



**NATIONAL UNITY AND RECONCILIATION IN SOUTH AFRICA; AN  
ANALYSIS OF THE TRUTH  
AND RECONCILIATION COMMISSION'S IMPACT ON RACE  
RELATIONS IN POST-APARTHEID SOUTH AFRICA.**

By

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## **Abstract**

How South Africa would manage to bridge social and political divides brought about by a period of violence, oppression, and human rights abuses was one of the biggest issues that the Government of National Unity had to deal with in the aftermath of apartheid. The Promotion of National Unity and Reconciliation Act mandated the Truth and Reconciliation Commission (TRC) to investigate and document events and violations that had occurred under apartheid and to form a complete and clear picture of these atrocities. The TRC undoubtedly garnered international admiration as a successful model for addressing past atrocities, avoiding a potential civil war, and ushering in reconciliation, not revenge. It did, however, experience some limitations due to its mandate, which excluded in-depth focus on the role of the impact and extent of apartheid racial policies in socio-economic detail, such as land, education, etc., which were used to entrench racial oppression and subjugation. The aim of this dissertation is, therefore, to assess the TRC's impact on race relations in post-apartheid South Africa and further seeks to comprehend the process, content, and value of the TRC. The focus is thus on critically reviewing the TRC mechanisms' effectiveness and impact post-apartheid, by addressing limitations, exploring complexities, and evaluating societal impacts. This research posits that it is highly impossible to achieve the aims of reconciliation and better race relations when the majority (Black), which was disadvantaged under apartheid, is still disadvantaged under the new dispensation. This study therefore recommends adequate development and advancement, i.e., redress, and distinct truth regarding the role and challenges posed by the intersection of race, class, and gender inequalities inherited from oppressive regimes like apartheid. This is a qualitative study which was undertaken using desktop research or secondary research. Data collection from this study comprises of primary sources, archive research, articles, etc. sourced from government reports, online resources, non-governmental organisations, databases, documents from the South African Justice Department, the TRC database, prior research, and recent academic studies. Intersectionality analyses combined with an anti-racism approach is used to gain understanding as to how race, gender, etc., as grounds of discrimination, are linked to the social, economic, political, and stringent structure of the TRC process.

**List of Acronyms**

<b>AC</b>	Amnesty Committee
<b>ANC</b>	African National Congress
<b>AWB</b>	Afrikaner Weerstandsbeweging (Afrikaner Resistance Movement)
<b>AZAPO</b>	Azanian People's Organisation
<b>BEE</b>	Black Economic Empowerment
<b>CAVR</b>	East Timor's Commission for Reception, Truth, and Reconciliation
<b>COSATO</b>	Congress of South African Trade Unions
<b>DDP</b>	Development Democracy Programme
<b>HRVC</b>	Human Rights Violations Committee
<b>ICTJ</b>	International Centre for Transitional Justice
<b>IFP</b>	Inkatha Freedom Party
<b>IJR</b>	Institute of Justice and Reconciliation
<b>IRR</b>	Institute of Race Relations
<b>NP</b>	National Party
<b>NPA</b>	National Prosecuting Authority
<b>OHCHR</b>	The Office of the United Nations High Commissioner for Human Rights
<b>PAC</b>	Pan Africanist Congress
<b>QOLI</b>	Quality of Life Index
<b>RDP</b>	Reconstruction and Development Programme
<b>RRC</b>	Reparation and Rehabilitation Committee
<b>SARFU</b>	South African Rugby Football Union
<b>TJ</b>	Transitional Justice
<b>UDF</b>	United Democratic Front
<b>UIR</b>	Urgent Interim Reparation
<b>UN</b>	United Nations

## Chapter One

### 1. Post-Apartheid: An Introduction to the South African Context

Historically, South Africa was divided along racial lines because of both colonialism and apartheid. To address the pain and division caused by apartheid, a truth and reconciliation process was initiated with the end goal of creating unity in South Africa. However, there is an existing perception that both the Truth and Reconciliation Committee (TRC) and the subsequent actions of the African National Congress (ANC) might have been ineffective in creating a nonracial South Africa encompassing positive race relations, even though the TRC might have been sufficient for getting the country over the apartheid threshold. Scholars such as Houston, Kanyane, and Davids (2022) suggest that South Africa is gravitating closer to its third decade of democracy, and the anticipated nonracial society and hopes of a Rainbow Nation are fragmented. This perceived failure in creating a fully united South Africa and better race relations seems to be attributed to the increasing number of racist incidences, coupled with the deeply racially divided economy where race, gender, class, etc. define access to resources and opportunity. In South Africa, race as an identity has remained one of society's most salient and significant dividers. Therefore, in as much as the TRC and the ANC aimed at promoting national unity and reconciliation in the new nonracial South Africa, race seems to have continued to be a prominent indicator of privilege and exclusion, creating hurdles for positive race relations. Hence, there is a need to explore how the legacy of the TRC's focus on national unity and reconciliation and the outcomes of these have resulted in the reality that people experience on the ground. This has led to the research question: **what has been the impact of the TRC on race relations in post-apartheid South Africa?**

Various scholars of transitional justice have considered the TRC as a positive mechanism to usher in an era of peace and unity after the ills of apartheid. This study seeks to comprehend the TRC's process of ushering in peace and unity and the value of its committees. An anti-racist intersectional frame has been utilised in this research to examine these processes and experiences that South Africans have undergone due to their race and other identities. Since colonialism and apartheid were both systems founded on racist ideology based on inequality among racially

defined groups, it is imperative to use an anti-racist intersectional lens to analyse the results, process, and ambitions of the new dispensation and the TRC, which were supposed to usher in a united Rainbow Nation free from racism and racial violence and restore the dignity of the oppressed.

The Promotion of National Unity and Reconciliation Act 34 of 1995 laid the grounds for what was to be accomplished by the Truth and Reconciliation Committee in South Africa, whose aim was to produce as much understanding of all the atrocities and human rights violations that had taken place during the period from 1 March 1960. This Act 34 of 1995 further stipulated that the TRC was also required to oversee the granting of amnesty to persons who were able to cooperatively provide full disclosure of all the events and acts that were related to the atrocities and violations of the past, further creating a platform for victims to tell their stories, implement the process of granting reparation, and provide rehabilitation and restoration of the human and civil dignity of victims. In addition to this process, a report was expected to be made available to the nation regarding violations and victims, in conjunction with recommendations that would focus on preventing gross violations of human rights in the future. Thus, this Act provided for the "establishment of a Truth and Reconciliation Commission, comprising a Committee on Human Rights Violations, a Committee on Amnesty, and a Committee on Reparation and Rehabilitation... (Act 34, 1995).

These TRC initiatives were utilised to lay the groundwork for reconciliation in South Africa, presuming that the process would lead to unity amongst the different race groups. These initiatives aimed at societal reconciliation through a wide sample of individual testimonies and responses. Ramsbotham, Maill, and Woodhouse (2011) understand the TRC as an attempt to avoid vindictiveness while disregarding wrongs and suffering, aiming to attain full public disclosure of human rights violations since 1960. Further to this were hopes of encompassing some acknowledgement of responsibility, possibly some measures of repatriation for the victims, emotionally creating enough space to accommodate forgiveness, and postponing the question of amnesty or punishment (Ramsbotham et al., 2011). This entire period of transition was understood by some South Africans not just purely as a 'post-apartheid' era but also as signifying

a sense of leaving the old regime and focusing on the power Black communities had through the ANC and, in some cases, the Inkatha Freedom Party (IFP).

Du Bois and du Bois-Pedian (2008) view justice and reconciliation as key themes of this transitional period. The notion of reconciliation came alive through the creation of the Rainbow Nation, which Alex Borain viewed "as 'the call for a Rainbow Nation... embodies a promise of what is possible in the future'; it 'challenges society to become what it is called to be' (Du Bois and du Bois-Pedian 2008)." It seemed, however, that the notions of justice and reconciliation were frequently at loggerheads because reconciliation threatened the pursuit of justice (and vice versa).

The country's attitude towards the TRC has also been quite different from that of the international community, which views amnesty as the most pragmatic choice. In 2002, a survey was conducted in South Africa, and public opinion was divided along racial lines. The report indicated that 76 per cent of Black people, 61 per cent of Asian people, 45 per cent of 'Coloured' people, and 37 per cent of whites strongly or moderately approved of the work of the TRC (Sarkin-Hughes 2004). Reports generated by the Institute of Justice and Reconciliation indicated that over 47 per cent of white South Africans did not believe that apartheid was a crime against humanity (Wale 2014).

Apartheid, being a system built on racial inequalities and oppression, required that an initiative like the TRC work to address these inequalities through an intersectional lens. This is because race and other identities under apartheid and in democratic South Africa have blatantly intersected to create inequity, especially for marginalised Black communities. Income inequalities are an example; they have played a key role in creating social divisions. Respondents interviewed by Hofmeyr and Govender (2015) have argued that it is highly impossible to achieve the aims of reconciliation when the largest part of society, which was disadvantaged under apartheid, is still disadvantaged under the new dispensation. Race and other identities, such as gender and class (the economy), still intersect in the new South Africa as social identities that decide advantages or disadvantages. The existence of these economic and social disparities means that even if South Africans possess the desire to integrate, the spatial order and economic legacy of apartheid intersect with race and gender to hinder that desired Rainbow Nation and

reconciliation. This suggests that economic equitability creates favourable conditions to advance positive race relations, meaning that the economy becomes a key factor in determining the quality of race relations (Joseph 2016). Historically, race relations in the South African context emanated from a socioeconomic and political context that oppressed the Black majority. At the same time, the white minority enjoyed control of political power, which allowed them to exclusively enjoy and secure resources such as better jobs, schools, salaries, etc. In 2020, the International Monetary Fund indicated that the South African government had attempted to use different tools to address consistent levels of inequality, yet inequality has remained (International Monetary Fund 2020).

### **1.1 Rationale**

South Africa is a highly racialised country because of both colonialism and apartheid, which requires that we recognise the past and the present through a lens that discloses to us how race has intersected with gender, socioeconomic status, etc., to reveal privilege for whites, especially white men, and powerlessness for Black victims. Further, it is imperative to grasp the role of this perceived imbalance and inequality in the context of the TRC and race relations. In operating within this context and history, it is crucial to understand what the TRC aims and chosen methods were supposed to accomplish and how the processes have subsequently affected race relations and national unity in South Africa. Intersectionality analyses combined with an anti-racism approach give insight into individuals' multifaceted nature and plight. In the South African context, intersectionality applied to transitional justice is still in its infancy, even though it exists. As many scholars have argued, intersectionality theory is a prerequisite to effectively tackling the root causes of injustice and for all to participate as equals in a transitional society (Marton and Romaniuk, 2023).

This research, therefore, contributes by providing recent accounts and analysis of South African race relations by utilising an anti-racist intersectional frame, thus making it valuable because the work immune to racial analysis allows for racism to persist or infiltrate different spheres of life (Centre for the Study of Social Policy 2019). This study further seeks to contribute to the literature on the issue of the TRC's national unity, the lack of adequate development and advancement of historically disadvantaged race groups, and the impact of these dynamics on race relations.

## **1.2 Research Problem**

The existence of economic and social disparities in South Africa means that even if South Africans possess the desire to integrate fully, have better race relations, and fully reconcile, the socioeconomic legacy of apartheid could intersect with race and other identities to hinder that desired authentic Rainbow Nation and sincere reconciliation. To successfully achieve positive race relations and national unity in South Africa, racial groups that were historically disadvantaged require adequate development and advancement, i.e., redress. It is highly impossible to achieve the aims of reconciliation and better race relations when the Black majority, which was disadvantaged under apartheid, is still disadvantaged under the new dispensation. It is, therefore, legitimate to assume that reconciliation and national unity are not fully attainable in their full potential so long as the Black majority is still impoverished and economically excluded (Houston, Kanyane, and Davids, 2022). The existence of socioeconomic injustice based on race makes it harder to fulfil the true ambitions and yearnings of reconciliation and national unity because the Rainbow Nation, with positive race relations, requires the elimination of all forms of injustice; otherwise, it will be fragmented.

This dissertation examines whether economic equality creates favourable conditions for advancing positive race relations and positively impacts race relations. South Africa's TRC was mandated to investigate gross human rights violations, which suggests that the TRC contributed to exposing some truths while being accused of neglecting others and being particularly reserved on race matters due to its narrow mandate. Racism as an oppressive tool was utilised to segregate, inflict violence, and create subservient Black people under apartheid. It is, therefore, problematic to be silent about race in the context of a country whose entire political and economic system was founded on the core principle of race and racism. Valji (2004) suggests that this silence by the TRC regarding race and its role has produced fickle reconciliation in South Africa, which has also allowed the institutionalisation of privileges for whites to continue. The emphasis on reconciliation enabled a flexible and generous interpretation of racism in South Africa, which chose to ignore that the apartheid system operated to create distinctive patterns of race relations to achieve its goals (Mangu 2013).

This dissertation also explores ideas around a more substantive and genuine reconciliation, and whether this will advance positive race relations requires a distinct truth regarding the role and challenges posed by the intersection of race, class, and gender inequalities inherited from apartheid.

### **1.3 Research objectives and broader issues to be investigated.**

The South African TRC process created intrigue in how the country would overcome the challenges and division caused by apartheid and served as a worldwide example of what forgiveness could achieve post-conflict. The South African TRC remains influential in shaping notions of national unity and rebuilding societies that stand opposite ends. This dissertation hopes to add to the body of literature on the South African TRC process by exploring the following broader issues:

1. To investigate the TRC process and its impact on race relations post-1994.
2. To explore whether different race groups reconciled at all and the role of the TRC in this context.
3. To ascertain whether national unity and reconciliation are dependent on redress.

### **1.4 Research Questions**

To contribute to a better understanding and knowledge of the impact of the Truth and Reconciliation Committee on race relations in South Africa, the broader issues mentioned above have led to the main research questions that this study will address.

- **Research Questions**
  - What has been the impact of the TRC on race relations in post-apartheid South Africa?
  - How have national unity and reconciliation been promoted through the TRC?
  - Were national unity and reconciliation dependent on redress?
  - Have different race groups in South Africa reconciled, and was the TRC an influencing factor?

### **1.5 Brief introduction to the theories drawn upon.**

An anti-racist intersectional frame will be utilised in this research because this frame requires that we probe how the experience of racism is supplemented or supported by other factors such as sexism, classism, etc. (Zeria 2016). Kendi (2019) describes one who is anti-racist as not only expressing the idea that all racial groups are equal but also significantly highlighting that it supports and advocates for policy that reduces inequity. A vital characteristic of anti-racism is, therefore, the requirement of action in the form of policy to disrupt inequity and racist systems. Anti-racism encompasses the myriad ways racism manifests within systems, institutions, and relations and has its foundations in critical race theory (Ladhani and Sitter 2020). This is theoretically relevant as South Africa was ruled by a racist regime, apartheid, from 1948 to 1994, which formed part of an institutionalised racism that dated back to slavery and colonialism (Satgar 2019).

Intersectionality is a theoretical framework that relates to how two or more dimensions of diversity, such as race, class, and gender, may yield layers of discrimination and disadvantage or favouritism and privilege. Hancock (2007) views intersectionality as the best chance for an effective diagnosis and an effective prescription, which alludes to this theory being the most appropriate for analysing the South African situation. Intersectional theory attends to effects between and across various societal levels. It enables us to do this by acknowledging that relationships and power dynamics between social locations and processes, such as racism, classism, sexism, etc., are linked (Hankivsky 2014). Intersectionality exposes how varying identities intersect, creating unique experiences that situate oppression in people's lives (Anfara and Mertz 2014).

Intersectionality, according to Jawad and Ozbigit (2015), derives from critical legal theorist Kimberly W. Crenshaw (1989), who attempted the mammoth task of explaining the cause of racial and gender oppression of Black women. Intersectionality can be understood as the complex way discrimination and otherness are woven together and thus intersect to create an advantage or disadvantage in a culture. Intersectionality is highly sensitive to the idea that inequality is not necessarily experienced in the same universal way. This is specifically relevant to this study because it deals with people of multiple identities. Because of this, an intersectional

discussion about the TRC processes and how they were orchestrated and applied is extremely appropriate. In addition to this, not all participants experienced the TRC in the same manner, and democracy was or is not experienced similarly by Black people in comparison to other race groups. Post-apartheid social class divisions still yield different experiences for various communities and have maintained the racial divisions and hierarchy established under apartheid.

The naïve assumption and hope that political freedom would equate to socioeconomic equity have left the Black majority of South Africa dismayed. The previously disenfranchised continue to watch from the periphery the existence of economic power concentrated in the white population, coupled with the marginalisation of Black people and an insidious social hierarchy. Tensions in the current context are compounded because of the perception that the TRC failed to truly hold the white population accountable and demonstrate genuine repentance and remorse for the crimes and violence committed under the apartheid regime. It has been the poor Black people who continue to experience the toxic nexus of race and class. At the centre of exclusion, race facilitates separation as a visible marker for economic inequalities between groups (Hart, 2002). Hofmeyr and Govender (2015) interpret the protests, such as the student Rhodes Must Fall Movement, as stemming from frustration and disappointment because of the ongoing social inequalities and exclusion of poor Black people. Whitehead (2013) argues that under apartheid, race and class in South Africa completely overlapped with one another. This was done by the architects of apartheid, who aimed at creating a rigid system that affected every aspect of people's lives and thus prevented any form of interracial interaction. This rigid structure is evident and contributes to hindering healthy racial interaction and, thus, the nurturing of better race relations.

In addressing the research question, an anti-racist intersectional framework will therefore be used to probe how race in the context of the TRC processes and post-apartheid South Africa has been supplemented or supported by sexism, classism, etc. to create specific outcomes and experiences that have affected race relations. Jawad and Ozbigil (2015) explain intersectionality as considering factors that shape identities and experiences of oppression (race, ethnicity, class, social standing, etc.). Intersectionality also provides an analysis that links individual experiences to broader structures and systems, exposing how power relations are shaped and experienced. It

is highly valuable for this research because it is preoccupied with working towards transformation and social justice. Intersectionality ensures that the experiences of black people are not just examined from a lens that only recognises how they are oppressed due to their race, gendered, and classed identities but also requires that such an analysis expose how these varying identities intersect in ways that create unique experiences that situate the oppression in these people's lives (Anfara and Mertz 2014). Crenshaw (1989) asserts that those in the margins, possessing multiple oppressed identities, are often "theoretically erased." Therefore, intersectionality is the appropriate lens to view the relationship between the TRC and race relations in South Africa. Zerai (2016) posits that intersectionality holds value because of its practical use in liberation struggles.

### **1.6 Limitations of the Study**

The limitations of the study are due to its being desktop-based research. There was no primary data collected from interviews or fieldwork to gauge the lived experiences of people. These perspectives were obtained using secondhand accounts from publications, books, and TRC documents. It is possible that desktop-based research may not be sufficient for capturing the perceptions and views of all South Africans since it relies purely on literature and secondhand data gathered by other scholars.

### **1.7 Structure of the Dissertation**

This thesis consists of five chapters. Each chapter aims to build on the overall research question.

#### **Chapter 1: The TRC: An Introduction to the South African Context**

Chapter One provides an introduction and background to the study. It further introduces relevant themes to the topic and the principal theories on which this research is grounded. A research design is presented, including an outline of the research objectives and questions to be addressed by this dissertation.

#### **Chapter 2: Literature Review: Transitional Justice**

Chapter Two consists of a literature review that discusses the various transitional justice options: amnesty, truth-telling, reparations, and persecution. This chapter aims to provide different

perspectives related to the values and shortcomings of deploying each of these methods and thus form a clear view and understanding of transitional justice options and why they are chosen or applied in the way they have been or not. Trials conducted after the Bosnia and Rwandan genocide are used to demonstrate the efficacy of trials, and East Timor's Commission for Reception and Reconciliation (CAVR) is discussed in comparison to South Africa's transitional justice.

### **Chapter Three: Theoretical Framework and Research Methods: Introduction to Intersectionality**

This chapter gives an extensive discussion of the theoretical framework and research methods. It also provides an in-depth understanding of Intersectionality as a theory by focusing on the principal theories grounding the research project and Intersectionality as an analytical framework. In addition, a comparison with alternative theories is presented, including key concepts and themes in Intersectionality.

### **Chapter 4: South Africa's Truth and Reconciliation Commission**

Chapter Three defines reconciliation and seeks to contextualise it as a concept within the South African TRC process by exploring contemporary discussions regarding the TRC Committees: the Reparation and Rehabilitation Committee, the Human Rights Committee, and the Amnesty Committee. This chapter further seeks to unpack the aims of reconciliation and provide an overview of the structure and process of the TRC committees.

### **Chapter 5: The TRC and Race Relations**

Chapter Four examines the impact of the TRC on race relations in post-apartheid South Africa and discusses the appropriateness of the TRC in addressing racial division and marginalisation while promoting national unity. This chapter probes race relations with the understanding that race as an identity has managed to remain one of the most salient significant dividers in the country and, therefore, looks at how the TRC's conditions have impacted race relations and the context in which race relations emanate (such as socioeconomic and political). This chapter also discusses national unity and social redress, using intersectionality to understand the post-apartheid socioeconomic and political landscape.

## **Chapter 6: Conclusion**

Chapter Five concludes the thesis with a summary of the previous chapters. This concluding chapter presents the research findings and reflects on the research objectives and questions.”

## Chapter Two

### 2. Literature Review: An Introduction to Transitional Justice

The greatest challenge in the aftermath of conflict is how governments across the board will manage to bridge social and political divides and when the best time for this is (Rowen 2015). Rowen (2015) understands this goal as reconciliation, which is closely linked to post-conflict reconstruction and repair. This chapter, therefore, discusses at length the post-conflict challenges of reconciling divided societies and the integral role of reconciliation in post-conflict reconstruction. This chapter aims to critically review transitional justice mechanisms' effectiveness post-conflict by addressing limitations, exploring complexities, and evaluating societal impacts. Varied transitional justice mechanisms will be addressed in this chapter, including amnesty, truth-telling, reparations, trials, and ritual healing, as well as an introduction to the diverse perspectives and theories guiding the review. This discourse has relevance and importance within the field because it addresses past atrocities to prevent future violence and de-emphasises the necessity of long-term approaches for lasting reconciliation. The literature review methodology identifies multiple studies and perspectives from academic publications and diverse viewpoints. The structure of this review will focus on the following themes: (i) Exploring complexities: truth-telling, reparations, prosecutions (ii) Examination of specific cases: East Timor's CAVR, South African TRC (iii) Comprehensive analysis: challenges, achievements, and shortcomings. The literature review methodology consists of the following: (i) Identification of multiple studies and perspectives. (ii) Sources used: academic publications, diverse viewpoints. (iii) Notable focus: post-conflict transitional justice mechanisms.

According to Rowen (2015), observers looking for fresh strategies to rebuild societies torn apart by conflict have found the high expectations placed on domestic and international interventions disappointing. She further attributes this to the assumption that it is the government's responsibility to do something, such as hold trials or truth commissions. Due to the limited evidence of their efficiency, these interventions remain questionable. Observed cases reveal that large-scale government interventions that are not deployed strategically but rather too soon or lacking in micro-level intervention may be counterproductive to long-term reconciliation (Rowen

2015). This suggests that the question should not overfocus on the timing and sequencing of the tribunal or truth commission but should pay special attention to how these interventions fit into long-term strategies. This chapter discusses the various transitional justice options—*amnesty, truth-telling, reparations, and persecutions*—to provide a concise understanding of the values and shortcomings of deploying each method. A solid understanding of transitional justice is required to form a well-informed view of its options and why they are chosen or applied in a specific manner and context.

Sarkin and Davi (2017) propose that transitional justice (TJ) can be understood as the modelling of justice, which is associated with periods of political change and encompasses legal responses to address the wrongdoings of repressive predecessor regimes. According to Sarkin and Davi (2017), the International Centre for Transitional Justice (ICTJ) defines it as "the set of judicial and non-judicial measures that different countries have implemented to redress the legacies of massive human rights abuses. These measures include criminal prosecutions, truth commissions, reparation programmes, and various institutional reforms' (Sarkin and Davi 2017). " Most definitions have focused on TJ as a set of practices or mechanisms that deal with past atrocities. These definitions reflect the various ways in which societies can address large-scale human rights abuses. For example, the United Nations's Rule of Law initiative included various aspects of the transitional justice project, which focused on the broad aspects of TJ and included a range of mechanisms that can be applied in different societal contexts. (Rashwan 2023). The United Nations (UN) defines TJ as "the full range of processes and mechanisms associated with a society's attempt to come to terms with a legacy of large-scale past abuses to ensure accountability, serve justice, and achieve reconciliation' (United Nations, 2010, p. 2). (Rashwan 2023)."

Legacies of repression have been dealt with in varying ways during periods of transition, moving from the old regime into a new political era. Ramsbotham, Maill, and Woodhouse (2011) identify six alternative paths to reconciliation, the first being *official amnesia*, which refers to letting go of the past and suggests that there is an agreement set out that oblivion will be used about the past. The nation must 'forget' the past conflict and is given very little space in history books (Ramsbotham et al., 2011). The issue with this alternative is that there might be people

who want to remember past events, such as the memories of the victims. The second is *truth commissions*, which involve honouring the past. Daly (2008) is very sceptical of the expectations put on truth-seeking and truth-telling endeavours. Daly (2008) argues that truth commissions have been wanting in all respects. This is attributed to truth-seeking commissions' inability to deliver on their promises of helping victims heal, promoting accountability, promoting reconciliation, etc. However, Gibson (2006) conducted a large national survey, which found that truth and reconciliation processes are still viewed as the most effective, and systematic evidence indicates that they have achieved several of their initial primary goals. Despite Gibson's findings, many people feel let down by the South African TRC process. Hamber, Nageng, and O'Malley (2000) found that through probing the feelings and thoughts of survivors before and after interacting with the Commission, respondents felt that although the entire process was publicised and an attempt at fostering national reconciliation was made, they only got some truth regarding their cases. Saunders (2011) holds an interesting perspective that suggests that artisans of transitional justice must be conscious of the harmful psychological nature of repressed anger and resentment before forgiveness is advocated. In addition, Saunders (2011) argues that the pressure to forgive may cause significant distress, which may foster the idea that one should make peace with one's oppression and thus reinforce inequality. Bosire (2006) argues that one of the main goals of commissions is reconciliation, and the ability to achieve set goals and aims depends on both the truth-seeking process and the final report. For this purpose, commissions are therefore required to be seen as moral, just, and credible, as they are expected to contribute towards restoring dignity to victims. This may not always be the case, as the process can be retraumatising and revictimising for the victims, as in the case of the Ghana National Redemption Council's (NRC) judicialised hearings, where victims experienced problematic cross-questioning by either the alleged perpetrator or their lawyer (Bosire 2006). Truth commissions and the extension of transitional justice measures have the potential to disappoint victims with failure to achieve either expected or promised results.

