation of the slaves in 1834 and the end of slave 'apprenticeship' in 1838 meant that formally the Cape Colony was no longer a slave society. However, the introduction of equal legal and civic rights did not extend to any notion of equal and inclusive citizenship. Social and economic inequalities remained prevalent in the colony. In response to local backlash agitating about the crisis of 'vagrancy' and against the liberalising reforms, the colonial government passed the Masters and Servants Ordinance of 1841 and a subsequent 1873 amendment entrenching colonial hierarchies of race and class.

3.2.2 The significance of the Cape non-racial franchise

In 1853, the Cape Colony was granted parliamentary representative government. The transition to representative government occurred following a proto-revolutionary period in which settlers began to assert notions of an inclusive local political community. In 1849, Afrikaner leaders and British liberals united in protest against plans of the colonial authorities to establish a convict settlement at the Cape (Du Toit 1987: 40). As a result, ideas of self-government and democratic

rights gained prevalence leading to the introduction of a non-racial, qualified franchise as part of the 1854 Constitution. Individuals qualified for the non-racial franchise by meeting specified educational and economic requirements, including a notably low property qualification. "[A]ny adult male could qualify for the vote, providing that he occupied, for at least twelve months, property worth £25 a year or had an annual income of £50 a year (or £25 a year with board-and-lodging provided)" (Evans et. al. 2003: 92). The relatively low property qualification of the 1853 franchise allowed former Khoisan as well as former slaves (who had begun to be known collectively as 'Coloured') and some educated 'African' converts to Christianity to gain citizenship rights (Dubow 2010: 6-7). As such, the Cape non-racial franchise had symbolic significance and came to represent the promise of inclusive citizenship as an historical antecedent for the inclusive liberal Constitution of 1996.

In practice, however, the effective significance of the Cape non-racial franchise was systematically eroded already in the 19th century Cape Colony. Tensions between British and *Boer* (Afrikaans for 'farmer') during the period leading up to the South African War in 1899 served to instill fear into Cape politicians, who responded by making changes to the franchise qualifications in ways that effectively excluded Africans from the vote. "There were three specific changes: the trebling of the property qualification to £25 to £75 a year, plus a literacy test; the disqualification of communal tenure as a means of satisfying the property qualification; and the disqualification of even individual tenure as a means of satisfying the property qualification if the land was held in the Glen Grey district" (Evans et al. 2003: 164).

Following the end of the South African War in 1902, the two formerly independent Boer republics—the Transvaal and the Orange Free State—were annexed preparing the way for the Union of South Africa in 1910. Significantly the Union was founded on the compromise that each of the previously separate colonies would retain their pre-existing franchise conditions and civic provisions (Dubow 2010: 10). Although the Cape retained the non-racial franchise on a common roll, the other provinces retained racially exclusive citizenship and franchise provisions (Evans et al. 2003: 90). This allowed a decreasing proportion of educated and property-holding Africans in the Cape to remain on the common roll, but not elsewhere. Consequently, the establishment of the 1910 Union sharply reduced the overall proportion of Africans with the right to franchise. While important for the development of conceptions of democratic citizenship among the white minority, the Union of South Africa did not provide for either cohesive or inclusive citizenship:

"For many years after 1910, the concept of *South African* citizenship remained inchoate and unspecified. Rights were defined as much by residual bonds of loyalty to the British Commonwealth as by membership of a new self-governing state. In the domain of law and administration, South African citizenship was largely defined negatively and tangentially, that is, in relation to attempts to control, register, and naturalise immigrants, as well as in the process of classifying the population within strict racial hierarchies" (Dubow 2010: 9).

3.2.3 *The rise of inclusive African political organisations*

Following conquest and the closing of the frontier, 'African' political organisations and activity—now no longer within the context of traditional tribal societies—emerged from the 1880s in

response to perceived violations of the rights of Africans as 'British subjects'. "The first explicitly political organisation to represent Africans, the *Imbumba Yama Nyama*, was formed at Port Elizabeth in 1882 to fight for 'national rights' . . ." (Dubow 2010: 7). The effective exclusion of Africans as citizens in the 1910 Union of South Africa may be considered the point of departure for the formation of the African National Congress (ANC) in 1912, whose objectives included efforts 'to educate Bantu people on their rights, duties and obligations to the state and to themselves individually and collectively' (Karis & Carter 1972: 77). In its early decades the ANC typically asserted African claims to inclusive South African citizenship through a constitutionalist strategy of protest and petition, rather than by popular mobilisation or political violence. Taking their cue from the Atlantic Charter ANC leaders in 1943 adopted a manifesto entitled 'Africans' Claims in South Africa', condemning racial discrimination and demanding full citizenship rights for Africans including civic and political rights as well as an unqualified, universal franchise (Karis & Carter 1973: 71). In 1955 the Freedom Charter was adopted at the Congress of the People in Kliptown. The opening statement of the Freedom Charter—"South Africa belongs to all who live in it, black and white"—became a pivotal slogan for the Charterist tradition expressing the notion of inclusive citizenship and is specifically invoked in the Preamble of the 1996 Constitution.

3.2.4 *White Supremacy and segregation*

Well before the onset of apartheid policy in 1948, race differentiation and residential segregation effectively defined the South African state. The main pillars of apartheid—i.e. homelands, migrant labour, pass laws, job reservations, a whites-only parliament—were already part of the social and economic structure of White Supremacy and segregation (Hoernlé 1845). The majority of black South Africans had consistently and systematically been denied the basic

liberties and entitlements of citizenship since the inception of Union. The Mines and Works Act and Native Labour Regulation Act of 1911 instituted a system of job reservation which came to be known as the policy of 'civilized labour' that restricted skilled work to whites and regulated the movement of black labourers (Cameron & Spies 1991: 234). Even more crucially the 1913 Natives Land Act effectively restricted black South Africans from land ownership outside the designated ethnic 'homelands' (Plaatjie 2007: 21). The Land Act provided the foundation for the post-1948 apartheid policy of 'separate development' of Africans in designated homelands also referred to as 'Bantustans' (Cameron & Spies 1991: 235). In relation to citizenship the significance of the Land Act was that it established the notion that, for Africans, the rights and obligations of citizenship were to be based on the ethnic homelands.

Mamdani has argued that the Land Act marked the extension of the British policy of indirect rule and the segregation policy developed by Shepstone in 19th century Natal. Under Shepstone's policy, blacks were governed indirectly through intermediary authorities such as customary chiefs and councils. According to Mamdani, the extension of indirect rule to the rest of South Africa amounted to a bifurcation between modern, 'racially' identified *citizens* in the urban contexts and traditional, 'ethnically' identified *subjects* in rural contexts. Urban 'racial' citizens were primarily white, privy to rights and ruled according to common law. Rural 'ethnic' subjects were black, ruled under customary law and traditional chiefs. (Mamdani 1996: 19). Methods of colonial governance differed according to the needs of the various regional authorities. In 1936, segregation bills removed urban Africans in the Cape from the common roll in exchange for a territorial expansion of the designated homelands, thereby annulling the remaining vestiges of the symbolic promise of inclusive South African citizenship. The ending of the non-racial

franchise for Africans in the Cape signaled a loss in political influence for liberals, who had hoped for the extension of the non-racial franchise to the whole of South Africa.

3.2.5 Intimations of social citizenship and the beginnings of welfare provision

From the 1930s some seminal notions of social citizenship began to be articulated along with recognition of the need for basic welfare services. To begin with such notions were primarily developed in racialised terms and applied within the white minority to 'poor whites' only (Giliomee & Mbenga 2007: 280). As such this effectively complemented white supremacist policies of 'civilized labour' and exacerbated the discrimination and exclusion of blacks irrespective of their social and economic needs. Nevertheless, in a perverted way this did introduce key notions of social citizenship and associated welfare policies and institutions into the South African state. On closer scrutiny it appears that, despite its dominant segregation policies, the South African state during the 1930s and 1940s actually began to introduce limited but inclusive welfare provisions on a non-racial basis as well (Seekings & Natrass 2005: 32). These provisions were effected on the recommendations of a government commission, which in the late 1920s attended a meeting held by the International Labour Organisation. "The commission recommended non-contributory old-age pensions (which were introduced in 1928-29), a partial health insurance scheme (which the government decided against) and a partial unemployment insurance scheme (which the government introduced, in part)" (Seekings 2008: 23). However limited, these social provisions may be said to constitute the first beginnings of a South African social welfare regime. After 1948 they were severely restricted but not revoked under apartheid and would prove to have foundational significance for post-apartheid conceptions of socially inclusive citizenship.

3.3 Apartheid: Political exclusion and struggle for citizenship

After winning the elections of 1948, the National Party (NP) enacted the policy of *apartheid*—meaning 'separateness' in the Afrikaans language—essentially a system of legalized racial segregation enforced at national level and in all spheres of life. The 1950 Population Registration Act officially classified all members of South African society according to 'race' – a category determined by a combination of factors including physical appearance and social acceptability. A systematic array of apartheid legislation including the Prohibition of Mixed Marriages Act (1949), the Immorality Amendment Act (1950) and the Reservation of Separate Amenities Act (1950) sought to enforce strict social segregation in private as well as public life. The Group Areas Act (1950) effectively regularized and enforced residential segregation in all urban areas resulting in the forced relocation of entire neighbourhoods (Cameron & Spies 1991: 278). The parliamentary franchise, which the Coloured minority group had still retained, was scrapped ensuring whites-only representation in Parliament. The civil and political liberties of black South Africans were systematically stripped away and their socio-economic entitlements denied. Although apartheid affected all residents of South Africa, civic and political citizenship was effectively reserved for Whites while those classified 'African', 'Indian' or 'Coloured' were relegated to the position of second class and/or non-citizens.

3.3.1 Africans as citizens of 'autonomous' Bantustans

While a range of discriminatory apartheid measures sought to enforce 'petty apartheid' the grand vision of 'separate development' constructed a legal framework and focused on creating conditions of 'self-government' in ethnic homelands supposed to provide an ideological

justification for the systematic exclusion of Africans as citizens of the Republic. In 1951, the Bantu Authorities Act formally recognised 'autonomous' Bantustans as well as regional and territorial authorities (Cameron & Spies 1991: 280). Within the Bantu homelands, blacks were to govern themselves according to customary law under 'native' chiefs. In 1970, the Bantu Homelands Citizenship Act effectively revoked black South African citizenship by transferring it to the ten separate Bantustans. Beginning with the Transkei in 1976, some of the homelands were formally granted 'independence' with attendant national flags, presidents, parliamentary legislatures and security forces (Southall 1977: 2-3). Though theoretically autonomous, in practice the homelands were completely dependent on economic and fiscal support from the South African state. However, not all homelands became 'independent'. These were known as 'national states', of which the most important was KwaZulu ruled by Chief Buthelezi of the Inkatha Freedom Party. Formerly aligned with the ANC, Buthelezi rejected the offer of homeland independence but chose to comply with the government's strategy of separate development by accepting the position of chief minister of KwaZulu (Sithole 1991: 246-7). In so far as the national states remained part of the South African state, the status of their 'citizens' was ambiguous.

Outside of the homelands, a significant minority of urban Africans achieved and retained residential rights, known as 'Section 10 rights', (Mamdani 1996: 228). This allowance of urban residence for some blacks amounted to a major anomaly for the objectives of apartheid theory and ideology to direct African aspirations to citizenship towards separate, ethnic homelands. The Homelands Citizenship Act remained in effect until 1986, when citizenship rights began to be

reinstated for some black South Africans. In effect this amounted to an official recognition that the apartheid project to deny all Africans full citizenship within South Africa had failed.

3.3.2 The ambiguities of Bantu Education

With the Bantu Education Act of 1953, the NP government introduced a public education system for Africans, to begin with at primary levels only. In regards to social citizenship, Bantu Education was a profoundly ambiguous development. Previously the state had neglected to provide education for Africans, who relied on civil society and especially on mission schools for tuition (Worden 1994: 96). However, mission schools only accommodated a small number of African pupils, resulting in a tiny elite of literate and educated Africans while as late as the 1950s the vast majority of Africans were illiterate and bereft of formal schooling. In this context, the introduction of Bantu Education represented a significant leap forward in so far as the state acknowledged its responsibility to provide at least primary education for the black majority. Nevertheless, Bantu Education was highly contested for its deliberate inculcation and reproduction of racially separated cultures. "It imposed a uniform curriculum which stressed separate 'Bantu culture' and deliberately prepared students for little more than manual labour" (Worden 1994: 96). In addition, the government's policy of using Afrikaans and English as primary languages of instruction in African schools from the fifth year meant that black students fared poorly due to a shortage of teachers proficient in both languages, lack of Afrikaans textbooks and the difficulty of learning under multilingual instruction (Kane-Berman 1978: 11). Besides the language policy and obligatory use of an inadequate curriculum, until the 1970s, state funding for Bantu Education was restricted to separate funds outside of the general budget (i.e. not dependent on white taxpayers). In practice, this resulted in a significantly lower portion

of available funds from black education relative to white education. In principle it implied a refusal to extend any public obligations of social citizenship to Africans, who were also expected to provide any additional monies necessary to supplement inadequate state provision (Rose 1965: 210; Kane-Berman 1978: 12). In practice, the limited amounts of funding available for Bantu Education fostered great and increasing inequalities on per capita expenditure on education for Africans compared to education for whites. "In 1953 the State spent an average of R17 on the education of each African pupil, and R128 on each white pupil" (Kane-Berman 1978: 187). The R17 per capita set aside for African education was lowered to R12 by 1955 and only increased significantly after the violent protests by Soweto schoolchildren in 1976.

From the early 1970s, funding for Bantu Education increased considerably, although still unequal compared to funding for white education, alongside significant improvements to the newly christened 'Department of Education and Training' (formerly the Department of Bantu Education). The restrictive policy of using separate funds was relaxed and private sector firms were allowed to provide financial assistance enabling the significant expansion of secondary education for Africans (Kane-Berman 1987: 184-5). From the mid-1980s, the expansion of students at separate colleges and universities for different racial groups—such as the University of Zululand for Africans and the University of the Western Cape for Coloureds—increased the number of blacks in higher education (Mufson 1991: 10-11). Improvements to educational institutions had a critical role in the development of anti-apartheid student movements and the concurrent emergence of Black Consciousness.

