



Probing into the scourge of socio-economic injustices in South Africa: How a corrupt political elite ushered the phrase "[w]e, the people of South Africa" into obscurity and oblivion

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ABSTRACT

Like most democracies in Africa and other parts of the world, the words "We, the people of South Africa" feature in the Constitution not only as symbolic of popular sovereignty and from which the source of public power is derived, but also in connection with the Constitution's stated objectives. This article examines how grand corruption by South Africa's political elite has undermined the constitutional promise in the Preamble's phrase "[w]e, the people of South Africa," especially concerning socio-economic justice. It analyses the Constitution, Constitutional Court jurisprudence, selected legislation, international and regional human rights instruments, scholarly literature, and publicly available materials on corruption. The article finds that although the 1996 Constitution entrenches popular sovereignty, social justice, and justiciable socio-economic rights, post-apartheid governance has often failed to translate these commitments into material equality. Grand corruption, weak political will, and compromised public institutions divert resources from healthcare, housing, education, water, social security, and infrastructure. This deepens inherited apartheid inequalities and pushes the constitutional phrase into obscurity. The article recommends stronger anti-corruption enforcement, integrity-based public leadership, transparent procurement, institutional accountability, and policy implementation centred on socio-economic rights. This study contributes to constitutional and human rights scholarship by connecting the Preamble's language of popular sovereignty to the governance duties required for social and economic justice in South Africa.

Keywords: Socio-economic injustices, Constitution of South Africa, political will, grand corruption, inequality, South Africa's democratic dispensation.

INTRODUCTION

On 10 February 1990, the global community and black South Africans experienced an unprecedented euphoria as they witnessed the liberation of the political prisoner, Nelson Mandela, following a historic

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1967 trial with clear racial undercurrents.¹ Thereafter, the architects of political and legal thought, drawn from diverse backgrounds reflecting the country's demographics, gathered to negotiate the future of South Africa.² South Africa began to emerge from a history of racial and socio-economic injustices, a brutal tyranny characterised by systemic human rights violations, mass killings by the white minority, economic disparities, and racially restricted movement.³ The adoption of an *Interim Constitution* in 1993 and the first free, all-inclusive multiracial elections in 1994 marked this transition.⁴ For millions of South Africans victimised by the apartheid regime for their race and political ideologies, this development heralded a new political dispensation. It signalled an era of inclusiveness, reconciliation, accountability, egalitarianism, and socio-economic responsiveness. For the international community, this was a major achievement, as the decades-old apartheid system was being rapidly dismantled. This paved the way for South Africa's readmission to the community of nations and fulfilled a key objective of the then-OAU.⁵ While the world watched the inauguration of a once-condemned-for-life prisoner as South Africa's president in May 1994, the National Party held a quiet requiem.⁶

The architects of this new political dispensation envisaged a South Africa built on democratic values, the rule of law, good governance, respect for human rights, accountability, equality, equal protection of the law, and mutual tolerance.⁷ They envisioned a country where the socio-economic injustices and seclusion caused by the crumbling apartheid system's economic and political structures would be gradually dismantled.⁸ This vision meant that all individuals, whether in a city or a rural area, would have access to decent medical facilities regardless of their financial means and could pursue their dreams through access to educational institutions. It meant addressing poverty, hunger, and homelessness, protecting the vulnerable, and granting the sick access to healthcare. This necessitated a new legal, social, economic, and political order, presenting a choice between maintaining the status quo or rebuilding South Africa for all, to significantly reduce the gap between the rich and the poor.⁹

The socio-economic and political context that shaped South Africa's future led its architects to a foundational principle embodied in the *Constitution*. This legal document was essential. It reflected the realities that influenced the country's development. Although adopted three years later, the *Interim Constitution* of 1993 laid the foundation for a new legal and political order. The *Interim Constitution*, central to the nation's new republic, contained a wide range of values and principles. These values are expressed in the preamble, which affirms the primacy of popular sovereignty, defined as the supremacy of the people's will in exercising political power. The preamble also serves as a constant reminder to public office holders of their responsibility to the people through the phrase, "We, the people of South Africa..."¹⁰