Thirdly are *trials*, which are a way of bringing the past before the tribunal of the present. *Trials* can be viewed as possible alternatives to truth commissions and are complementary to international and national criminal tribunals. This approach has some drawbacks; chief among them is that adversaries use international tribunals as a political tool; however, Ramsbotham et

al. (2011) view them as essential to achieving universally accepted humane standards. The efficiency of trials conducted after the mass killings in Bosnia and Rwanda in the 1990s led to some prosecutions of Rwandans and Bosnians in various European states (Kressel 2019). In these tumultuous circumstances, prosecutors had to decide on the scale of the indictment. In both cases, the list of indictments could have led to an overwhelming number of names, which would have resulted in large-scale trials being an obstacle to conducting national reconciliation in Rwanda and Bosnia (Kressel 2019). The United Nations' efforts to try perpetrators in international tribunals have been considered viable in such circumstances. However, the OSCE Mission to Bosnia and Herzegovina (2022) reported that since the end of the war in Bosnia and Herzegovina, there have been approximately 500 war crimes cases involving over 4,000 suspects that remain before the country's prosecutor's offices. The likelihood of achieving justice for the remaining victims of this war seems unlikely due to the time factor. The reality that many legal professionals were either dead or in exile, along with the absence of a judicial system, had an impact on Rwanda after the genocide (Bosire 2006). Besides the high number of perpetrators that concerned Rwanda, in 2000, it was estimated that more than 125,000 people were in detention, a rather high number that would prove strenuous for any judiciary. It is argued that some individuals may have served *de facto* jail terms without going through the appropriate conviction process. This is concerning when considering the state of justice and its requirements. Although there were attempts at creating traditional Gacaca courts to attend to the various categories of perpetrators, these didn't meet the standards of international justice, which viewed the system as inadequate in remedying international crimes of genocide (Bosire 2006). The fourth is *reparation*, which is future compensation for past wrongdoings.

*Reparation* encompasses financial payments and may be achieved through monuments and renaming buildings, parks, etc., ultimately contributing to the long-term vision of social transformation (Ramsbotham et al., 2011). According to Bosire (2006), international law stipulates the obligation for states to provide 'prompt reparation to victims in the form of restitution of the status quo ante to whatever degree possible. This could include, but is not limited to, compensation for quantifiable physical, mental, and material damage, the return of property, etc. The three main aims of reparations are the recognition that victims are owed specific rights and ensuring that victims of such violations receive action by the state; facilitating

civic trust among citizens and between citizens and state institutions; and lastly, establishing social solidarity encompassing empathising with the victims (Bosire 2006).

The fifth option refers to *ritual healing and indigenous peace initiatives*, which rely on exorcising and redeeming the past. *Ritual healing and indigenous peace initiatives* require traditional healers, as in the examples of Mozambique and local community peace processes undertaken in Somalia (Ramsbotham et al., 2011). In these societies, misfortune and violence tend to be interpreted as due to bad spirits; therefore, this specific path to reconciliation is highly valuable (Ramsbotham et al., 2011). The best way to achieve this is by including elders through public cleansing rituals and local beliefs. In the Somalian case, indigenous reconciliation and peacemaking efforts showed that Western assumptions and methods of reconciliation need to be reevaluated and inclusive of local knowledge and resources (Ramsbotham et al., 2011). Rwanda also undertook an indigenous approach beyond the formal trials where traditional courts were constituted. While the international community was concerned about the validity of this approach, local participants found it very healing, possibly because it was an accepted cultural approach that had been used for hundreds of years. This, of course, reiterates the point made by many academics that indigenous approaches should be explored before adopting more Western-centric approaches.

And lastly, there is *retaliation*, which focuses on clearing the slate by avenging the past. Conflict resolution practitioners highly condemn *retaliation* as a resort and view it as the 'opposite' of reconciliation. However, some societies believe a balance can only be created after revenge and redress (Ramsbotham et al., 2011). Transitional justice can, therefore, be understood as mainly referring to how different societies in political transition choose to address past violence and atrocities to prevent any future violence (Rowen 2015). This idea focuses on bridging social and political divides to avoid divisions leading to more violence within societies fragmented by violence (Rowen 2015). Transitional justice has been used to describe societies that have experienced mass or state-sponsored violence. This violence may either have recently ended, be ongoing, or have occurred a long time ago. The role of interventions is to prevent future violence while avoiding any disruption to the fragile peace that may exist post-violent conflict. According

to Rowen (2015), trials, truth commissions, and reparations programmes are well-known interventions under transitional justice.

In exploring the challenges of dealing with legacies of violence, Domingo (2012) viewed transitional justice as "the array of processes designed to address past human rights violations following periods of political turmoil, state repression, or armed conflict" (Olsen et al., 2010: 11). " She defends the use of this definition by pointing out that it provides for different transitional settings and avoids making assumptions regarding the outcomes of transitional justice. This definition also does not make the state the sole party responsible for human rights violations. She further understands earlier definitions of transitional justice as advocating mostly for truth and justice to achieve criminal (retributive) justice. However, the field and practice of transitional justice have evolved, simultaneously leading to a change in its range of mechanisms, activities, and objectives. These have been seen to encompass a variety of justice measures and goals, including, but not limited to, establishing new truths about atrocities, the recognition of the suffering of victims and their families, reparations, and the restitution of property to victims (Domingo 2012). Domingo (2012) further highlights that transitional justice has expanded to include objectives that focus on the immediate and pay more attention to addressing the root causes of conflict and violence to contribute to broader political and social change. Transitional justice gained momentum in transitional processes in the second half of the twentieth century; it has since progressed to being part of governance transitions and a feature of post-conflict situations (Domingo 2012).

Commissions that investigate, document, and publicise violence have also become more favourable to bridging divides because they aim to produce a shared narrative of violence (Rowen 2015). Reparations programmes are also useful for bridging divides, focusing on providing financial support to the victims to help them rebuild their lives. There are other options, such as socio-economic development or institutional reform. Still, even though they may come under consideration, they are viewed as less attractive by leaders who want quicker solutions. In the South African context, the political leadership avoided deploying widespread judicial accountability for atrocities committed during the apartheid era. Rowen (2015) attributes this to the fear that the white leaders would not give up their power and that the white population

would leave the country. This resulted in representatives negotiating the new constitution, adding a clause that permitted limited amnesties for crimes committed under the apartheid regime (Rowan 2015). The creation of this clause facilitated the passing of the National Unity and Reconciliation Act in 1995 and, thus, the establishment of the South African Truth and Reconciliation Commission (TRC) in 1996.

Rowen (2015) argues that the goal of the TRC was to provide as accurate a picture of the nature, causes, and extent of the gross violations of human rights as possible. This was founded on creating understanding but not vengeance, reparations programmes, not retaliation, and a spirit of Ubuntu but not victimisation. Contrary to popular belief, she emphasises that the majority of South Africans, particularly the victims of violence, did not welcome or accept the TRC. Many victims wanted some form of judicial accountability and argued for justice to precede forgiveness. Her research also brings focus to the families of victims who came together in 1996 to sue the government for violating their constitutional rights to due process by permitting the perpetrators of violence to receive amnesty. In the judgement of Azanian People's Organisation (Azapo) and others vs. the President of South Africa, the court determined that upholding the amnesty clause of the National Unity and Reconciliation Act was justified because, without amnesties, there would be no incentive for perpetrators to tell the truth. Rowen's (2015) argument shows that the TRC leadership exceeded its mandate of facilitating amnesties by incorporating the Christian ethos of forgiveness into the Commission, an aspect highly emphasised by the Commission's motto of 'revealing is healing' in conjunction with the hammering of forgiveness.

Although the Commission had created an amnesty committee that was supposed to review applications by individuals who sought immunity from future actions, most applicants did not receive amnesty (Rowen 2015:11). The decision to grant amnesty was based on whether the actions perpetrated fell outside the scope of violence for political reasons. According to Rowen (2015), there was no political enthusiasm to try them after the Commission had completed its task. On the other hand, the committee for reparations had recommended that approximately 21,000 dollars be paid to each victim over a certain period. However, the victims received a one-time payment, and the government failed to provide financial reparations. Therefore, the TRC

failed in its goals of genuinely providing redress and ensuring reparation but not retaliation (Rowen 2015). Another troubling failure was its short-term goal of providing some relief to individuals who had testified. Some studies have shown that testifying in some cases did little or was counterproductive to creating a feeling of reconciliation. Many of the victims who testified afterwards explained how damaging the process was, especially because the perpetrators of the crimes received no genuine punishment and, at times, seemed not even to display more than a simulated mode of repentance. Another troubling issue was that many victims felt the pressure to forgive, while many perpetrators refused to participate in the commission (Rowen 2015).

Truth commissions can, therefore, be viewed as providing a rather limited narrative of the violence and having very little impact on the survivors (Rowen 2015:11). This has led to accusations that the TRC either avoided or was unable to address the structural violence of apartheid. Rowan (2015) argues that this has led to obscuring the causes and consequences of the violence. To add to the compounding failures, she suggests that the TRC was a discrete intervention that lacked a proper follow-up and deferred judicial accountability and financial compensation due to the new government's emphasis on forgiveness and its financial constraints. These issues have, therefore, led to much discomfort in the country and contributed to victims being highly critical of the TRC. Victims resent the fact that there has not been anything adequately done to address their calls for justice. They have, therefore, continued to unsuccessfully file lawsuits in different countries where they are legally permitted to sue companies that profited from apartheid. The dismal response to victims' needs, both domestically and internationally, has added to the feeling that the justice system is failing victims. Rowen (2015) argues that although the TRC had tremendous effects on countries emerging from violence and got much international media attention, scholars, policymakers, and advocates took the wrong lessons from the South African story. These are the ideas that something should be done in the immediate aftermath of conflicts and that, somehow, these strategies will work to bridge social and political divides. For Rowen (2015), the South African case shows that discrete interventions cannot meet their goals and mandates, and long-term goals are required. What is crucial to consider in the assessment of transitional justice is the urgent need for the application of an intersectional lens which exposes how diverse social identities intersect to shape individuals' experiences within these mechanisms. In the South African context this lens has

further demonstrated the impact the TRC as a process has had on individuals. Those who formed part of the Black community were forced to forgive, gained incomplete histories and truths, and later led to experiencing socio-economic inequality and continued deprivation which is compounded by gender for women. These experiences have impacted individuals differently based on their intersecting identities, like race, class, and gender. By the virtue of these mechanisms there is undoubtedly a power dynamic which has capacitated perpetrators to remain dominant in society, especially White men who had benefitted from the former regime. This shows how these mechanisms may differently affect individuals based on their intersecting identities. Applying this concept to the literature on transitional justice demonstrates that this is why there are varied experiences of justice and reconciliation. The intersectional impacts of mechanisms of transitional justice therefore demonstrates that, at times, they can exacerbate inequalities and, at other times, can address inequalities. Addressing inequality in this context requires complete truth regarding atrocities, and the role of race. The literature, when analyses according to this concept demonstrates clearly how power dynamics are intricately embedded within these mechanisms, and will affect different groups in society differently based on their intersections of identity thus recreating a dominant and a subordinate. In this regard it becomes challenging creating equal and harmonious relationships throughout society, when there exists such inequity because how can a dominant (in race, class and /or gender) reconcile in forming healthy race relations.

## **2.1 Truth-telling**

Truth-telling is one of the mechanisms that can be employed in conflict and reconciliation processes. It involves a process where individuals or groups openly and honestly provide information about past events they know about or took part in. This approach is very common when the events involve human rights abuses, conflict, or certain types of injustice.

Barbarino (2012) views the power of truth-telling as a contested claim, especially in the context of healing or reconciliation. This is a perspective that Mendeloff (2004) also supports, pointing out that 'in the absence of compelling evidence, we should be sceptical of claims that formal truth-telling mechanisms are the best way to help or that such psychological healing, in general, is somehow necessary to build and maintain peace in post-conflict societies" (p. 365)". Barbarino (2012) alludes to narrative theory to explain that a narrative is a human strategy used

for coming to terms with fundamental elements of our experiences, such as time, process, and change. However, truth is a highly difficult concept to grapple with because of the idea of healing powers tied to it. These are simultaneously not guaranteed or given. She further points out that a difficulty in this notion of truth-telling is the complexity of establishing a single, authoritative truth. The high levels of claims handed to the truth-seeking functions of truth commissions bring forth the need to further elaborate on why and how justice and truth became a given in dealing with post-conflict states.

Kent (2008) researched East Timor's Commission for Reception, Truth, and Reconciliation (CAVR). The CAVR was just one of the four major transitional justice processes that occurred in Timor-Leste and Indonesia following the violence that marked the end of the Indonesian occupation in 1999 (Dunn 2006). According to Kent, the CAVR had a major truth-seeking component and provided a place for individuals to recount their stories of past atrocities, and the truth commission reported *Chega!* (Portuguese for 'No more, Enough, Stop!'). *Chega!* consisted mainly of personal stories gathered through widespread statement-taking (Kent 2008). *Chega!* can be understood as the first attempt following independence, which aimed at creating an official narrative of the conflict during the Indonesian period.

Kent's (2008) perspective resonates with that of Rowen (2015) in the field of transitional justice, identifying truth commissions as an essential part of a successful post-conflict recovery and, therefore, having great expectations that these mechanisms will foster individual recovery and societal reconciliation. Kent (2008:3) argues that truth commissions are underpinned by what has been termed a 'therapeutic ethic', which is the belief in the therapeutic powers of testimony for individuals and nations. The CAVR, which Kent (2008) focused on, seemed to be informed by this therapeutic ethic, and Kent (2008) believes that this was seen as an opportunity for individuals to retell their stories and, therefore, receive public acknowledgement, which is ultimately expected to lead to the restoration of their dignity. Like the South African case, this therapeutic ethic was also applied nationally, expecting that truth-seeking would foster nation-building.

Although truth-seeking initiatives have some value, the therapeutic ethic is highly problematic as the main foundation for the defence and pursuit of truth-telling. Kent's (2008) study has found that recent research on truth commissions and transitional justice, such as ethnographic studies of truth commissions and transitional justice, reveals that the link between truth commissions, individual healing, and nation-building is not an automatic result, which goes without saying. Furthermore, there is also the view that victims may be participating in the transitional mechanisms for reasons that differ highly from those of the aims and objectives of these institutions (Kent 2008). The other problem regarding the expectations created by truth-telling mechanisms is that telling one's story will lead to a certain desired public recognition, which inevitably might not happen. One of the victims referred to by Kent (2008) "explains, 'Justice for me is to know the truth and have the body of my younger brother recovered. We still don't know what happened to him.'"

An unfortunate misunderstanding of the truth-seeking process within the CAVR context was the linkage of the truth-seeking process to the criminal justice process (Kent 2008). Many of those who provided testimony had been under the illusion that the information they had provided was now with the court. Some participated in this CAVR process to gain some connection with national and international resources in the hopes that they would be assisted (Kent 2008). A downfall of truth commissions that strongly correlates with the South African experience is the ties to poverty and expectations of economic change post-1994 when the first democratic government was ushered in. In the context of the CAVR, Kent (2008) explains how individuals frequently raised their challenging realities of living in poverty, arguing that their suffering was not a past event but continued to exist in the present in varying ways. A common theme coming from participants in these truth-seeking processes seems to be the expectation that the process should not just be about a symbolic event devised for people to be heard but rather that it yields practical outcomes that will impact their lives, such as criminal justice, economic assistance, recovering the bodies of loved ones, etc. (Kent 2008). Since past truth-seeking processes have not successfully addressed this need, there appears to be a lot of hostility and frustration towards truth commissions. According to Kent (2008), the disappointment in the CAVR process has led to the reluctance of individuals to tell their stories to strangers because, whether they talk or not, they perceive it as pointless, which affects some form of change or necessary action. There is

tension between the Truth Commission as a nation-building exercise and people's frustration with a lack of results.

These issues include a lack of understanding of truth commissions' mandate, general scope, power, mandate, and true function and purpose. There has been widespread confusion regarding the many truth commissions initiated. The conflation of the transitional justice process and the state leads to misunderstandings about which institution oversees the testimonies (Kent 2008). Kent (2008) refers to sociologist Michael Humphrey (2003), who asserts that a common error of truth commissions has been their inability to translate recommendations into practical policies to assist survivors. "While truth commissions have been reasonably good at developing inclusive historical records, they have been less successful in translating their recommendations into practical public policy outcomes. Indeed, at this point, the East Timorese leadership's responses to Chega! And its recommendations can perhaps best be described as lukewarm, although they have varied over time (Kent 2008:11)."

In the South African context, Lamb and van der Merwe (2009) believe that the amnesty debate facilitated the creation of a truth commission process, which was deployed to address survivor concerns and information stemming from amnesty hearings. These scholars identify Kadar Asmal, a former ANC high-profile leader, as the main advocate for the truth commission process. Asmal alluded to the need to establish this commission in public statements during the negotiation phase, which Alex Boraine then applied to at the Institute for a Democratic South Africa (Lamb and van der Merwe 2009). Boraine began by initiating a civil society dialogue process, which fed into drafting legislation by the ANC, which became the Promotion of National Unity and Reconciliation Act 34, adopted on December 15, 1995 (Lamb and van der Merwe 2009). Lamb and van der Merwe (2009) argue that although this Act provided a comprehensive mandate to the TRC, only a few of their objectives addressed truth recovery. "The key truth-finding functions assigned to the TRC were to:

- Establish "as complete a picture as possible of the causes, nature, and extent of the gross violations of human rights" that were committed during the period between March 1960 and May 1994, "including the antecedents, circumstances, factors, and context of such violations, as well as the perspectives of the victims and the motives and perspectives of

the persons responsible for the commission of the violations, by conducting investigations and holding hearings"; and

- Compile a comprehensive report providing an account of its activities and findings about the gross violations of human rights and the execution of its other functions (Lamb and van der Merwe 2009:19)."

The truth-seeking element of the TRC emanated from various processes of statement-taking, which required carrying out hundreds of interviews and visiting different communities. Investigations to substantiate claims followed the statements made by victims and communities (Lamb and van der Merwe 2009). According to Lamb and van der Merwe (2009), another aspect of these investigations was the research conducted into 'window cases'. These referred to investigations into specific crimes or incidences that were expected to assist in providing insight into other broader chains of events. The TRC simultaneously carried out investigations related to amnesty applications. Lamb and van der Merwe (2009) claim these were fairly superficial. The responsibility of dealing with the challenges of the truth of applicants' versions of events was left for the victim and their counsel to navigate. The small number of applicants, of whom 7112 individuals applied for amnesty, reveals a failure to encourage perpetrators to disclose their violent actions fully (Rowen 2017). In addition to some of these criticisms of the TRC, as applied in South Africa, there was a lack of a strategy that assured the integration of various sources of information (Lamb and van der Merwe 2009).

Lamb and van der Merwe (2009) argue that the Amnesty Committee functioned without a systematic research approach, mainly because its members perceived their duty as limited to verifying whether applicants were telling the truth in particular cases. They attribute this to members neglecting to collect information about applicants' military history, line of command, and other information that might be deemed relevant in developing a more systematic understanding of the patterns of abuse. The TRC produced information on over 300 cases to be further investigated and prosecuted. However, the information, evidence, and statements from the amnesty process could not be used in a prosecution process. Lamb and van der Merwe (2009:19) further criticise the TRC for collecting information about victimisation related to gender, race, and other demographic variables but failing to have it locally analysed by local

researchers and presenting the analysis in the final report. A foreign researcher was primarily responsible for analysing the data presented, and the analyses were never present in the report, meaning that the report. However, it gives accounts of the severity of abuses and fails to provide a clear gender analysis of the conflict. It is unclear why a foreign researcher was preferred. Still, one could presume it was due to the fear of bias since a South African might have been unable to assess the data from a neutral lens due to proximity to the events and history.

Lamb and van der Merwe (2009) believe that the TRC was reluctant to engage directly with civil society regarding truth-seeking processes; it informally liaised for information to remain impartial. The reluctance of the TRC to form official bonds with civil society organisations lay in the belief that they relied on anti-apartheid resources and opted to further work with church structures when it came to statement-taking and reconciliation processes. However, the TRC used members of the Khulumani Support Group to help with additional statement-taking because it worried its interviewees hadn't gathered enough statements (Lamb and van der Merwe 2009). The TRC, therefore, aimed to build on previous information to establish the truth about the human rights abuses that had taken place. There were also concurrent government commissions operating, such as the Goldstone Commission and the Steyn Commission, which focused on police abuses. However, other government commissions focused more on contributing official denials of abuse (Lamb and van der Merwe 2009). The ANC held the Motsuenyane Commission, which investigated alleged abuses by members, particularly in training and detention facilities in exile (Lamb and van der Merwe 2009). The information gathered through formal inquiries and by civil society organisations assisted in producing the TRC report, which the South African public and international community had been waiting for. According to Lamb and van der Merwe (2009), academics struggled with the final seven-volume publication, which cost over US\$20 per volume.

## **2.2 Reparations**

The South African government made a lump-sum payment of R30 000 (US\$6,417) to those registered as victims with the TRC (Lamb and van der Merwe 2009). This was only a quarter of what the TRC recommended, and it left out essential rights like access to social, medical, or educational services. This barely considers the intergenerational loss that black South Africans

have experienced when it comes to wealth accumulation. The TRC classified victims according to those who endured gross human rights abuses, which are recognised as politically motivated physical violence, and thus did not extend the same benefits to combatants injured during military operations (Lamb and van der Merwe 2009). The TRC's recognition of only victims and perpetrators fostered the idea of each group being treated as mutually exclusive from the other. Still, many ex-combatants were eligible for reparation since they were tortured. However, they were never informed of this then and were hesitant to classify themselves as victims. Reparations only rolled out in 2003, six years after the TRC started hearing victims' testimonies (Lamb and van der Merwe 2009). This is ironic because perpetrators benefited immediately after the amnesty process, whereas the victims had to wait a long time. Reparations may be an important feature of transitional justice measures. Still, it is necessary for healing from past wounds that they include other measures such as truth-seeking or prosecutions. This suggests that these gestures alone may be inadequate for addressing long-term consequences if other initiatives do not supplement them.

Lamb and van der Merwe (2009) also note that reparation for victims only began after extensive lobbying by survivors and civil society organisations, and the situation was made more challenging by the mere fact that the amnesty provision within the constitution prohibited victims from pursuing civil claims against perpetrators who were granted amnesty. An additional troubling element was the demobilisation grants of 1994 and special pensions for older ex-combatants, which exceeded the payout amounts received by victims (Lamb and van der Merwe 2009).

The Office of the United Nations High Commissioner for Human Rights (OHCHR) published research on post-conflict tools for international law. OHCHR (2008) proposes that the existence of gross violations of human rights and serious violations of international humanitarian law both facilitates and gives rise to a right to reparation for victims. This indicates that the state must see to reparations being undertaken; thus, this right and duty to reparation are matters of domestic law and policy (OHCHR 2008). In this regard, national governments are regarded as maintaining flexibility and discretion, with the basic principles and guidelines still there to serve as a source of inspiration and as an incentive. The OHCHR (2008) explains that these basic principles and

guidelines inevitably provide a broader categorisation of reparation measures. *Restitution*, which refers to efforts geared at restoring the victim to the original situation before the occurrence of gross violations of international human rights law and serious violations of international humanitarian law occurred, in practical terms would encompass "restoration of liberty, enjoyment of human rights, identity, family life, and citizenship, return to one's place of residence, restoration of employment, and return of property (OHCHR 2008:7). *Compensation* is the economic provision for measurable damage that has resulted from gross violations of international human rights law and serious violations of international humanitarian law. These include but are not limited to, lost opportunities, loss of earnings, and moral damage (OHCHR 2008). *Rehabilitation* is preoccupied with medical, psychological, legal, and social care and services (OHCHR 2008). Conversely, *satisfaction* refers to a wide range of measures that aim to terminate violations, seek truth, search for the disappeared, recover remains, make public apologies, etc. (OHCHR 2008). The OHCHR considers guarantees of *non-repetition* as another broad category that focuses on the institutional reforms preoccupied with civilian control of the military and security forces, strengthening judicial independence, protecting human rights workers, etc. (OHCHR 2008).

The OHCHR (2008) argues that reparation programmes partially deal with redressing gross and systematic human rights violations, not sporadic or exceptional ones. However, what needs to be redressed are not only individual violations but violations that, according to the OHCHR (2008), emanate from systematic structures. This is either a result of intentionally adopting abusive policies or a consequence of predictable choices. The OHCHR (2008) advocates that reparations must not only do justice for victims but also facilitate the construction of essential systems of norms, such as the norms of justice, which tend to be fragile and weak during times of conflict.

Very few governments have had to deal with massive reparations; thus, only a few have the expertise (OHCHR 2008). The lack of expertise is widespread, not only in governments but within the international and donor communities. This inevitably means that expectations relating to reparations tend to be unrealistic, and violations meant to be redressed by the reparation processes are generally irreparable. For example, victims who have endured years of torture and illegal detention cannot have a life that will return to the status quo, and the same applies to the

loss of relatives and loved ones (OHCHR 2008). This is not to encourage inaction but rather to outline the problems with these programmes.

The OHCHR (2008) views the South African TRC as having made far-reaching recommendations for the reparation of the human rights violations under apartheid. A victim was someone who "suffered harm in the form of physical or mental injury, emotional suffering, pecuniary loss, or substantial impairment of human rights, (i) as a result of a gross violation of human rights, or (ii) as a result of an act associated with a political goal for which amnesty has been granted." A gross violation of human rights was defined as "(a) the killing, abduction, torture, or severe ill-treatment of any person; or (b) any attempt, conspiracy, incitement, instigation, command, or procurement to commit (killing, abduction, torture, or severe ill-treatment)" (OHCHR 2008:20). The OHCHR (2008) explains that there tends to be more focus on these types of violations because of a lack or scarcity of resources catered for reparations purposes; therefore, it makes sense to pay more attention to the most serious of crimes.

Grey (2010), on the other hand, believes that the South African reparation programme did very little to improve the situation of the black population and arguably could have contributed to their being left in a way worse condition, which creates feelings of ambivalence with the entire transitional justice process. According to Grey (2010), there are, however, victims of institutionalised human rights abuses who have made gains, but this is not due to reparations. Bosire (2006) posits that the most successful reparations programmes have been those addressing a broad range of violations and including a range of redress options. This must be considered against the reality that scholars have identified a shortage of resources for reparations and that international donors cannot commit steadily to contributions. If reparation programmes are not designed accordingly and with consideration of other transitional justice measures, this may negatively impact reconciliation efforts. As mentioned before, although reparations can be used as an alternative for prosecution and "justice," reparations are rarely prioritised, and when they are the chosen pathway, they come years later. A contributing factor to this experience is that reparation programmes are perceived as being designed at the last hour. This is evident in the Sierra Leone TRC, which only considered reparation late in its work, and the South African TRC, which was noted to recognise reparations as a just and necessary action on behalf of

transition yet left the details regarding reparation always delayed for later in the process (Bosire 2006).