3.3.3 The rise of independent black labour unions

During the 1960s, a sustained period of high economic growth and the rise of the manufacturing sector led to a marked increase in the demand for skilled labour in the urban areas (Maree 1987: 55). Previously, the major mining and farming sectors relied on unskilled labour and the migrant labour system. In the changed economic conditions of the 1970s a settled urban and skilled African labour force became indispensable, facilitating the rise of independent black labour unions in the 1970s and 1980s (Cameron & Spies 1991: 253, 269). Mass labour protests by African workers excluded from officially recognised labour unions in Durban in 1973 'reflected a growing confidence by workers in their own capacity to transform their situation' and caught the attention of employers and the state (Maree 1987: 55). Following the Wiehahn Commission of Inquiry from 1977 to 1979, the state for the first time recognised the labour rights of Africans and allowed independent African labour unions to participate in the official labour negotiations framework (Maree 1987: 58). The granting of civil liberties such as freedom of association and other labour rights to Africans constituted a major move towards inclusive citizenship. As African unions grew in membership they began to organise political campaigns and form political alliances, which gained recognition on a national scale (Cameron & Spies 1991: 316-17). In this regard, the rise of independent black labour unions signified a major step towards recognition of industrial citizenship in the quest for inclusive South African citizenship.

3.3.4 The struggle for civil and political citizenship

On March 21, 1960, a large group of Africans gathered outside a police station for a peaceful protest against apartheid's restriction on their freedom of movement in the form of the pass system. In response, the police opened fire on the crowd, killing 69 people, including women and

children (Mufson 1991: 6). Following the massacre in Sharpville, the NP government increased its repressive security apparatus and banned anti-apartheid political movements including the ANC and Pan-African Congress (PAC), who continued the struggle underground. Meanwhile, from the early 1970s, the Black Consciousness Movement (BCM) and student organisations took the lead in articulating and mobilising political protests against apartheid. The South African Students' Organisation (SASO) was established in July 1969 as an exclusively black student movement to work towards liberation of black people: first from the 'psychological oppression' of an 'inferiority complex' and second from the physical oppression of 'white racist society' (Biko 2004: 110). Much of SASO's objectives were based on principles of Black Consciousness, as espoused by founding president Steve Biko. The BCM sought to 'infuse the black community with a new-found pride in themselves, their efforts, their value systems, their culture, their religion and their outlook to life' in an effort to liberate society (Biko 2004: 53). Black Consciousness infused the student protest movement and inspired youth to challenge the psychological and physical oppression of the apartheid system. In 1976 the Soweto school insurrection dramatically escalated internal political protests against apartheid, initiating a decade and more of sustained protests demanding equal education (Kane-Berman 1978).

By the early 1980s, the anti-apartheid movement included a proliferation of local civic associations, churches and religious groups, labour unions, youth and student movements, women's movements, NGOs and human rights associations. The 'civics' in particular functioned as grassroots mobilisers of civic consciousness through protest demonstrations, boycotts as well as by organising communal projects in local communities. In 1983, the establishment of the United Democratic Front (UDF) and the National Forum (NF) enabled popular mobilisation of

anti-apartheid protests at a national level. The rival UDF and NF, although divergent in ideology and principles, coordinated diverse civil society organisations and activists to advance political struggles (Seekings 2000: 3). In addition, the UDF served as an unofficial internal ally of the exiled ANC. The movements determinedly agitated for civil and political reforms, exerting a countervailing force to the apartheid state.

In 1984, the government implemented an ostensible 'reformist' measure by granting parliamentary representation to Coloured and Indian minorities in the new Tricameral Constitution (Cameron & Spies 1991: 317). To an extent, this signaled the demise of the basic apartheid project to exclude all blacks from South African citizenship. However, the move highlighted the continuing exclusion of Africans. Consequently, rather than pacifying the anti-apartheid popular 'struggle', the extension of political rights to some previously excluded South Africans proved to be a catalyst for intensified popular protest and violent insurrection. The National Party government responded by declaring a 'state of emergency' in 1985. In the following year, a belated reformist initiative of the NP government recognised African claims to South African citizenship and reinstated citizenship rights to some black South Africans in the Citizenship Act of 1986. The Act was largely dismissed as inadequate and irrelevant by the anti-apartheid forces, but signaled a major ideological victory for the extension of inclusive citizenship. The increasing failure of the apartheid state to enforce the pass laws and the removal of squatter settlements in the early 1980s signaled the impending repeal of the pass laws and abolition of influx control (Cameron & Spies 1991: 319). In terms of citizenship, this constituted a successful assertion by black South Africans of their rights to freedom of movement and access to land. Thus in practice basic civic and political rights of citizenship were effectively

established through social and political struggles prior to their formal inclusion in the post-apartheid Constitution.

3.4 At the point of democratic transition

The emergence of a 'new' and democratic South Africa involved a period of transition characterised by intense political struggle, widespread political violence and a set of difficult compromises. The formal process of constitutional negotiations between political elites needed to be based on and complemented by a comprehensive Peace Process and a series of Peace Accords at both local, regional and national levels. Deciding on the content of an interim constitution and bill of rights proved particularly challenging, especially in relation to economic provisions. In particular, the clause relating to private property rights was highly contentious and continues to be disputed as to its effects on much-needed land reform. Throughout the negotiation process, high levels of 'ordinary' as well as 'political' violence perpetrated by all sides in the conflict simultaneously served to complicate as well as hasten the efforts for a negotiated settlement (Du Plessis & Corder 1994: 1).

3.4.1 *Overview of the negotiated settlement and origins of the 1996 Constitution*

In February 1990, then president F.W. de Klerk set the transition in motion with the unbanning of the ANC, the Pan African Congress (PAC) and the South African Communist Party (SACP), lifting of media restrictions, as well as the release of some political prisoners, including the prominent ANC leader Nelson Mandela (Welsh 2009: 382-3). 'Talks about talks' – some of which had begun secretly while Mandela was still imprisoned – commenced openly soon after.

In May 1990, the first official set of deliberations between the ANC/SACP and the NP government took place at the Groote Schuur mansion in Cape Town and resulted in a declaration thereafter known as the Groote Schuur Minute in which "the government and ANC agreed on a common commitment to the resolution of the existing climate of violence and intimidation, from whatever quarter; to create stability and to a peaceful process of negotiations" (Meyer 2001: 48-49). The following meeting in August 1990 took place in Pretoria and addressed unresolved issues related to the ANC cadre, *Umkhonto we Sizwe*. On September 14, 1991, incumbent and opposition political leaders, trade unionists, members of the security forces, business owners and religious leaders committed themselves to peaceful negotiations leading up to the first democratic elections with the signing of a National Peace Accord (Meyer 2001: 50). The signatories agreed on a Code of Conduct, guidelines for the reconstruction and development of communities, the establishment of security measures and the recognition of basic rights and civil liberties such as the freedom of association and speech. In December 1991, the earliest set of formal negotiations began at the Convention for a Democratic South Africa (Codesa), which assembled members from political organisation across the spectrum for the purpose of developing a new constitution and facilitating the transition to democracy (Dubow 2010: 19).

In early 1992, the formal negotiations at Codesa broke down as mass action and political violence escalated. Negotiations could only progress after the release of greater numbers of political prisoners, the implementation of enhanced security measures and the agreement on a structure for the constitution-making process (Du Plessis & Corder 1994: 7). On 26 September 1992, the National Party government and the ANC signed a 'Record of Understanding' enabling the constitutional negotiations to resume. The agreement specifically called for the formation of

an interim Government of National Unity (GNU) and a democratically elected Constitutional Assembly (CA) to function as an interim Parliament and draft the final Constitution (Ramaphosa 2001: 77). The CA would be bound by a set of agreed constitutional principles along with the Interim Constitution.

A Multi-Party Negotiating Process (MPNP) convened from May 1993 to November 1993 to facilitate the writing of the Interim Constitution for South Africa as well as agree on a proper framework of government following a national democratic election to be held on 27 April 1994 (Du Plessis & Corder 1994: 9). On July 2, 1993, the MPNP formally adopted the Constitutional Principles to provide a framework for the drafting and adoption of the Interim and final Constitutions (Meyer 2001: 66). The Constitutional Principles would be binding on the future sovereign democratic Parliament and the CA in decisions related to the final Constitution. The MPNP adopted the Interim Constitution on the 18th of November 1993, which would come into force on the day of the election and remain in effect until the adoption of the final 1996 Constitution (Ramaphosa 2001: 79).

3.4.2 *The Bill of Rights*

In April 1993, the negotiating council appointed a technical committee to develop a charter of rights essential to the envisioned new democracy – what became an interim bill of rights. The committee first identified a collection of civil and political rights including 'the right to personal freedom, the right not to be detained without trial; to dignity (especially for prisoners); to freedom of conscience and thought, to equal protection of the law and freedom from discrimination; and to life' as well as rights to ensure political freedom (Atkinson 1994: 125-6).

In addition, the committee identified a second list of rights related to security, which it deemed indispensable for a peaceful transition. Finally, the committee identified a third group of rights that included an array of aspirational social rights, such as rights to 'food, water and shelter; marriage and family life; those of the aged and disabled; rights related to arts, science and recreation; and women's rights to equality' (Atkinson 1994: 125-6). The agreement about which rights were to be included in the interim bill of rights required a difficult compromise: "[T]here was a sharp divide between the rights which each bloc believed essential to protect its citizens" (Atkinson 1994: 143). During the process of developing the interim bill of rights, the interests of organised political parties overshadowed the perspectives of individual citizens. Unsurprisingly, the interim bill of rights failed to provide adequately for active citizenship and socio-economic rights, a weakness that is made clear when considering the economic provisions in relation to the private property clause.

3.4.3 The socio-economic compromise underlying the Bill of Rights

In the years leading up to negotiations, both the ANC and NP had been preparing their respective economic visions for a new South Africa. "The NP's manifesto had proclaimed the goal of an undivided South Africa, with a common citizenship and the right of every citizen to participate in government at all levels, with the proviso that there should be no domination" (Welsh 2009: 424-5). The ANC had developed a modified version of the 1955 Freedom Charter entitled 'Constitutional Guidelines for a Democratic South Africa' (1988), which expressed the ANC's aim to 'create a just and democratic society that will sweep away the centuries-old legacy of colonial conquest and white domination, and abolish all laws imposing racial oppression and discrimination' (African National Congress 1988). Furthermore, the ANC's Constitutional

Guidelines provided for 'a rapid and irreversible redistribution of wealth'—an economic provision that suggested the ANC's commitment to a social democratic approach, similar to that expressed in the Freedom Charter (Welsh 2009: 422). However, in the course of the constitutional negotiations between 1992 and the end of 1993, the ANC marginalised its social democratic approach, in what some historians and economists consider a practical move and others describe as an elite compromise (Bond 2000: 90; Marais 2001; Welsh 2009: 455; Terreblanche 2002: 96). Both the ANC and NP made strategic concessions resulting in the political-economic agreement that 'the ANC would enjoy relatively unfettered majority rule, subject to certain constitutional constraints; and whites would be allowed to continue their domination of the private sector' (Welsh 2009: 526). There were, however, very important qualifications intended to redress centuries of racial domination and exploitation. These included: 'affirmative action, black economic empowerment, land redistribution and restitution, and a progressive levelling of inequalities in the provision of services by means of an expanding floor of enforceable minimum rights' (Welsh 2009: 526). Arguably, proposed methods of redress such as land reform have had limited success (Greenberg 2010: 4-5), a dilemma that will be addressed further in the fourth chapter. Overall, the economic provisions in the interim and final Constitutions were the result of strategic negotiations and elite compromises.

3.4.4 The private property clause

In the context of these broader economic debates, the issue of private property rights generated intense debate during negotiations between the ANC and the NP. While the ANC insisted that constitutional provisions for property 'should not impede legislative programmes addressing the massive disparities of wealth in society', the NP aimed to protect existing property rights, in

particular the rights of white South African farmers to their land (Chaskalson 1995: 223-4). The final property clause in Section 28 of the 1996 Constitution makes, inter alia, the following provisions:

"(1) No one may be deprived of private property except in terms of law of general application, and no law may permit arbitrary deprivation of property;

(2) Property may be expropriated only in terms of law of general application—

(a) for a public purpose or in the public interest; and

(b) subject to compensation, the amount of which and the time and manner of payment of which have been agreed to by those affected or decided or approved by a court;

(5) The state must take reasonable legislative and other measures, within its available resources, to foster conditions which enable citizens to gain access to land on an equitable basis."

(Constitution of the Republic of South Africa, Act no. 108 of 1996, s25).

The property clause specifically provides for land restitution providing that the amount of compensatory payment is 'just and equitable' in respect of the 'public interest and the interest of those affected' (Constitution of the Republic of South Africa, Act no. 108 of 1996, s25). By requiring compensatory payment for transactions related to land restitution, the property clause effectively limits the means of property expropriation (Ramaphosa 2001: 83). In government policy, this has resulted in land restitution programmes based on a 'willing buyer, willing seller' principle. The effects of this specific policy and the private property clause in general will be discussed in chapter four.

3.4.5 Democratic elections and the final Constitution

On 27 April 1994, South Africans voted in the country's first democratic election. Previously excluded African, Coloured, and Indian South Africans exercised their recently achieved political freedom of universal franchise. ANC leader Nelson Mandela won the Presidency in a historic victory. The Interim Constitution came into effect and the Government of National Unity—a coalition of the three largest political parties—came into power. For the next two years, the Constitutional Assembly would embark on the difficult task of developing the final Constitution in accordance with the previously adopted Constitutional Principles. Significantly in regard to inclusive citizenship, efforts were made to include a broad base of South African citizenry in the development of the final Constitution. A public participation scheme used posters, radio, television and other media to query South Africans about what they wanted to be included in the final Constitution (Murray 2001: 106). Over two million people made suggestions ranging from socio-economic concerns to specific rights for minorities. Critics argue, however, that this effort may have been merely symbolic and point out that the Interim and final Constitutions were in fact negotiated documents (Murray 2001: 110). Nonetheless, the process ended with the successful adoption of the final Constitution in 1996.

The 1996 Constitution is often considered exemplary in its commitment to inclusive citizenship. The Bill of Rights entrenches the political and civil rights of all citizens and provides for the recognition of basic human and social rights for citizens and non-citizen residents of South Africa. The document contains an extensive array of social rights, designated for both citizens and non-citizen residents. These rights include the right to access adequate housing, health care services, sufficient food and water, social security and social assistance (Constitution of the

Republic of South Africa, Act no. 108 of 1996, s26, s27). Significantly these socio-economic rights are not to be enacted all at once but in the course of a historical process. The Constitution stipulates that: "The state must take reasonable legislative and other measures, within its available resources, to achieve the progressive realisation of each of these rights" (Constitution of the Republic of South Africa, Act no. 108 of 1996, s27). In addition, the Constitution provides for an equitable basic education for all children and adults, as well as the right to accessible further education.