Focusing on the final *Constitution* of 1996, this article examines the obliteration of this preambular phrase. Amidst widespread corruption among South Africa's political elite,¹¹ the article

¹ Sabelo J. Ndlovu-Gatsheni, "From a 'Terrorist' to Global Icon: A Critical Decolonial Ethical Tribute to Nelson Rolihlahla Mandela of South Africa," *Third World Quarterly* 35, no. 6 (2014): 905–21; Kevin Durrheim et al., "Predicting Support for Racial Transformation Policies: Intergroup Threat, Racial Prejudice, Sense of Group Entitlement and Strength of Identification," *European Journal of Social Psychology* 41, no. 1 (2011): 23–41.

² Wesahl Domingo, "Muslim Personal Law in South Africa: Until Two Legal Systems Do Us Part or Meet?," *Obiter* 32, no. 2 (2011): 377–92.

³ Gay Seidman, "Is South Africa Different? Sociological Comparisons and Theoretical Contributions from the Land of Apartheid," *Annual Review of Sociology* 25, no. 1 (1999): 419–40.

⁴ In April 1994, millions of South Africans turned out to negotiate a delicate and unprecedented bend in the country's history: an all-inclusive parliamentary and presidential election that would eventually see the recently liberated political prisoner and then leader of the ANC, Nelson Mandela, elected to the highest office of the land.

⁵ Innocent E. W. Chirisa, Artwell Mumba, and Simbarashe O Dirwai, "A Review of the Evolution and Trajectory of the African Union as an Instrument of Regional Integration," *SpringerPlus* 3, no. 1 (2014): 101.

⁶ Hiroyuki Hino et al., "Identity, Inequality and Social Contestation in the Post-Apartheid South Africa," 2018.

⁷ In *EFF & DA v Speaker*, former Chief Justice Mogoeng held that "one of the crucial elements of our constitutional vision is to make a decisive break from the unchecked abuse of State power and resources that was virtually institutionalised during the apartheid era. To achieve this goal, we adopted accountability, the rule of law and the supremacy of the Constitution as values of our constitutional democracy."

⁸ *S v Makwanyane* 1995 (6) BCLR 665 (CC) (hereafter *S v Makwanyane*), para. 261.

⁹ Christopher Cramer, "Rebuilding South Africa," *Current History* 93, no. 583 (1994): 208.

¹⁰ Mogoeng Mogoeng, "The Judicial Accountability Session," *Judicial Accountability Session* 23 (2018).

¹¹ David Everatt and Marius Pieterse, "Outsourcing Governance: Local Government and the Future of Democracy in South Africa," *Journal of Southern African Studies* 48, no. 5 (2022): 787–804.

argues that this corruption has stifled socio-economic development, compromised political and legal institutions, widened the gap between the rich and the poor, and undermined the integrity of political and legal processes, perpetuating socio-economic injustices. The article further argues that grand corruption and its adverse effects demonstrate that South Africa is not different from many other African countries. It battles a political leadership exhibiting profound moral depravity, where the theft of public funds and involvement in fraudulent tenders have become commonplace. This happens with disregard for anti-corruption laws and institutions, which are themselves compromised by the political elite. This article traces South Africa's transition from apartheid to constitutional democracy before analysing the Preamble's phrase, the normative content of social and economic justice, and the ways grand corruption frustrates these commitments.

METHODOLOGY

This article used a qualitative doctrinal and desktop research methodology. The research is not empirical and does not rely on interviews, surveys, or field observation. It analysed primary legal materials, including the Constitution, selected legislation, Constitutional Court judgments, and relevant international and regional human rights instruments, along with secondary materials such as journal articles, books, and public materials on corruption, inequality, and socio-economic rights. Materials were selected for their relevance to the constitutional phrase “[w]e, the people of South Africa,” socio-economic justice, and grand corruption. The analysis is thematic. It first examines apartheid’s socio-economic legacy, then interprets the constitutional meaning of popular sovereignty, examines socio-economic rights and social justice, and finally evaluates how political corruption obstructs the realisation of these commitments.