The Reparation and Rehabilitation Committee's (RRC) role in addressing the multifaceted needs of victims reflects an acknowledgement of all the intersecting factors that affect individuals' experiences. This approach incorporated various components, ranging from redress and restitution to rehabilitation and non-repetition. This does demonstrate a nuanced understanding of the diverse needs stemming from human rights violations. The RRC's foundation on the Promotion of National Unity and Reconciliation Act No. 34 of 1995 underscores the legal framework informing its operations. What is emerging from this study on the TRC is the impact of socioeconomic inequalities. This logically leads to the need for broader reparations beyond individual victimhood. Once again, using the principal tenets of intersectionality shows the TRC's approach to understanding the complex relationships between societal groups and systemic inequalities due to apartheid. This study emphasises the impact of apartheid on various intersecting identities (including racial, economic, and social ones). The RRC's policies for addressing trauma on an individual and a community level emphasise these. As Hancock pointed out, intersectionality here becomes the best diagnostic tool. This is because it is consistent with the RRC's approach, which aims to recognise victims' diverse needs and experiences. An application of an intersectional lens to the RRC's policy parts (redress, restitution, rehabilitation, restoring dignity, and not repeating the atrocities of the past) all shows a multi-level approach that deals with the big (institutional reforms), the medium (community-based interventions), and the small (individual rehabilitation) levels.

The discussion of the TRC throughout this chapter demonstrates the power dynamics between social locations concerning reparations and access to justice. This, therefore, raises issues of structural and political forms of intersectionality. This is done by acknowledging the systemic injustices inherent in the apartheid regime. The use of intersectionality as an analytical framework explores the social construction of identities and how they shape the experiences of victims and communities and the different and often unique experiences of oppression victims face, including disparities in experiences across different identities. This has resulted in a need for nuanced approaches to addressing social inequality post-apartheid. The chapter and study on

the TRC examine how its processes impact different societal groups. This presents divergent perspectives and reactions and, as a result, demonstrates how intersectionality informs the complex social dynamics at play. An intersectional lens highlights the complexities of victimhood. It acknowledges the varied needs and recognises the shortcomings of the TRC in addressing these multifaceted experiences.

### **2.3 Prosecutions**

For Bosire (2006), making perpetrators accountable is central to the fight against impunity. Bosire (2006) considers prosecutions vital for serving as deterrents for future abuses but also believes they can repair victims, reaffirm the rule of law, and further positively affect the process towards reconciliation. Bosire (2006) believes that, in theory, prosecutions should be overseen by domestic courts, while other transitional justice mechanisms facilitate programmes such as reparations, truth commissions, and institutional reform. She outlines that judicial processes continue to be vitally important even during periods of weak judicial systems, arguing that it remains crucial that in instances of widespread human rights abuses, it is understood that exemption from the law will not be tolerated. According to Bosire (2006), there have only been a few trials for human rights abuses that have been held in Africa after undergoing a transition, arguing that the poor legal capacity could be the main obstruction to domestic prosecutions. The Democratic Republic of Congo illustrates what Bosire (2006) and other academics have described as a judicial system that has suffered from a lack of integrity, infrastructure, and independence throughout the entire post-colonial phase. There is also the case of post-genocide Rwanda, whereby many legal professionals were either dead or in exile, and a vacuum existed within the judicial system. The large number of offenders, which the courts could not control, worsened this situation. "In 2000, Rwanda is said to have had more than 125,000 people in detention—a number that would be overwhelming to any judiciary, even in the developed world. Many of these individuals may have served *de facto* jail terms without ever being convicted, an issue that raises great concern about the state of justice (Bosire 2006:10). "In the context of Northern Uganda, a survey was conducted, and it revealed that victims did not regard justice and peace as mutually exclusive; therefore, even though they wanted war to end, they did not want perpetrators to get away with impunity (Bosire 2006). This is an interesting thought to juxtapose

against the South African TRC process about victims, their needs, and their desires for justice amidst periods of conflict.

In the South African situation, human rights abuses were not frequently prosecuted under the apartheid government. This can be attributed to the fact that the human rights abuses that were conducted under the apartheid regime were sanctioned by 'law' (Lamb and van der Merwe 2009). When the state engaged in criminal activity, the matter would either not receive a thorough investigation or, when it reached the courts, would receive somewhat biased treatment (Lamb and van der Merwe 2009). Some attention went into investigating and prosecuting the actions of the liberation movement, which resulted in high levels of convictions of liberation force members for criminal actions and human rights abuses (Lamb and van der Merwe 2009). Although prosecutions continued, many were suspended after the TRC legislation was implemented and the amnesty committee's investigations were underway (Lamb and van der Merwe 2009). Unfortunately, political bias on the part of judges played a huge role in negatively impacting the trials of liberation force members. In addition to that, there were forced confessions and intimidation of witnesses. Lamb and van der Merwe (2009) refer to the severity of sentencing for political convictions, which inevitably resulted in most of the amnesty applicants being members of the liberation forces. These applicants were either already in jail or awaiting prosecution emanating from investigations during the apartheid era. State operatives didn't fear much regarding evidence against them being revealed and paid very little attention to the amnesty process because the chances of prosecution were slim (Lamb and van der Merwe 2009). They claim that the prosecutions of perpetrators of human rights violations have progressed at a snail's pace since the closure of the TRC in 2001. "Only four cases have been pursued in open court, and only two have been concluded (one conviction and one not-guilty finding). In 2004, the National Prosecuting Authority (NPA) placed a moratorium on prosecutions of apartheid-era political cases in response to concerns about the political ramifications of pending cases, specifically that of Adriaan Vlok, a Minister of Law and Order in the apartheid government (Lamb and van der Merwe 2009)."

A few developments in this regard resonate with the December 2005 announcement of the new

prosecution policy, which revives the amnesty criteria for considering whether to prosecute these politically motivated human rights abuse cases (Lamb and van der Merwe 2009). This new prosecution policy allowed the NPA to drop charges based on the TRC amnesty criteria or in instances where prosecution might undermine reconciliation. Lamb and van der Merwe (2009) assert that the NPA was granted the ability to oversee these cases, immune to public scrutiny and publicising findings, except for the final decision.

## **2.4 Amnesty**

The issue of amnesty is highly linked to the balance of power. Laplante (2009) asserts that, until recently, immunity measures like amnesties were regarded as part and parcel of promoting transitional justice within countries seeking to address past human rights violations. Laplante (2009) states that it is politically sensitive to negotiate peace with the opposition, and that often outweighs the moral imperative of pursuing justice in terms of punishing those responsible for atrocities. An important factor regarding this reconciliation process is the nature of the political circumstances, which, according to Simpson (1999), gave rise to the creation of the TRC. Simpson (1999) argues that the history of the TRC is entwined with the choice, or rather, preference, of South Africa's undertaking of a negotiated settlement. According to Simpson (1999), this transition was carried out with most race groups believing they needed each other for progress. This transition is viewed as highly different from others, such as that of Nazi Germany after World War Two. In that scenario, the Allied forces used the judicial system in the form of the Nuremberg trials to effect retribution on identified war criminals. The scale of prosecutions and punitive processes was also far greater, with high-ranking elites and 'foot soldiers' held accountable. South Africa, however, chose a different path.

Van Zyle (1999) explains that this balance of power between the old and the new regime influences how the successor government deals with the gross violations of human rights committed during the previous era. Once again, an example of this is the Nuremberg trials, which took place in postwar Germany and were made possible because the Allies had militarily defeated the Nazi government (Van Zyle 1999). This meant that the Allies' actions created a conducive environment for the possibility of prosecutions of leaders of the Third Reich. Van Zyle (1999) believes power and principle greatly facilitate policy choice within these

transitioning governments. This also applies to the South African context, whereby the apartheid government was able to monopolise power during the transitional period from a nondemocratic country to a democracy (Van Zyle 1999). One can, therefore, argue that the ANC, as a liberation movement and main opposition to the apartheid regime, could not successfully remove the apartheid government from office by utilising military means. If anything, the former government remained in possession and control of the military and police throughout the negotiation process and into the first democratic elections. Even if the former regime wanted to hold onto power for a longer period, the balance of power would not have allowed it due to liberation movements occupying the support and command of most South African citizens and supporters mobilised to defy the government (Van Zyle 1999). Van Zyle (1999) views this mobilisation as amounting to a costly disruption that would not have been sufficient to overthrow the government of that time. The international support and economic sanctions placed on South Africa during the apartheid era also had detrimental effects on various aspects of the country, which ultimately put a considerable amount of pressure on the former government to change its policies (Van Zyle 1999). The political dynamics had changed in the late 1980s, which paved the way for negotiations to be seen as the best alternative. "The government understood that it could no longer ignore or repress the massive domestic resistance to its rule, nor could it indefinitely defy world opinion or withstand international isolation. The liberation movements recognised they were unlikely to win even if they continued their military campaign against the former government. Furthermore, the two sides realised that if a lasting and viable solution to the South African conflict were to be achieved, both would have to be accommodated in the new order (Van Zyle 1999:3)."

This is, therefore, the context in which the agreement to grant amnesty was forged. Van Zyle (1999) rationalises this by pointing out that the former government would not have agreed to the transition to a democratic South Africa had they believed their supporters or operatives would be arrested, prosecuted, and imprisoned. He states that the issue of amnesty preoccupied the table until the very last minute of the final draft of the interim constitution. Therefore, amnesty was the biggest and last challenge to the transition to democracy. Generals in the South African police force refused to support and safeguard the electoral process without an amnesty agreement being solidified. They argued that they would not support the ushering in of a new government by

safeguarding the electoral process if this government intended to prosecute and imprison members of the police force (Van Zyle, 1999). Therefore, this was problematic for the ANC because, without the amnesty agreement, the negotiation process they had been working on would be futile, thus collapsing, and the nation would return to politics of confrontation (Van Zyle 1999). Without the amnesty agreement, holding elections would be impossible, and that is why the amnesty agreement made its presence at such a late stage in the interim constitution. Van Zyle (1999) argues that the amnesty agreement appeared at the end and stated: "Gross violations of human rights, the transgression of humanitarian principles in violent conflicts, and the legacy of hatred, fear, guilt, and revenge...can now be addressed on the basis that there is a need for understanding but not vengeance, a need for reparation but not for retaliation... To advance such reconciliation and reconstruction, amnesty shall be granted.

Van Zyle (1999) also identifies a few reasons as to why the ANC made peace with the idea of granting amnesty. Firstly, the former government and its police forces had the reassurance they wanted regarding persecution, and the ANC accepted the amnesty deal because it recognised only it could grant amnesty and forgive as the new legitimate government. Secondly, amnesty was granted with a few conditions, such as full disclosure of crimes committed and acknowledgement that the crime was politically motivated. Although postponing the transition indefinitely would have come at a rather high cost, that does not mean the amnesty agreement has not come under scrutiny, especially in the wake of criticism by the victims and their families, who have urged for the prosecution of perpetrators (Van Zyle 1999). Those who opposed amnesty agreements did so with the belief that it would be possible to prosecute perpetrators; however, even if the transitions occurred outside of any amnesty agreement, there would have been only a small fraction of those who committed gross violations prosecuted successfully. Van Zyle supports this claim by attributing it to a few reasons, firstly by arguing that South Africa's justice system was (and still is) dysfunctional. Only a small percentage (4 to 5 percent) of those who commit gruesome crimes such as murder, rape, serious assaults, etc. spend more than two years in jail. He argues that this points to the inability of the police to investigate and make arrests, the attorney general to prosecute, judges to make convictions, and the correctional facilities to imprison. What this assertion insinuates is that the criminal justice system in South Africa would struggle and somewhat collapse if it had to spread its already strained resources to

deal with cases that occurred under a different regime decades ago. The other issue Van Zyle (1999) identified was the lack of proper skills to trace and investigate crimes committed by highly skilled operatives trained to destroy and conceal evidence. Thirdly, the government could not afford to sustain the cost of thousands of political trials; in addition, many of the accused were former state employees, and therefore, the government would be obliged to pay for their legal defence costs (Van Zyle 1999). The fourth reason was that these trials are time-consuming and utilise many detectives, civilian analysts, and long periods spent conducting investigations and preparing indictments. " The de Kock trial, for example, lasted over 18 months and only resulted in a single conviction. A specialised investigative unit consisting of over 30 detectives and six civilian analysts spent more than nine months conducting the investigation and preparing the indictment for the Malan trial (Van Zyle 1999)." Van Zyle (1999) estimates that if these people were to be prosecuted, it would take hundreds of years of pre-trial preparation and court time to complete the cases, which also doesn't necessarily guarantee convictions. Van Zyle (1999) views the Truth and Reconciliation Commission as the best alternative for dealing with the past.

However, according to Laplante (2009), anthropologists' observations of experience on the ground show that the theoretical debates have failed to consider the demands of victim-survivors, who preferred trials even when elites compromised criminal justice. This touches on the problematic aspects of the TRC, which, although it gained international praise and made truth commissions popular, created the idea that amnesties are the most acceptable part of transitional justice (Laplante 2009). Amnesty constituted a huge part of South Africa's 1995 Promotion of National Unity and Reconciliation Act; thus, amnesty was exchanged for truth. This led to some of the most notorious perpetrators not having to face judicial processes of justice, and this caused an outcry mostly amongst victims, while internationally, the TRC was gaining momentum and praise (Laplante 2009). This local disagreement developed into a legal battle, whereby the Act was challenged about national and international law (Laplante 2009). The South African Constitutional Court dismissed the international law arguments, arguing that the National Unity and Reconciliation Act was compatible with international law (Laplante 2009). The victims and survivors rejected the ruling and opted to lobby for full criminal justice. After that, the media dismissed the issue of full criminal justice and overemphasised reconciliation (Laplante 2009).

This judgement was a turning point in the transitional period because it enabled the prioritisation of a reconciliatory version of human rights talk over the one about criminal justice (Laplante 2009).

## **2.5 Transitional Justice: Challenges**

With some of the challenges already addressed in this chapter, it is evident that transitional justice scholars have not yet found the ideal response to addressing victims' needs for justice, truth regarding past actions, and reconciliation with healing. Simply put, transitional justice mechanisms have endured a wide range of pressure from responsibilities and expectations, which come with the hopes of these mechanisms achieving a wide range of goals. These expectations range from promoting psychological healing, creating collective memory or a common history, promoting reconciliation across social divides, and finding ways to deter future atrocities (Van der Merwe, Baxter, and Chapman 2009). Therefore, the challenge lies in whether a single effort can diligently assume all these responsibilities, especially when each of these tasks has proven to be a strenuous overtaking. The other challenge is that each of these goals mentioned above has a different requirement, which might conflict. This incompatibility could occur when truth-finding is juxtaposed with attempts to legitimise the new regime and promote reconciliation. These could be at loggerheads because reconstructing the past and examining violent atrocities may be divisive and traumatic for victims.

Further, certain elements of transitional justice, such as truth, tend to satisfy a collective outlook rather than the individual. This means commissions entrusted with truth-finding may not be able to satisfy the right to truth in individual cases (Szablewska and Bachmann 2014). This also includes the reality that truth commissions lack legal force and, therefore, have resolutions or recommendations that are not legally binding. Post-conflict processes have also been criticised for their limited ability to facilitate the transformation of structures that gave rise to conflict in the first place (McAuliffe 2017), which is why many scholars and activists have advocated for these mechanisms to address inequity and discriminatory structures. Some academics have also criticised transitional justice for excluding victims of structural violence from its purview. McAuliffe (2017) attributes the failure to address socio-economic rights to prioritise civil and political rights, which the South African TRC and the ANC have also been accused of occasionally. TJ practices have been critiqued for their 'top-down' approach, lacking an inclusive,

participatory strategy. Gready (2010) points to the repeated calls for the localisation and control of transitional justice as a field and suggests that it is problematic for it (transitional justice) to be led by international elite professionals or donor networks instead of being locally driven by victim-survivor networks. One can look at Sierra Leone as an example, a country that experienced a volatile civil war from 1991 to 2002, and question whether they would have chosen to opt for a truth commission had it not been encouraged by the 'international community' (Gready 2010). Sharp (2019) further identifies numerous blind spots in transitional justice, arguing that the ability to disturb the post-conflict status quo seems limited. This means that transitional justice tends to treat the symptoms of conflicts rather than the causes. Sharp (2019) also accuses TJ of being oblivious to multiple forms of economic, structural, cultural, and lived experiences of everyday and gender-based violence. As much as there may be a cry for the field to be fundamentally transformative of social order and holistic in its aims of building peace with justice in the aftermath of gross violations and mass atrocities, one wonders still if more holistic and progressive approaches to transitional justice can tackle the deeply rooted nature of physical, structural, economic, and cultural violence (Sharp 2019).

There is also a challenge in investigating perspectives on transitional justice systems because limited research has been available on assessing survivor responses to these mechanisms. The South African TRC did provide data on survivors' perspectives, but since the TRC was not a neutral body, the data is questionable (van der Merwe and Chapman 2008). "Richard Wilson concludes, however, that "the most damaging outcome of truth commissions is a result of their equating of human rights with reconciliation and amnesty." 69 Wilson speaks of "the large gap" between political reality and the survivors' expectations of justice, since most survivors preferred punishment. 70 (Laplante 2009)." This points to the need for transitional justice projects to consider the needs and demands of victims regarding closure explicitly. The other challenge faced by the transitional justice measures discussed relates to defining 'victims' and 'perpetrators'. Bosire (2006) suggests that the parameters of who is classified as a 'victim' and 'perpetrator' are determined by the types of crimes the specific transitional justice strategies intend to address. In the South African context, these definitions were imperative to the work that the TRC would undertake, as it was understood to be responsible for determining the scope and nature of the Commission's tasks. Although defining these two categories was viewed as important by the

TRC, it still produced a narrow definition of violence that excluded structural violence. This decision enabled many apartheid beneficiaries, many of whom were white, to evade accountability. This was a result of defining a 'victim' as the individual on whom 'gross violations of human rights' were enacted and, as a result, incurred physical, mental, or emotional injury, etc. The issue with this framing of a 'victim' is founded on the idea that the actions had to be politically motivated. Thus, the TRC ignored the political motive of the apartheid system. Meaning the definition only catered to individuals who were predominantly political activists or instruments of the state. This phenomenon will be discussed in further detail in the following chapters, as it has influenced the content of race relations in South Africa.

## **2.6 Conclusion**

In conclusion, this research recognises transitional justice mechanisms' complexities and multifaceted nature, especially the challenges faced in achieving healing, reconciliation, and justice post-conflict. In contributing towards the research questions and objectives, this chapter has addressed how diverse social identities intersect to shape individuals' experiences within this mechanism. In conjunction to that, the cases alluded to demonstrate how transitional justice mechanisms, such as the truth commissions, reparations, and amnesty processes, can all have a different impact on the individual. Intersectionality when applied to this context reveals how these experiences of these individuals impacts them differently based on their intersecting identities. Applying this concept to the literature on transitional justice therefore demonstrates that this is why there are varied experiences of justice and reconciliation. This review has provided a succinct overview of the literature and perspectives regarding the TRC and created a foundational understanding of the emergence of the South African TRC process. The review has exposed that the assumed link between truth commissions, individual healing, and nation-building is not an automatic result; this research highlights the challenges for past and future truth-telling mechanisms. As indicated earlier, the expectations created by truth-telling mechanisms also seem to create a shortcoming for victims because telling one's story will not necessarily lead to a certain desired public recognition, which inevitably might not happen. This chapter has highlighted the need for reparation programmes to focus on redress for individual violations and violations that emanate from systematic structures, which is relevant to the South

African situation. However, very few governments have had to deal with massive reparations; thus, only a few have the expertise. As previously mentioned, this invariably results in unrealistic expectations for reparations and generally irreparable violations that are the subject of reparation processes. The South African reparation programme has been accused of doing very little to improve the situation of the black population and arguably could have contributed to their being left in a way worse condition, which creates feelings of ambivalence with the entire transitional justice process. This chapter has further provided limitations and achievements of truth-telling, reparations, and prosecutions within transitional justice, therefore contributing towards answering the overarching questions of the nature of the TRC in the South African context.

These realisations contribute to the current body of scholarly knowledge about post-conflict reconciliation and justice, as they can inform real-world applications or guide policymakers and practitioners by being cognizant of the needs of victims and the impact of these processes on their lives.

## Chapter Three

### 3. Theoretical Framework: Introduction to Intersectionality

This research has drawn upon theories of intersectionality to construct an anti-racist intersectional theoretical framework that has been used to investigate how sexism, classism, and other forms of racism have affected race relations during the TRC processes and in South Africa after apartheid. Intersectionality as a lens will essentially be utilised to further comprehend the content and nature of the TRC and its impact on race relations in South Africa by examining the TRC process, group experiences, and results. This will be done by understanding how race, gender, etc., as grounds of discrimination, are linked to the social, economic, political, and stringent structure of the TRC process. This research uses an intersectional approach to reveal how South Africans vary and how the larger social context of the TRC has structured the South African experience post-Apartheid. Intersectionality analyses combined with an anti-racism approach is used to gain understanding as to how race, gender, etc., as grounds of discrimination, are linked to the social, economic, political, and stringent structure of the TRC process.

Intersectionality can be regarded as a frame that recognises that a complex interplay exists between systems of oppression and structures (Bond 2021). Intersectionality theory asserts that specific aspects of identity, such as race and gender, intersect to produce unique experiences of discrimination and oppression, especially for black women. Intersectionality as a theory provides a lens to view and understand how forms of inequality often work together and exacerbate each other (Bond 2021). According to Jawad and Ozbigil (2015), intersectional theory derives from critical legal theorist Kimberly W. Crenshaw (1989), who aimed to examine the causes of racial and gender oppression of black women.

Intersectionality can, therefore, be defined as the complex way discrimination and otherness are woven together and thus intersect to create an advantage or disadvantage in a culture (Jawad and Ozbigil 2015). Intersectionality is highly sensitive to the idea that inequality is not necessarily experienced in the same universal way. This study is highly relevant because it deals with people of multiple identities. Additionally, not everyone had the same experience with the TRC, and black people did not have the same experience with democracy as other racial groups did. Post-

apartheid social class divisions are yielding different experiences for various communities.

Lykke (2010) suggests that there are many interpretations of intersectionality but defines it as a theoretical and methodological tool utilised to analyse how specific kinds of power differentials and institutional and structurally constructed sociocultural categories such as gender, race, class, etc. interact and as a result, produce various inequalities and unjust social relations.

To answer the research question, an anti-racist intersectional framework will be used to investigate how sexism, classism, and other forms of racism have affected race relations during the TRC processes and in South Africa after apartheid. Intersectionality as a lens will essentially be utilised to further comprehend the content and nature of the TRC and its impact on race relations in South Africa by examining the TRC process, group experiences, and results. This will be done by understanding how race, gender, etc., as grounds of discrimination, are linked to the social, economic, political, and stringent structure of the TRC process. This research uses an intersectional approach to reveal how South Africans vary and how the larger social context of the TRC has structured the South African experience post-Apartheid. The application of intersectionality as a framework to the mechanism of transitional justice shows how diverse social identities intersect to shape individuals' experiences within these mechanisms. From this perspective, it demonstrates how transitional justice mechanisms, such as the South African truth commissions, reparations, and amnesty processes, can all have a different impact on individuals. The experience of these individuals impacts them differently based on their intersecting identities, like race, class, and gender.

Intersectionality has been criticised for lacking a clear definition incorporating specific parameters regarding which categories can be deployed. At the same time, this vagueness contributes to the versatility of intersectionality because new connections can reveal previously unknown exclusions or disadvantages when an intersection occurs. Sinevaara-Niskanen, Lindroth, and Tennberg (2022) argue that this versatility is intrinsic to the success of intersectionality.

### **3.1 Principal Theories Grounding the Research Project**

Scholars of violent conflicts have utilised various theories to understand the South African situation, such as *political culture theory*, *realistic conflict theory*, *symbolic racism theory*, etc. *Firstly, political culture theory* in this context focuses on the hope that the rival (in this case, the

ANC and black majority) will adhere to the rules of democracy in its ambition for political power and emancipation (Duckitt and Mphuthing 1998). Duckitt and Mphuthing (1998) argue that hostile interethnic societies will not be conducive to democracy and predict that, in the future, the democratic landscape of South Africa might be disrupted due to these hostilities. Second, Duckitt and Mphuthing (1998) view realistic conflict as the initial existence of open conflict and competition between the white minority and the black majority, resulting in political cooperation. The decrease in white political power meant the threat posed to Africans decreased. Lastly, *symbolic racism theory*, fundamentally borrowed from American racial history, focuses highly on socialisation, which Duckitt and Mphuthing (1998) understand to nurture short- to medium-term resistance to change.

This research is, however, grounded in intersectional theory, which emerged because traditional boundaries of race and gender failed to fully comprehend, capture, and redress the discriminatory experiences of women, especially women of colour. Intersectionality is, therefore, the best lens to address and explore the experiences of previously disadvantaged and marginalised South Africans. This is because intersectionality in various contexts can expose group dynamics that have been previously hidden and further document relationships of inequality while acknowledging how power operates. An effective intersectional analysis, therefore, requires a structural analysis of how power differentials around gender, race, and ethnicity become entangled. Although relationships of inequality among categorically based social groups may change over time and in different contexts, intersectionality provides intercategorical complexity as an approach that focuses on inequality among groups to explain their dynamics (Taylor, Hines & Casey, 2010). This approach addresses the complex nature of relations among multiple social groups and can, therefore, be applied successfully as an analysis tool for this research.

### **3.2 Intersectionality as a Theoretical Framework**

This thesis acknowledges the value an intersectional framework offers in examining the context of oppressed and marginalised people by exploring the structures and systems that enforce inequalities. Processes such as the Truth Commission should invite intersectionality as an analytical framework because, as an analysis, it offers significant insight into the lived experiences of human rights violations. As a framework, intersectionality can guide future research, policymaking, or interventions. According to Bond (2021), an intersectional analysis

further provides a more complete account of human rights violations. It can offer a varied scope of remedies to address these violations, as opposed to a unidimensional approach, which tends to be prevalent in post-conflict processes. Crenshaw's (1993) article *'Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Colour'* asserts that women's experiences of violence tend to be highly linked to the intersection of race and gender, which further leads to a spectrum of issues such as the rights to education, employment, etc. Post-apartheid South Africa has also dealt with some emerging and unanticipated intersectional challenges in employment, education, etc. The application of an intersectional framework in this research is utilised to produce a more nuanced understanding of the TRC process and its impact, considering how multiple and complex identities influence the lived experiences of oppression in South Africa. Bond (2009) argues that approaches to human rights violations have tended to be quite compartmentalised, which hinders the ability of representatives to address violations in an intersectional manner. This is partly evident in the South African TRC process, where barriers between committees allowed perpetrators to attain amnesty. Yet, victims received delayed reparations, accompanied by a lack of attention to discussions about race. The lack of nuanced conversation regarding the role of race created remedies based mainly on a single form of identity, victimhood, incapable of capturing the multifaceted experiences of the intersection of various identities. This thesis, therefore, posits that an intersectional lens is the most appropriate tool for addressing human rights violations and oppressive systems like apartheid to provide comprehensive redress to victims.