3.4.6 Post-1994 policy decisions related to socio-economic development

Leading up to the democratic elections in April 1994, the ANC developed a Reconstruction and Development Programme (RDP) that 'proposed growth and development through reconstruction and redistribution', within a Keynesian paradigm (Adelzadeh 1996: 66). Albeit somewhat contradictory and subject to diverse interpretations, the RDP policy programme explicitly prioritised social and economic objectives associated with social citizenship, such as increased employment, lower inequalities of income and wealth, and provision for the basic needs of all South Africans. However, soon after the 1994 democratic elections, the GNU made some critical policy decisions concerning social development and economic growth. These decisions were largely influenced by international financial agencies like the IMF and the World Bank alongside local state actors such as the Treasury and the Reserve Bank (Bond 2000: 69, 92, 156-160). Whereas earlier socio-economic policy under the auspices of the RDP policy programme gave priority to social development, the new policy effectively weakened the objectives of the RDP by adopting a liberal macro-economic framework entitled 'Growth, Employment and Redistribution' (GEAR). The GEAR framework involved a combination of short-term priorities that purported

to enable long-term objectives, the most critical being growth, by which redistribution of resources would be effected. The introduction of GEAR brought about the liberalisation of both trade and finance, while favouring privatisation of social services (Miraftab 2004: 885; Bond 2008: 9). The beneficiaries of these policies include already wealthy—primarily employed and white—South Africans, emerging black elite and the organized black working class. The poorest half of the population—black workers in the informal sector and unemployed—are essentially excluded from economic development. The failure of GEAR to deliver economic growth and job creation undercut the RDP's social and economic objectives and therefore limited the prospects for inclusive citizenship therein.

3.5 Citizenship in contemporary South Africa

Citizenship in contemporary South Africa is shaped by conditions of deepening inequality, widespread poverty and high unemployment. Formal political equality provided in the 1996 Constitution has not led to material equality in terms of economic or social provisions. While the extension of citizenship rights to black South Africans has allowed for the rise of a black middle class and political elite, the majority of black citizens lack access to their constitutionally inscribed socio-economic rights due to extreme levels of impoverishment. Unemployment accompanied by severe skills shortages restricts many citizens from self-provision of housing, security, and sustenance (Seekings & Nattrass 2005). Failing public education and health care services disproportionately affect the poorest members in society. The historic legacy of economic and social inequality continues, despite the extension of equal citizenship for all South Africans.

3.5.1 *Poverty and inequality*

Contemporary South Africa is characterised by widespread poverty and deepening inequality. According to a report published by the South African government, in 2009, 65 percent of South Africans subsisted beneath a poverty line of R551.78 per person, per month, while a quarter of South Africans survived on less than R149.08 per person, per month (Development Indicators 2010: 26). In 2009, the Gini coefficient used to measure inequality was calculated at 0.679 on a scale of 0-1, with 1 being absolute economic inequality, meaning South Africa had the most unequal economy in the world (Development Indicators 2010: 25). Income inequality indicates that forty percent of the population lives in extreme poverty earning less than 4 percent of national income, while the wealthiest 10 percent of citizens earn more than 51 percent of the national revenue (Marais 2001: 7). Significantly, *intra-racial inequality* has increased relative to *interracial inequality*. The gap between rich whites and rich blacks has reduced significantly, but the gap between rich and poor blacks—as well as between rich and poor whites—has massively increased (Development Indicators 2010: 25). Thus, in contemporary South Africa racial categories no longer coincide with socio-economic levels. While under apartheid, inequality resulted from a racial labour order, in deracialised, democratic South Africa, class is the primary determinant of disadvantage (Seekings & Nattrass 2005: 4). Still, the poorer classes remain populated by primarily black citizens. Of individuals beneath the poverty line in 1999, the vast majority (95 percent) were African (Gelb 2003: 5).

3.5.2 *Unemployment*

Unemployment is arguably the root cause of inequality and poverty in South Africa (Gelb 2003, Seekings 2003, Seekings & Nattrass 2005). In the 1990s, South Africa experienced a fall in

formal employment and many of those who had been previously employed in the formal sector were unable or unwilling to find work in the informal sector (Seekings & Natrass 2005: 314). Amongst the working age population, approximately one third of individuals are not economically active, while overall less than 40 percent are employed (Gelb 2003: 7). This means that nearly 40 percent of households do not have a breadwinner in regular employment and about 34 percent do not have a household member even casually employed (Seekings 2003: 15). Unemployment is higher amongst women, who are also disproportionately affected by poverty since they bear the brunt of domestic labour and child rearing, as well as in rural areas (Gelb 2003: 10-11). Significantly, the typical 'working class' household falls within the upper fifty percent of the income spectrum:

"Households in the richer half of the population have members with jobs; very many households in the poorer half of the population do not. Thus a majority of 'core working class' households (as we have classified them above) are actually in the richer half of the population. The poorer half of the population comprises households dependent on very low-paid workers – mostly farmworkers and domestic workers – or on remittances or pensions" (Seekings 2003: 53).

Unemployment continues to be a determining factor of poverty, despite an increase in uptake of government-sponsored social grants. Lack of provision for the unemployed further inhibits individuals and communities from upliftment (Seekings & Natrass 2005: 47).

3.5.3 *Welfare provision*

Since 1994, in addition to the extension of free public education and free public health care the government has been increasing the scope of welfare provision through an array of state grants. South Africa currently provides a Child Support Grant for parents from a child's birth until his or her 18th birthday, a Foster Support Grant to support families that have taken in orphaned children, an Old Age Grant (old age pension), a War Veterans Grant and a Disability Grant (Development Indicators 2010: 28). As of early 2006, more than 10 million people received some form of social grant, amounting to approximately 3.5 percent of South Africa's GDP (Seekings 2007: 1-2). These grants have a direct impact on poverty reduction, as indicated by a rising per capita income and a corresponding decrease in the percentage of people living beneath specific poverty lines. For example, in 2000, 38 percent of people lived beneath a R283 per person, per month poverty line, while in 2008 the proportion of people living under that same poverty line was 22 percent, after accounting for inflation (Development Indicators 2010: 26). In relation to citizenship, these improvements in welfare provision indicate a level of commitment to social citizenship by the South African government. However, most social grants are 'means-tested'—claimants need to prove that they are beneath a certain 'poverty level'. This means that in relation to inclusive citizenship, social grants are not fully 'inclusive' since they are not extended solely on the basis of citizenship.

3.6 Chapter conclusion

This chapter has explored the historical trajectory of notions of citizenship in South Africa. Section one explored the development of early notions of citizenship in South Africa during colonisation, in particular the civic status of the freeburghers. In contrast, the conquest and

exploitation of indigenous people and the practice of slavery served to undermine the civic and political status of 'free men' (Du Toit & Giliomee 1983: 7, 33-35). The second section documented the transition to British rule, the advance of White Supremacy and the increasing segregation following the Union of 1910. Section three covered the apartheid period of political exclusion characterised by the systematic denial of South African citizenship to blacks who responded in turn by launching an intense political struggle against government oppression. The struggle had particular significance related to inclusive citizenship in that the movement united diverse groups of black South Africans against apartheid who successfully achieved victories of recognition and reform. The fourth section explores the democratic transition, in particular the negotiations prior to the 1994 election and the subsequent process of drafting the 1996 Constitution. Section five looks at the state of citizenship in contemporary South Africa. Significantly, the prevalence of poverty, inequality and unemployment indicates that the inclusive citizenship articulated in the 1996 Constitution is far from an experienced reality.

Chapter 4 – Dilemmas of Inclusive Citizenship in Post-apartheid South Africa

This chapter will address the dilemmas of inclusive citizenship in post-apartheid South Africa. In the first section, I will explore the legacies of past historical developments that particularly complicate or obstruct the development of inclusive citizenship in practice despite its entrenchment in the 1996 Constitution. These include the historical legacies of slavery in the form of a persistent 'culture of poverty', paternalist assumptions in labour and social relations, the 'land question' and the need for land reform, the contemporary crisis of basic education and a corrupt, self-serving political class. These legacies combine to obstruct the development of inclusive citizenship in general, and of social citizenship in particular. In the second section, I will discuss the inherent contradictions in the 1996 Constitution that, despite its eloquent articulation of the concept of inclusive citizenship, also serve to prevent its actual development in practice.

4.1 Historical legacies

There are many legacies of past historical developments that complicate or obstruct the development of an economically, politically and socially inclusive citizenship in South Africa. Although South Africa is no longer a 'slave society' and in principle the formalised racial labour order of the apartheid era have been dismantled, slavery and forced labour practices left identifiable legacies persisting in the contemporary democratic context. These legacies include an entrenched 'culture of poverty', persisting paternalist ideologies, unequal land distribution, a crisis of basic education and a corrupt, self-serving political class.

4.1.1 *The historical legacy of a 'culture of poverty'*

The history of colonial and racial oppression has resulted in a 'culture of poverty' that binds the impoverished to their conditions and impedes their social and economic upliftment in a vicious cycle obstructing the prospects of active citizenship in practice. First defined by American anthropologist Oscar Lewis, the concept of the 'culture of poverty' refers to 'an adaptation and a reaction of the poor to their marginal position in a class-stratified, highly individuated, capitalistic society' (Lewis 1966: 5). According to Lewis, the culture of poverty leads to attitudes of fatalism and hopelessness, lack of communal organisation or solidarity and withdrawal from the key institutions of society (i.e. labour unions, political parties, churches, banks, hospitals). Certainly in the South African context, the legacies of slavery, segregation and apartheid served to reinforce the 'psychological and social core of the culture of poverty' (Lewis 1966: 10). The notion of a culture of poverty was first introduced and applied to South Africa in the Report of the Theron Commission on the Coloured People in the mid-1970s (Giliomee & Mbenga 2007: 357-258). The Commission Report highlighted government failure to meet the needs of the Coloured population with some worrying statistics: "'Chronic community poverty' affected more than 40 percent of the population. In cities between 10 percent and 20 percent lived in squatter camps and many of the rest in overcrowded houses" (Giliomee & Mbenga 2007: 358). Today contemporary South Africa has a wider culture of poverty that affects groups from all racial categories and in particular, African and Coloured communities.

The 'dop' system presents one striking illustration of a culture of poverty prevalent within a minority subculture in South Africa. The practice of compensating primarily Coloured farm workers in the Western Cape with alcohol in lieu of wages—known as the 'dop' or 'tot' system—

had its origins in the early Cape colony when Khoisan were persuaded to become labourers on settler farms with payment of bread, tobacco and wine (London 1999: 1408). Over time, the system continued to bind former Khoisan and slaves as labourers on wine farms long after the emancipation of slaves and the end of indentured labour resulting in endemic alcoholism in rural Coloured communities in the Western Cape. In contemporary South Africa, the legacy of alcoholism persists. Endemic alcoholism associated with the dop system has contributed to the creation and continued reinforcement of a culture of poverty that afflicts farm workers and their families. The dop has become an 'essential element of culture space that was both independent of the farmer at one level, while at the same time reliant on the farmer supplying alcohol for its ongoing existence' (London 1999: 1411). Rather than eliminating poverty and hopelessness, alcohol use has become part of a 'relief system that barely keeps people alive' and perpetuates existing poverty (Lewis 1966: 6). Attempts to address the legacy of alcohol dependence among farmworkers by eliminating the dop system have had limited transformative effect, particularly due to the absence of social rehabilitation programmes. Apart from the remedial challenges in practice, the persisting legacy of alcoholism and the associated culture of poverty fatally impinge on the significance and relevance of the 1996 Constitution's provision for equal and inclusive citizenship.

4.1.2 Persisting paternalism

Another historical legacy that complicates the realisation of inclusive citizenship is that of a paternalist ideology in social and racial relations derived from the contexts of slavery and early colonial settlement. In contemporary South Africa, the ideology of paternalism continues to inform labour and social relations, particularly though not only on wine and fruit farms in the

Western Cape. Paternalism is a specific way of understanding and interpreting the relationship between farmer and labourer based on a conception of the farm as 'family' and the farmer as the ultimate authority (Du Toit 1993: 314-320; Genovese 1976: 3-7; Shell 1994). Within paternalist relations, farmers are assumed to have basic social duties and economic responsibilities to provide for 'their' workers who have been tied to family farms for generations. Workers can legitimately expect permanent employment including basic housing, pensions and perhaps sharecropping arrangements. Although ostensibly providing a degree of economic stability for the workers, the paternalist relationship also creates and justifies a perpetual state of economic insecurity since the workers are completely dependent on the farmer's 'goodwill' (Du Toit 1993: 324). In regards to inclusive citizenship, paternalism represents a kind of perverted inclusion in a familial association though in an inferior and dependent capacity; it comprises a vertical relationship between each individual worker and the farmer, such that horizontal relationships between workers are hindered by rivalry for the farmer's approval (Du Toit 1993: 324).

In post-apartheid South Africa, the transition to modern commercial farming practices has changed the relationship between farmer and worker. To some extent, the power structure of paternalism has been replaced by a more formal labour relations framework intended to modernise labour relations and increase profitability on commercial farms (Greenberg 2010: 16). The restructuring has led to outsourcing of labour requirements in which temporary contract workers replace long-term employees, who are displaced and sometimes evicted in the process. Progressive farmers are prepared to pay higher wages as negotiated on a free labour market and regulated by labour legislation but assume no duties of longer term care for workers that are no longer part of the extended farming 'family' (Du Toit 1993: 328). This shift has disrupted

paternalist relations, with somewhat ambiguous implications for inclusive citizenship. On one hand, the tradition of paternalism is deeply divisive and based on fundamental inequality, yet provides workers with a degree of pseudo-'inclusion' on the farm. Alternatively, in the 'free' labour market, workers possess formally equal rights but are subject to the exigencies of the market and unequal relations within capitalism. In terms of citizenship, neither paternalism nor the ostensibly free market offers genuine inclusion for workers who remain subordinate to capitalist landowners.