### **3.3 Intersectionality as an analytical framework and the comparison with alternative theories**

Intersectionality is, therefore, the best approach for examining the impact of the TRC on race relations in post-apartheid South Africa. Other theories, such as critical race theory (CRT), feminist theory, and postcolonial theory, were considered potential lenses for analysis as they all looked at social structures, power relationships, and inequality from multiple and diverse perspectives. Although they may look at the issues faced in society from different angles, they each offer a unique way that could have also been used for the topic. This research will now establish why intersectionality is preferable. While CRT, feminist, and postcolonial theories are

useful, they are not suitable for intersectionality when it comes to encapsulating the many-faceted nature of oppression that is apparent in the post-apartheid context.

CRT centres on race and examines how racism impacts individuals and society. It also argues that 'colour blindness' is unattainable and emphasises the importance of recognising racial disparities and their impact (Delgado and Stefancic 2017). However, racial progress occurs only in situations where the interests of racial minorities are the same as those of the majority. This approach is useful when looking at how and why social and legal changes occur and why these serve the interests of the powerful elite (Ladson-Billings 1998). CRT also uses a narrative storytelling approach that examines the counter-narratives that challenge mainstream stories, which is done to emphasise why it is necessary to share lived experiences. This process acts as a mechanism to expose hidden elements of racial oppression. Mainstream feminist theory, on the other hand, views gender as a socially constructed identity (Hooks 2000). This positions the theory as a useful lens to criticise traditional gender roles and advocate for gender equality.

Gender theory is intersectional because of how gender intersects with other social identities. This means that it is a useful theory to examine the diverse challenges women of different backgrounds face. While feminist theory seeks to challenge those in power, it primarily criticises and seeks to dismantle patriarchal power structures and advocate for women's rights and empowerment. Postcolonial theory examines the long-term effect of colonialism on societies (Said 2003). It then uses this as a basis for a critique of current power imbalances resulting from colonial histories. This approach supports the idea of cultural hybridity and the benefits of mixing diverse cultural influences. As a result, this theory is useful because it challenges essentialist views of culture and identity. Lastly, postcolonial theory tends to focus on resistance to colonial oppression, and part of this entails decolonising structures, institutions, and certain ways of thinking.

Intersectionality therefore remains the most appropriate framework because it is designed as a conceptual lens that captures the complex interplay of race, gender, class, and other identities for examination. It can further be utilised to reveal power dynamics and uncover how various forms of oppression converge and intersect. This plays a significant role in shaping race relations. Intersectionality as a framework was therefore selected because it ultimately offers a more nuanced understanding of the TRC's impact on diverse communities. Intersectionality is best

suited for the task of capturing the complex dynamics that have characterised post-apartheid South Africa's societal transformation.

This approach further recognises that oppression is experienced differently by everyone because, based on the interaction of these identities, the individual experience is unique. Intersectionality looks at the nature of how power structures interplay across various social levels. Therefore, it is best suited to recognise how social inequalities are intertwined and how they reinforce each other. Intersectionality recognises that identities are fluid and subject to change over time. This means that the theory is centred around the fact that inequality is not experienced universally or in the same way. It changes and shifts depending on the context.

### **3.4 Multi-Level Analysis in Intersectionality**

The multi-level analysis that intersectionality produces pays attention to effects between and across various societal levels, including the macro, intermediate, and micro levels.

Acknowledges that relationships and power dynamics between social locations and processes, such as racism, classism, sexism, etc., are linked (Hankivsky 2014). As an interpretive framework, intersectionality will ensure that the experiences of black people are not just examined from a lens that only recognises how they are oppressed due to their race, gendered, and classed identities but also requires that such an analysis expose how these varying identities intersect in ways that create unique experiences that situate the oppression in these people's lives (Anfara and Mertz 2014). Crenshaw (1989) contends that those on the margins, possessing multiple oppressed identities, are often "theoretically erased." Therefore, intersectionality is the appropriate lens to view the relationship between the TRC and race relations in South Africa. Zerai (2016) posits that intersectionality holds value because of its practical use in liberation struggles.

### **3.5 Key Concepts and Themes in Intersectionality**

Intersectionality consists of two defined basic themes: firstly, **social construction**, whereby identities are viewed as neither fixed nor static and, therefore, can change over some time. This means that inequality is not necessarily experienced in the same universal way and may morph over different periods. The same applies to the meanings attached to various identities; they may

also shift depending on what they socially get constructed to. This is highly relevant to this study, which deals with people of multiple 'identities' and power dynamics founded on ideas of race. The distinction between horizontal and vertical forms of intersectionality is the second crucial idea that Hardy-Fanta (2013) identified. Horizontal intersectionality describes within-group differences, whereas vertical intersectionality refers to between-group differences. A third set of intersectionality themes, which Hardy-Fanta (2013) finds useful in terms of public policy scholars, is Crenshaw's (1995) distinction between **structural and political forms** of intersectionality. This structural form of intersectionality refers to how individuals within intersecting identities are marginalised because of structural barriers such as language, poverty, etc. Political intersectionality, however, speaks to how one could be situated within at least two subordinated groups, which might frequently pursue conflicting political agendas. This means that one needs to split oneself between these two sometimes opposing groups, which results in a dimension of intersectional disempowerment that white women, for example, seldom must confront. Race-class intersectionality, the income distribution within and between racial groups, and between economic classes feature highly in this theme because of the issue of marginalisation perpetuated by structural and political forms.

### **3.6 Intersectionality and social inequality**

Whitehead (2013) identified relationships of inequality among categorically based social groups as a prominent area of research within the intersectionality paradigm. Social inequalities exist, yet they are not the only important dimension of inequality but a significant indicator of access to resources. In the South African context, social inequality has been divisive and emanates from apartheid economic structures and legal apparatus, which ensured social inequality. We must investigate how sexism or classism also contribute to or support racism in intersectional research (Zeria 2016). Intersectionality is a theoretical framework that relates to how two or more dimensions of diversity, such as race, class, and gender, may yield layers of discrimination and disadvantage or favouritism and privilege. Hancock (2007) views intersectionality as "the best chance for an effective diagnosis and ultimately an effective prescription (Hankivsky 2014)." This is so that intersectionality can examine how sexism or classism contribute to or support racism (Zeria 2016). Intersectionality considers factors that shape identities and experiences of oppression (race, ethnicity, class, social standing, etc.). Intersectionality provides an analysis that

links individual experiences to broader structures and systems, exposing how power relations are shaped and experienced. Intersectionality is highly valuable for this research because it is preoccupied with working towards transformation and social justice.

### **3.7 Intersectionality in Action**

Intersectionality has contributed immensely to the understanding of the experiences of women and children in armed conflicts, especially regarding perpetrators of sexual violence who tend to target women based on gender and ethnicity. Therefore, mechanisms such as the TRC and other human rights actors must comprehend the intersectional complexity of such violations because efforts that fail to understand the intersectional nature of human rights violations do not offer adequate redress to victims.

In 2000, the United Nations' CERD (Committee on the Elimination of Racial Discrimination) established General Recommendation No. 25 to promote intersectionality and understanding of the complexity of the intersection of inequalities that affect women's violence against them (Sosa 2017). Studies on violence against women have also utilised an intersectional approach, thus contributing to revealing the gaps in legislation and policies on intimate partner violence (Sosa 2017). Using an intersectional approach is valuable for raising awareness and changing policies, which has a greater impact on people's lived realities. These examples give insight into intersectionality's impact in real-life contexts and its ability to shed light on complex social dynamics.

### **3.8 Conclusion**

Intersectionality has contributed to the way scholars understand and view inequality. As a theory, it has further led to recognising a complex interplay between systems of oppression and structures. Intersectionality theory further exposes how aspects of identity such as race, class, and gender intersect to produce unique experiences of discrimination and oppression, especially for black women, and provides a lens to view and understand the way forms of inequality often work together and aggravate each other. Intersectionality brings awareness of inequality not necessarily being experienced the same way, which is relevant for studying societies emerging from violent conflicts and capturing the effects of various identities and experiences to facilitate change. As a framework, intersectionality fundamentally has value in understanding social

complexities and, therefore, is the most suitable for guiding this study because it is best suited to capturing the complex dynamics that have characterised post-apartheid South Africa's societal transformation.

## **Chapter Four**

### **4. Research Methodology and Methods**

This study was undertaken using desktop research or secondary research. Desktop research does not involve collecting and analysing information, literature, and other data from different sources. This approach does not involve any fieldwork or primary research. Instead, it uses published and unpublished material, such as books, journal articles, research reports, databases, and other sources of information that can be easily accessed from a computer or desk (Creswell 2013). Desktop research is useful when defining a topic, reviewing the existing literature, and developing an analytical lens like the theoretical framework that informs this study. It is also far more cost-effective and efficient in terms of time than fieldwork.

A descriptive research design has been utilised to address these specific research questions: 'what' and 'how'. A descriptive research design is adequate because it not only attempts to explore and explain specific phenomena but is also geared towards expanding understanding by describing what is happening and filling in missing information in the chosen fields of study. According to Salkind (2010), a descriptive research design is the first step in understanding social problems and issues; it further describes who is experiencing the problem, how widespread it is, and how long it has existed. This research explores and describes the TRC's impact on race relations in South Africa. A qualitative research design in this study ensures that the methods deployed are consistent with the fundamental questions and data generated. Data collection comprises primary sources, archive research, articles, etc. A qualitative study because it focuses on exploring a social issue to create an understanding of past and current affairs using qualitative data (Creswell 2013). A qualitative approach was suitable because because the aim of this research was to explore and understand a specific phenomenon, and the study engages in external desk research to understand the TRC process and its impact on race relations in South Africa. Data was gathered and extracted from different texts, these are sourced from government reports, online resources, non-governmental organisations' databases, documents from the South African Justice Department, the TRC database, etc. Thereafter the TRC report was interrogated to establish the role and impact of the committees. This was followed by analysing data from

prior research, and recent academic studies to trace race relations up to date. This also provided the opportunity to compare data and establish sequences in events and experiences of people, which provided an overview of the TRC and its impact on race relations.

## **Chapter Five**

### **5. The South African Truth and Reconciliation Commission**

The TRC and the ANC aimed at promoting national unity and reconciliation in the new non-racial South Africa. Yet, race seems to have existed as an empirical indicator of privilege and exclusion, creating hurdles for positive race relations. This chapter explores the South African TRC process to provide context and understanding of how the legacy of the TRC's focus on national unity and reconciliation and the outcomes of these have resulted in the reality that people experience on the ground. The TRC has been considered a positive mechanism to usher in an era of peace and unity after the ills of apartheid. This study seeks to comprehend the TRC's process of ushering in peace and unity and the value of its committees. An anti-racist intersectional lens is deployed to examine these processes and experiences that South Africans have undergone due to their race and other identities. It is important to comprehend the context and history of the TRC's aims and chosen methods, what they were supposed to accomplish, and how the processes have subsequently affected race relations and national unity in South Africa. This study further seeks to contribute to the literature on the issue of the TRC's national unity, the lack of adequate development and advancement of historically disadvantaged race groups, and the impact of these dynamics on race relations.

Truth commissions have occurred in more than twenty countries, including but not limited to El Salvador, Chile, Guatemala, etc. Still, South Africa's TRC remains exemplary in the eyes of the world (Ramsbotham et al., 2011). The irony is that reports conducted by the Institute of Justice and Reconciliation have stated that over 47% of white South Africans do not believe that apartheid was a crime against humanity (Wale 2014). Nonetheless, in the 1990s, it became clear that the National Party (N.P.) government was unable to continue sustaining apartheid due to internal and external pressure. The entire structure of apartheid and its continuation was undermined by F.W. de Klerk announcing that Nelson Mandela could enter negotiations with the

N.P. government. This stance was taken to minimise change for white people as far as possible into the future, which was achieved (Du Bois and Du Bois-Pedian 2008). This achievement is recognised in the experience of the TRC processes, which will be discussed further in this chapter, the ability to maintain white superiority in the country and the concentration of capital in the hands of mostly white citizens. For many, this entire transition period was understood as not just purely a 'post-apartheid' era. Still, it encompassed a sense of leaving the old regime and focusing on black communities' power through the African National Congress (ANC) and, in some cases, the Inkatha Freedom Party (IFP). In 1994, the ANC government chose nation-building as its main strategy to overcome the divisions of apartheid. This undertaking aimed to minimise or halt subnational forms of social identification and advance a single national identity, which would inevitably become the core social identity of all South Africans. According to Du Bois and Du Bois-Pedian (2008), justice and reconciliation were the key themes of this transitional period. This notion of reconciliation came alive through the creation of the Rainbow Nation, which Alex Borain viewed "as 'the call for a Rainbow Nation... embodies a promise of what is possible in the future'; it 'challenges society to become what it is called to be' (Du Bois and du Bois-Pedian 2008:2)." It seemed, however, that the notions of justice and reconciliation were frequently at loggerheads because reconciliation threatened the pursuit of justice (and vice versa).

This chapter, therefore, provides an in-depth definition of reconciliation and discusses the various aims of the TRC process. It further contextualises the reconciliation process in South Africa and provides the six alternative paths to reconciliation proposed by Ramsbotham et al. (2011) for discussion. This chapter further focuses on the structure and function of the TRC by addressing its establishment and investigating at length the TRC's committees: the *Reparation and Rehabilitation Committee*, the *Human Rights Committee*, and the *Amnesty Committee*.

## **5.1 Defining Reconciliation**

Ramsbotham et al. (2011) view reconciliation as an attempt to restore and mend broken relationships and learn to live non-violently, even though radical differences may exist. These authors perceive this as the goal of conflict resolution and state that, ideally, ending direct violence produces a conducive environment for establishing conflict resolution strategies. They assert that the negotiation between parties at polarised ends of the spectrum opens the door for

settlements, and the victory over structural injustice creates a space for further transformation. This means that reconciliation can be understood as forming the essence of deep peacemaking and cultural peacebuilding, which is why it is sometimes synonymous with peacebuilding and conflict resolution ([Ramsbotham et al., 2011](#)).

Dictionary definitions of reconciliation have tended to explain it as a phenomenon that occurs between individuals, as opposed to taking into consideration post-conflict reconstruction and peacebuilding, which involve entire societies. " Merriam-Webster, for example, defines reconciliation as 'the act of causing two people to come together after an argument or a disagreement.' This definition, and its emphasis on reconciliation occurring after the cessation of an argument or disagreement, offers a useful starting point for understanding why issues of timing and sequencing are so important to bridging social and political divides in the aftermath of conflict (Rowen 2015:5). "This dictionary definition consists of two people as opposed to groups, thus making it only necessary for two people to reconcile after an argument or disagreement has ensued. However, divided societies are usually defined by ethnic, religious, political, or other boundaries that are not necessarily homogenous (Rowen 2015). Rowen (2015) suggests that if violence has ensued, then an argument or disagreement must be at the heart of the violence. There is also the possibility that the actual argument or disagreement that sparked the initial conflict has been forgotten. In cases where individuals or groups have suffered vile atrocities and death, it becomes hard to imagine life going back to any form or shape of what it was before. There is also distrust towards the government and international organisations maintaining peace and security. It is challenging to bring people together after such events, unlike a simple argument or disagreement, which does not require extensive interventions. The essence of the definition, however, rests on the idea of 'coming together'. When applied to individuals, it refers to either bringing these divided parties into the same physical space or changing perspectives to get to a common emotional space, thus making one's belief compatible with another's (Rowen 2015). Rowen (2015) indicates that, in general, the goal of reconciliation for many is to help parties in conflict understand and empathise with another's perspective. This, however, slightly differs when reconciliation is applied to social and political groups because then it requires broader interventions that include all levels of society, of which it must be ensured that individuals feel physically safe and secure enough to be able to engage with opposing groups and feel emotionally secure enough to consider the different perspectives

offered. Much attention has gone into the latter point, with scholarly explanations focusing on the psychological and emotional changes needed for this process to continue (Rowen 2015).

Chapman and Merwe (2008) have identified that numerous initiatives have advocated for reconciliation, such as initiatives aimed at changing identities, values, and patterns of interactions to move towards a more cooperative relationship between different groups. These interventions may resolve disagreements and air latent conflicts to ease tensions (Hayner 2011). For others, reconciliatory interventions should be pursued to see a common humanity, and this is an argument that draws on religious views borrowed from former Archbishop Desmond Tutu (Rowen 2015). According to Rowen (2015), those who focus on the importance of allowing groups to live alongside each other tend to give special attention to the issues of social and political dynamics of reconciliation. Minow and Chayes (2003), for example, believe that the goal within these divided societies should be coexistence, as opposed to reconciliation, because reconciliation requires too much of the individual by asking for a change in their feelings and beliefs in the aftermath of mass violence (Rowen 2015). This statement resonates with some of the criticism levelled against the TRC, such as victims feeling pressured to forgive the atrocities and violence they endured, compounded by the existence of perpetrators who showed no remorse in the wake of amnesties.

On the other hand, some scholars focus on transforming the state structures of nationally fractured communities but avoid using the word reconciliation and opt for words like *post-conflict social reconstruction* or *social repair* (Rowen 2025). Rowen (2015) suggests that the goal should focus on interventions that will assist individuals to live and work together even when they cannot see each other's perspectives. Therefore, the ideas around reconciliation in the context of post-conflict social reconstruction and social repair are centred on the individual. On the individual level, this pertains to survivors being able to understand both the context of the violence and the perspective of others; on the social level, there is the expectation of groups being able to understand the perspectives held by other groups; and on a political level, states are supposed to create institutional reform that enables and encourages different groups to share space (Rowen 2015). Rowen (2015), however, remains sceptical of the numerous changes that must take place, thus making reconciliation difficult and impossible. Rowen (2015) argues that, when put into action, there is a possibility that goals from different levels will inevitably collide.

The reconciliation process is lengthy and, at times, fragile. Therefore, Ramsbotham et al. (2011) advise waiting with the process instead of imposing it at the early stages because that would be counterproductive. "Before reaching the point where it is possible to climb down the escalation ladder, it is necessary for individuals and groups to recover from trauma and for the time bomb of remembered injustice to be defused (Ramsbotham et al., 2011:249). " This claim is related to the "contact hypothesis" in conflict resolution, which says that conflicting parties should talk to each other more because they think that will make it more likely that they can agree (Ramsbotham et al., 2011). This hypothesis has, however, been critiqued for not seeing the value in the existence of fences and distance as a positive feature between parties in conflict. Regardless of the circumstances, parties in conflict must get to a point where they can live amicably with each other. This amicability is vital for the ability of a society to function well and reach some level of social cohesion (Ramsbotham et al., 2011). A major point of strain for conflict resolution is being able to address conflict that has escalated to the point of violence. The challenge lies in there having been too many deep-seated injustices, violations, and traumas, which, at the transformation level of bridging differences and restoring trust immediately after the violence, becomes extremely challenging. In the South African context reconciliation and working towards a united society has been an ongoing project with many arguing that race relations have either remained the same or worsened since 1994 (Forster, 2020). Reconciliation may require forgiveness, but to create a reconciled country there needs to be social and economic equality. This view is substantiated by Forster (2020) who asserts that protest against economic inequalities and economic injustice, denialism of black pain, and the re-racialisation of society by utilizing identity politics, has facilitated much of the obstacles which hinder progress in regard to race relations. The social and economic inequality of the majority of South Africa is a product of apartheid and colonialism, which required interventions and actionables by the TRC and ANC, which relate to the formal economy, land, employment, education etc.

Gibson (2004) identifies two dominant themes within contemporary discussions regarding the TRC process in South Africa. The first is that nobody can accurately define "reconciliation," which Gibson views as one of the most overused words in recent history. The second theme revolves around the perceived failure of reconciliation, or at least the inability to meet South African expectations (Gibson 2004). Gibson argues that although people may not be able to define and measure the concept, they can vocalise their abilities to identify it when they see it or

do not see any reconciliation. Gibson (2004) acknowledges that reconciliation has a meaning; however, the issue is that it is a concept with too many meanings. "The problem with reconciliation is not that it is devoid of contact; the problem is that reconciliation is such an intuitively accessible concept that everyone can imbue it with her or his distinct understanding (Gibson 2004:12)." For Gibson (2004), reconciliation is not an extremely hard concept to tie down. He argues that it can still be reduced to a few simple and specific elements. Gibson's starting point is consistent with Ramsbotham et al.'s (2011) recognition that reconciliation consists of a relationship, which could either be between victims and perpetrators or between beneficiaries and the exploited. The TRC Final Report refers to numerous types of relationships, ranging from those between victims, survivors, and perpetrators, between communities, between racial and ethnic groups, etc. (Gibson 2004). The relationship that particularly stood out was between the beneficiaries of apartheid and those who have been disadvantaged by it because it has been so strained, at times charged, and complex. There are many reasons for this complexity, but at its root is the violence and injustice accompanied by how both were addressed. In the context of South Africa the ultimate focus of reconciliation was to create human bond. Gobodo-Madekizela, Ndushabandi, Ratele (2021) views this reconciliation as highly related to *Ubuntu*, which provides people with the possibility to evoke a sense of shared humanity. To some degree Ubuntu seems to be a justifiable way of life to apply to reconciliations, because of the it is a philosophy the emanates from within South Africa. Kostovicova (2023) suggests that defining reconciliation needs to be grounded in the principle of mutuality in public communication. Reconciliation in this regard if therefore interactive and embodies the idea of peace.

In the South African context, reconciliation discussions have tended to resonate around two distinct ideas: the micro-truth of what transpired to certain loved ones and the macro-truth about the nature of the struggle against apartheid (Gibson 2004). Gibson (2004) suggests that at the micro level, the focus was more on the issue of reconciliation between victims and perpetrators of gross human rights violations, and for him, this is the 'clearest meaning of the term "reconciliation". According to Gibson (2004), the applicability of reconciliation to victims and perpetrators is supposed to yield acceptance of blame, apology, and forgiveness. As previously mentioned, Desmond Tutu in South Africa promoted this type of reconciliation with strong religious overtones, making forgiveness the definition's main theme. The macro-level definition of reconciliation focuses more on the larger South African population, paying specific attention

to reconciliation between the races and taking a closer look at those who benefited from apartheid and those who were infringed upon. Gibson (2004:14) cites Markel (1999:407), who refers to this as "the public reconciliation process." Markel (1999) believes that the TRC wanted to play a bigger role in harnessing reconciliation among and with the various racial and ethnic groups of South Africa, with the aim that these groups would learn how to deal with the pain experienced as a group in the past (Gibson 2004). According to Gibson (2004), this strategy for racial reconciliation does not focus on any human rights violations but rather emphasises how the white minority oppressed the black majority. Gibson (2004) further quotes Antjie Krog, who notes that reconciliation in South Africa was not about individual operators-victims but between the white beneficiaries of apartheid who exploited the black population. This relates to what Gibson calls a "non-racial ideology of reconciliation," as Hamber and van der Merwe (1999) proposed. The idea of a non-racial ideology comes from the notion that South Africans should live harmoniously in a situation where they consider themselves non-racial citizens within an integrated social setting.

In such a situation, the TRC is the common thread that can facilitate improving communication and mutual tolerance of diversity (Gibson 2004). Gibson (2004) argues that reconciliation has three meanings beyond interracial reconciliation. The first is political tolerance, which relates to opposites being able to tolerate their political foes. Although South Africans were not necessarily expected to like or agree with one another, there was the expectation that the truth and reconciliation process would contribute to ensuring peaceful coexistence (Gibson 2004). This means being tolerant of those who may have different views from you while simultaneously being open to your former enemies, practicing forgiveness, and, if possible, forming political coalitions (Gibson 2004). Building a political culture that values and respects human rights for all is the third component of reconciliation that Gibson (2004) outlines. According to Gibson (2004), the emphasis on respecting and valuing human rights culture was one of the explicit goals of the TRC.

## **5.2 Nation-building in South Africa**

Nation-building in the South African context has been controversial and has morphed over different periods. This is attributed to the ANC government promoting and advocating for

different views of nation-building at various stages of the transitional period. National unity is thus closely associated with the metaphor of the Rainbow Nation, which became a popular symbol of the diversity of ethnic and racial groups. It has been argued, though, that nonracialism has had a far greater influence on government policy than rainbowism. Nonracialism assumes that South Africans have a shared historical experience and a common destiny, which focuses on a civic nation where all are equal and have access to equal individual rights regardless of their creed or origin (Bornman 2021). Despite the efforts of the ANC government and the TRC to promote interracial reconciliation and their endeavour to form a single, inclusive South African identity through various methods such as sports, i.e., rugby, there are still murmurs of intolerance of others (Holmes 2020). Rugby was used to unite the nation, but at the time, the Afrikaner officials who controlled the South African Rugby and Football Union (SARFU) showed extraordinarily little interest, as rugby had been a white separate sport. The 1995 Rugby World Cup was the catalyst for change in advancing the nation-building agenda, as it brought excitement when it was announced that South Africa would be hosting it in the country. On numerous occasions, former President Nelson Mandela indicated the role and influence athletes had in contributing to reconciliation and national unity, which entailed influencing their impact regarding serious social issues. Mandela ensured he focused on the role of sports in nation-building efforts and explicitly stated the case for unity in diversity in public arenas. Rugby contributed to creating symbols of reconciliation, from the new Springbok jerseys to the lifting of the trophy, which symbolised coming together and the building of a Rainbow Nation (Silander D., Silander C., and van der Elst 2022).

The Promotion of National Unity and Reconciliation Act 34 of 1995 laid the foundation for what the Truth and Reconciliation Committee in South Africa would accomplish, which was to develop an understanding of all the atrocities and human rights violations that had occurred since March 1, 1960 (Act 34, 1995). The TRC was also supposed to ensure that people who willingly and fully disclosed all the events and acts that led to past crimes and violations were given amnesty. It was also supposed to give victims a place to tell their stories, ensure that victims got reparations, and that they were rehabilitated, and their human and civil dignity restored (Act 34, 1995). Part of the result was a report made available to the nation regarding violations and victims, in conjunction with recommendations that would prevent gross violations of human rights in the future (Act 34, 1995). Thus, this Act provided for the "establishment of a Truth and

Reconciliation Commission, comprising a Committee on Human Rights Violations, a Committee on Amnesty, and a Committee on Reparation and Rehabilitation... (Act 34, 1995).

TRC initiatives were utilised to lay the groundwork for reconciliation in South Africa. These initiatives aimed at societal reconciliation through a wide sample of individual testimonies and responses. Ramsbotham et al. (2011) understand the TRC as an attempt at avoiding vindictiveness, disregarding wrongs, and suffering, and hoping to attain full public disclosure of human rights violations since 1960. There was also the hope of encompassing some acknowledgement of responsibility, some measures of repatriation for the victims, emotionally creating enough space to accommodate forgiveness, and postponing the question of amnesty or punishment (Ramsbotham et al., 2011). The TRC did undergo heavy criticism from all sides, with one side arguing that the country should avoid looking into the past and risk the emergence of new wounds, while the other side, like the Steve Biko family, advocated for the punishment and trials of human rights violations (Ramsbotham et al., 2011).

The main aim of the ANC was to identify the perpetrators and for the perpetrators to acknowledge their role and actions under the apartheid regime (Ramsbotham et al., 2011). However, no blanket amnesty was given; amnesty was assessed individually, which was influenced by whether the motive that prompted the action was 'political' rather than criminal (Ramsbotham et al., 2011). A survey conducted in 1998 revealed that two-thirds of South Africa believed that the TRC led to further racial deterioration as opposed to societal reconciliation (Ramsbotham et al., 2011). Others, like Goldstone (2000), believe South Africa became a better country by utilising TRC mechanisms instead of criminal processes (Ramsbotham et al., 2011). In Goldstone's opinion, if normal criminal processes were carried out, white people would argue that they were politically motivated and would have rejected them. However, Rowen (2015) accuses reconciliation of being one of the most ambitious and simultaneously vague ideas within scholarly, policymaking, and advocacy circles. He argues that when reconciliation is applied to social and political divides, it lacks specificity, has a strong religious overtone, and cannot safeguard reconciliation from occurring. This is because safeguarding reconciliation requires clarity in the term's meaning, and neither the interim constitution nor the National Unity and Reconciliation Act provided a distinct definition. Reconciliation has been accused of being a term that shifts in meaning. While religious leaders like Archbishop Tutu advocated for

forgiveness from a Christian vantage point, which raised expectations of being able to produce or solicit interpersonal reconciliation, the Commission's Act facilitated impersonal and political reconciliation (Bosire 2006). The TRC undoubtedly had courageous goals, but the focus on direct acts of violence overlooked structural factors undermining social and political relationships in the country (Rowen 2017).

Prior research indicates that the TRC had a limited impact on reducing racism or improving the mental and physical well-being of victims (Rowen 2017). Respondents interviewed regarding their perception of the contribution of the TRC towards national reconciliation stated that it was an exercise that left whites feeling good and that former President Nelson Mandela was instrumental in creating that feeling of safety as he had the 'feel good' factor (Chapman and Spong 2003). Respondents argued that the TRC meant a chance for the country to expose everything and get done with it and the blame. According to Chapman and Spong (2003), many survivors felt as though the system had betrayed them because they had publicly told their stories but received no response; as a result, some of them were still angry. The existence of religious undertones within the TRC process seemed to have jolted displeasure for some respondents, who stated that the TRC should have taken a more clinical approach immune to religious bodies and replaced them with social scientists who are deemed to have a better understanding of the complexity and depth of the historical events.

### **5.3 The TRC's Committees**

The TRC attempted to uncover the truth in many ways. Firstly, hearings were held, accommodating victims by providing a space to testify about their abuses. This refers to the approximate 120 hearings held throughout South Africa, at which an estimated 4,000 victims testified (Van Zyle 1999). As mentioned previously, many of the victims who had testified before the commission had hoped that this would produce different tangible outcomes such as closure, added information and truth regarding atrocities, better socioeconomic situations, justice, and even maybe remorse by perpetrators. Second, the TRC examined the roles played by various groups (professions and institutions, etc.) in facilitating human rights abuse to focus on the accountability factor of human rights abuse (Van Zyle, 1999). Thirdly, there was the supervision of the 22,000 statements acquired from victims of human rights abuse. Finally, the HRV Committee supervises the evidence gathered about gross human rights violations (Van

Zyle, 1999). Although not all expectations of the victims were met, one could argue that the tasks undertaken by the TRC assisted in uncovering the mysterious deaths and disappearances of hundreds of victims, in conjunction with identifying patterns of abuse. "As a result of the disclosures made in amnesty applications, the identities of those responsible for hundreds of deaths have now been revealed (Van Zyle 1999:11). "These contributions are strong, bearing in mind that the apartheid regime and its legal system were structured in such a way that investigations and prosecutions of political crimes never saw the light of day, due to deliberate cover-ups or the lack of will to investigate these crimes properly (Van Zyle 1999). For Van Zyle (1999), the TRC not only managed to uncover the truth about the perpetrators of murder or torture, but it also managed to uncover the truth regarding the masterminds who provided these actors with political or operational authority for such crimes. This indicates the importance of the TRC's ability to gather information, which would be central and fundamental in fulfilling one of its most crucial functions: the official acknowledgement of human rights abuse. Acknowledgement is crucial because it is insufficient only to recognise human rights abuse; its wrongfulness must be acknowledged across the board (Van Zyle 1999). The admittance of wrongfulness about assassination, torture, etc., creates a possibility to narrow what Van Zyle (1999) refers to as the moral space that previously allowed these atrocities to exist. We can then deduce from this that it is essential to know the truth about human rights violations and have a nationwide understanding that such acts are illegitimate and unacceptable, which is also an essential aspect of preventing potential recurrences. The function of the TRC, according to Van Zyle (1999), was, therefore, to hand over recommendations to the president that encompassed legal, administrative, and institutional measures designed to prevent any futuristic human rights abuse. However, a glitch has been identified in granting amnesty to perpetrators. Even though this may not necessarily apply to the South African case, critics argue that the prevention of prosecutions and punishment of perpetrators removed the deterrent factor regarding criminal activity, which could lead to an increase in the likelihood of a recurrence of human rights abuse. Van Zyle (1999) An appropriate response to this criticism has again been the view that it would be a challenge to attempt to prosecute perpetrators even if the amnesty process were non-existent. Scholars like Van Zyle (1999) blame the so-called 'culture' of impunity in South Africa as a byproduct of the crisis in the criminal justice system. He specifically argues that since only a small percentage of those responsible for past human rights abuses in South Africa could be

prosecuted successfully, a new mechanism should be put in place that deals with not just the issue of preventing such abuse in the future but rather focuses beyond convictions. One can, therefore, interpret the powers vested within the TRC to make recommendations to prevent human rights abuses in the future, an imperative aspect of its mission. In addition, although an adequate criminal justice system is crucial for preventing these human rights abuses, it should not be regarded as the only alternative to achieving justice. It is crucial to note that prosecution can be considered an aftereffect of a solution to human rights abuse. Equally important is a series of proactive initiatives to prevent such abuses from occurring in the first place. Van Zyle (1999) argues that the recommendations of the TRC, which relate to human rights training for security forces and human rights education in schools and universities, will equally form a huge part of the hope to prevent or deter future human rights abuses, as opposed to solely relying on the criminal justice system. The TRC can be regarded as playing a pivotal role in this discussion due to its final report affirming apartheid as a crime against humanity under international law, which can automatically lead to curbing revisionist attempts that aim at emulating apartheid. In terms of institutionalised racism, many scholars work on the presumption that because institutionalised racism is an internationally condemned crime, it, therefore, reduces the possibility of its rise and the probability of those advocating such policies gaining widespread support. That, however, puts too much faith in the international community and assumes a lot of future states. There is an awareness that other researchers consider the national acknowledgement of human rights violations as crucial in safeguarding against any future abuse since it is still the acknowledgement of personal suffering, which is intrinsic to healing and restoring the individual dignity of those who have suffered, which is an integral part of the process. Van Zyle (1999) also believes that sharing victims' stories has facilitated the dispersion of knowledge and understanding of past atrocities and has also assisted victims in feeling that their suffering has been acknowledged. Some victims have asserted that testifying before the TRC has proved to be therapeutic, whereas, for others, there have been traumatising elements of testifying, such as reopening wounds and the lines of questioning, plus additional pressure to give. Van Zyle (1999) indicates that the TRC ensured that victims who testified or appeared before the commission were awarded professional psychological help, which, contrasted with the prosecutorial process's adversarial nature, seems more palatable. What is sometimes felt during trials is that victims of

torture or rape tend to experience victimisation during criminal proceedings when defence lawyers aim at discrediting their testimonies and suffering.

Another way in which the TRC attempted to address the needs of victims was through the government's recommendation of financial assistance to victims (Van Zyle 1999). There were 600 million rand set aside for reparations to victims; however, the criminal justice system has proven unable to provide victims with compensation because only a small percentage of victims successfully pursued civil claims against those responsible for violating their rights (Van Zyle 1999). The difficulty in prosecuting and presenting evidence in cases involving torture is that victims of such crimes frequently find it difficult to provide physical evidence that was the result of skilled torturers (Van Zyle, 1999). A great concern regarding all the above is the reality that most victims who participated in the TRC and provided information were poor and were in no position to afford an attorney or an advocate.

#### **5.4 Human Rights Violations Committee (HRVC)**

The president appointed seventeen commissioners for the TRC (William, V&#228;n Vugt, and Cloete, 2000). These commissioners were given the power to co-opt eleven other committee members from different areas and fields so that the TRC would be as representative of the South African population as possible. These committee members and commissioners were divided into three committees: the Human Rights Violations Committee, the Amnesty Committee, and the Reparation and Rehabilitation Committee. In addition, two directorates were created, one focused on investigations and the other on research (Williams et al. 2000).

The Human Rights Violations Committee (HRVC) collected thousands of statements from victims, including inviting victims to submit statements at public hearings in various provinces. Apart from these hearings, which were victim-centred, there were special event hearings that were expected to investigate specific events such as the Sharpeville uprising of 1960, the Soweto uprising of 1976, etc. (Williams et al. 2000). There was also a provision set under Section 29 of the Act that allowed for individuals to be subpoenaed in instances where additional information about events was required. The TRC did try to build a reliable database of gross violations through the years, which meant that these Section 29 hearings became the norm for a while (Williams et al. 2000). However, high-profile cases like those of Winnie Mandela, former president P.W. Botha, and Dr. Wouter Basson (in his capacity to develop chemical and

biological weapons programmes) drew the attention of the international community (William et al. 2000).

In Daye's (2011) perspective, the task of this committee was to provide a comprehensive accounting of the violations committed in and outside of South Africa between 1960 and 1993. This committee was to ensure the naming of individual victims and bring to light the violations they had endured, such as murder, kidnapping, or torture. According to Daye (2011), the Committee on Reparations and Rehabilitation set up this process to establish who was qualified to receive benefits and to provide psychological validation for the victims or their surviving relatives and comrades. Individuals who regard themselves as victims of gross human rights violations and the families of deceased victims could submit to the Committee on Human Rights Violations (Daye 2011). The topical hearings that the HRVC conducted helped identify broader areas of the historical aspect of the apartheid regime and simultaneously provided a forum in which it would be possible to debate judgements of that history (Daye 2011). Some hearings were preoccupied with political parties, and these political party hearings gave the National Party, the ANC, and other organisations the platform to offer their interpretation of the past events and legacies under the TRC's scrutiny. Hearings were also set aside to address mandatory military service and its impact on children, youth, and women. These different themes were included in the TRC report, which has come under heavy criticism for lacking sufficient documentation. The criticism is, however, unwarranted because of the scope of investigations and the easily available transcripts from all hearings, according to Daye (2011). Scholars such as Daye (2011) believe the report gives a broad and balanced interpretation of the TRC proceedings and activities. This belief is highly problematic when the TRC has been shown to lean heavily on religious rhetoric. It is also very naïve to assume that a report will provide a balanced interpretation of events when it has a clear agenda to unite the country with a willingness to compromise on a few aspects of the transition, such as the needs of victims for justice and remorse. What remains true is that the HRVC hearings had a tremendous impact because they were widely broadcast and reported on radio, television, and in most newspapers (Daye 2011).

Many white South Africans, and to a lesser degree, Indians, and coloured people, have suggested that they were shocked at the magnitude and character of the violence that had plagued the country. Commentators have rebutted this reaction by pointing out that even though there was

some level of censorship by the apartheid government, information regarding the brutality of these human rights violations against black people was available. As to where these sources were readily available, it is not clear, but what is known is that they had access to black workers facing oppression and witnessed the physical separation and actions of the white police under the instruction of the apartheid government, which regularly enforced segregation laws publicly with force. It could also be argued that the oppression was so tangible that those who wanted to know more could have actively sought information instead of comfort and deliberate ignorance, which brought privilege.

While there might be some resentment regarding how amnesty and reparations were processed, Daye (2011) believes there is a consensus that the HRVC hearings yielded a wealth of historical facts that might have remained hidden or disputed. Daye (2011) provides an example of the assassination of the Gugulethu Seven (G7). According to a reporter who arrived first on the scene, the African and black witnesses provided a different account of what had transpired than the police report. This reporter was intimidated numerous times to give up his sources and refused, which was not unique to the repressive apartheid regime. It often used violence to instill fear and deter anyone seen as a sympathiser of so-called 'terrorists' or the oppressed. This is just one example of the many demonstrating the value of the information the HRVC hearings uncovered. As Daye (2011) puts it, "Those who suffered under apartheid could take comfort in the fact that their experiences were being acknowledged and that their beliefs and actions were being vindicated" (53). However, although many of the former regime operatives had been exposed, the apartheid architects and elites remained in the shadows as they were not necessarily identified. They did not feel obligated to participate in the TRC process when they were identified. These individuals also used their role of acting in the interest of the state and following those requirements as an excuse to evade responsibility. The TRC report did provide accounts of the severity of abuses but failed to provide a clear gender analysis of the conflict. The collection of such data is of paramount importance, and the failure to have it analysed and present in the final report means that society miss the opportunity of understanding the unique experiences victims of oppression usually face, especially Black women whose experience of being Black, female, and compounded by living in deprivation heightened the brutality of apartheid. The chose to not include conversations about the role of race in the report also exacerbates the need for nuanced approached to addressing social inequality post-apartheid.

When TJ mechanisms fail to implement an intersectional lens, it leads to the inability to highlight the complexities of victimhood, and thus appropriate remedies.

### **5.5 The Amnesty Committee (A.C.)**

Amnesty was used as a transitional justice tool, with the Amnesty Committee (A.C.) conducting its interviews and discussions in public and in camera hearings to process the many applications lodged. In some instances, the A.C. also made it possible to hear applications related to the same subject matter simultaneously. Daniel (2001) interprets the Amnesty Committee's findings as having gone far beyond merely determining the eligibility for amnesty but also including contextualising past atrocities. The A.C.'s endeavour resulted in an account that recognised that both sides had committed abuses without making blatant moral judgments. Some of the provided context is aimed at vindicating human rights abuses through what Daniel (2001) refers to as the criminal defence of tools of provocation and deflecting criticism.

An example of this was decision No. A.C./99/0031 of the Amnesty Committee, which refers to the atrocities committed by the police, where it was found that all the police who had given evidence in front of the A.C. had referred to their background, upbringing, and indoctrination (Daniel 2001). The A.C. found that most of the police who had applied for amnesty had only joined the police force after the implementation of the apartheid policy by the National Party, which came into power in 1948 (Daniel 2001). The A.C. would consider these cases with the assumption that these police officers received their indoctrination from the Afrikaans church, schools, and social settings, which did not condemn these viewpoints. However, in the report submitted by the TRC when the process had been finalised, the Amnesty Committee failed to conclude how it treated applications and instead compiled a list of granted and rejected applications. Daniel (2001) argues that some of the contributing factors regarding the inability of the A.C. to provide exact numbers are that, in some cases, individuals submitted several applications to be considered and decided on separately. This was the case of Eugene de Kock, who submitted over eight applications, which were dealt with separately. There were also cases where individuals were granted and denied amnesties simultaneously, for example, in Amnesty Application No. AM 3119/96 Decision No. A.C./99/0229 regarding Mandla Wellington Fokazi and co-applicants (Daniel 2011). They were granted amnesty for the murder of Mr. Oosthuizen

but denied amnesty for the conspiracy to commit robbery because of their denial (Daniel 2001). As previously mentioned, there were a total of 7112 amnesty applications received, of which approximately 250 were withdrawn, and over 40 were duplicates (Daniel 2001). Prison inmates filled out several applications, but prison authorities were thought to have not sent them in, which means these form parts of unknown statistics towards the TRC process.

Near the end of 2001, the Amnesty Committee had refused approximately 5,500 applications, and approximately 900 had been granted (Daniel 2001). The recipient list consisted of 40 percent ANC members, 25 percent security forces, the police force, the army, and other special units, and 34 percent IFP, AZOPO (Azanian People's Organisation), UDF (United Democratic Front), COSATO (Congress of South African Trade Unions), the PAC (Pan Africanist Congress), and the AWB/AB (Afrikaner Resistance Movement). The remaining 1% comprised individuals with indeterminate political affiliations (Daniel 2001). What is interesting is the statistical difference between liberation movement members like the ANC and those who acted under the white apartheid government, like security forces and police, resulting in a higher number for the black movements as opposed to those who facilitated apartheid violence. It is also problematic that the TRC's account views both parties as merely guilty of abuses without emphasising the imbalance in power and resources to fight as equals. This is also the foundation of apartheid: for it to exist, there are distinguished differences used as markers; in this context, race and one side usually have more power to enforce this oppression. So, while it is true that both parties participated in abuses, we need to be conscious of the power imbalance that existed and created the violence in the first place. In terms of the offences for which amnesty was applied, over 60 percent were for crimes that did not result in death, and these crimes ranged from public violence, possession of firearms, arson, robbery, etc. (Daniel 2001).

Some scholars regard amnesty as the most crucial element of the transitional justice processes, especially in negotiated settlements where neither side rises as a hegemonic in the struggle. The possibility of the old regime's representatives disrupting democratic reform is so fragile that their allegiance to the new regime is traded for amnesty. Gibson (2006) also points to the fact that it would be challenging to try to gain reconciliation momentum while embroiled in legal struggles over past atrocities. Amnesty can, therefore, be viewed as being able to neutralise the forces of apartheid, which made it possible for the ANC to enjoy a smooth transitional process and a new

government. Gibson (2006) believes that the most important aspect of the TRC process was that victims were given a voice by being allowed to tell their stories and receive acknowledgement. Amnesty has been regarded as having brought a more humanising lens to the atrocities suffered by victims of apartheid, thus making coexistence and tolerance possible and, if not full, reconciliation more likely. Different societal groups have responded in varying ways to the choice of not prosecuting certain leaders, and not attaining justice by someone being held accountable through legal apparatus. This examination of the TRC process shows that in post-conflict there exists divergent perspectives and reactions which need to be attended to adequately. In the South African context, one could argue that the shortcomings of the TRC in addressing these multifaced experiences and views, have in many instances failed victims and those who were oppressed by the apartheid regimes. It also exposes the top-down approach of the TRC and the negotiated transitional period by the ANC, which has resulted in a lack of nuanced approaches to not only addressing economic inequality, but also social inequality and various forms of justice in post-apartheid South Africa. The ability to enforce forgiveness yet lag behind in reparations whilst being reserved in implementing precautions, reinforces the notion of a social hierarchy with a dominant group (former oppressors) lacking understanding, remorse and accountability for past actions which continue to haunt generations. This becomes the premise for which the new Rainbow Nation is built on, and reconciliation is founded, and thus becomes the crux of facilitating new race relations which inevitable will become fragmented, as we have witnessed in some pockets of South Africa where racially motivated hate emerges.

## **5.6 The Reparation and Rehabilitation Committee**

The Promotion of National Unity and Reconciliation Act No. 34 of 1995 (the Act), which included provisions for reparations and for those who had experienced human rights violations, was the source of the Reparation and Rehabilitation Committee's (RRC) mandate, according to the TRC Final Report (Truth and Reconciliation Commission 2003). When the HRVC found that someone was identified as a victim of a gross violation of human rights, their matter was referred to the RRC for consideration. The same applies to the victims of people who were granted amnesty. In such cases, their matter was referred to the RRC, including cases where the Amnesty Committee (A.C.) refused amnesty but felt that a person was a victim in the matter being

addressed (Truth and Reconciliation Commission 2003). The Urgent Interim Reparation (UIR) mechanism was also established to deal with pressing matters and people needing immediate assistance to access the appropriate services and facilities (Truth and Reconciliation Commission 2003). The RRC policy consisted of five basic components, which the TRC regarded as internationally acceptable approaches to reparation and rehabilitation (Truth and Reconciliation Commission 2003). The first addressed the issue of redress, which was preoccupied with fair and sufficient compensation, and the second focused on restitution, which was the right to a restoration of the situation that existed before the violation (Truth and Reconciliation Commission 2003). The third dealt with rehabilitation, which emphasised the need for attention and access to medical and psychological care, including services and interventions that could assist on both an individual and a community level. The fourth was concerned with restoring dignity, highlighting the mandatory acknowledgement of violations committed to the individual and community. Finally, attention was given to the reassurance of non-repetition, which means an attempt was made to ensure the non-repetition of violations by implementing legislative and institutional reform (Truth and Reconciliation Commission 2003).

The offer of compensation and reparation can be regarded as an attempt at soothing the situation or occurrence, especially for those who have experienced loss and pain, grief, and trauma, accompanied by what may be interpreted as a denial of justice and an inadequate and incomplete version of events perceived as truth. The RRC was mandated to recommend appropriate measures that were to be aimed at the "granting of reparation to and the rehabilitation and restoration of the human and civil dignity of the victims of human rights (Rigby 2001:10)." According to Rigby, the RRC's report went beyond merely establishing the financial grant amounts that abuse victims could receive. It also called attention to the need for changes in terms of making provisions for ways to try to meet the basic needs of the underprivileged and those who belong to excluded groups in the nation. This response by the committee can be considered to have contributed to raising critical issues related to the notion of reparations and justice.

In contrast, Cole (2010) notes that those who regarded themselves as "victims of apartheid" in 1996 had changed three years later and referred to themselves as "victims of the TRC." Many of these individuals have been living in limbo years later because they could not forget their pain and were unpermitted to put closure on their memories (Cole 2010). This is largely because the

TRC has made many optimistic promises. However, they lacked the material resources to handle and lessen the suffering of the victims, which has regrettably been a letdown for those who have suffered not only apartheid's wrath but also the TRC mechanisms, which did not adequately meet their needs. The only path that was open for the TRC was that of recommending to the government the form and number of reparations (Cole 2010). The reparation payments came too late, and regrettably, the ANC government's final allocation was less than the TRC's recommendation (Cole 2010). The irony is that while the TRC obtained only recommending power for reparations, it enjoyed the full power and privilege of granting amnesty. This can be viewed as an injustice and insult to victims, as the TRC was able to operate in a manner that yielded better results for the perpetrators yet was powerless in the fate of victims. New regimes have a spectrum of activities they can implement to facilitate material and symbolic reparations, such as cash payments, the construction of memorials, etc., but Rigby (2001) simultaneously asks us to question how reparations are made for the vast majority, who may not have been directly affected by torturers and murderers but rather were unable to live out their full potential due to violent socioeconomic inequalities and repression. This is why it is crucial for us to understand the historical inequity and injustice that still permeate all areas of life for the black majority post-apartheid and the role the TRC has played in this reality.

Many of those perceptions—many of which the media fueled and shaped—were that the TRC should oversee the RRC rather than the government. At the same time, the delay in reparations has been a frustrating point for many South Africans. As mentioned, this is because the perpetrators received their amnesty, yet the victims still waited for reparations. This rightfully triggers the debate about justice for victims within the context of the Commission process. Although the work of the Commission was to establish a clear picture of past events and atrocities committed and to gauge people's views and experiences of pain endured, it was also there to reconcile the nation. The reference to the past and truth was entrenched in reconciliation rhetoric and must be accompanied by reparation and rehabilitation endeavours (Truth and Reconciliation Commission 2003). The public and media tended to focus more on individual reparation; however, the RRC's plans appeared to be more comprehensive and included not only individual needs but also communities that had experienced abuse and those that required fundamental institutional transformation (Truth and Reconciliation Commission 2003). Many scholars have suggested that reparations can restore some level of dignity and redress victims.

Still, the TRC's limited compensation power meant inadequate reparations for victims, which is highly problematic, especially as it was meant to be a token of acknowledgement of wrongdoing.

The discussion on the TRC has thus far demonstrated the power dynamics between social locations concerning reparations and access to justice. This, therefore, raises issues of structural and political forms of intersectionality. This is done by acknowledging the systemic injustices inherent in the apartheid regime. This literature exposes the problematic nature of the TRC's Reparation and Rehabilitation Committee's (RRC) policies which addressed trauma on an individual and a community level, as opposed to broader reparations beyond individual victimhood. This is why South Africa is still faced with generational trauma and inherited economic inequality. The RRC's foundation on the Promotion of National Unity and Reconciliation Act No. 34 of 1995 underscores the legal framework informing its operations. However, what has emerged from literature and data, is the undeniable impact of socioeconomic inequalities the TRC mechanism have had on formally oppressed communities, which further creates uncondusive climates for healthy race relations.

### **5.7 Criticism of the TRC**

Applying an intersectional lens to the South African TRC process as a concept emphasises the intersectional impacts of mechanisms of transitional justice. This demonstrates that, at times, they can address inequalities and, at other times, can exacerbate inequalities. It also shows how these mechanisms may affect individuals differently based on their intersecting identities. Applying this concept to the literature on transitional justice demonstrates that this is why there are varied experiences of justice and reconciliation. This demonstrates how transitional justice mechanisms can operate simultaneously across multiple societal levels (macro, intermediate, and micro), impacting diverse social locations. When analysed according to this concept, the literature clearly demonstrates how power dynamics are intricately embedded within these mechanisms. As a result, they will affect different groups in society differently based on their intersections of identity.

The country's attitude towards the TRC differed from that of the international community, which viewed amnesty as the most pragmatic choice. South African public opinion was, of course,

divided along racial lines. A survey conducted in 2002 found that "76 percent of black people, 61 percent of Asian people, 45 percent of 'Coloured' people, and 37 percent of whites strongly or moderately approved of the work of the TRC (Sarkin-Hughes 2004:7)." Additionally, a 1998 survey by Market Research Africa for the Department of Justice and Constitutional Development found that two-thirds of urban South Africans believed that the TRC had harmed the nation's race relations. This could be attributed to people's negative feelings towards the Commission and its ability to advance reconciliation.