4.1.3 *The 'land question' and reparation of land*

In South Africa, the 'land question'—rooted in a long history of colonial conquest and dispossession—remains a major challenge for the achievement of a just and equitable society with inclusive social and economic citizenship. Relatively recent land occupations in neighboring Zimbabwe in the early 2000s have struck fear into the hearts of many white farmers who remain in the region (Berry 2002). In the South African context, legacies of dispossession and economic marginalisation under apartheid and colonialism on rural Africans have created severe challenges to, and dilemmas of, inclusive citizenship. While post-apartheid legislation and government policy has been firmly committed to an ambitious and extensive process of land reparation and land reform, the actual outcomes in practice have been frustratingly ineffective and limited (Greenberg 2010). The land reparation programme has been premised on the basic right of private property, as described in the 1996 Constitution, section 25. In government policy, the purchase of land for the purpose of land reparation is carried out according to a 'willing buyer, willing seller' model, which has been criticised for artificially inflating land prices in situations where the seller is reluctant to sell (Greenberg 2010: 4). Overall, post-apartheid land

reparation has been largely symbolic. At the end of September 2009, only 6.9% of agricultural land had been transferred to black South African farmers (Greenberg 2010: 4). This amount is miniscule when compared to the land allocated to black South Africans under colonial policy, which in 1913 amounted to a mere 7.13% of the land (Mamdani 1996: 143). Furthermore, as Everingham & Jannecke point out, rebuilding communities through restoration of land goes beyond the legal transfer of land ownership (Everingham & Jannecke 2006: 546).

Moreover policies related to land reform and agriculture have suited the interests of profitable commercial farming rather than the restoration of land to communities for customary uses (Greenberg 2010: 1). Following the post-apartheid liberalisation of trade, commercial farming in South Africa became increasingly destabilised by market forces, with the result of extensive job losses and increasing casualisation of labour (Greenberg 2010: 16). Both permanent and casual farm labourers were subject to displacement—particularly through eviction from farms—as farmers shifted from traditional paternalist models to free market capitalism. Despite these negative consequences, rural labour has remained politically quiescent. Lack of rural civil society organisations (CSOs) hinders the ability of the majority of farm labourers to actively organise themselves to influence critical policy decisions related to agriculture and land restitution. "CSOs with land and agriculture amongst their priorities are overwhelmingly products either of the activities of donor-funded non-governmental organisations or the government itself" (Greenberg 2010: 14). There are few spaces for active citizenship in regard to policy decisions in the sphere of rural development, which tends to be influenced heavily by agribusiness. In general, rural development programmes have maintained structures that disseminate power and wealth between a small elite. Thus, land reparation and rural

development programmes in their current form constitute a serious impediment to the development of inclusive citizenship.

4.1.4 *The crisis of basic education*

The legacies of educational inequality in South Africa are evident in the contemporary crisis of basic education. During the colonial period and until the mid 20th century, mission schools served to educate a small elite of blacks in the absence of a racially inclusive state education system. While they were historically significant in initiating the transition from oral cultures to literacy and produced the first generations of modern African political leaders, missionary education also involved forms of religious, linguistic and cultural imperialism, closely bound up with converting Africans from indigenous beliefs to Christianity (Comaroff & Comaroff 1986: 14-5). While rendering indigenous African languages as written languages, English was established as the language of instruction. Hence the mission schools resulted in the emergence of an elite class of educated and 'civilised' Africans who were culturally, linguistically and socially removed from local communities. Still the mission schools had an important role in the educational development of some of South Africa's greatest African leaders, committed to inclusive citizenship, including the first democratically elected president and legendary statesman Nelson Mandela. Given the history of mission schools, the introduction of Bantu Education under apartheid from the 1950s had a profoundly ambiguous historical significance relevant to citizenship. For the first time in South African history the state accepted the responsibility of providing a system of public primary and secondary education for the black majority of the population. Though racially segregated and unequal, Bantu Education nevertheless established the principle of access to public education for blacks—a significant step

towards recognising social citizenship. However, Bantu Education served to enforce the apartheid system of separate, unequal development.

In post-apartheid democratic South Africa the legacies of Bantu Education under apartheid and cultural imperialism during colonisation have resulted in a crisis of basic and secondary education. This crisis has emerged despite the post-1994 replacement of the racially exclusive and unequal system of Bantu Education with a single integrated education system with substantial public funding and equal rights of access for all (Lomofsky & Lazarus 2001: 303). In contemporary South Africa, equal access to education has not resulted in qualitatively equal education. The educational system remains overwhelmingly unequal, characterised by relatively small well-functioning schools for the elite and a highly dysfunctional government school system for the black majority of the population (Botha 2002; Christie 2002; Fiske & Ladd 2004). The achievement rates of primary and secondary school students are extremely poor when evaluated for basic literacy, numeracy, life skills, language, mathematics and natural sciences. According to a Department of Education report, in 2007 students in grade three achieved an average score of 36 percent in literacy (when evaluated for reading only) (Trends in Education Macro Indicators Report 2009: 77-78). In 2004, evaluations of grade six learners indicated an average score of 27 percent in mathematics and 38 percent in language (when evaluated in the language of learning and teaching). Although South Africa has improved educational access and participation, the government school system is failing in its function to effect actual cognitive development of students.

The educational crisis is likely to continue into the foreseeable future, as long as its central causes are not addressed: (1) inadequately educated and unprofessional teachers and (2) the limited role of home language instruction at key educational levels. Firstly, many teachers are themselves the products of the history of discriminatory education and now lack the necessary professional and motivational skills to promote learner success (Lomofsky & Lazarus 2001: 312; Engelbrecht et al. 2006: 121). Secondly, the linguistic dominance of English (and to a lesser degree Afrikaans) in South Africa has meant that most African students receive instruction in their second or third language (Trends in Education Macro Indicators Report 2009: 89). This is in part due to the fact that indigenous African languages have not been systematically developed as academic, scientific and technical languages and also that English has been effectively established as the language of the state, the market place, the scientific world and international relations. Although the South African Constitution recognises 11 official languages, in practice home language instruction in schools is not always feasible, even during the crucial formative years of instruction, and from grade four more than 80 percent of students are taught in their second language (Trends in Education Macro Indicators Report 2009: 90). If these causes are left unaddressed, the educational system will only serve to further reproduce and entrench the existing racial and social inequalities. In this regard, the current crisis of education seriously challenges the development of inclusive citizenship.

4.1.5 *Corruption and a self-serving political class*

The persistence of a corrupt and self-serving political class—from Company officials in the colonial period and the white Afrikaner *Boederbonders* during the apartheid period to the current black ANC leadership—reveals a remarkable structural continuity in the abuse of positions of

power at the expense of the general public. Despite manifest changes in personnel during the transition from apartheid to democracy, the South African government continues to be run by venal politicians and civil servants. The incidence of corruption in South Africa is widely acknowledged in both the national media and international press (Mail&Guardian 2011; The Economist 2010). Defined as the 'unsanctioned or unscheduled use of public resources for private ends', corruption ranges from bureaucratic corruption such as extortion by minor officials to grand corruption, i.e. large-scale misuse of public resources by politicians and senior civil servants (Lodge 1998: 158-9). Besides being illegal and morally unjust, corruption discourages foreign investment and wastes public funds needed for poverty relief and social upliftment.

In contemporary South Africa, corruption is rife within government departments and the ruling party, arguably an ensuing legacy from the history of bureaucratic vice during colonial and apartheid rule. Particularly, the notion of black entitlement identifiable amongst ANC ruling elite and rising BEE entrepreneurs is a likely consequence of the denial of active participation in civil, political, social and economic citizenship to the black majority under colonial rule and apartheid. The constant exclusion from active participation resulted in a perception of the state as a means of access to resources to which people are 'entitled'. "Generated was an instrumentalist conception of state, one that regarded it as a site of concentrated power that, once captured, would become the central agent of transformation. Thus, the key objective of the liberation struggle became the seizure of state power in order to work its levers in the interests of the majority" (Marais 2001: 2). In theory, this conception of the state emphasised the power of the state to transform society to benefit the majority. In practice, the negotiations process resulted in

the partial transfer of state power to a black elite who proceeded to abuse that power for self-enrichment.

Within the ruling ANC, corruption is linked to party policies such as 'cadre deployment' and the unscrupulous practice of 'tenderpreneurship'—the act of obtaining business through government tenders. The policy of deploying ANC members to leadership positions in key centres of power enables aspiring party members to benefit from affirmative action and black economic empowerment (BEE) while providing party leadership with effective leverage to control its members. Since 1994, senior ANC members have been deployed to positions of power within most state institutions including the Reserve Bank, the prosecution service, the government information service, the revenue service, etc. (Giliomee 2000: 170-2). The profitable enterprise of obtaining government tenders has allowed some black businessmen to become overnight millionaires. The amount of influence ANC leadership is able to wield through these practices also function to ameliorate dissent within the party and therefore represents a challenge to democracy (Giliomee et al. 2000: 173; Mattes 2002). Perhaps the most notable example of post-apartheid corruption is the 1999 arms deal (Mattes 2002: 27). Allegations surrounding the R30 billion transaction include bribery of top politicians and secrecy within the Defence Department. The Department of Welfare has also been implicated in corruption ranging from dishonesty and general incompetence to official fraud and false claims to entitlements. There have been a number of reports of people receiving double pensions or payments purportedly being made to a person who is dead (Lodge 1998: 177). Corruption and the actions of a self-serving political class threaten the development of inclusive citizenship by entrenching class divisions and eroding democracy.

4.2 Constitutional contradictions

As affirmed previously, the 1996 Constitution is an exemplary articulation of the notion of inclusive citizenship. The Bill of Rights confers political and civil rights for all citizens and recognises basic human and social rights for all South African citizens and non-citizen residents. Particularly pertinent for social citizenship, the Bill of Rights contains an extensive array of social rights, designated for both citizens and non-citizen residents. However, there are certain inherent contradictions between the expressed principles of the 1996 Constitution and South Africa's material realities. These contradictions create unrealistic expectations and prevent the full development of inclusive citizenship.

4.2.1 *Articulated principles and material realities*

The Founding Provisions in the opening chapter of South Africa's 1996 Constitution express commitment to the values of 'human dignity, the achievement of equality and the advancement of human rights and freedoms' as well as, inter alia, 'non-racialism and non-sexism' and 'a multi-party system of democratic government' (Constitution of the Republic of South Africa, Act no. 108 of 1996, s1). According to the second chapter, "There is a common South African citizenship;" and "All citizens are equally entitled to the rights, privileges and benefits of citizenship;" as well as "equally subject to the duties and responsibilities of citizenship" (Constitution of the Republic of South Africa, Act no. 108 of 1996, s2). Are these principles merely lofty ideals, entrenched in the Constitution, but of little effect in the actual transformation of society? This section will compare specific sections of the Bill of Rights with the contrasting material realities experienced by a considerable number of South African citizens.

Equality is a reoccurring theme in the Constitution. The word is mentioned 20 times throughout the document. Under the explicit heading 'Equality', the Constitution confers equality before the law, full and equal enjoyment of rights and freedoms, and a ban on 'unfair' discrimination (Constitution of the Republic of South Africa, Act no. 108 of 1996, s9). 'Everyone' is given equal status, regardless of citizenship, although the right of the franchise is restricted to citizens only. The clauses pertaining to discrimination specifically refer to the prohibition of 'unfair discrimination' – perhaps to leave space for affirmative action policies. Certainly some South Africans—particularly white males—argue that policies such as BEE have the potential to discriminate *unfairly* on the basis of race, while supporters of BEE argue that given the history of job reservation under apartheid, certain forms of discrimination are necessary to redress the injustices of the past. The most often-mentioned contradiction in the 1996 Constitution regarding equality is the contrast between the formal guarantee of 'full and equal enjoyment of rights and freedoms' and the large socio-economic inequalities in contemporary South Africa (Seekings & Nattrass 2005). In addition, the Constitution's commitment to gender equality stands in stark contrast to South Africa's high incidence of gender-based violence in the form of domestic violence and rape. Thus, the principle of equality articulated in the Constitution appears to be of little significance or effect when compared to the material realities.

The Constitution also guarantees an array of social rights to 'everyone'—citizens and non-citizens alike. According to the Bill of Rights, section 26: "Everyone has the right to have access to adequate housing" and that the "state must take reasonable legislative and other measures, within its resources, to achieve the progressive realisation of this right" (Constitution of the

Republic of South Africa, Act no. 108 of 1996, s26). The government has reported that in 2009, approximately three-quarters of South African households were living in formal dwellings, with nearly three million government-sponsored housing units completed or in progress (Development Indicators 2010: 30). This reflects a substantial improvement in the provision of formal housing but also indicates that up to a quarter of all households still reside in informal settlements in shack dwellings and worse. The report does stipulate that the time period between beneficiary approval and when the beneficiary actually receives housing varies from one to three years, indicating sluggish execution and backlogs in delivery. In practice informal settlements continue to grow with large numbers of citizens dwelling in corrugated iron or wooden shacks. For these citizens, their Constitutional right to housing has little impact on their living conditions.

The most basic of social rights that pertain to daily existence are contained within section 27 of the Constitution, which guarantees the right of access to health care services, sufficient food and water and social security for 'everyone' and for the most needy, social assistance. As with the right to housing, "The state must take reasonable legislative and other measures, within its available resources, to achieve the progressive realisation of each of these rights" (Constitution of the Republic of South Africa, Act no. 108 of 1996, s27). In reality, the combined problems of HIV/AIDS, corrupt bureaucracy and widespread poverty linked to high unemployment frustrate efforts by citizens to access the social rights to which they are entitled. State-provided health care, in particular, is in crisis. In 2010, infant and child mortality remained unacceptably high in South Africa with 67 out of 1000 children dying before five years of age and 43 out of 1000 children dying in their first year of life (Development Indicators 2010: 37). The major causes of

death for children continue to be HIV/AIDS, neonatal causes and infections, including pneumonia and diarrhea. In addition, malnutrition and lack of potable water continue to be a problem (Development Indicators 2010: 31).

There are several possible explanations for the contradictions between the Constitution's expressed principles and South Africa's material realities. One has to do with interpretation. The underlying rule of interpretation for the South African Bill of Rights is that particular rights should not be considered on their own, but within the context of the whole Constitution *and especially of the limitation clauses*. The limitation of rights, as described in section 36 of the 1996 Constitution, stipulates that rights 'may be limited only . . . to the extent that the limitation is reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom' (Constitution of the Republic of South Africa, Act no. 108 of 1996, s36). The limitation clauses empower judicial bodies such as the Constitutional Court to determine issues of relative priority when interpreting rights. Depending on the relative prioritisation of rights in a given situation, social and economic rights may be conceived as less important than civil and political rights. In such an environment, the development of inclusive citizenship may be effectively constrained or enforced, depending on the decisions of the courts.

4.3 Chapter conclusion

The development of inclusive citizenship in South Africa is constrained by several dilemmas. Firstly, legacies of past historical developments have entrenched structures of poverty, unjust economic relations and inequality. Slavery and a history of forced labour practices have resulted in a 'culture of poverty' amongst the marginalised poor. The educational system is in crisis.

Meanwhile, corruption wastes public funds needed for poverty relief while a self-serving political class continues to abuse power at the expense of the people. Secondly, the notion of inclusive citizenship articulated in the Constitution is in conflict with the continuing existence of widespread poverty and massive inequality in South Africa. The inherent contradictions raise the question of the Constitution's legitimacy as well as its relevance to citizens. Logically and conceptually inclusive citizenship implies and requires that widespread poverty and massive inequality be addressed through appropriate and effective policies and more radical structural changes. Conversely, as long as widespread poverty and massive inequality persists it makes a mockery of the Constitution's profession of inclusive citizenship.

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Chapter 5 – Prospects for Inclusive Citizenship in Post-apartheid South Africa

This chapter will consider the prospects for inclusive citizenship in post-apartheid South Africa. I will explore a few of the possible ways forward for post-apartheid South Africa to develop inclusive citizenship so as to reduce the gap between the entrenched rights in the Constitution and the prevailing legacies of poverty and inequality. These prospects include the possible introduction of a Basic Income Grant (BIG), the strategy of constitutional adjudication of social rights and the approach of popular social movements such as Abahlali baseMjondolo (AbM). It will not be possible to deal with these important and complex topics in detail or depth. I will only consider them with a view to their potential contribution to the development of inclusive citizenship. I will then offer concluding remarks and recommendations for further research.

5.1 Ways Forward

There are several ways forward for the development of inclusive citizenship in South Africa. I will discuss four contemporary approaches to inclusive citizenship. Although not entirely complementary, each approach has the potential to expand and develop current conceptions of citizenship in ways that could be more inclusionary.

5.1.1 Arguments for a Basic Income Grant

In recent years, a Basic Income Grant (BIG) has been proposed as a potential way of ensuring an inclusive social security net. According to the BIG Coalition platform on their official website, a universal income support grant would: 'provide everyone with a minimum level of income, enable the nation's poorest households to better meet their basic needs, stimulate equitable economic development, promote family and community stability, and affirm and support the

inherent dignity of all' (BIG Coalition 2006: para. 5, bullet points). The proposed BIG is a monthly grant of approximately R100 (adjusted as prices rise) that would be paid to every legal resident of South Africa through a national ID-card system in which citizens and permanent residents could claim their grants at ATMs, spazas and post office banks. "The Basic Income Grant is sometimes called a Citizens' Income, for the very reason that it embodies the right of all citizens to an economic stake in the economy" (Legum 2002: para. 5). The legal basis for such a grant exists in the 1996 Constitution's Bill of Rights, section 27, which entitles 'everyone' to a minimum of social security, and for those who are unable to support themselves and their dependents, 'appropriate social assistance' (Constitution of the Republic of South Africa, Act no. 108 of 1996, s27).

In terms of classical notions of citizenship, the BIG expresses a version of Marshall's notion of social citizenship, in the Lockean tradition of the social contract in which there are correlative relations of rights and duties between the individual citizens and the state. Insofar as the BIG is a state-sponsored grant, the emphasis is on the vertical relationship between individual citizens and the state typical of the modern social welfare state. The BIG has potential to advance social citizenship by providing a minimum provision of welfare, thus contributing to poverty alleviation. In South Africa, such poverty alleviation is much needed since in practice substantial numbers of citizens do not qualify for means-tested state welfare grants. According to the BIG Coalition FAQ, some 12 million South Africans 'live in households that currently receive no social assistance because they do not have members eligible for a state old age pension, a disability grant, a child support grant or unemployment benefits' (BIG Coalition 2006: FAQ,

para. 2). The extremely poor, in many cases, become dependant on assistance from relatives and friends with a source of income, even though those providing assistance may be poor themselves.

The BIG expresses the core values of inclusive citizenship: justice, recognition, self-determination and solidarity. In relation to justice, the universal grant is a fair and reasonable way to substantiate constitutional rights to social security on an equitable basis. It signals recognition of individual worth and the need for dignity. The provision of a minimum income enables the poor to exercise some control over their lives, thus enabling a degree of self-determination. Finally, the grant demonstrates solidarity—defined as 'the capacity to identify with others and to act in unity with them in their claims for justice and recognition'—with fellow citizens and permanent residents (Kabeer 2005: 7). For this reason, the BIG is sometimes called a 'Solidarity Grant' (Legum 2002: para. 5).

Critics of the BIG point to its cost and the possibility of creating or reinforcing 'dependency'. The proposed R100 per month BIG has an estimated cost of R48 billion per year, excluding startup expenditure. After the distribution system is set up, the cost is expected to decrease since the grant is universal and would not require means-testing procedures, and therefore relatively inexpensive to administer. Advocates for the BIG have countered critics that declare grant recipients would become dependent on the state and less likely to seek employment. First of all, they dismiss the claims that social grants alone create dependency. In reality, proponents of the BIG argue, poverty inevitably creates dependency (BIG Coalition 2006: FAQ, para. 7). The extremely impoverished depend on the support of friends and relatives who have some form of income—either through employment or government pensions—yet who are also relatively poor.

The BIG simply shifts dependency of the extremely poor from indirect dependency on the working poor to direct dependency on the state. Secondly, since the grant is not means-tested it is unlikely to discourage people from accepting paid employment (Seekings 2007: 2). Thirdly, economists argue, the BIG is unlikely to negatively affect the economy or be a direct cause of inflation. In a developing country with a high unemployment rate such as South Africa, "it would not matter to the economy or prevailing wage rates if even a substantial proportion of people withdrew from the labour supply on receipt of a pension" (Seekings 2007: 3). Furthermore, the BIG may encourage employed people to retire earlier, which would effectively create opportunities for younger people to gain employment (Seekings 2007: 4-5). Thus, there are many reasons to consider the BIG as a means of ensuring inclusive social security provision, and therefore advancing the development of inclusive citizenship.

5.1.2 The constitutional adjudication of social rights

Another possible strategy for developing inclusive citizenship involves using targeted constitutional litigation to adjudicate social rights. The potential of rights adjudication has to do with the separation of powers between the executive, legislative and judicial branches of government and in particular, the Constitutional Court's powers to compel the legislature in areas of social rights. In the South African context, the powers of the courts related to constitutional matters are outlined in section 172 of the Constitution. Specifically for cases related to social rights the Court has the power to 'make any order that is just and equitable', including orders which declare laws or Acts invalid or unconstitutional (Constitution of the Republic of South Africa, Act no. 108 of 1996, s172). If deemed just and necessary according to the Constitution, the Court has the power to enforce duties of the legislature that correlate with the social rights of

citizens. In recent years, these rights have been affirmed in significant cases brought to the Constitutional Court (Klug 2002; Liebenberg 2005; Williams 2005). Until now these cases have been relatively sporadic and brought on ad hoc basis on behalf of specific groups or individuals. There is potential for the expansion of constitutional litigation. Unions and other civil society organisations may engage in targeted constitutional litigation as a deliberate strategy to effect social transformation and contribute to the development of inclusive citizenship.

In one of the earliest cases related to the socio-economic rights of citizens, *'Grootboom'*³, the Court ruled on the state's duty to make a short-term provision of adequate shelter for individuals in need of housing (Williams 2005: 219-233). According to the Constitutional Court the right to housing in section 26(2) of the 1996 Constitution implies that "the state must take reasonable legislative and other measures, within its available resources, to achieve the progressive realisation of this right" (Constitution of the Republic of South Africa, Act no. 108 of 1996, s26). In order to determine the extent of the state's positive duties related to the provision of socio-economic rights, the Court developed a 'reasonableness review' for the 'progressive realisation' of this right with the following specifications:

- (1) The state is required to make short-term provisions for individuals 'whose socio-economic circumstances are urgent or intolerable', i.e. when there is a 'lack of a programme catering for immediate housing needs'.
- (2) Constitutional provisions for socio-economic rights do not entail 'direct individually enforceable entitlement to the provision of socio-economic resources and services'.

³ *Government of the Republic of South Africa and Others v Grootboom and Others*

(3) 'Reasonableness' needs to be considered with regards to the 'social, economic and historical context as well as the context of the Bill of Rights as a whole'.

(Liebenberg 2005: 19, 27).

In the *Grootboom* case, the verdict of the Court stipulated that, in light of what was deemed 'reasonable', the local government was obligated to provide basic services to the community, including access to water, communal toilets and temporary housing structures (Williams 2005: 227-232). However, the government failed to implement the court's order and the central claimant of the case, Mrs Grootboom, died without housing (Mail & Guardian 2008). In another case, *Minister of Health and Others v Treatment Action Campaign and Others (TAC)*, the Court defined the constitutional obligations of the government in relation to health care. Representing a significant victory for transformative jurisprudence, the *TAC* ruling ordered the government to amend its health care policy for the prevention of mother-to-child transmission of HIV (Klug 2002: 807). "The TAC and other civil society organisations were able to use the criteria for a reasonable programme established in *Grootboom* and the mother-to-child transmission case in broad-based advocacy for a general anti-retroviral roll-out programme" (Liebenberg 2005: 27). The above cases illustrate that the adjudication of social rights has the potential to enforce South Africa's constitutionally guaranteed provisions for citizenship in ways that are relevant for the development of inclusive social citizenship.

Critics of the strategy allege that the adjudication of social rights implies that the poor are conceived as 'passive beneficiaries' rather than active participants in the struggle to access basic needs (Liebenberg 2005: 15). This weakness can be avoided if the adjudication of social rights is

allied to a strategy of litigation sustained by social movements. For example, in the *TAC* case for the provision of anti-retroviral treatment, the members of the TAC were not just passive beneficiaries of the case decided in their favour but were actively involved in the struggle that brought this to the Constitutional Court for adjudication (Mbali 2005: 237-241). The more serious challenges to the strategy of constitutional litigation are issues of cost and social mobilisation. In many cases, litigation requires the employment of expert lawyers, which is very costly while the process tends to be quite protracted. Furthermore, the effect of a litigation strategy is to 'individualise' issues in terms of particular cases, which goes against the logic of mobilizing social movements needed to sustain the strategy. Although certain cases have the possibility of becoming 'representative cases' that 'resonate with the wider themes pursued by social movements', court cases also have the potential to detract attention and resources from social movements that would be best utilised elsewhere (Hunt 1990: 318).

As the cases above have illustrated, employing constitutional litigation for the adjudication of social rights is one possible method for the development of inclusive citizenship. The effects of constitutional litigation are notably stronger when legal action is carried out in partnership with social movements as part of a broader strategy to achieve social transformation.

5.1.3 Horizontal citizenship and social movements – Abahlali baseMjondolo

Since 1994, a number of popular social movements based in local communities have gained prominence for their remarkable manifestation of inclusive, participatory democracy in struggles for the rights of citizenship. Applying active, and sometimes insurgent, citizenship the movements have had some success in asserting their members' rights to land, housing and social

services (Miraftab & Wills 2005: 201-202). In 2008, three of these movements—the Landless People's Movement (LPM) of Johannesburg, the Western Cape Anti-Eviction Campaign of Cape Town and the Abahlali baseMjondolo ('Shack Dwellers') movement in Durban—formed the coalition Poor People's Alliance and publicised their refusal of electoral politics under the banner "No Land! No House! No Vote!"

From among them, the Abahlali baseMjondolo (AbM) movement in Durban represents the clearest expression of inclusive and participatory democratic citizenship. The chairperson S'bu Zikode describes AbM as a 'non-political social movement' (2006: para. 14). The movement unites 14 informal settlements whose leaders meet weekly. Each individual settlement gathers once a week and all members vote on decisions affecting the community (Zikode 2006: 11). In line with the Hobbesian version of the social contract, the movement emphasises the horizontal relationship *between* citizens, rather than the vertical relationship of individual citizens with the state. This dimension of citizenship is particularly important when the government is largely unresponsive to the needs of impoverished and marginalised citizens (Kabeer 2005: 23). Thus, AbM has an important role in the development of a more inclusive society.

Abahlali baseMjondolo embodies the values of inclusive citizenship. In relation to justice, the movement sets out to assert its members' constitutional rights to housing and basic services. As a civil society-based movement, AbM has directly bypassed political organisations such as the ANC in favor of interacting directly with state officials 'about the installation of public toilets, issues of policing and disaster relief after shack fires' (Kienast 2010: para. 11). In October 2009, AbM won a major victory when the Constitutional Court declared a slums act involving arbitrary

evictions unconstitutional, thus assuring shack dwellers would not be rendered homeless (Kienast 2010: para. 1). Aside from being identified as relevant social actors by local government officials, AbM has attracted widespread attention by academics and civil society as well as local and international media, including *The Economist*, *The New York Times* and *Al-Jazeera* (Kienast 2010: para. 6). The democratic structure of AbM allows for individual self-determination as all members vote on decisions that affect the communities. Finally, the movement acts in solidarity with other pro-poor movements under the auspices of the Poor People's Alliance. The refusal to vote is an example of collective self-determination and solidarity resulting from 'alienation from formal politics' and 'shared experiences of oppression' (Kabeer 2005: 7-8).

The Abahlali movement is not uncontroversial. Particularly, AbM and the other social movements in the Poor People's Alliance have experienced political repercussions for their refusal to vote and other actions of active protest against the government's failure to provide basic services. In September 2009, armed men attacked an AbM settlement at Kennedy Road in Durban, destroying houses of AbM supporters and threatening the movement's leaders. Thirteen members of AbM, among the victims of the attack, were arrested and detained without trial. As of June 2010, five members remained in detention without bail (Kienast 2010: para. 25). Allegations have been made against local government officials for possibly having foreknowledge of, or being in support of, the attack, which occurred in full view of police (Kienast 2010: para. 2). The response of the ruling ANC and other governing political parties to AbM may be expected, since the movement is a direct challenge to the representative claims of government. Albeit controversial in approach, AbM represents an inclusive and participatory

democratic movement, and therefore has significance for the development of inclusive citizenship.

5.2 Conclusion

Citizenship in contemporary South Africa is not fulfilling its promise to deepen and expand inclusive citizenship. Despite the 1996 Constitution's Bill of Rights exemplary articulation of equal political, civil and social rights for all citizens, many South Africans continue to live in poverty without the necessary resources to meet their basic needs.

This thesis asked the following research question:

What are the prospects for, and dilemmas of, inclusive citizenship in South Africa in light of the unresolved contradictions between formal political equality and the reality of socio-economic inequality?