There was also a poor turnout of white people at hearings nationwide. Deputy Chairperson Alex Boraine criticised them for this and pointed out that this threatened the process of national reconciliation (Sarkin-Hughes 2004). On a more positive note, the process of the TRC in terms of restorative justice mentioned the importance of transitioning from a culture of violence to a culture of dignity, which upheld human rights and promoted greater public tolerance than South Africa had before. Through this process, the TRC reminded everyone that justice does not merely exist in the rule of law but also in human social and moral practices that facilitate a civil society where all people can exist equally with human dignity and accept responsibility for the well-being of all citizens. At the same time, this has been considered the 'type' of justice South Africa needed to build on and for which the TRC was designed.

Gibson (2004) points out that although the South African TRC has been used as a model for developing plans for reconciliation in regions of major political conflict, South Africans have remained divided in their view and appreciation of the TRC. The belief that the TRC succeeded seems too simplistic. It primarily focuses on the observations made about the unexpected transition from an apartheid regime to a reasonable, stable democracy. However, South Africans hold varying feelings and views about the TRC, which include but are not limited to the belief that the TRC worsened racial tensions by exposing the atrocities committed by both the apartheid government and liberation forces. For others, the exposure to these atrocities was an achievement and a necessity for being able to move past the trauma and gain more information and insight into apartheid violence. Others have challenged the notion that "truth" will automatically lead to reconciliation, especially in the face of gross human rights violations, where they view the truth as leading to bitterness and reluctance to coexist in a new democracy (Gibson 2004). Gibson also

blatantly points out that it is still unknown whether (and to what degree) the TRC achieved its objectives (Gibson 2004).

Gibson (2004) argues that the objective of the TRC was to produce reconciliation in South Africa, and this may not seem like a helpful definition of the country's aspirations because reconciliation is not easy to define due to its overuse and ambiguity. Others have been more focused on whether the TRC accurately discovered the truth of certain events. Therefore, the architects of the TRC process accepted the belief that when those who committed gross human rights violations are granted amnesty for their acts, they will come forward and tell the truth regarding their crimes. The assumption was that granting amnesty would benefit South Africa by providing the truth about past events. These truths would then form a collective memory about the South African past. According to Gibson (2004), those who facilitated the TRC process did so with the understanding that the truth about the apartheid conflict was a prerequisite for achieving reconciliation. "Truth might not automatically produce reconciliation, but without truth, reconciliation was thought to be highly unlikely (Gibson 2004:6)". What is clear is that there needs to be some form of agreement or reconciliation present as a condition for democratisation after living under violent and oppressive governments. As to whether truth produced reconciliation, that comes with uncertainty and an inability to quantify, but what is evident is that this process succeeded in creating a new way South Africans feel about each other in the context of a new era and the past. In exploring ideas of reconciliation, Gibson (2004) indicated that collective memory plays a crucial role in redirecting political debate from the past to the future. This was crucial for the South African case, which emerged from a divided history, and by building and approving a collective memory of the past, the TRC 'freed' South Africa from its past to better focus on contemporary issues. Nations can be interpreted as sentimental communities based on similarities and differences. The idea of nationhood can, therefore, be understood as entailing an emphasis on what ties communities together and forgetting internal diversity, meaning that collective and selective forgetting is an essential ingredient for creating a national community such as a nation-state, i.e., South Africa.

The TRC processes did help to lessen the racial conflict that apartheid caused and to increase the likelihood of democratic consolidation. Although interracial prejudice may still exist, the TRC did contribute towards minimising it and tried to improve interracial trust through transparency,

healing with truth, and forgiveness. However, the TRC has been criticised for hosting perpetrators who showed no remorse or penance for their transgressions, and not all perpetrators came forward to admit their crimes. One of the biggest issues has been that whites have not been willing to take responsibility for apartheid (Gibson 2004). Chakravati (2014) points out that the overuse of the language of forgiveness, which surrounded the TRC, set a romantic tone for the commission. This inevitably limited the commission's response to any anger and despair victims may have felt or expressed. As mentioned earlier, many critics view this as a coercive narrative of forgiveness, which really became a form of state control over South Africans (Chakravati 2014). Criticisms have also included the fact that showing remorse was not a prerequisite for amnesty; the main requirement was disclosure of actions by perpetrators, which is highly problematic because, as many have stated, black South Africans forgave people who did not acknowledge what they did and further never asked for forgiveness. Victims were simultaneously put under pressure to forgive. Yet, they faced a commission that was not as considerate of their need for accountability by perpetrators and actors of the former apartheid state, nor received reparations as quickly as amnesty was granted (Saade, Vides, and Debarati 2022). Gibson (2006) observes many unanswered questions about the exact nature of the contribution of the TRC process in South Africa. What has been evident is that, for a period, the TRC process was popular in South Africa. Gibson (2001) attributes this to South Africa's high regard for political pluralism and respect for the rule of law (Gibson 2006). These factors, combined, might have been the main contributors to the popularity of the TRC process.

Hamber et al. (2000) interviewed twenty Khulumani Victim Support Group members between January and May 1998. Khulumani was established as a self-help survivor support group that was started in anticipation of the TRC. Hamber et al. (2000) notes that most of their respondents had shown incredible support for the TRC, hoping that the TRC would uncover the truths of what happened and thus provide closure. This therapeutic ethic was also applied nationally, expecting that seeking truth would foster national unity. Once the TRC got underway, support for the TRC declined, and most of the twenty respondents became disillusioned with the TRC. Reisch (2014) points out that TRC-like institutions have been highly criticised for putting the collective interests of societies that succeeded authoritarian regimes above the rights and interests of those who suffered abuses under those regimes. This has also been one of the challenges of the South African TRC and the ANC: through negotiations, the black majority gained political freedom,

which was lacking in socioeconomic equitability. The application of the TRC in South Africa has also shown that it does not prioritise the individual, and those who defend such institutions argue that restorative justice works towards advancing justice for the victims of political violence crimes within a transitional context. Many view this through the lens of collective interest. If individual justice is impossible to attain, then at least let social justice be the victory that can be claimed and celebrated, thus making the pain previously endured not in vain. However, it is sad that those who were victims of the apartheid regime did not have their claims to justice met, nor did the funds to pay compensation that were recommended by the RRC materialise.

Further, applying an intersectional lens to the mechanism of transitional justice has revealed how diverse social identities intersect to shape individuals' experiences within these mechanisms. From this perspective, it demonstrates how transitional justice mechanisms, such as truth commissions, reparations, and amnesty processes, can all impact individuals differently. The experience of these individuals impacts them differently based on their intersecting identities, like race, class, and gender. There is clearly an interplay between these mechanisms and the power dynamics among different social groups, which have varying impacts on victims, perpetrators, and society.

## **5.8 Conclusion**

The failure of the TRC to investigate the role of different sectors of the economy and their contribution to the oppressive system of apartheid was also dangerous for the truth and an equal society. This is because apartheid discrimination was deeply rooted in housing, banking, education, farming, etc. There was no acknowledgement from public or private sector institutions regarding their complicity in the economic deprivation of black South Africans. It is also noted that many of these sectors opted to distance themselves from participating in the TRC. Some consider the TRC's final report to be the least read report of its kind, and very few South Africans have read the report; thus, a small minority knows what the commission found out. In addition, the TRC archives were meant to be available to all, yet they have remained locked away by the Department of Justice, which intensely guards access to them. It is estimated that 95 percent of the TRC's archival holdings remain inaccessible to researchers or even the victims and perpetrators whose stories are documented in these archives (Cole 2010). This could be a tactic to continue focusing on the future and guarding the continuous nation-building project at the

expense of victims' access to information. Since the TRC and the ANC aimed at promoting national unity and reconciliation in the new non-racial South Africa, the TRC process was not sensitive to the needs of victims for justice, truth, adequate development, and redress, which has had an impact on race relations. This will be further discussed in the next chapter. The TRC was essential for highlighting past atrocities, even though the truth was limited.

## Chapter Six

### 6. The TRC and Race Relations: Introduction

The immediate South Africa post-1994 was immersed in a hopeful, euphoric future of change that encompassed the first democratically elected government. At the core of this transition lay the notion of a rainbow nation, where all citizens would be equal and no longer discriminated against based on race. The TRC's intrinsic focus on forgiveness in its core communication to move the nation forward into a new South Africa made this possible. However, race as an identity has fundamentally remained one of the country's most salient and significant dividers, primarily due to the country's political history and white minority rule. As much as the TRC and the ANC (African National Congress) aimed to promote national unity and reconciliation in the new non-racial South Africa, race has remained a prominent indicator of privilege and exclusion. Race was also used to dominate and create inequality, with the white minority benefiting under apartheid. These political, social, and economic benefits were secured through apartheid legislation and government programmes. Houston et al. (2022) views the experience and existence of racial inequality and racial power structures as persistent in post-apartheid South Africa, manifesting in diverse ways, such as the complexity of racial capitalism, which has ensured white ownership and control of the economy. Apartheid, slavery, and colonialism as systems of oppression operated to create distinctive patterns of race relations (Durant et al., 1999). These systems in past and present South Africa have functioned to pursue and instill specific social and economic goals, which have historically created distinct social hierarchies based on race and class (Durant et al. 1999). Racism can, therefore, be understood as facilitating and nurturing the foundation for race relations in a society like South Africa.

Considering that the ANC's main objective was to liberate the oppressed and eradicate racism in South Africa by creating a non-racial society, this chapter discusses the ANC initiative within the TRC in the context of race relations and the greater implications of these ambitions, inequality, and transformation in South Africa because conversations on transformation and the economy are highly linked when one considers ways to promote equitability, intersectionality (race, class, and gender) in the post-Apartheid economy, race and reconciliation, and lastly, race relations and the ANC government. This chapter will reveal how the South African TRC, and the ANC

government may have struggled to fully transform and overcome the challenges posed by the intersection of race, class, and gender inequality inherited from the previous regime of apartheid and colonialism.

The relevance of this chapter is to explore the crucial aspects of race, class, and gender intersectionality, which are the legacy of apartheid, by viewing this from a broader perspective of transitional justice and economic and social restructuring. This will be achieved by reviewing historical analysis, scholarly literature reviews, and critical analyses of TRC reports and socio-economic data. This will also incorporate reports from the International Monetary Fund, Statistics SA, the Development Democracy Programme, etc. The data analysis technique employs a qualitative analysis of historical narratives and a quantitative analysis of socio-economic indicators, incorporating an intersectional theory and historical context to examine the complex relationship between race, class, and gender dynamics. The theories chosen for this study help to understand the socio-economic and racial complexities in post-apartheid South Africa. The scope and structure of this analysis chapter introduces the TRC and race relations, inequality and transformation in South Africa, intersectionality (race, class, and gender) in the post-apartheid economy, race and reconciliation, race relations, and the ANC government. A segmented analysis is incorporated, focusing on race, class, gender intersectionality, and the impact of the TRC on reconciliation and economic disparities. The data analysis is expected to provide insight regarding the TRC, persisting economic disparities, and gender inequalities. This chapter is centred on providing an enriched and nuanced understanding of the intersectional impact of post-apartheid socio-economic structures. It is also supposed to illustrate the limitations of transitional justice mechanisms. There are, however, constraints regarding the availability of data, potential biases in historical narratives, and the limitations of accessing certain perspectives. This contributes to difficulties in analysing complex historical data, navigating biases in primary sources, and interpreting often contradictory narratives. Previous chapters have given insight into the workings and structure of the TRC, this chapter will, therefore, aim to answer the remaining broad research objectives and key research questions:

**Research Question 1:** What has been the impact of the TRC on race relations in post-apartheid South Africa?

**Research Question 2:** How have national unity and reconciliation been promoted through the TRC?

**Research Question 3:** Were national unity and reconciliation dependent on redress?

**Research Question 4:** Have different race groups in South Africa reconciled, and was the TRC an influencing factor?

## **6.1 An Overview of South African Race Relations**

Houston et al. (2022) notes that as South Africa gravitates closer towards its third decade of democracy, the ambitions and hopes of a non-racial paradise seem lost. Houston et al. (2022) attribute this to the increasing number of racist incidences coupled with the increased racial politicking, which can be interpreted as reflecting feelings of interracial dislike or mistrust. Regardless of that possibility, this thesis recognises that the ANC-led government post-1994 attempted to repeal legislation that discriminated against black communities to secure equality and enjoyment of political, economic, and social benefits. The ANC government implemented laws to create equal opportunities in sectors such as employment, land, economic opportunity, etc., to bring about racial redress and reduce inequality between racial groups. The Employment Act (No. 55 of 1998) and the Broad-Based Black Economic Empowerment Act (No. 53 of 2003) were established to facilitate equal employment opportunities and ownership and management in the private sector. With all these actions set into motion, the fundamental goal of the ANC government post-1994 was to focus on nation-building and creating social cohesion in the country. National unity can, therefore, be regarded as the ANC's main response to historical racism in South Africa, which encompasses some features of creating racial equality (Houston et al., 2022:12).

In 2016, the Institute of Race Relations highlighted polarising ideas regarding the perceived unbridgeable gap between black and white South Africans. The research focused on how South Africans felt about race relations in a 2015 national opinion survey on public attitudes, which focused on race empowerment and other factors. This survey consisted of both rural and urban respondents from various backgrounds. It highlighted that only 4.7 percent of the respondents regarded issues such as racism in South Africa as the most fundamental problem. Challenges such as unemployment, crime, housing, etc. were at the top. According to the Institute of Race Relations (2016) report, only 54 percent of their respondents believed that since 1994, race

relations in South Africa had improved, with 22.2 percent believing that since 1994, race relations in South Africa had stayed the same, 20.4 percent suggesting that race relations had become worse, and 3.4 percent did not know. This means that just over half of the respondents believed race relations had improved, which seems to indicate that the people interviewed then had a more positive outlook on improving race relations from 1994 to 2015. The most important question in this survey related to respondents being asked about the route they felt should be taken for race relations to improve. Data indicates that 82.2 percent agreed that more jobs and better education in South Africa could lead to a better future in terms of race relations. From an anti-racist intersectional lens, these suggestions serve as imperative indicators, as they are some of the main catalysts for change in addressing inequality.

**Q:** Were national unity and reconciliation dependent on redress?

This thesis posits that redress is crucial for the advancement of national unity and reconciliation. Joseph (2005) suggests that **economic equality creates favourable conditions to advance positive race relations**. Therefore, the economy becomes a key factor in determining the quality of race relations. The betterment of economic equality infiltrates every area of life and society, which leads to better race relations. Apartheid, just like colonial rule, distorted South Africa's economy and society by oppressing black people and imposing unjust policies and laws. Race relations in South Africa emanate from a socioeconomic and political context that oppressed the majority, who were not regarded as being full citizens. At the same time, the white minority enjoyed control of political power, which in turn allowed them to exclusively enjoy and secure resources such as better jobs and positions, schools, salaries, etc. Under the apartheid regime, whites were afforded the highest standard of living compared to black South Africans, who were denied the same access and resources. This is why, three decades after the formal eradication of apartheid, South Africa is recognised as one of the most economically unequal societies in the world. According to Houston et al. (2022), this inequality permeates along racial lines, with white South Africans occupying the top 10 percent of wealth distribution and being reported to own 90–95 percent of all private assets in the country. White households, who still earn significantly more than black households, control a sizable portion of the nation's wealth, which makes this situation worse. It is also of interest to note that not only do white South Africans occupy top senior positions within the economy, but the 2017 data provided by the Land Audit

Report stated that they still owned 72 percent of farmland and agricultural holdings (Houston et al., 2022). What is daunting is that even after 25 years of land distribution efforts being deployed to facilitate redress related to land dispossession, black South Africans are left owning approximately 4 percent of the agricultural land in individual holdings, despite them forming 80 percent of the South African population. It is evident that while most black South Africans continue to live in racialised poverty, they simultaneously exist in juxtaposition to racialised wealth accumulation.

The Institute of Race Relations (2021) Quality of Life Index (QOLI) conducted a study using ten indicators such as unemployment, access to basic water sanitation, medical aid coverage, etc., to highlight the quality of life in the different provinces and amongst the black, coloured, Indian, and white population. This study found that QOLI was highest for white people, and blacks had the lowest score, with Indians coming in second and coloureds in third place. These scores are reflected in unemployment standing at 46.3 percent for black South Africans, which translated to a 5.4 QOLI score. In comparison, it is 14.3 percent for white South Africans with an 8.6 QOLI score, thus indicating better performance for white communities (Institute of Race Relations 2021:3). In 2014, they found that 39.2 percent of black South African males and females were unemployed. In contrast, only 9.8 percent of white males and females were unemployed (Institute of Race Relations 2015:9). Rising income inequalities created by apartheid rule have continued and permeated different areas of life and are still maintained within the new dispensation. This points to the need for something to change within our systems, as one cannot have a democratic government still operating within the same structures and systems that former oppressors established and then democratically taken over by the new government. Using a system that has extended protection to inequality and privilege in favour of whites means they continue to have security and access to resources, and an economy that was historically denied to others, i.e., white privilege persists.

Although the lives of black people improved significantly in the immediate post-apartheid era, the Institute of Race Relations (2021) highlights that progress has stalled for black people, meaning South Africans are getting poorer with a growing inequality gap. Therefore, it is also

the poorest of the poor, who are primarily black, who endure the most of apartheid history, made worse by questionable governance.

The ANC attempted to change racial power structures in post-apartheid South Africa, and these indeed rested on introducing several laws and policies. These laws and policies aim to conduct racial redress and eradicate racial discrimination. As mentioned earlier, Black Economic Empowerment (BEE) was one of those, and it was the cornerstone of the Reconstruction and Development Programme (RDP). The expectations were that it would redress economic imbalances, and by uplifting the black majority, which had previously been disadvantageous, BEE would create a mechanism of shared victory since economic inclusion was presumed to lead to efficiency gains. However, the anticipated mechanism of shared growth for most South Africans sadly became a vehicle for the creation of black state elites. These black elites participated in deals that got sealed with white-dominated corporations of the apartheid era, such as the ABSA deal, Sanlam, etc. (Houston et al., 2022:74). These ties to white corporations by black elites have distorted BEE because proper redress of the economic imbalances could be evaded without repercussions due to white corporations' proximity to blackness. What is devastating is the realisation that the white elites who benefitted from colonial and apartheid economies managed to coopt the black state elites and, in so doing, immersed them into their economic structures, which strangled the ambitions and purpose of BEE. BEE has, therefore, been highly criticised for using race to incorporate a black elite into a monopoly capitalist class, which, according to Houston et al. (2022), is dominated by whites. This also fundamentally means that apartheid economic structures still permeate South Africa, and BEE has led to cosmetic and minimal changes. However, the most vital takeaway from this is the reality of the lives of the black majority, who may have been able to enjoy achieving political freedoms and the rights they comprise while grappling with economic and social transformation challenges.

## **6.2 Inequality and transformation in South Africa**

Conversations on transformation and the economy are highly linked when one considers ways to promote equitability. As mentioned in previous chapters, the TRC in South Africa had no power to inform or impose reparations. Its only influence was through the RRC, which made recommendations to Parliament. The TRC's ability to grant amnesty yet lack of reparations

remains to haunt South Africa thereafter (Barnard-Naude, 2023). National unity and reconciliation require direct redress. Redress in this context contributes to a form of remedying economic apartheid, which was colonial and apartheid wrongdoing, and functions as compensation for black communities since their counterparts received amnesty. There is a direct link between redress efforts and national unity and reconciliation because redress also contributes to limiting inequality. An inequitable society struggles in the face of transformation and long-term unity. Hollands (2011) defines equity as fairness to specifically identified groups and going beyond equality because it demands 'transformative change'. According to Hollands (2011), being equitable requires recognising that different measures might be required to attend to other groups' diverse needs and priorities. Equitable policies, therefore, would need to accommodate the fact that some groups require special or additional supportive measures to level the playing field. Education became the heart and centre of these discussions because it formed part of the segregation strategies to keep black people oppressed, according to Timmis et al. (2021), and it was crucial for the continuation of white supremacy in the country and the creation of inequitable outcomes. The apartheid education system assisted in facilitating, justifying, and maintaining the foundations behind the philosophy of all the systems of apartheid. The apartheid education system contributed to securing white racial dominance. The apartheid education system fundamentally worked with legal apparatus to ensure that black people remained alienated from the land and its resources, creating a migrant-based labour system. This relationship worked towards the disposition of land to Africans, which produced an impoverished black population. As a result, post-apartheid South Africa still has townships and rural areas plagued by poor education, unemployment, food insecurity, etc.

Without eradicating poverty and its negative impact on education, hopes to transform society become bleak because poverty hinders the ability to access quality education. Education is viewed as one of the main ingredients for achieving transformation. Maringe (2021) states that education improves one's livelihood and reduces or eradicates poverty. Post-apartheid South Africa has attempted to reduce poverty in education; however, the impact of the results remains insufficient. Timmis et al. (2021) agree with this assertion and argue that much has been written over the past two decades on transformation in South Africa's education system; however, it

remains scant specifically when addressing any perceived successful transformation strategies needed. What is clear is that poverty is hindering educational aspirations.

A contributing factor to this is that even with the critical policies in place, the ANC government has experienced challenges in implementation, especially in the poorer regions of South Africa, resulting in those previously disenfranchised remaining vulnerable. Apartheid, as a system of oppression, created an education system that ensured the destruction of the intellectual development of black children and youth. White supremacy culture had one motive: to make white culture and interests dominant in society. This Eurocentric and White Supremist-centred way of structuring education advanced white people while aiming at creating subservient black people who were to serve as mass unskilled labour. Maringe (2021) highlights that the education system under apartheid was an apparatus that exemplified separate and unequal development, which produced poor learning outcomes and low-paid menial labourers. Maringe (2021) further posits that although in post-apartheid South Africa, much has been achieved regarding physical access to education, there remains an epistemic challenge, i.e., what is being taught, the motive, and the quality of the education. This means that the policy change allowed accessible schools for everyone, regardless of race. Not everyone can attend well-funded schools in the suburbs when they live in rural areas where they have schools but lack the quality, resources, and material being taught. Even though South Africa's education system is one of the most well-funded in Africa, Maringe (2021) identified it as one of the most unequal in the world because it still presents a reality of inequity. Timmis et al. (2021) suggest that to reverse decades of destructive racial disparities and transform South Africa into a structurally anti-racist country, a new education free of racial inequality is required. Fleisch (2008), on the other hand, supplements this by stating that two education systems exist in South Africa. These schools primarily cater to the rich, comprising 10% of the population, who own more than 85% of household wealth (Sguazzin, 2021). Although there are still inter-racial disparities, intra-racial disparities have gotten worse since apartheid, with the rise of the black African middle class and even the millionaire class being one factor. The number of black millionaires in South Africa tripled; by 2015, nearly 45% of all millionaires in South Africa were black (Whitcomb, 2019). The most recent figures concerning the racial demographics of the richest 10% by race do show that black South Africans outnumber white South Africans in this group and have done so for

nearly ten years (Sguazzin, 2021). However, closer scrutiny of the race-wealth inequality gap shows that black people are still disproportionately worse off than the other race groups. Wealth disparity within the Black African demographic category increased significantly between 2009 and 2015 compared to whites and Indians/Asians. It was nearly double the Gini coefficient for whites, and the level of disparity that exists within the black African community is almost identical to the overall level of inequality that exists between all other groups (Whitcomb, 2019). These schools, therefore, have the best resources and infrastructure needed to excel, and children and youth from these schools are the same people who get access to university education in the country and abroad. Then there is the rest—90 percent of students who attend poorly resourced schools that lack proper infrastructure such as toilets, running water, and adequately trained teachers.

Socioeconomic poverty and inequity contribute to another issue within education. As identified by Maringe (2021), high wastage is a byproduct of a failing system, which is characterised by schools in South Africa experiencing high dropout rates, repeating, and noncompletion. So, although the government post-1994 advocated for all school-age children to be eligible to attend school, South Africa currently loses 35 percent of children who do not manage to complete their 12-year period of basic education. An example was in 2007, when approximately 1.2 million children started school. Yet only 800,000 were authorised to take the final matriculation examination in 2019 (Maringe 2021:9). As we identify threads of inequality to poverty and one's social standing to education, it is equally important to understand the role of education being pivotal in conversations regarding employability, specifically of unemployed persons in the labour market and earnings.

The norm within the labour market tends to accommodate people with the highest level of education, as they are less likely to be affected by high levels of unemployment. Statistics SA (2023) in their findings indicate that unemployed persons without a matriculation qualification are at a higher risk of being exposed to long-term unemployment than those with a tertiary-level qualification. This is due to the shortage of necessary skills to meet the demands of the labour market from employees. This, in turn, means that people with higher education, by virtue of their education level, increase their employability and success in the labour market. In 2022, the

World Bank stated that levelling the playing field at birth requires more inclusive delivery of quality education, health, and basic services, all of which are intrinsic to reducing inequality. Historically, one must understand that South Africa had inherited by the 1900s an already elevated level of inequality due to the policy of apartheid, which excluded most of the population from economic opportunity. This is also why South Africa's Gini coefficient, which measures inequality, increased further in the early 2000s due to the remaining gaps in inequality. In May 2010, former President Jacob Zuma appointed the National Planning Commission, whose main responsibility was to draft a national development plan. This Commission released a report in June 2011, which evaluated South Africa's achievements and shortcomings since 1994. One major shortcoming was the failure to implement policies and slow progress due to many factors (National Planning Commission, 2011). The Commission further set out nine primary challenges:

1. Too few people work.
2. The quality of school education for black people is poor.
3. Infrastructure is poorly located, inadequate, and under-maintained.
4. Spatial divides hobble inclusive development.
5. The economy is unsustainably resource intensive.
6. The public health system cannot meet demand or sustain quality.
7. Public services are uneven and often of inferior quality.
8. Corruption levels are high.
9. South Africa remains a divided society.

### **6.3 Intersectionality (race, class, and gender) in the Post-Apartheid Economy**

The ANC government has struggled to fully transform and overcome the challenges posed by the intersection of race, class, and gender inequality inherited from the previous regime of apartheid and colonialism. Addressing race, class, and gender requires attention to more targeted policy, which the Commission itself reported as a failure. Kendi (2019) argues that power and policy keep inequalities like racism, classism, and sexism firmly entrenched in our societies. Policies in a country like South Africa must be reimagined and made more durable to meet the country's socioeconomic and political historical landscape. This means moving away from what we hope for and intend for the historically disenfranchised to being outcomes-centered. This has proven to

be extremely challenging in a country that has failed to administer reparations to victims of apartheid to solidify its work and legacy of reconciliation.

In 2020, the International Monetary Fund indicated that South Africa had attempted to use different tools to address the excruciatingly consistent levels of inequality. Yet, inequality has remained exceptionally high, and little progress has happened since apartheid. The government implemented various tools, such as affirmative action, to deal with inequality and promote entrepreneurship, higher social spending, progressive fiscal redistribution, etc. (International Monetary Fund, 2020). However, these measures alone have proven to be quite insufficient. When addressing employment, job creation needs to be accompanied by guidelines for equitable employment and treatment policies that seek to eradicate the heavily racialised and gender-biased labour market in South Africa. Thus far, female workers are earning incredibly less than their male counterparts, and black South African earnings are lower compared to the higher-paid white employed.

In 2019, Statistics SA reported that the distribution of earnings in South Africa depicted a heavily racialised inequity in the country, which was not just limited to employment outcomes but also tied to blacks (especially women) being the lowest wage recipients when employed (Statistics SA, 2019). What makes this more challenging is that income from the labour market is a leading source of income for most South Africans, accounting for approximately 52.4% of households in 2022, which listed salaries and wages as their main source of income (Statistics SA, 2022). In the second quarter of 2022, it was recorded that 47.0 percent of South African women were out of the labour force. What can be deduced from this dynamic is that labour market income has, in recent years, become the main driver of income inequality in the country, even though social grants and other remittances have tried to reduce the income inequality gap between the top and bottom earners. According to Statistics SA (2022), women have been particularly vulnerable in the labour market compared to their male counterparts. Women are reported to be more likely to remain unemployed for longer periods, which limits their chances of re-entering employment. These factors contribute to South Africa being one of the most unequal countries in the world, and these indicators also point to the intensity of the heavily racialised and gender-biased economy in South Africa.

In 2022, the Development Democracy Programme (DDP) reported that South Africa had ranked among the top 164 countries in the world that are unequal. This is thirty years into democracy. This speaks to the case for rethinking liberation movements as governments and the tools they deploy to govern the country and address socioeconomic challenges. There is a need for an anti-racist intersectional lens when considering rebuilding societies post-conflict and a more equitable mechanism to be put in place when thinking of freedom and democratisation post-apartheid. It's crucial to realise that democracy and freedom must encompass, if not solely be based on, equitable policies. This goes beyond political power and the right to vote. The DDP (2022) stated that race drives inequality, contributing to 41 percent of income inequality and 30 percent of education, unequal land distribution, etc. These combined factors have resulted in the ANC being viewed as occupying three decades of questionable rule and poor governance. But what does this mean for the previously disenfranchised black majority, who pursued freedom in anticipation of a better life? It means there has been a failure since 1994 to rectify all the social and economic features inherited from colonialism and apartheid, which are especially rooted in inequality, sexism, prejudice, and racism. As mentioned, this has been experienced through land ownership disparities, the inability to provide competent public schools, better public service delivery, etc. The fundamental threat to equitable transformation has been 10 percent of the population owning 80 percent of the country's wealth. Which inevitably leaves the majority falling below the poverty line.

DDP (2022) argues that the South African labour market is so intensely racialised and gender-biased that when the Gini coefficient of consumption per capita is considered, the labour market contributes to an estimated 74.2% of income inequality. With women employees earning 30% less than male workers, who in many cases have equal levels of education, an additional threat to anti-racist intersectional economic thought is that white people in the South African context earn higher salaries than other races, with black people having the lowest earnings when employed. A DDP (2022) report revealed that "in 2011 and 2015, the average income amongst employed black Africans was R6899; for coloureds, Indians, and Asians, it was R9339; and for white people, it was R24 646, which is three times higher than that of a black person." The formulation of an understanding regarding race and the economy cannot be immune from the land ownership debacle, which was previously mentioned, as an unequal distribution of agricultural land must be brought into the economic equation to highlight the inequality and radicalised landscape of South

Africa's economy. The setting reveals a country with 72 percent of farms and agricultural land still under white ownership, with black people only occupying 4 percent. This speaks to some of the cracks in South Africa's transitional period, where the ANC and TRC failed to create anti-racist and intersectional policies that were invested in creating economic freedom and an equitable South African economy by redirecting the land to meet the mandate of redistribution. The DDP (2022) suggests that the South African government has not had transparency mechanisms in place regarding the state's redistribution programme, and these mechanisms refer to information related to land reform beneficiaries and the policies that govern the allocation of land. DDP (2022) has further stated that these policies regarding governing and allocating land have been vague and are rarely published. The latest known land ownership and redistribution policy was the State Lease and Disposal Policy, which took effect in 2013 (DDP:2022). The policy may have secured 544 beneficiaries, of whom 82 percent were male and 17.2 percent were female. Still, it does not give beneficiaries ownership of the land but suggests leases for redistributed land. With over 30.4 million South Africans living in poverty, one cannot help but perceive the democratic agenda of 1994 as coming short of its aims, which were to promote the development of the economy, an inclusive society, and social rights, which many of those who live in the economic periphery cannot even access. Many, being the black majority, are at the far bottom of the economic hierarchy, and even further than that lie black women, gripped by the power differentials that have been experienced through the difference in access to power and resources.

In modern-day South Africa, men are more likely to be favoured by power differentials, especially white men, who are dominant in society. At the same time, women remain disadvantaged by these power differentials. As shown historically and currently, the systemic landscape reveals the nature in which power is concentrated in the hands of men, which involves both political and economic power. One could almost argue that the intersection of power and privilege has fundamentally worked to advance white men and women, who are part of the dominant group. The marginalisation of black women has meant that their issues are not necessarily prioritised, and without societal power, black women have no bargaining power. For there to have been a change, one could posit that black women needed to be attended to as a distinctive group with its own priorities. The black women endured torment and discrimination specific to them under apartheid, which occurred because of their sex in addition to their race

and class. However, the introduction of South Africa's Constitution of 1996, post-apartheid, has created the euphoria of legalistic equality.

In contrast, we have lagged in substantive equality, which deals with tangible equality of outcomes (Houston et al., 120:2022). This is important as we consider the application of an anti-racist intersectional lens to comprehend the dynamics of the South African situation in our socioeconomic and political history. Class and power relations can also be understood as forming the crux of inequalities. When meshed with gender and race, they have produced the persistence of racism and sexism in post-apartheid South Africa, creating unequal outcomes for diverse groups, particularly black women. This can be attributed to the predicament of post-apartheid South Africa still operating within the same structures primarily established by the apartheid regime. What this means in practical terms is that the democratic government of the ANC and its work have been situated in and structured by institutional racism, racialised power, and gender relations that are mirrored by cultural or subtle racism they may not have intended but occur as a byproduct of apartheid (Houston et al., 122:202). Structural and institutional racism is defined by Mason (2023) as the "interconnected collection of social norms and policies. Institutions, identity strategies, and ideologies designed to preserve white supremacy." Structural racism can, therefore, be understood as having intersected with class and gender to form a disproportional power dynamic in favour of white privilege. Although government initiatives and policies have aimed at addressing both gender and race disparities, the result has been stagnated change, which still does not work in favour of black women, who remain at the centre of racial oppression and are underrepresented in top senior management positions (Houston et al., 133:2022). Houston et al. (2022) claim that the continued dominance of whites in various sectors of society, which are critical for development, reaffirms the persistence of gender and racial hierarchies in South Africa. An example provided by Houston et al. (2022) is that of 2018, where out of the economically active population, white people were found to have been occupying approximately 70 percent of the top management positions in the private sector, with 64 percent of these positions being concentrated in educational institutions. It, therefore, remains imperative to continue supporting a revised form of affirmative action for a country that still operates along racial and gender lines and actively aims to supplement this through political and social means. Viewing these challenges through an anti-racism intersectional lens gives a better understanding of the multiple social inequalities and identities and better engages us with substantive equality.

An anti-racist intersectional lens reveals the unequal power relations and the deeply entrenched structural racism in South Africa. Although the government has imposed employment equity policies and programmes, these have been limited or insufficient in reversing structural and cultural racism or advancing race, class, and gender transformation (substantive equality). Houston et al. (2022) attribute this to the inability to address power structures adequately. It is the persistent relationship between racism, capitalism, and marginalisation that has contributed to the power structures in the economy remaining unchanged despite the recognised efforts to deracialise the South African economy. There remains a need to employ economic strategies focusing on redistributive justice to eradicate racial inequalities. However, with an anti-racist intersectional lens, we must consider that in the South African context, racism exists parallel to sexism. This predicament has led to unequal and negative outcomes for women, which requires more focus on gender and racial transformation, especially in employment. According to Houston et al. (2022), data indicates that certain categories of women have benefited from transformation while others have not. This is why there is a need for greater targeting of employment equity programmes to attract specifically black women to ensure inclusion. Numerous challenges have been highlighted in this chapter, which seeks to be remedied even after three decades of freedom, democracy, and the TRC agenda. These challenges require actionable steps in the form of policy and new ways of thinking to deal with the rampant inequality in South Africa. Houston et al. (2022) suggested an increase in black ownership and control of the economy. Measures to ensure that white-owned businesses abide by laws promoting black economic empowerment would be necessary to supplement this. Second, the Employment Equity Act needs to address the issue of creating equitable employment in senior and top employment categories, emphasising gender equality and race so that black women can advance in various spheres of society. Women need to be represented because that alone can assist in the transformation of power structures. African languages also need to be promoted and given space; hate crime legislation and action by the police need to be intensified to reduce and contribute to ending racial discrimination.

During apartheid, white people could enjoy disproportionate economic and social benefits, resulting in a racial hierarchy that favoured them and oppressed other race groups. In ushering in the first democratic government in 1994, all the previously mentioned laws and policies were implemented as mechanisms to remedy and end racial discrimination. However, the data

demonstrates a correlation between poverty and race, gender, and geographic location (those living in rural versus urban areas). It is through the crevasses of colonialism and the structural legacy of apartheid that the previously disenfranchised continue to experience the reinforced patterns of racism, dehumanisation, poverty, land injustice, etc., despite the TRC's attempts at ushering in a new united South Africa built on forgiveness. It seems the ANC, which liberated South Africa from the apartheid regime, has not managed to bring forth racial equity and economic freedom for those who live in impoverished conditions. One could say that the ruling party has not adequately reached its initial goal of achieving a non-racial South Africa. Reconciliation and national unity have been considered pathways to creating special cohesion and a non-racial South Africa, which was anticipated post-apartheid. In 2015, the Institute for Justice and Reconciliation published a report regarding national reconciliation in South Africa. They found that reconciliation and unity required attending to issues of race and racism and the varying forms of injustice that continue to oppress black Africans. What can be deduced from this assertion is that reconciliation and national unity are unattainable so long as the black majority is still impoverished and economically excluded (Houston et al., 360:2022). One could then postulate that if social injustice based on race exists, it will be hard to fulfil the ambitions of reconciliation and national unity, as they require eliminating all forms of injustice. This alludes to the noble intentions of the TRC, which can be viewed as efforts to put us on the path towards reconciliation through forgiveness and forging our way into the new South Africa, where all are equal. However, that has not been possible due to inequality, unemployment, poverty, etc. The TRC's good intentions may have envisioned a better life for all but have been devoid of positive outcomes. Former President Nelson Mandela had presumptuously announced that the TRC would contribute to reconciliation, reconstruction, and development.

#### **6.4 Race and Reconciliation**

In 2023, the Institute of Justice and Reconciliation (IJR) reported that South Africans still regarded the unequal gap between rich and poor as one of the major contributors to division in South Africa. As a result, according to the 2023 data (Lefko-Everett 2023), 49% of the IJR interviewees still perceive South Africa as being somewhat divided. These findings have tended to fluctuate through the years but are relevant for policy decision-making regarding restitution and transformation. This report also highlighted that there is still a lot holding South Africa

together as a nation, regardless of the challenges. In 2023, the IJR reported that 76 percent of South Africans agreed that the country still needed reconciliation, with the data revealing agreement at 79 percent for black, 65 percent for coloured, 78 percent for Indian/Asian, and 70 percent for white. Data also showed that just over half of South Africa (54 percent) acknowledged that their friends and family had experienced reconciliation since the eradication of apartheid. The experience of reconciliation was highest amongst coloured people (60 percent), with black and white both occupying 54 percent each, and lastly, Indian/Asian at 46 percent.

**Q:** How have national unity and reconciliation been promoted through the TRC?

Valji (2004:1) emphasises that the realities of the transition were complex, and racial prejudice and violence continued post-1994 and were partly responsible for creating obstacles to attaining substantive equality and inclusive citizenship. Valji (2004) further states that although the TRC aimed to promote and advance reconciliation, it was silent on issues of race. This is a pivotal argument in the context of a country whose entire political and economic system was founded on the core principles of race and racism. This is why an intersectional, anti-racist lens would have needed to be applied to processes and finding remedies in such contexts. According to Valji (2004), **this major silence by the TRC regarding the intersection of race and its role has produced fickle reconciliation in South Africa to date.** One of the major contributing factors to this is the Commission's narrow application and understanding of gross violations of human rights, which it reduced to individual violence, which was endured solely under political conflict (Valji 2004:1). This has meant that the TRC excluded everyday administrative horrific experiences and acts that the apartheid government facilitated on a "legal" basis. Valji (2004) says that the lack of an inclusive definition of "gross violations" in this case makes it impossible to describe the experiences of the majority accurately and prevents a full study of the institutional violence of the apartheid system. This very violence alluded to was intrinsically committed to defending racialised privilege. The lack of a nuanced understanding of the role of racism and definitions of violence negatively impacted the process for many because the TRC inadvertently made ordinary South Africans, who in some cases were victims, feel that they were the same as those defined as perpetrators by the Commission. Historically speaking, under apartheid, there were victims and perpetrators; nobody was neutral, and victims and perpetrators cannot be regarded as the same. But this was encouraged and ensured by the TRC by providing

that guilt was not ascribed to forging a bridge between otherwise divided communities (Vilja 2004:4). In addition, the truth-telling element of the Commission pursued a truth that seemed to fit the narrative of racial reconciliation and nation-building. This, in turn, obstructed the voices of victims standing in this process, and they were used as part of this role play for those who "sought" the truth but were discouraged from doing so since everyone was being perceived as a potential victim by the TRC. Vilja (20024) identifies two ways this was implemented with national unification in mind: firstly, through archiving and ordering all memories into a single institutionalised national narrative, and secondly, by distancing the responsibility of apartheid from past beneficiaries who were white. This ensured that the TRC could contribute towards creating a narrative that fits well with building new grounds for the new South Africa, where everyone would be a victim of the past.

Vilja (2004) argues that the absence of a shared history created a common identity among victims because nation-building requires belonging to a group with common unifying characteristics. Suffering was therefore used as a common unifier where all were viewed as victims of the past (apartheid), with public hearings posing as both spaces for education and a chance at forming this identity in the ultimate pursuit of nation-building. Valji (2004) argues that whites were disproportionately overrepresented in the public hearing as a tactic to humanise them as victims, which was a critical part of the new South Africa. "Stories were circumscribed and crafted through a variety of means, including the pre-hearing of those who were to tell their stories publicly, the controlling of testimonies in public using uniform questions, and interruptions where witnesses started from expected testimony into unanticipated topics (Verdoolage 2002). Victims were encouraged to talk only about 'the highlights' of their story, forcing them to discard the context of everyday racial discrimination and violations of a 'lesser order' that gave the incident meaning and significance for the teller (Valji 2004:4)". There should have been an application of an anti-racist intersectional lens to pursue authentic nation-building. The lack of that lens is visible even within the Amnesty Committee within the TRC, which showed elements of racial denialism in its operation. One could argue that within the South African context, the TRC chose not to consider at length the prior existence of a racialised system that contributed to the violence of black bodies and facilitated the existing internalised racial hierarchy. The most significant moments at which the TRC sometimes did consider race as a motivating factor were when the applicants belonged to political parties that fundamentally

believed in racially motivated violence, such as the Azanian People's Liberation Army and the Afrikaner Weerstandbeweging; otherwise, the norm tended to be that applicants in these hearings were intentionally steered away from discussing race. The TRC seems to have actively run away from the politicisation of race and the actual racialisation of politics, which formed the crux of the apartheid era. This is also expressed through the TRC Final Report, which barely mentioned racism at all (Valji 2004:5).

The lack of an anti-racist intersectional lens in the work of the TRC has resulted in superficial reconciliation, which has actively sought to deny the implications of a racist history under apartheid. This is why there needs to be better considerations regarding navigating the challenging reconciliation process and not ignoring factors such as racism and intersectionality post-conflict. By ignoring the role of race and not being intersectional in its approach, the TRC contributed to keeping intact the structures of inequality that existed under apartheid. As mentioned earlier, the economy remains one of the principal areas where race intersects with class and gender to create inequality. Despite the presence of a black elite, economic power remains concentrated in the hands of the white populations that previously benefitted from apartheid. Despite the TRC's deradicalisation of the apartheid conflict on top of its false separation of political systems and its economic impact, it managed to maintain its historical roots in racial categories (Valji 2004:5). This has contributed to former beneficiaries still benefiting or being better off than other races and class groups. Although there is evidence of this, as reflected earlier in this chapter, there still exists denialism regarding these factors, especially with parts of the white population refusing to acknowledge the full extent of how they have benefited from the apartheid system (Valji 2004:5). This denialism of responsibility for the injustices of the past has enabled the possibility for former beneficiaries not to accept any of the redress that was tabled or speak ill of it. This is observed through attitudes towards affirmative action and black economic empowerment initiatives, as well as other forms of reparation that have been accused of reverse racism and viewed as the main reason white people are leaving South Africa.

The reality is that the spatial order of apartheid South Africa constructed homelands and townships, which in the present day have remained uneconomical and far removed from job epicentres (Swart 2017:74). The ANC has tried to address some of these issues by creating a black middle class through affirmative action policies that aim at providing work opportunities

that were previously denied under apartheid. In addition, economic empowerment, encouraging businesses, and creating tender opportunities helped create a black business class. BEE was intensely advocated for by former President Thabo Mbeki, who envisioned the formation of a black 'capitalist class to become a prerequisite to the deradicalisation of business in South Africa (Swart 1997:79). President Mbeki's view was premised on the belief that South Africa needed to equalise the gap between white and black people when considering elements of ownership, wealth, and economic prosperity (Swart 1997:79). However, it has mostly been well-connected individuals who have been able to access and benefit from BEE. What is clear, though, is that there needs to be more buy-in from the private sector to genuinely incorporate social responsibility and alternative ways to implement affirmative action and genuine BEE, which will empower current and former employees. Swart (1997) states that the lack of collective and individual reparations from the state and the private sector has undermined trust between black South Africans and the government and between black South Africans and businesses. Swart (1997) believes that due to the socio-political history of South Africa, it is a low-trust society. This means that in the South African context, the country and its people have not been able to surpass the lack of trust between white and black communities emanating from apartheid and between citizens and government. According to Swart (1997), improving government governance can increase public and government trust. Better accountability systems and addressing or eliminating corruption are necessary supplements to this. This also brings scrutiny of the leadership of South Africa post-apartheid and their role in trust building in the backdrop of race relations.

### **6.5 Race relations and the ANC government**

As the first democratically elected president, Nelson Mandela brought the country over the threshold, symbolising forgiveness, and reconciliation. He brought a hopeful future and the euphoria of a rainbow nation, where all were equal and trusted in the TRC's ambitions of forgiveness in the new South Africa. Wa Muiu (2023) suggests that, unlike Mandela, future presidents were bestowed with the responsibility of delivering on these promises of freedom, equality, and a non-racial South Africa with good leadership (as opposed to the former apartheid regime). Mandela's successor, Thabo Mbeki, carried the burden of economic transformation in South Africa. Mbeki continued the programmes initiated under Mandela's presidency in health,

housing, and service delivery, emphasising his belief that nation-building and reconciliation required socio-economic transformation. In 2009, former President Jacob Zuma succeeded Mbeki. Zuma introduced a government grant for low-income families, but accusations of state capture and abusive use of state institutions overshadowed it. However, according to Wa Muiu (2023), the economy had improved during Zuma's era; the GDP rose from 26 percent in 2008–2009 to 56 percent in 2018–2019.

Further, Zuma had also managed to increase local and provincial government spending. Nevertheless, the Nkandla scandal (home renovations and improvements made at taxpayers' expense) and state capture have overshadowed these accomplishments. President Cyril Ramaphosa, who was formerly known as a tough negotiator during the apartheid negotiations, took over as Zuma's deputy after he resigned from office in 2018. Ramaphosa has also been synonymous with business, benefiting from Black Empowerment initiatives, e.g., shares in Coca-Cola and McDonalds in South Africa. This zeal for making a profit is seen as responsible for his failure to deal adequately with the Marikana massacre of 2012 at Lonmin platinum mines, where police killed 34 mine workers and many others were severely injured. The 2020 Phala Phala farm scandal later exacerbated the nation's declining trust in leadership and government due to this incident, which shocked the country to an extreme degree.

The leadership and government have certainly left much to be desired when building trust and national unity amidst strained race relations. Regardless of the leadership role, the reality remains that the TRC process has provided former beneficiaries with a pass, and the assumption that the TRC was a sufficient apology mechanism is adequate for transformation. The lack of a proper analysis within the TRC of the past and its processes has also culminated in former and current beneficiaries of apartheid believing that whatever they have accumulated in wealth or otherwise has purely been through hard work and dedication. This is what happens when there is no proper engagement with one's political history and the state works to create a fictional notion of unity that lacks an anti-racist intersectional lens that could have provided the opportunity for actual truth, closure, and proper engagement with South Africa's history and injustice. Valji (2004) meticulously points out that avoidance of race and racism within the TRC processes has led to the persistence of racial inequalities in new guises. " Former Chairperson of the South African Human Rights Commission, Barney Pitso, has remarked how race has become

unspoken but more entrenched today than ever before: We've removed evidence of the formalised apartheid system. We have removed the "Nie Blankes" and the "non-European" signs. But racism continues to manifest in our society in more subtle forms. For example, you can exclude someone from accessing a bond by saying, "The people in Hillbrow generally don't repay their bond." Thus, without even referring to a race, a whole group of people are excluded because of their race (Valji 2004:7)."

One could argue that the Rainbow Nation and reconciliation efforts did not appropriately address past wounds, nor did they deal adequately with the task of nation-building and ushering South Africa into an equitable society. This is also expressed through racially motivated incidents interpreted as deviant extremes unrelated to South African society's broader problematic racial intensity, socialisation, politics, economics, etc. A South African history void of an anti-racist intersectional lens will continue to contribute to a lack of critical thinking when faced with challenges such as the above. This is further experienced in the existence of racial violence, which has been portrayed as deviant and isolated incidences and not in the everyday racist practices from which it stems. Violence against people of colour has historically characterised race relations in South Africa. Still, it has also occurred recently, as in the instance that the Office of the Presidency reported in December 2022. Two white adult males had assaulted a black teenage boy over access to a swimming pool. Sadly, such cases have become common and are not restricted to one area or specific space.

The role and interconnectedness of the economy and race in South Africa are undeniable. But many puzzle pieces are still out of place, with the government not keeping a good track record of delivering effective public services linked to socioeconomic needs, such as education and other basic amenities, becoming equitable for the black majority. The ANC-led government has provided education, healthcare, welfare grants, etc. Still, they are considered inferior quality and non-existent in rural and township areas.

One can also argue that the TRC failed to address the gendered experience of apartheid, which includes gender-specific crimes. This failure is due to the inability of the TRC to recognise sexual abuse as a politically motivated systemic toll of state repression, according to Walling (2022). The TRC held women's hearings but failed to recognise the structural impacts of apartheid from an anti-racist intersectional lens, which would require an understanding of societal justice focused on addressing economic, social, cultural, political, and civil rights. The

TRC was, however, clearly not designed for that, according to Walling (2022), as its main instruction was to attend to specific atrocities. However, the TRC could have broadened its definition of harm in conversations relating to transitional justice and redressing structural inequalities. An intersectional analysis and an anti-racism approach give insight into individuals' multifaceted nature and plight. In the South African context, one could argue that race commonly intersects with gender, socioeconomic status, etc., to reveal privilege for whites, especially white men, and powerlessness for black victims. "While intersectionality applied to transitional justice may still be emerging, many scholars argue that intersectionality theory is a prerequisite to effectively tackling the root causes of gender-based violence and enabling women "to participate as equals in a transitional society" (Marton 2023:606). "Applying an anti-racist intersectional lens provides the ability to acknowledge the diversity of oppressed and previously disadvantaged groups within our country.

We should all reexamine our history and the suggestions made by the TRC for moving forward considering the rise in youth activism and protests injustice that have their roots in our apartheid and colonial histories, such as #FeesMustFall, which spread across South African universities between 2015 and 2017. Such protests indicate South Africa's history and how it intersects with race-based inequality. Protests rejecting institutional racism serve as an unfortunate reminder that race still divides citizens of South Africa. This reiterates the notion that class consciousness has still not dominated race consciousness, which makes it quite challenging to achieve solidarity between black and white South Africans (Adogame 2023:142). Adogame (2023) states that white supremacy in South Africa has been highly linked to black people's socioeconomic and political oppression since colonialism. In a previously conducted Stellenbosch study, Adogame (2023) reported that race had been the dominant factor linked to lived experiences of inequality. This study revealed the existence of covert racism in some spaces, which is on the rise, and that people of colour are being treated differently or less than white people. Although racism is cited within the South African constitution and within legislation that prohibits it, explicit and implicit racism is still prevalent (Adogame 2023:141).

## **6.6 Conclusion**

Recent reports by the World Bank confirm that race is still a leading indicator of inequality in South Africa. This is also experienced in the racially inequitable employment outcomes

discussed earlier. The fact that we have dismantled apartheid but still operate within an element of its systems has proven to be highly problematic and not addressed by the TRC or other nation-building mechanisms. Instead, the consistent commitment to a rainbow nation and non-racialism within a capitalist system has left the black majority impoverished. Although we see the existence of a black elite, the systems in place remain inequitable with insufficient social cohesion, which lacks an adequate analysis of the relationship between race, class, and gender in the new South Africa. Although the goal of the TRC was to expose gross violations and contribute to a healed society by creating a shared identity, it has proven to be limited in effectively dealing with racial inequality. In admitting the continued racial disparities, we must acknowledge the failure to address apartheid's systemic racism. As many have suggested, the TRC's and ANC's commitment to racial reconciliation has birthed unequal outcomes and racism, which needs anti-racist intersectional strategies. So, although the ANC government may have had good intentions, the outcomes matter, and the reality of strained race relations and inequitable socioeconomic outcomes facing the black majority three decades later will haunt the country.

This chapter effectively examined the TRC process, highlighting its inadequacies in addressing racial issues. It showcases how the TRC's narrow focus on gross human rights violations failed to fully encapsulate the systemic racial injustices of apartheid. This chapter has also shed light on the TRC's role in racial reconciliation while pointing out its failings in recognising and addressing racial issues. The debate on how the TRC erroneously reduced the distinctions between perpetrator and victim roles and presented everyone as a victim portrays the difficulties in achieving reconciliation. The relationship among redress, unity in the country, and reconciliation is covered in this chapter. It further discusses how efforts to make amends were hampered by the TRC's refusal to recognise racial dynamics, which prevented significant advancement in redressing past injustices. This chapter has, therefore, taken a critical look at how the TRC changed race relations. It makes a strong case for how the TRC's narrow focus on individual human rights violations and its reluctance to get seriously involved with racial issues have slowed down progress in making race relations better. It makes a convincing argument demonstrating how the TRC's approach inadvertently undermined the promotion of genuine national unity and reconciliation. This is achieved by highlighting how the TRC's processes

framed all individuals as victims and downplayed the complexities of racial dynamics. This effectively argues against the TRC's effectiveness in fostering genuine unity and reconciliation.