In seeking to address this question, I traced the historical trajectory of conceptions of citizenship generally and the history of conceptions of citizenship in South Africa in particular. In light of South Africa's history and contemporary realities, I articulated several dilemmas of the development of inclusive citizenship in South Africa. In this final chapter, I have explored a few prospective ways forward for post-apartheid South Africa to develop inclusive citizenship.

5.2.1 Summary of findings

In the course of my literature-based study, I identified several significant features of citizenship, as it has been historically conceptualised. Notably, the early Athenian conception of citizenship emphasised that citizens to possess a level of economic equality as property owners. Though the

conception of citizenship in Athens was by definition exclusive, the recognition of the need for economic equity to assure economic stability and solidarity between citizens is important for Marshall's conception of social citizenship and the contemporary notion of inclusive citizenship. Another significant finding relates to the social contract theories of Hobbes and Locke. While Hobbes emphasised the importance of horizontal relationships between citizens, Locke emphasised the correlative rights and duties between individual citizens and the state. Together the theories of Hobbes and Locke provide a key insight into the horizontal and vertical aspects of citizenship, which are imperative for the development of inclusive citizenship. Finally, Marshall's argument for designating a minimum of welfare provision to all citizens is relevant to contemporary arguments for economically and socially inclusive citizenship.

In tracing the trajectory of conceptions of citizenship in South Africa, I discovered entrenched patterns of race and class based inequality and exploitation that threaten the development of inclusive citizenship in contemporary South Africa. From the earliest days of colonisation, the exploitation of conquered indigenous people and imported slaves prevented the development of inclusive civic status and even served to undermine the civic and political status of 'free men' (Du Toit & Giliomee 1983: 7, 33-35). In addition, I found the struggle against apartheid to be of particular significance to the expansion of inclusive citizenship in South Africa. As Bryan Turner argues, 'citizenship is a consequence of real and popular struggles' (1986: 11-12). The anti-apartheid movement united diverse groups of black South Africans, who successfully achieved victories of recognition and reform. As such the struggle itself represents a historical antecedent to contemporary prospects for inclusive citizenship.

The legacies of past historical developments have entrenched structures of poverty, unjust economic relations and inequality. These legacies include a 'culture of poverty' as evident in the 'dop' system, prevailing paternalism, the 'land question' and urgent need for land reform, a crisis of basic education, corruption and a self-serving political elite. In general, the notion of inclusive citizenship articulated in the Constitution is in conflict with the continuing existence of widespread poverty and massive inequality in South Africa. Despite the historical legacies and constitutional contradictions, there are a few prospective ways forward for the development of inclusive citizenship. These include the implementation of a universal social grant—the proposed BIG, the constitutional adjudication of social rights and the advance of social movements such as AbM that emphasise the horizontal relationship between citizens.

5.2.2 Conclusions

Despite the articulation of inclusive citizenship in the 1996 Constitution, citizenship in contemporary South Africa is not fully inclusive. The rate of economic inequality stands as the highest in the world, while 65 percent of the population continues to subsist beneath a poverty line of R551.78 per capita per month (Development Indicators 2010: 25-26). South Africa's high level of unemployment is a key factor in the continuation of poverty (Seekings and Natrass 2005). The prevalence of poverty, inequality and unemployment pose inherent contradictions that question of the Constitution's legitimacy and relevance to citizens. The concept of inclusive citizenship as expressed in the 1996 Constitution implies and requires that widespread poverty and massive inequality be addressed through appropriate, effective policies and essential structural changes.

There are many dilemmas that complicate or obstruct the development of inclusive citizenship in South Africa. Largely, these are the legacies of past historical developments under colonial rule and apartheid. The legacy of a culture of poverty and the continuation of the dop system as a case in point fatally impinge on the significance and relevance of South Africa's constitutional provisions for equal and inclusive citizenship. The related but distinct legacy of paternalism continues to perpetuate a perverted sense of familial inclusion for farmworkers who remain excluded and marginalised in practice. Furthermore, the land question has yet to be resolved to the detriment of South Africans who experienced land dispossession during colonisation and apartheid. Land restitution has been slow and rural development programmes have in general been exclusionary. Thus, the unresolved 'land question' is serious hindrance to the development of inclusive citizenship. The contemporary crisis of basic education poses yet another impediment to the development of inclusive citizenship. In its current state, the largely dysfunctional educational system serves to reproduce and entrench existing racial and social inequalities. Finally, pervasive corruption and the presence of a corrupt, self-serving political class entrenches class divisions and erodes democracy. Until these dilemmas are addressed the development of inclusive citizenship remains highly improbable.

In light of the aforementioned dilemmas, what are the prospects for inclusive citizenship in South Africa? I identified three possible ways forward: arguments for a Basic Income Grant, the constitutional adjudication of social rights and the advance of social movements such as Abahlali baseMjondolo. The main conclusions are as follows:

Arguments for a Basic Income Grant

The Basic Income Grant (BIG) is a means of ensuring inclusive social security provision through implementation of a universal social grant. The proposed grant has a legal basis in the constitutional entitlement to a minimum of social security (Constitution of the Republic of South Africa, Act no. 108 of 1996, s27). The BIG has potential to advance social citizenship and contribute to poverty alleviation by ensuring a minimum provision of welfare for all citizens. The universal grant is a fair and reasonable way to substantiate constitutional rights to social security on an equitable basis, therefore advancing the development of inclusive citizenship.

Constitutional adjudication of social rights

Employing constitutional litigation for the adjudication of social rights is one possible method for the development and expansion of inclusive citizenship. The adjudication of social rights involves an appeal to the Constitutional Court's power to enforce the legislature's duties that correlate with the social rights of citizens. The effects of constitutional litigation are notably stronger when legal action is carried out in partnership with social movements as part of a broader strategy to achieve social transformation. Until now, cases related to social rights have been relatively sporadic and brought on ad hoc basis on behalf of specific groups or individuals, yet there is potential for expansion. Unions and other civil society organisations may engage in targeted constitutional litigation as a deliberate strategy to effect social transformation and contribute to the development of inclusive citizenship in South Africa.

Horizontal citizenship and social movements – Abahlali baseMjondolo

Abahlali baseMjondolo is one of several community-based social movements that have gained prominence for their remarkable manifestation of inclusive, participatory democracy in struggles

for the rights of citizenship in post-apartheid South Africa. Significantly, the AbM movement emphasises the horizontal relationship between citizens, rather than the vertical relationship of individual citizens with the state. The horizontal dimension of citizenship is particularly important in the context of contemporary South Africa in which the government continues to be largely unresponsive to the needs of its impoverished and marginalised citizens. In response to the government's ineffectiveness, particularly in the areas of housing and service delivery, AbM in partnership with other organisations has launched a campaign called "No Land! No House! No Vote!" The coalition's refusal to vote is a direct challenge to the representative claims of government. Albeit controversial in approach, AbM represents an inclusive and participatory democratic movement, and therefore has significance for the development of inclusive citizenship.

5.2.3 Suggestions for further research

There are many questions that were unable to be properly addressed or answered in the space of this minor dissertation due to constraints of time and length requirements. These include:

- How has the inclusion of social rights for non-citizens in the 1996 Constitution affected the realisation of basic social rights for all people residing within South Africa?
- How does the history of racialised exclusion in South Africa relate to the present-day exclusion of immigrants from neighboring African countries (i.e. instances of xenophobia / xenoracism)?
- How have racialised identities affected the dilemmas of inclusive citizenship in South Africa?

- Does the historical practice of slavery correspond to the contemporary economic system of capitalism? If so, how does this affect the prospects for inclusive citizenship in South Africa?
- What is the role of nation building in developing inclusive citizenship in South Africa?
- What are the prospects for, and dilemmas of, inclusive education in South Africa? How can the current crisis of basic education be resolved?
- What are the prospects for, and dilemmas of, inclusive citizenship in other contexts (i.e. Egypt, Tunisia, the United States, Israel and Palestine)?

I would have also liked to include a component of empirical research in which I would conduct interviews with South Africans about what inclusive citizenship means to them.

Bibliography

Scholarly Literature & Journals

- Adelzadeh, A. 1996. From the RDP to GEAR: The gradual embracing of neo-liberalism in economic policy. *Transformation*, 31: 66-95.
- Agamben, G. 1995. *Homo Sacer: Sovereign Power and Bare Life*. Stanford: Stanford University Press.
- Alcock, P., May, M., & Rowlingson, K. (eds). 2008. *The student's companion to social policy*. Oxford: Blackwell.
- Andrews, P. & Ellmann, S. (eds). 2001. *Post-Apartheid Constitutions: Perspectives on South Africa's Basic Law*. Johannesburg: Witwatersrand University Press & Athens: Ohio University Press.
- Aristotle. 1887. *Politics*. In: Newman, W.L. (ed). *The Politics of Aristotle*. Oxford: Clarendon Press.
- Armstrong, J.C. 1979. The slaves, 1652-1795. In: Elphick, R. & Giliomee, H. (eds). *The Shaping of South African Society, 1652-1820*. Cape Town: Longman Penguin South Africa pp. 75-115.
- Atkinson, D. 1994. Insuring the future? The bill of rights. In: Friedman, S. & Atkinson, D. (eds). *The Small Miracle: South Africa's Negotiated Settlement*. Johannesburg: Ravan Press. pp. 121-147.
- Barohiesi, F. 2008. Hybrid Social Citizenship in Contemporary South Africa. *Meditations*, 24(1): 53-68.
- Basok, T., Ilcan, S., & Noonan, J. 2006. Citizenship, Human Rights, and Social Justice. *Citizenship Studies*, 10(3):267-273.
- Beiner, R. & Kingston, R. 2005. Citizenship: Overview. In: Horowitz, M.C. *New Dictionary of the History of Ideas: Vol 1*. New York: Scribner. pp. 335-337.
- Berry, S. 2002. Debating the Land Question in Africa. *Comparative Studies in Society and History*, 44: 638-668.
- Biko, S. 2004. *I Write What I Like*. Johannesburg: Picador Africa.
- Boas, T.C. & Gans-Morse, J. 2009. Neo-liberalism: From New Liberal Philosophy to Anti-Liberal Slogan. *Studies in Comparative International Development*, 44: 137-161.
- Bond, P. 2000. *Elite Transition: From Apartheid to Neoliberalism in South Africa*. London: Pluto Press & Pietermaritzburg: University of Natal Press.
- Bond, P. 2008. South Africa's 'Developmental State' Distraction. *Meditations*, 24(1): 9-28.
- Botha, R.J. 2002. Outcomes-based education and educational reform in South Africa. *International Journal of Leadership in Education*, 5(4): 361-371.
- Brubaker, W.R. 1989. The French Revolution and the Invention of Citizenship. *French Politics and Society* 7(3): 30-49.

- Buchanan, A. 1982. *Marx and Justice*. Totowa, New Jersey: Rowman and Littlefield.
- Bulmer, M. & Rees, A.M. (eds). 1996. *Citizenship Today: The Contemporary Relevance of T.H. Marshall*. London: UCL Press.
- Butler, J., Elphick, R. & Welsh, D. (eds). 1987. *Democratic Liberalism in South Africa: Its history and prospect*. Middletown, CT: Wesleyan University Press and Cape Town and Johannesburg: David Philip.
- Cameron, T. & Spies, S.B. (eds). 1986. *An Illustrated History of South Africa*. Johannesburg: Jonathan Ball Publishers.
- Cameron, T. & Spies, S.B. (eds). 1991. *A New Illustrated History of South Africa*. Johannesburg: Southern Book Publishers & Cape Town: Human & Rousseau.
- Campbell, T. 2006. *Rights: A Critical Introduction*. New York: Routledge.
- Ceuppens, B. & Geschiere, P. 2005. Autochthony: Local or Global? New Modes in the Struggle over Citizenship and Belonging in Africa and Europe. *Annual Review of Anthropology*, 34: 385-407.
- Chaskalson, M. 1995. Stumbling Towards Section 28: Negotiations over the protection of property rights in the interim Constitution. *South African Journal on Human Rights (SAJHR)* 11: 222-40.
- Christie, P. 2002. OBE and Unfolding Policy Trajectories: Lessons to be Learned. In: Jansen, J. & Christie, P. (eds). *Changing Curriculum: Studies on Outcomes-based Education in South Africa*. Kenwyn: Juta & Co Ltd.
- Clare, J. (ed). 2010. *Captured in Time: Five Centuries of South African Writing*. Johannesburg & Cape Town: Jonathan Ball Publishers.
- Collins, Susan D. 2006. *Aristotle and the Rediscovery of Citizenship*. New York: Cambridge University Press.
- Comaroff, J. & Comaroff, J. 1986. Christianity and Colonialism in South Africa. *American Ethnologist*, 13(1): 1-22.
- Cornwall, A. & Coelho, V.S.P. (eds). 2007. *Spaces for Change? The politics of participation in new democratic arenas*. London: Zed Books.
- Dahrendorf, R. 1994. The Changing Quality of Citizenship. In: van Steenberg, B. (ed). *The Condition of Citizenship*. London: SAGE Publications pp. 10-19.
- Dahrendorf, R. 1996. Citizenship and Social Class. In: Bulmer M. & Rees. A.M. (eds). *Citizenship Today: the contemporary relevance of T.H. Marshall*. London: UCL Press. pp. 25-48.
- De Haan, A. 1998. 'Social Exclusion' - an alternative concept for the study of deprivation? *IDS Bulletin*, 29(1):10-19.
- De Haan, A. & Simon, M. 1998. Poverty and Social Exclusion in North and South. *IDS Bulletin*, 29(1): 1-9.
- Dean, H. 2006. Citizenship, Social Justice, and Social Exclusion. *Social Policy*. Cambridge: Polity Press.