## Chapter Seven

### 8. Summary: The impact of the TRC on race relations in post-apartheid South Africa

**Q:** What has been the impact of the TRC on race relations in post-apartheid?

The South African TRC can undoubtedly be understood as a symbol of compromise. This is because the ANC and the apartheid administration had to find a middle ground, with the ANC needing to acquire future peace and validation as the future government. The TRC was, therefore, used as a vehicle tasked with setting the tone for creating calm during a period that required deep structural change (Rhydderch 2022). The TRC process intentionally applied its scope and power, meaning its actions should be viewed as the intentions of political calculation, as it was tasked with managing the challenges of justice and social unity within the backdrop of white apartheid leaders demanding amnesty insurance for social cohesion. That was fundamentally the foundation of the TRC and its process, birthed from the relationship between oppressor and liberator and the demands for amnesty by perpetrators, which was not necessarily a decision that emanated from the Black communities. The TRC was presented as a tool for reconciliation, which was a requirement for avoiding a civil war or more bloodshed for both parties. Reconciliation was, therefore, a necessity, but the process and features of the TRC proved to be problematic as it was imposed on the South African public, especially the Black community, who had to forgive and move past the strife of the past. This was a top-down approach agreed upon by political elites, who had figured that this was the best political compromise (Rhydderch 2022). The TRC was used to advance the creation of a new South African nationalism, which advocated for citizens to be key players in the transition by making them responsible for forgiveness but lacked solid consultation. The responsibility to forgive ultimately took some responsibility off the government and did not facilitate enough judicial reform. As a compromise, the TRC process and its outcomes did not lead to substantive changes. When considering restorative justice, it nonetheless raised awareness of the importance of moving away from a culture of violence to a culture of dignity and promoting human rights and public tolerance (Bell 2007).

This dissertation has revealed that throughout the post-apartheid period, there have been conflicting opinions in the country regarding the TRC's impact on race relations, with the earlier mentioned 1998 survey indicating that two-thirds of South Africa believed that the TRC led to further racial deterioration as opposed to societal reconciliation (Ramsbotham et al. 2011), yet in 2000 it was reported that South Africa became a better country by utilising TRC mechanisms as opposed to criminal processes (Ramsbotham et al. 2011). What we do know is that the TRC contributed to facilitating the emergence of reconciliation but only managed to expose some part of the injustice that happened under apartheid by offering perpetrators of gross human violations amnesty. The TRC failed to ensure full disclosure regarding atrocities committed under apartheid by white perpetrators, of whom many refused to attend the TRC process. Yet, amnesty was offered in exchange for immediate civil and criminal prosecution. There were not enough tools and resources available to prosecute perpetrators on behalf of victims, and the apartheid actors would not have succumbed to letting go of their power had they anticipated trials. The existence of the TRC process can, therefore, be viewed as contributing towards advancing the goals of reconciliation by ensuring the establishment of conditional amnesty, which was expected to encompass truth-telling. However, not all perpetrators attended the truth-telling, nor were they willing to repent or testify. It was a challenge for the white community to participate in this process, and this portrays the idea that not all white people prefer good race relations or see the value of and need to be forgiven. It is then no wonder race relations continue to be strained in South Africa when they have emanated from a perpetrator/beneficiary mindset that does not see the value in reconciliation, equality, or the wrongs of apartheid. Consequently, this thesis holds that when those who benefitted from the decades of legal division of people by race don't see the need to unite and the requirement for positive race relations, then an individual-level barrier will be maintained. The same applies to apartheid laws, which were dismantled in the 1990s yet continue to divide South Africa by race and determine various aspects of life and access. This also shows that the TRC process and the ANC efforts have been unsuccessful in their ability to undo the persistent racial exclusionary spatial order, social segregation, and marginalisation in South Africa, which impact race relations.

This thesis has revealed that apartheid's architects did this on purpose to benefit themselves in the future, as well as how post-apartheid social class divisions have produced different experiences for various communities and the maintenance of racial divisions and hierarchy.

These actions have ultimately prevented different forms of interracial interaction, which has contributed to hindering the nurturing of better race relations. According to the findings in this research, this is attributed to the overall narrow mandate of the TRC's work, which was investigating gross human rights violations and, in turn, expected to expose the 'truth' and an accurate picture of what happened during apartheid. That goal was not fully achieved, as already mentioned; instead, there was a lack of focus on socioeconomic justice, which has limited its overall contribution to reconciliation and thus positive race relations. The TRC process and the reality we now see indicate that truth, justice, and perceptions of socioeconomic equality are highly interrelated. More than three decades after the completion of the TRC's work, South Africa remains a society seeking to overcome the deep racial divisions entrenched under apartheid, with data suggesting that there has been low socialisation between racial groups and significant continued fear, prejudice, and misunderstanding among the different race groups (Hofmeyr 2007).

The TRC's inability to adequately address the structural and material inequalities that contributed to human rights abuses under apartheid limited its ability to advance reconciliation as described fully. The limitation of the TRC's contribution to interracial reconciliation has been a result of concentrating solely on individualised cases of physical rights abuses and neglecting the broader suffering caused by socioeconomic inequities. The TRC's moulding of a 'truth' about the past distanced the majority of the white community from responsibility for the human rights abuses that helped put those inequalities in place and has produced white citizens who feel unfairly victimised by redistributive policies and consistently opposing efforts to promote greater racial equality through compensation, affirmative action, and land reform. There is still a need for additional efforts to take place to bring attention to the impact of broader practices of structural violence on the daily lives of Black people, as well as the benefits these inequalities provided—and continue to provide—for the white minority.

It is imperative to appreciate that socioeconomic inequality and structural and material inequalities based on racial identity have served as one of the most pervasive points of division under apartheid, which means that post-transition reconciliation requires economic redistribution and sufficient material changes in the lives of Black people. The TRC emphasised in its Final Report the inherent connections between reducing material inequalities, racial harmony, and

national unity. As discussed in previous chapters, gross socioeconomic inequalities are the visible legacy of the systematic, institutionalised denial of access to resources and development opportunities based on gender, race, and sex, i.e., the intersectionality of oppression. Positive race relations and fundamental reconciliation beckon material reconstruction and the restoration of dignity. At the core of this is the requirement for the transformation of fragmented human relations.

**Q:** Have different race groups in South Africa reconciled, and was the TRC an influencing factor?

In examining the TRC's mechanisms, consisting of victim public hearings, amnesty hearings for victims, and a reparations programme, this thesis has found that this TRC process and tools were flawed in improving race relations in post-apartheid South Africa. These flaws are experienced in the delayed or lack of delivery of reparations and in addressing structural and socioeconomic disparities, which are accused of hindering the TRC's ability to improve interracial reconciliation. The lack of a proper address for the above has also impacted the Commission's ability to expose the truth and truly promote justice.

The South African TRC has remarkably managed to remain a model for facilitating transitional justice interventions and how to unite societies emerging from conflict. We must know in South Africa, it has been extremely difficult and, in some cases, impossible to achieve the goals of reconciliation with most of the population, which suffered from disadvantages under apartheid and continues to suffer from disadvantages under the new system. Race and other identities, such as gender and class (the economy), still heavily intersect in South Africa, as social identities determine advantages or disadvantages. The existence of these economic and social disparities means that even if South Africans have desired to integrate, the spatial order and economic legacy of apartheid intersect with race and gender to still 'prohibit or hinder that desired Rainbow Nation and reconciliation.

While the TRC could usher in peace and unity, the nature, content, and value of the truth told were not extensive enough. This research has posited that there were certain inconsistencies with the TRC process and that the legacy of the TRC's focus on national unity and reconciliation and the outcomes of these have resulted in the reality that we see today. In 2022, the World Bank asserted that levelling the playing field at birth requires more inclusive delivery of quality

education, health, basic services, etc., all intrinsic to reducing inequality. In evaluating South Africa's achievements and shortcomings since 1994, there is evidence of failure to implement policies and slow service delivery in advancing change. This proves to be highly problematic when considering that an antiracist intersectional lens advocates for change in policies and equitable outcomes. This dissertation acknowledges that South Africa used different tools to attempt to address the excruciating levels of inequality. Yet, inequality has remained exceptionally high, and not much progress has happened since apartheid. The government implemented a range of measures, which alone have proven deficient. Female employees continue to earn less than their male counterparts, and Black South African earnings are lower compared to their white employed counterparts. Statistics SA reported that in 2019, the distribution of earnings in South Africa depicted a heavily racialised inequity in the country, which was not just limited to employment outcomes but also tied to Black people (especially women) being the lowest wage recipients when employed. The current analysis of the situation is that the ANC government, including its earlier adopted negotiated TRC process, has struggled to fully transform and overcome the challenges posed by the intersection of race, class, and gender inequality, which were inherited from the previous regime of apartheid (and colonialism). Addressing race, class, and gender requires attention to more targeted policy, which the Commission itself reported as a failure. This research has stipulated that it is power and policy that keep these different inequalities like racism, classism, and sexism firmly entrenched in our societies. Therefore, South Africa's policy must work to meet the country's socioeconomic and political historical landscape.

As ascertained earlier, the TRC dismally failed to significantly address the gendered experience of apartheid, which also encompasses gender-specific crimes. The TRC was unable to recognise sexual abuse as a politically motivated systemic toll of state repression. Although it held women's hearings, it failed to recognise the structural impacts of apartheid from an anti-racist intersectional lens, which would require an understanding of societal justice focused on addressing economic, social, cultural, political, and civil rights. This, as we know, is fundamentally due to its main instruction to attend to specific atrocities. Yet, it could have broadened its definition of harm in conversations relating to transitional justice and redressing structural inequalities.

Intersectionality analyses combined with an anti-racism approach were utilised in this thesis to give insight into the multifaceted nature of individuals and their plight about the TRC and apartheid oppression. In this context, race commonly intersects with gender, socioeconomic status, etc., to reveal privilege for whites, especially white men, and powerlessness for victims, i.e., Black communities, especially Black women. So, the TRC process is a reminder that an anti-racist intersectional framework needs to be applied as a theory to transitional processes, thus limiting This is necessary to get to the root causes of gender-based violence and make sure that women can fully participate as equals in a society that is changing (Marton, 202). The application of an anti-racist intersectional lens in this research subsequently provided the ability to acknowledge the diversity of oppressed and previously disadvantaged groups within South Africa. Therefore, in as much as the TRC and the ANC aimed to promote national unity and reconciliation in the new nonracial South Africa, race has continued to be a prominent indicator of privilege and exclusion. The experience and existence of racial inequality and racial power structures remain persistent in post-apartheid South Africa, manifesting in different ways, such as the complexity of racial capitalism, which has ensured white ownership and control of the economy. Since the ANC-led government post-1994 attempted to repeal legislation that discriminated against Black communities to secure equality and enjoyment of political, economic, and social benefits, the fundamental goal of the ANC government post-1994 was to focus on nation-building and creating social cohesion in the country.

National unity can, therefore, be regarded as the ANC's main response to the historical racism in South Africa, encompassed with some features of creating racial equality, even though data after that has shown that the people of South Africa also needed more jobs and better education, which could lead to building a better future in terms of race relations. From an anti-racist intersectional lens, these indicators of progressive society can also be understood as the main catalysts for change in addressing inequality. The TRC process and the ANC in its role failed at acquiring ways to manage and remedy racial inequality and racial power structures, which should have formed the focal point of envisioning a nonracial South Africa because apartheid, slavery, and colonialism as systems of oppression operated to create distinctive patterns of race relations. These systems in past and present South Africa have functioned to maintain specific social and economic goals, which have historically created distinct social hierarchies based on race and class. It is, therefore, legitimate to posit that economic equality creates favourable

conditions to advance positive race relations, and this was a letdown of the transitional process, as the economy is still a key factor in determining the quality of race relations. This is because race relations in South Africa historically emanated from a socioeconomic and political context that oppressed the Black majority. At the same time, the white minority enjoyed control of political power, which allowed them to exclusively enjoy and secure resources such as better jobs and positions, schools, salaries, etc. It is also true that under the apartheid regime, whites were afforded the highest standard of living compared to black South Africans, who were denied the same access and resources. This is why, nearly three decades after the formal eradication of apartheid, South Africa is recognised as one of the most economically unequal societies in the world.

Although white South Africans no longer make up the majority of the top 10% of the country's wealth distribution, white households still control a sizable portion of it and continue to earn significantly more than Black households. It is also highly problematic that after 25 years of land distribution efforts being deployed to facilitate redress related to land dispossession, black South Africans are left owning approximately 4 percent of the agricultural land in individual holdings. The continuation of racialised poverty in South Africa is a failure of the ANC and the chosen methods deployed within the TRC process, which have fundamentally allowed for apartheid economic structures to continue permeating South Africa. The implementation of BEE as a remedy has unfortunately led to cosmetic and minimal changes for those who need it the most. The reality is that while the ANC and the TRC succeeded in avoiding turmoil and a continuation of political violence and afforded the Black population the political freedoms they sought, they failed to adequately address the challenges of economic and social transformation that impact race relations.

This dissertation has alluded to education as forming part of the segregation strategies to keep Black people oppressed and the fact that it was crucial for the continuation of white supremacy and the creation of inequitable outcomes in South Africa. The apartheid education system assisted in facilitating, justifying, and maintaining the foundations behind the philosophy of all the systems of apartheid. In its essence, the apartheid education system contributed to securing white racial dominance. The apartheid education system fundamentally worked with legal apparatus to ensure that Black people remained alienated from the land and its resources and

further created a migrant-based labour system. This relationship worked towards the disposition of land to Africans, which ultimately produced an impoverished black population. Post-apartheid South Africa, as a result, still has townships and rural areas plagued by poor education, unemployment, food insecurity, etc. Without eradicating poverty and its negative impact on education, hopes to transform society become bleak because poverty hinders the ability to access quality education. One can, therefore, deduce from this that education is a requirement for advancing transformation as it offers the opportunity to improve livelihoods and leads to the reduction or eradication of poverty. So, although post-apartheid South Africa has attempted to reduce poverty in education, the impact of the results remains insufficient. Transformation within South Africa's education system has failed dismally, specifically when addressing any successful transformation strategy needed to achieve better educational outcomes and resources in predominantly rural and township schools. It is children from these schools who, later in life, get exposed to long-term unemployment.

This research has presented how the persistent relationship between racism, capitalism, and marginalisation has contributed to the power structures in the economy remaining unchanged despite the recognised efforts to deracialise the South African economy and education system. Men have been favoured by power differentials, especially white men, who are dominant in society, while women, especially Black women, remain disadvantaged by these power differentials. As shown historically and currently, the systemic landscape reveals the nature in which power is concentrated in the hands of men, which involves both political and economic power. One could almost argue that the intersection of power and privilege has fundamentally worked to advance white men and women, who are part of the dominant group. The marginalisation of specifically Black women has meant that their issues are not necessarily prioritised, and without societal power, Black women have no bargaining power. For there to have been change, one could argue that Black women needed to be attended to as a distinctive group with its own priorities. Class and power relations can also be understood as forming the crux of inequalities and, when meshed with gender and race, have produced the persistence of racism and sexism in post-apartheid South Africa, which has created unequal outcomes for diverse groups, particularly black women. There is a correlation between race and poverty, gender and poverty, and geographic location and poverty (those living in rural areas versus those living in urban areas). It is through the crevasses of colonialism and the structural legacy of

apartheid that the previously disenfranchised continue to experience the reinforced patterns of racism, dehumanisation, poverty, land injustice, etc., despite the TRC's attempts at ushering in a new united South Africa built on forgiveness. It seems the ANC, which liberated South Africa from the apartheid regime, has not managed to bring forth racial equity and economic freedom for those who live in impoverished conditions. One could say that the ruling party has not adequately managed to reach its initial goals of achieving a nonracial South Africa.

Reconciliation and national unity have been considered pathways to creating social cohesion and a nonracial South Africa, which was anticipated post-apartheid. However, so long as social injustice based on race exists, it will be hard to fulfil the ambitions of reconciliation and national unity, as they require the elimination of all forms of injustice. This alludes to the noble intentions of the TRC, which can be viewed as efforts to put us on the path towards reconciliation through forgiveness and forging our way into the new South Africa, where all are equal. However, that has not entirely been made possible due to inequality, unemployment, poverty, etc. The TRC's good intentions may have envisioned a better life for all but have been devoid of positive outcomes regarding race relations. Former President Nelson Mandela's announcement that the TRC would contribute not only towards reconciliation but also to reconstruction and development has left much to be desired.

Although the TRC had aimed at promoting and advancing reconciliation, it was silent on issues of race, which was highly problematic in the context of a country whose entire political and economic system was founded on the core principles of race and racism. This dissertation has asserted that the fickle reconciliation in South Africa to date is due to this major silence by the TRC regarding the intersection of race and its role. The Commission's narrow application and understanding of gross violations of human rights, which it reduced to individual violence, meant that the TRC excluded everyday administrative horrific experiences and acts that the apartheid government facilitated on a "legal" basis. The lack of a nuanced understanding of the role of racism and definitions of violence negatively impacted the process for many black South Africans because the TRC inadvertently made ordinary South Africans, who in some cases were victims, feel that they were the same as those defined as perpetrators by the Commission. Historically speaking, under apartheid, there were victims and perpetrators; nobody was neutral, and victims and perpetrators cannot be regarded as the same. Yet this was encouraged by the

TRC by ensuring that guilt was not ascribed to forging a bridge between otherwise divided communities (Vilja 2004). In addition, the truth-telling element of the Commission pursued a truth that fit the narrative of racial reconciliation and nation-building to benefit the TRC and ANC agendas, not necessarily victims. This, in turn, obstructed the voices of victims who were standing in this process, and they were used as part of this role play for those who “sought” the truth but were limited from doing so since everyone was being perceived as a potential victim by the TRC. The TRC created a single narrative by implementing a national unification mindset, archiving, and ordering all memories into a single institutionalised national narrative, and actively distancing the responsibility of apartheid from past beneficiaries who were white. This, therefore, facilitated the TRC’s ability to contribute towards creating a narrative, which fitted well with building a foundation for the new South Africa where everyone would be a victim of the past.

### **7.1 Lessons learnt and recommendations**

The TRC process has undoubtedly had an impact on race relations in South Africa. This is due to a mirage of factors, which show us the importance of truth, and the inaccessibility of total truth in some instances. TJ mechanisms like the TRC require transparency regarding the role of race, class, gender etc. in the context of conflicts and oppressive regimes. What the South African case shows us, is the long-term effects of failing to address the role of these signifiers in order to provide durable solutions. This is also linked to the need for acknowledging the systemic and structural effects of violence, as opposed to individual victimhood. Moving away from this lens also provides societies recovering from violent regimes the possibility to economically and socially advance, as opposed to the continued inequality we witness in the South African case. The TRC successfully managed to engineer the starting of strategic national unity and image building through sports, which has carried its society further than the dream of the Rainbow Nation which falls short in substantive equality. The TRC process relied heavily on religious undertones, such as forgiveness which has shown to psychologically impact negatively on those who felt forced to forgive and forget. This narrative further maintained some of the power/ racial structures, by a lack in accountability by perpetrators. Future study could further examine the role of the economy during apartheid, assessing the TRC's long-term effects on society, and promoting increased public access to TRC archives. A closer look at the legacy of the TRC and

its continuing effects on South African society would be beneficial. The TRC has revealed the need for future policy formulation to be considerate to the economic needs of the oppressed, their needs for judicial proceedings, and the societal journey for healing which is not limited to truth-telling but also emanating from the relationship of the dominant and subordinate in society. Other countries who want to learn from the TRC need to be cognisant of the constraints that were imposed by the TRC process, including limited access to TRC archives, delays in reparations, and a lack of accountability from some sectors. We further learn that ignoring topics related to oppression is problematic. The TRC left out topics such as the roles played by the economic sectors under apartheid and how these omissions affect our knowledge of South Africa's history.

## **7.2 CONCLUSION**

This research has extensively discussed the TRC process and its impact on race relations post-1994 by addressing the research questions and objectives. Chapter One provided a detailed introduction and background to the study, which contributed to understanding the TRC process and its impact on race relations post-1994. Chapter Two supplemented that by exploring the various transitional justice options: amnesty, truth-telling, reparations, and persecution in literature. It provided different perspectives on the values and shortcomings of deploying each method. Chapter three provided an in-depth understanding of intersectionality as a theory by focusing on the principal theories grounding the research project and intersectionality as an analytical framework. Chapter four explored contemporary discussions regarding the TRC Committees: the Reparation and Rehabilitation Committee, the Human Rights Committee, and the Amnesty Committee, and unpacked the aims of reconciliation and the structure and process of the TRC committees. Thus, contributing to the understanding of the TRC process and its impact on race relations post-1994 and further advancing the comprehension of how national unity and reconciliation had been promoted through the TRC. Chapter Five examined the impact of the TRC on race relations in post-apartheid South Africa. They discussed the appropriateness of the TRC in addressing racial division and marginalisation while promoting national unity. This chapter, therefore, delved into the impact of the TRC on race relations in post-apartheid South Africa and contributed to further understanding reconciliation amongst different race groups and whether national unity and reconciliation depend on redress. These chapters have all

created a better understanding and knowledge of the impact of the Truth and Reconciliation Committee on race relations in South Africa.

The most imperative question addressed in this dissertation has been the impact of the TRC on race relations in post-apartheid South Africa, which reveals that the TRC undoubtedly had an impact of both positive and negative influences. The TRC contributed significantly to the avoidance of further violent conflict and has many lessons to offer regarding peaceful transitions for governments emerging from violent and oppressive regimes like apartheid. With national unity as a focal point, the TRC managed to mitigate the birthing of reconciliation but established a rather superficial pathway to reconciliation, which has actively sought to deny the implications of a racist history under apartheid. The TRC failed to meet the challenging process of reconciliation adequately and ignored factors of racism and intersectionality post-conflict, which have steered the direction of race relations. By ignoring the role of race and not being intersectional in its approach, the TRC contributed to keeping intact and unaddressed the same structures of inequality that existed under apartheid. As mentioned earlier, the economy remains one of the main areas where race intersects with class and gender to create inequality. Despite the presence of a black elite, economic power remains mainly concentrated in the hands of the white populations that previously benefitted from apartheid.

Although the goal of the TRC was to expose gross violations and contribute to a healed society by creating a shared identity, it was limited or insufficient in effectively dealing with racial inequality in South Africa, which was crucial for the maintenance of positive race relations. The existence and continued racial inequality in South Africa require that we acknowledge the failure to address apartheid's systemic racism. The TRC's and ANC's commitment to racial reconciliation has predominantly birthed unequal outcomes and racism, which need anti-racist intersectional strategies.

The TRC further provided a rather limited narrative of 'truth' and violence, and its inability or avoidance of addressing the structural violence of apartheid has led to the obscuring of the causes and consequences of the violence. The TRC was meant to be a chance for the country to expose 'the truth', but it seems to have undertones of forced transitional mechanisms from the top down, which left survivors feeling cheated by the process and forced to forgive oppressors and beneficiaries who predominantly didn't repent nor participate in the TRC. This denialism of

responsibility for past injustices has enabled former beneficiaries not to accept any of the tabled redress and has maintained inequity in society. To compound this situation further, the TRC lacked proper follow-up and deferred judicial accountability and financial compensation due to the emphasis on forgiveness, which took up space and financial constraints. This contributed to victims being highly critical of the TRC, and in some cases, victims resent the fact that there has not been anything adequately done to address their calls for justice, which is why victims continued to file lawsuits against companies that profited from apartheid unsuccessfully. The dismal response to victims' needs both domestically and internationally has added to the feeling of the justice system failing victims and, therefore, forms a hostile foundation and backdrop for national unity, reconciliation, and positive race relations.

The TRC may have been a role model for countries emerging from violence and received much international media attention. Still, the wrong lessons were extracted from the South African narrative, which assumed that these strategies would work in bridging social and political divides. The reality has been that the existence of economic and social disparities has restricted the advancement of South Africans' ability to integrate due to the spatial order and economic legacy of apartheid intersecting with race and gender to hinder that desired Rainbow Nation and reconciliation. Many South Africans want reconciliation, and it does exist, but it is limited. Still, economic inequality has created unfavourable conditions to advance positive race relations, meaning that the economy becomes a key factor in determining the quality of race relations.

The TRC has had a limited impact on reducing racism or improving the mental and physical well-being of victims. The TRC's contribution towards national reconciliation rather strongly contributed to ensuring all participated in the construction of the new South Africa, regardless of the price black communities had to endure. Therefore, the TRC's notion of 'truth' did not automatically lead to reconciliation but contributed to an ongoing process of forgiveness and the project of national unity to enhance race relations. The TRC can, therefore, be given credit for making coexistence to some degree possible, although it comes with socioeconomic pain, and for prompting reconciliation, which has periodically proven to be fragile.

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Mrs Nonjabulo Garton-Kristiansen (215068617)  
School Of Social Sciences  
Howard College

Dear Mrs Nonjabulo Garton-Kristiansen,

**Original application number:** 00018378

**Project title:** "National Unity and Reconciliation in South Africa; An Analysis of the Truth and Reconciliation Commissions impact on Race Relations in Post-Apartheid South Africa."

## Exemption from Ethics Review

In response to your application received on 02 November 2022, your school has indicated that the protocol has been granted **EXEMPTION FROM ETHICS REVIEW**.

Any alteration/s to the exempted research protocol, e.g., Title of the Project, Location of the Study, Research Approach and Methods must be reviewed and approved through an amendment/modification prior to its implementation. The original exemption number must be cited.

For any changes that could result in potential risk, an ethics application including the proposed amendments must be submitted to the relevant UKZN Research Ethics Committee. The original exemption number must be cited.

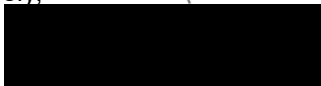
In case you have further queries, please quote the above reference number.

### PLEASE NOTE:

Research data should be securely stored in the discipline/department for a period of 5 years.


I take this opportunity of wishing you everything of the best with your study.

Yours sincerely,



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**Prof Uma Mahesvari Naidu**  
**Academic Leader Research**  
**School Of Social Sciences**

**UKZN Research Ethics Office**  
**Westville Campus, Govan Mbeki Building**  
**Postal Address:** Private Bag X54001, Durban 4000  
**Website:** <http://research.ukzn.ac.za/Research-Ethics/>

Founding Campuses:  Edgewood  Howard College  Medical School  Pietermaritzburg  Westville

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