- Delanty, G. 2000. *Citizenship in a Global Age: Society, Culture, Politics*. Buckingham: Open University Press.
- Desai, A. 2008. The Crises of the Left in Contemporary South Africa. *Meditations*, 24(1): 29-52.
- Dias, R.W.M. 1976. Hohfeld's analysis of 'rights'. In: *Jurisprudence*. London: Butterworths.
- Dimand, R.W., Mundell, R.A., & Vercelli, A. (eds). 2010. *Keynes's General Theory After Seventy Years*. Hampshire: Palgrave Macmillan.
- Du Plessis, L. & Corder, H. 1994. *Understanding South Africa's Transitional Bill of Rights*. Kenwyn: Juta & Co.
- Du Toit, A & Giliomee, H. 1983. *Afrikaner Political Thought: Analysis & Documents, Volume 1: 1780-1850*. Cape Town: David Philip, Publisher.
- Du Toit, A. 1987. The Cape Afrikaners' Failed Liberal Moment, 1850-1870. In: Butler, J., Elphick, R. & Welsh, D. (eds). *Democratic Liberalism in South Africa: Its History and Prospect*. Middletown, CT: Wesleyan University Press and Cape Town and Johannesburg: David Philip, pp. 35-63.
- Du Toit, Andries. 1992. The Farm as Family: Paternalism, Management and Modernisation on Western Cape Wine and Fruit Farms. Occasional paper. Stellenbosch: Centre for Rural Legal Studies.
- Du Toit, Andries. 1993. The Micro-Politics of Paternalism: The Discourses of Management and Resistance on South African Fruit and Wine Farms. *Journal of Southern African Studies*, 19(2): 314-336.
- Dubow, S. 1989. *Racial Segregation and the Origins of Apartheid in South Africa, 1919-36*. Hampshire & London: Macmillan Press.
- Dubow, S. 2010. Human Rights in South Africa: the long and fractured tradition. Unpublished paper. Sussex: University of Sussex.
- Dunn, J. 1984. *Locke: A very short introduction*. Oxford: Oxford University Press.
- Elphick, R. 1979. The Khoisan to c. 1770. In: Elphick, R. & Giliomee, H. (eds). 1979. *The Shaping of South African Society, 1652-1820*. Cape Town: Longman Penguin South Africa.
- Elphick, R. & Giliomee, H. (eds). 1979. *The Shaping of South African Society, 1652-1820*. Cape Town: Longman Penguin South Africa.
- Engelbrecht, P., Oswald, M. & Forlin, C. 2006. Promoting the implementation of inclusive education in primary schools in South Africa. *British Journal of Special Education*, 33(3): 121-129.
- Engerbensen, G., Schuyt, K., Timmer, J., & van Waarden, F. 2006. *Cultures of Unemployment: A comparative look at long-term unemployment and urban poverty*. Amsterdam: Amsterdam University Press.
- Erasmus, Z. 2002. *Coloured by History, Shaped by Place: New Perspectives on Coloured identities in Cape Town*. Cape Town: Kwela.

- Erasmus, Z. 2009. *Reformulating Racialised Citizenship(s) for South Africa's Interregnum*. Paper presented at Sawyer Seminar: Personhood, August 2009. Cape Town: University of Cape Town.
- Espada, J.C. 1996. *Social Citizenship Rights*. London: Macmillan Press.
- Evans, J., Grimshaw, P., Philips, D. & Swain, S. 2003. *Equal Subjects, Unequal Rights: Indigenous Peoples in British Settler Colonies, 1830-1910*. Manchester: Manchester University Press.
- Everingham, M. & Jannecke, C. 2006. Land Restitution and Democratic Citizenship in South Africa. *Journal of South African Studies*, 32(3): 545-562.
- Fanon, F. 1961. *The Wretched of the Earth*. London: Penguin Books.
- Fiske, E.B. & Ladd, H.F. 2004. *Elusive Equity: Education Reform in Post-apartheid South Africa*. Washington, D.C.: Brookings Institute Press.
- Flathman, R. 1976. The Practice of Rights. *The Practice of Rights*. New York and London: Cambridge University Press.
- Frede, D. 2005. Citizenship in Aristotle's Politics. In: Kraut, R. & Skultety, S. (eds). *Aristotle's Politics: Critical essays*. Oxford: Rowman & Littlefield Publishers, pp. 167-184.
- Friedman, S. & Atkinson, D. (eds). 1994. *The Small Miracle: South Africa's Negotiated Settlement*. Johannesburg: Ravan Press.
- Frueh, J. 2003. *Political Identity and Social Change*. Albany: State University of New York Press.
- Gasa, N. 2007. *Women in South African History*. Cape Town: HSRC Press.
- Genovese, E. 1976. *Roll, Jordan, Roll: The World the Slaves Made*. New York: Vintage Books.
- Geras, N. 1976. *The Legacy of Rosa Luxemburg*. London: New Left Books.
- Giliomee, H. & Elphick, R. 1979. The structure of European domination at the Cape, 1652-1820. In: Elphick, R. & Giliomee, H. (eds). *The Shaping of South African Society, 1652-1820*. Cape Town: Longman Penguin South Africa.
- Giliomee, H. 1995. Democratization in South Africa. *Political Science Quarterly*, 110(1): 83-104.
- Giliomee, H., Myburgh, J. & Schlemmer, L. 2001. Dominant Party Rule, Opposition Parties and Minorities in South Africa. *Democratization*, 8(1): 161-182.
- Giliomee, H. & Mbenga, B. (eds). 2007. *New History of South Africa*. Cape Town: Tafelberg. pp. 279-282.
- Gore, C. 1994. *Social exclusion and Africa south of the Sahara: A review of the literature*. Geneva: International Institute for Labour Studies.
- Gosewinkel, D. 2001. Historical Development of Citizenship. In: Smelser, J. & Baltes P.B. (eds). *The International Encyclopedia of the Social & Behavioral Sciences*, 3: 1852-1860.

- Gouws, A. 2005. *(Un)thinking Citizenship: Feminist Debates in Contemporary South Africa*. Cape Town: UCT Press.
- Gqola, P. 2001. Defining People: Analysing power, language and representation in metaphors of the New South Africa. *Transformation*, 47(2001): 94-106.
- Greenberg, S. 2010. *Status report on land and agricultural policy in South Africa, 2010*. PLAAS: Institute for Poverty, Land and Agrarian Studies, School of Government - University of the Western Cape.
- Guelke, L. 1979. The White Settlers. In: Elphick, R. & Giliomee, R. (eds). *The Shaping of South African Society, 1652-1820*. Cape Town: Longman Penguin South Africa pp. 41-74.
- Habib, A. 2005. State-Civil Social Relations in Post-Apartheid South Africa. *Social Research*, 72(3): 671-692.
- Hassim, S., Kupe, T., & Worby, E. (eds). 2008. *Go Home or Die Here: Violence, Xenophobia and the Reinvention of Difference in South Africa*. Johannesburg: Wits University Press.
- Held, D. 1987. *Models of Democracy*. Oxford: Polity Press.
- Hobbes, T. 1991. Leviathan. In: Tuck, R. (ed). *Leviathan*. Cambridge: Cambridge University Press.
- Hoernlé, R.F.A. 1845. *South African Native Policy and the Liberal Spirit*. Johannesburg: Witwatersrand University Press.
- Höfert, S. 2003. States, cities, and citizens in the later Middle Ages. In: Skinner, Q. & Strath, B. (eds). *States and Citizens: history, theory, prospects*. Cambridge: Cambridge: Cambridge University Press.
- Hadland, A. (ed). 2008. *Citizenship, violence and xenophobia in South Africa: perceptions from South African communities*. Commissioned by the CEO of the Human Sciences Research Council (HSRC). Cape Town: Democracy and Governance Programme.
- Hunt, A. 1999. Rights and Social Movements: Counter-Hegemonic Strategies. *Journal of Law and Society*, 17(3): 309-328.
- Hutson, J.H. 1991. The Bill of Rights and the American Revolutionary Experience. In: Lacey M.J. & Haakonssen, K. (eds). *A Culture of Rights: The Bill of Rights in Philosophy, Politics, and Law*. New York: Woodrow Wilson International Center for Scholars and Cambridge University Press. pp. 62-97.
- Jansen, J. & Christie, P. (eds). 1999. *Changing Curriculum: Studies on Outcomes-based Education in South Africa*. Kenwyn: Juta & Co Ltd.
- Kabeer, N. (ed). 2005. *Inclusive Citizenship: Meanings and Expressions*. New York: Zed Books.
- Kamenka, E. 1978. The Anatomy of an Idea. In: Kamenka, E. & Tay, A. (eds). *Human Rights*. New York: St. Martins Press. pp. 1-10.
- Kane-Berman, J. 1978. *Soweto: Black Revolt, White Reaction*. Johannesburg: Ravan Press.

- Karimi, S. 2009. Liberal Democracy, Citizenship and Class: Unresolved Contradictions of Capitalism. *International Journal of Criminology and Sociological Theory*, 2(1): 265-275.
- Karis, T. & Carter, G.M. (eds). 1972. *Protest and Hope, 1882-1934*. Volume 1 of *From Protest to Challenge: A Documentary History of African Politics in South Africa, 1882-1964*. Stanford: Hoover Institution Press.
- Karis, T. & Carter, G.M. (eds). 1973. *Hope and Challenge, 1935-1952*. Volume 2 of *From Protest to Challenge: A Documentary History of African Politics in South Africa, 1882-1964*. Stanford: Hoover Institution Press.
- Katz, L. 1988. Some recent developments in labour economics and their implications for macroeconomics. *Journal of Money, Credit, and Banking*, 20(3): 507-522.
- Katz, M. 1989. *The Undeserving Poor*. New York: Pantheon.
- Katz, S. 1980. *Marxism, Africa and Social Class: A Critique of Relevant Theories*. Montreal: McGill University.
- Keegan, T. 1996. *Colonial South Africa and the Origins of the Racial Order*. Cape Town: David Philip.
- King, D.S. & Waldron, J. 1988. Citizenship, Social Citizenship and the Defence of Welfare Provision. *British Journal of Political Science*, 18(4): 415-443.
- Kivisto, P. & Faist, T. 2007. *Citizenship: Discourse, Theory, and Transnational Prospects*. Oxford: Blackwell.
- Klaaren, J. 2001. Contested Citizenship in South Africa. In: Andrews, P. & Ellmann, S. (eds). *Post-Apartheid Constitutions: Perspectives on South Africa's Basic Law*. Johannesburg: Witwatersrand University Press & Athens: Ohio University Press. pp. 304-325.
- Klug, H. 2002. Five Years On: How Relevant is the Constitution to the New South Africa? *Vermont Law Review*, 26(2001-2002): 803-819.
- Kymlicka, W. 1996. *Multicultural Citizenship: A Liberal Theory of Minority Rights*. Oxford: Oxford University Press.
- Lewis, O. 1966. The Culture of Poverty. *Society* 1: 16-19.
- Liebenberg, S. 1999. Social Citizenship: A Precondition for Meaningful Democracy. *Agenda*, 40(1999): 59-65.
- Liebenberg, S. 2005. Needs, Rights and Transformation: Adjudicating Social Rights. *Center for Human Rights and Global Justice Working Paper: Economic and Social Rights Series No. 8*. New York: New York University - School of Law.
- Locke, J. 1960. Two Treatises of Government. In: Laslett, P. (ed). *Two Treatises of Government*. Cambridge: Cambridge University Press.
- Lodge, T. & Nasson, B. (eds). 1991. *All, Here, and Now: Black Politics in South Africa in the 1980s*. Cape Town: David Philip.

- Lodge, T. 1998. Political Corruption in South Africa. *African Affairs*, 97(1998): 157-187.
- Lomofsky, L. & Lazarus, S. 2001. South Africa: First steps in the development of an inclusive education system. *Cambridge Journal of Education*, 31(2): 303-317.
- London, L. 1999. The 'dop' system, alcohol abuse and social control amongst farm workers in South Africa: a public health challenge. *Social Science & Medicine*, 48(1999): 1407-1414.
- McKinley, D.T. 2008. The Crises of the Left in Contemporary South Africa. *Meditations*, 24(1): 69-92.
- Mackenzie, W.J.M. 1978. *Political Identity*. Middlesex: Penguin Books Ltd.
- Mamdani, M. 1996. *Citizen and Subject: Contemporary Africa and the Legacy of Late Colonialism*. Princeton: Princeton University Press.
- Mamdani, M. 2001. *When Victims Become Killers: Colonialism, Nativism, and the Genocide in Rwanda*. Princeton: Princeton University Press.
- Marais, H. 2001. *South Africa: Limits to Change: The Political Economy of Transition*. Kenwyn: UCT Press & London: Zed Books.
- Maree, J. (ed). 1987. *The Independent Trade Unions, 1974–1984*. Johannesburg: Ravan Press.
- Marshall, T.H. & Bottomore, T. 1992. *Citizenship and Social Class and other essays*. London: Pluto Press.
- Marx, K. 1971. On the Jewish Question. In: McLellan, D. (ed). *Karl Marx: Early texts*. Oxford: Basil Blackwell. pp. 85-114.
- Marx, K. 1978. Critique of the Gotha Programme In: Tucker, R.C. (ed). *Marx-Engels Reader*, Second edition. New York: Norton.
- Maslan, S. 2004. The Anti-Human: Man and Citizen before the Declaration of the Rights of Man and of the Citizen. *South Atlantic Quarterly*, 103(2/3): 357-374.
- Mattes, R. 2002. South Africa: Democracy Without the People? *Journal of Democracy*, 13(1): 22-36.
- May, J. 2000. The Structure and Composition of Rural Poverty and Livelihoods in South Africa. In: *At the Crossroads: Land and Agrarian reform in South Africa into the 21st Century*. Belville and Braamfontein: PLAAS and NLC.
- Mead, L. 1986. *Beyond Entitlement: The Social Obligations of Citizenship*. New York: Free Press.
- Mehta, L. 2005. Citizenship and the right to water: Lessons from South Africa's Free Basic Water Policy. In: Kabeer, N. (ed). *Inclusive Citizenship: Meanings and Expressions*. New York: Zed Books. pp. 235-250.
- Meyer, R. 2001. From Parliamentary Sovereignty to Constitutionality: The Democratisation of South Africa, 1990 to 1994. In: Andrews, P. & Ellmann, S. (eds). *Post-Apartheid Constitutions: Perspectives on*

- South Africa's Basic Law*. Johannesburg: Witwatersrand University Press & Athens: Ohio University Press. pp. 48-70.
- Miraftab, F. & Wills, S. 2005. Insurgency and Spaces of Active Citizenship: The story of Western Cape Anti-eviction Campaign in South Africa. *Journal of Planning Education and Research*, 25: 200-217.
- Morris, M. 2004. *Every Step of the Way: The Journey to Freedom in South Africa*. Cape Town: HSRC Press.
- Mouffe, C. 1995. Citizenship. In: Lipset, S.M. (ed). *The Encyclopedia of Democracy*. Washington, DC: Congressional Quarterly. pp. 218-221.
- Mufson, S. 1991. Introduction: The Roots of Insurrection. In: Lodge, T. & Nasson, B. (eds). *All, Here, and Now: Black Politics in South Africa*. Cape Town: David Philip Publishers pp. 245-249.
- Munck, R. 2005. *Globalization and Social Exclusion: A Transformationalist Perspective*. Bloomfield, CT: Kumarian Press.
- Murray, C. 2001. Negotiating Beyond Deadlock: From the Constitutional Assembly to the Court. In: Andrews, P. & Ellmann, S. (eds). *Post-Apartheid Constitutions: Perspectives on South Africa's Basic Law*. Johannesburg: Witwatersrand University Press & Athens: Ohio University Press. pp. 103-127.
- Natrass, N. & Seekings, J. 2001. Democracy and Distribution in highly unequal economies: the case of South Africa. *Journal of Modern African Studies*, 38(3): 471-498.
- Neocosmos, M. 2006. *From 'Foreign Natives' to 'Native Foreigners': Explaining Xenophobia in Post-apartheid South Africa*. Dakar: Codesria Books.
- Nyamnjoh, F. 2006. *Insiders and Outsiders: Citizenship and Xenophobia in Contemporary Southern Africa*. Dakar: Codesria Books.
- Nyamnjoh, F. 2007. From Bounded to Flexible Citizenship: Lessons From Africa. *Citizenship Studies*, 11(1): 73-82.
- Nyamu-Musembi, C. 2005. Towards an actor-oriented perspective on human rights. In: Kabeer, N. (ed). *Inclusive Citizenship: Meanings and Expressions*. New York: Zed Books. pp. 31-49.
- Oliver, D. & Heater, D. 1994. *The Foundations of Citizenship*. London: Harvester Wheatsheaf.
- Pateman, C. 1970. *Participation and Democratic Theory*. Cambridge: Cambridge University Press.
- Pierson, P. 1996. The New Politics of the Welfare State. *World Politics*, 48(2): 143-179.
- Plaatjie, S. 1913 / 2007. *Native Life in South Africa*. Northlands: Picador Africa.
- Przeworski, A. 1985. *Capitalism and Social Democracy*. Cambridge: Cambridge University Press.
- Ramaphosa, C. 2001. Negotiating a New Nation: Reflections on the Development of South Africa's Constitution. In: Andrews, P. & Ellmann, S. (eds). 2001. *Post-Apartheid Constitutions: Perspectives on South Africa's Basic Law*. Johannesburg: Witwatersrand University Press & Athens: Ohio University Press. pp. 71-85.

- Rose, B.W. 1965. Bantu Education as a Facet of South African Policy. *Comparative Education Review*, 9(2): 208-212.
- Rousseau, J.J. 1762 / 1913. *The Social Contract and the Discourses*. London: Everyman's Library.
- Sandel, M. 1982. *Liberalism and the Limits of Justice*. Cambridge: Cambridge University Press.
- Saunders, C. (ed). 1988. *Reader's Digest: Illustrated History of South Africa - The real story*. Cape Town: The Reader's Digest Association South Africa.
- Savage, K. 2001. Negotiating South Africa's New Constitution: An Overview of the Key Players and the Negotiation Process. In: Andrews, P. & Ellmann, S. (eds). *Post-Apartheid Constitutions: Perspectives on South Africa's Basic Law*. Johannesburg: Witwatersrand University Press & Athens: Ohio University Press. pp. 164-193.
- Savigny, H. 2007. Citizenship. In: Bevir, M. (ed). *Encyclopedia of Governance, Vol 1*. Thousand Oaks, CA: Sage. pp. 80-83.
- Seekings, J. 2000. *The UDF: A History of the United Democratic Front in South Africa, 1983-1991*. Cape Town: David Philip.
- Seekings, J. 2002. Unemployment and Distributive Justice in South Africa: Some inconclusive evidence from Cape Town. *CSSR Working Paper No. 24*. Cape Town: University of Cape Town - Centre for Social Science Research.
- Seekings, J. 2003. Social Stratification and Inequality in South Africa at the End of Apartheid. *CSSR Working Paper No. 31*. Cape Town: University of Cape Town - Centre for Social Science Research.
- Seekings, J. 2007a. 'Not a single white person should be allowed to go under': *Swartgevaar* and the origins of South Africa's welfare state, 1924-1929. *Journal of African History*, 48(2007): 375-394.
- Seekings, J. 2007b. The Inconsequentiality of Employment Disincentives: Basic Income in South Africa. *Basic Income Studies: An International Journal of Basic Income Research*, 2(1): 1-6.
- Seekings, J. 2008. The ILO and Social Protection in the Global South, 1919-2005. *CSSR Working Paper No. 238*. Cape Town: University of Cape Town - Centre for Social Science Research.
- Seekings, J. & Nattrass, N. 2005. *Class, Race, and Inequality in South Africa*. New Haven & London: Yale University Press.
- Shafir, G. & Brysk, A. 2006. The Globalisation of Rights: From Citizenship to Human Rights. *Citizenship Studies*, 10(3): 275-287.
- Shell, R.C.-H. 1994. *Children of Bondage: A Social History of the Slave Society at the Cape of Good Hope, 1652-1838*. Johannesburg: Witwatersrand University Press.
- Silver, H. 1994. Social exclusion and social solidarity: Three paradigms. *International Labour Review*, 133(5-6): 531-578.

- Sithole, N. 1991. A Story of Confrontation. In: Lodge, T. & Nasson, B. (eds). *All, Here, and Now: Black Politics in South Africa*. Cape Town: David Philip pp. 245-249.
- Somers, M. R. 2008. *Genealogies of Citizenship: Markets, Statelessness, and the Right to Have Rights*. Cambridge: Cambridge University Press.
- Southall, R.J. 1977. The Beneficiaries of Transkeian 'Independence'. *The Journal of Modern African Studies*, 15(1): 1-23.
- Steger, M.B. & Roy, R.K. 2010. *Neo-liberalism: A very short introduction*. Oxford: Oxford University Press.
- Terreblanche, S. 2002. *A History of Inequality in South Africa: 1652-2002*. Scottsville: University of Natal Press & Sandton: KMM Review Publishing Company.
- Trapido, S. 1980. 'The friends of the natives': merchants, peasants, and the political and ideological structure of liberalism in the Cape. In: Marks, S. & Atmore, A. *Economy and Society in Pre-industrial South Africa*. London: Longman. pp. 247-274.
- Trapido, S. 1992. The emergence of liberalism and the making of 'Hottentot nationalism', 1815-1834. In: *SOAS, The Societies of Southern Africa in the 19th and 20th Centuries*. 17(42): 34-54.
- Tuck, R. 1989. *Hobbes: A very short introduction*. Oxford: Oxford University Press.
- Turner, B.S. 1986. *Citizenship and Capitalism: The Debate Over Reformism*. London: Allen & Unwin.
- Turshen, M. 2004. *Poverty and Social Exclusion*. New Brunswick: Rutgers University.
- Tutu, D. 1999. *No Future Without Forgiveness*. New York: First Image Books.
- Van den Berghe, P.L. 1970. *South Africa, A Study in Conflict*. Los Angeles: University of California Press.
- Van der Merwe, P.J. 1995. *The Migrant Farmer in the History of the Cape Colony, 1657-1842*. Athens: Ohio University Press.
- Van Steenberg, B. 1994. *The Condition of Citizenship*. London: SAGE Publications Ltd.
- Waldron, J. 1987. *Nonsense Upon Stilts: Bentham, Burke, and Marx on the Rights of Man*. London: Routledge.
- Waldron, J. 1992. Rights. In: Goodin, R.E., Pettit, P., & Pogge, T. (eds). *Companion to Political Philosophy*. New York: Blackwell Publishing. pp. 575-585.
- Waldron, J. 2004. Settlement, Return and the Supersession Thesis. *Theoretic Inquiries in Law* 5(2): 237-268.
- Welsh, D. 2009. *The Rise and Fall of Apartheid*. Johannesburg & Cape Town: Jonathan Ball.

Williams, J.J. 2008. The Grootboom case and the constitutional right to housing: the politics of planning in post-apartheid South Africa. In: Kabeer, N. (ed). *Inclusive Citizenship*. London: Zed Books. pp. 219-233.

Wilson, R. 1997. *Human Rights, Culture, and Context: Anthropological Perspectives*. London: Pluto Press.

Worden, N. 1994. *The Making of a Modern South Africa: Conquest, segregation and apartheid*. Oxford: Blackwell.

Yeatman, A. 1996. *Postmodern Revisionings of the Political*. London: Routledge.

Yuval-Davis, N. 1997. *Gender & Nation*. London: SAGE Publications.

Government Publications, Laws & Acts

African National Congress. 1955. Freedom Charter, Congress of the People, Kliptown, 26 June 1955. [Online.] Available: <http://www.anc.org.za/ancdocs/history/charter.html>. [2 August 2010]

African National Congress. 1969. Strategy and Tactics of the ANC, Morogoro Conference, Tanzania, 25 April - 1 May 1969. [Online.] Available: <http://www.anc.org.za/ancdocs/history/stratact.html>. [2 August 2010]

African National Congress. 1989. Constitutional Guidelines for a Democratic South Africa, 1989. [Online.] Available: <http://www.anc.org.za/ancdocs/policy/guidelines.html>. [12 August 2010]

France. National Assembly. 1789. *Declaration of the Rights of Man and of the Citizen*.

Mandela, N. 1994. *State of the Nation Address*. Houses of Parliament, Cape Town, 24 May 1994. [Online.] Available: <http://www.anc.org.za/ancdocs/history/mandela/1994/sp940524.html>. [2 August 2010]

South Africa. 1996. Constitution of the Republic of South Africa, Act. 108 of 1996.

South Africa. Department of Education. 2009. *Trends in Education Macro Indicators*. [Online.] Available: www.info.gov.za/view/DownloadFileAction?id=114966. [8 February 2011]

South Africa. The Minister in the Presidency: National Planning Commission. 2010. *Development Indicators*. [Online.] Available: <http://www.thepresidency.gov.za/pebble.asp?relid=2876>. [8 February 2011]

Online Publications

The Economist. 2010. Stop that virus: As widespread corruption is exposed, will Jacob Zuma tackle it? *The Economist*. [Online.] Available: <http://www.economist.com/node/15464513>. [8 February 2011]

- Geddes, D. 2010. A special report on South Africa: The price of freedom. *The Economist*. [Online.] Available: <http://www.economist.com/node/16248589>. [7 February 2011]
- Gelb, S. 2003. Inequality in South Africa: Nature, causes and responses. *The EDGE Institute*. [Online.] Available: http://www.sarpn.org/documents/d0000671/P686-Gelb_Inequality_in_SA.pdf. [11 October 2010]
- Hickey, S. & Du Toit A. 2007. Adverse incorporation, social exclusion, and chronic poverty. *CPRC Working Paper 81*. [Online.] Available: http://www.chronicpoverty.org/pubfiles/81Hickey_duToit.pdf. [27 July 2010]
- Hulme, D., Moore, K., & Shepherd, A. 2001. *Chronic poverty: meanings and analytical frameworks*. Manchester: Institute of Development Policy and Management. [Online.] Available: http://www.chronicpoverty.org/pdfs/02Hulme_et_al.pdf. [27 July 2010]
- Kabeer, N. 2002. Citizenship and the boundaries of the acknowledged community: identity, affiliation and exclusion. *IDS Working Paper 171: Development Research Centre on Citizenship, Participation and Accountability*. [Online.] Available: <http://www.ids.ac.uk/download.cfm?file=wp171.pdf>. [27 July 2010]
- Kienast, G. 2010. Abahlali baseMjondolo – how poor people’s struggle for land and housing became a struggle for democracy. *Friede den Hütten!* [Online.] Available: <http://suedafrika.habitants.de/?p=15>. [7 February 2010]
- Legum, M. 2002. BIG Fact Sheet #5: Building a Decent Society. *Basic Income Grant Coalition*. [Online.] Available: <http://www.big.org.za/index.php?option=articles&task=viewarticle&artid=14>. [7 February 2011]
- Mail&Guardian Online. 2008. Grootboom dies homeless and penniless. *Mail&Guardian*. [Online.] Available: <http://mg.co.za/article/2008-08-08-grootboom-dies-homeless-and-penniless>. [26 April 2011]
- Mail&Guardian Online. 2011. The battle against corruption. *Mail&Guardian*. [Online.] Available: <http://www.mg.co.za/article/2011-01-05-the-battle-against-corruption>. [8 February 2011]
- Mamdani, M. 2002. *Political Identity, Citizenship and Ethnicity in Post-colonial Africa*. Keynote address of the Arusha Conference 'New Frontiers of Social Policy', 12-15 December 2005. [Online.] Available: <http://siteresources.worldbank.org/INTRANETSOCIALDEVELOPMENT/Resources/reviseMamdani.pdf>. [27 July 2010]
- Mbali, M. 2005. The Treatment Action Campaign and the History of Rights-based, Patient-driven HIV/AIDS Activism in South Africa. In: Jones, P. & Stokke, K. (eds). *Democratising development: the politics of socio-economic rights in South Africa*. Leiden, The Netherlands: Koninklijke Brill NV. pp. 213-241.
- O'Malley, P. 2010. *The Heart of Hope: South Africa's transition from apartheid to democracy*. Resource hosted by the Nelson Mandela Centre of Memory and Dialogue. [Online.] Available: <http://www.nelsonmandela.org/omalley/index.php/site/q/03lv00000.htm>. [27 July 2010]
- Sen, A. 2000. *Social Exclusion: Concept, application, and scrutiny*. *Asian Development Bank*. [Online.] Available: <http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.100.1010&rep=rep1&type=pdf>. [27 July 2010]

South African Migration Project. 2008. The Perfect Storm: the realities of xenophobia in contemporary South Africa. *Migration Policy Brief No. 50*. [Online.] Available: <http://www.queensu.ca/samp>. [21 August 2010]

Treatment Action Campaign. 2010. Reject Abahlali baseMjondolo's call for violence and chaos! *Treatment Action Campaign*. [Online.] Available: <http://www.tac.org.za/community/node/2952>. [7 February 2011]

Valji, N. 2003. Creating the Nation: the rise of violent xenophobia in the new South Africa. *Centre for the Study of Violence and Reconciliation*. [Online.] Available: <http://cormsa.org.za/wp-content/uploads/Research/Xeno/riseofviolent.pdf>. [7 February 2011]

Zikode, S. 2006. We are the Third Force. *Abahlali baseMjondolo*. [Online.] Available: <http://www.abahlali.org/node/17>. [7 February 2011]

Websites

Abahlali baseMjondolo. 2011. [Online.] Available: <http://www.abahlali.org>. [7 February 2011]

Basic Income Grant Coalition. 2006. [Online.] Available: <http://www.big.org.za>. [7 February 2011]

Treatment Action Campaign. 2011. [Online.] Available: <http://www.tac.org.za>. [7 February 2011]