DISCUSSION

The Apartheid legacy: a quick look at some of history's darkest and most painful writings

Seclusion, deprivation, and victimisation on purely racial grounds characterised South Africa's history during the apartheid era. The white minority enjoyed the full spectrum of civil, political, economic, social, and cultural rights, while the black majority was denied these rights entirely.¹² Legal mechanisms, including laws and institutions, enforced this deprivation and seclusion.¹³ These violations contravened international and regional human rights instruments, including the *Universal Declaration of Human Rights*, the *International Covenant on Civil and Political Rights*, the *International Covenant on Economic, Social, and Cultural Rights*, the *Convention on the Rights of the Child*, the *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, and the *African Charter on Human and Peoples' Rights*. Many scholars have discussed these violations. Sandra Liebenberg provides a summary of the nature and extent of socio-economic injustices during the apartheid era.

However, the apartheid system should not be equated solely with violations of the civil and political rights of black South Africans. The systematic violation of the economic, social and cultural rights of black South Africans was an integral part of the apartheid project. The Land Acts of 1913 and 1936 restricted the African population to some 13% of the total land area of South Africa. Black people were dispossessed of their land and forcibly removed to overcrowded reserves. These were far from sources of employment and lacked the infrastructure and services for sustainable development. Poverty, disease and malnutrition were rife. An estimated 3.5 million people were forcibly removed from rural and urban areas, between 1960 and 1980. The reserves became pools of cheap migrant labour for white-owned farms and mines. Dispossession forced successful black farmers to seek employment as farm labourers thereby becoming insecure occupiers of land or labour tenants. The migrant labour system caused untold suffering, breaking up many African families. The men lived in appalling conditions in

¹² David Francis and Edward Webster, “Poverty and Inequality in South Africa: Critical Reflections,” *Development Southern Africa* 36, no. 6 (2019): 788–802; Sam Moyo, “The Politics of Land Distribution and Race Relations in Southern Africa,” in *Racism and Public Policy* (Springer, 2005), 242–70.

¹³ *Population Registration Act* 30 of 1950; *Separate Amenities Act* 49 of 1953; Francis and Webster, “Poverty and Inequality in South Africa,” 19–20.

the mining compounds and slums of the cities, while many women and children were left to eke out a precarious livelihood in the impoverished rural areas.

Black people suffered gross inequalities in access to social services, resources and economic opportunities. Black communities were deliberately underdeveloped, and lacked adequate sanitation, water and refuse removal services as well as decent housing, schools, and clinics. Racial segregation was maintained at all levels of the education system. There were enormous disparities in the per capita expenditure on the education of black and white children.¹⁴

The post-apartheid era of the early 1990s required that the socio-economic injustices entrenched in apartheid laws and systems be discredited, abolished, and dismantled. This meant that apartheid, including its ideology, laws, and institutions, would be formally ended in the new political and legal arrangements. However, the ramifications of this policy, especially the social and economic injustices it created, outlived the repeal of apartheid laws.

Reflecting on the words "[w]e, the people of South Africa..."

In the constitutional history of many countries, the phrase "We, the people" addresses many issues, including popular sovereignty, which scholars in most social science disciplines acclaim as the "foundation of democracy".¹⁵ This phrase, reminiscent of the preamble to the United States Constitution, encapsulates the principle of popular sovereignty. Popular sovereignty is the idea that government authority is created and sustained by the consent of its people.¹⁶ In the South African context, this principle is enshrined in the Constitution of the Republic of South Africa, 1996, the supreme law of the land. Although the Constitution explicitly provides for constitutional supremacy,¹⁷ popular sovereignty is derived from the intentions of its drafters and its preamble.¹⁸ As the embodiment of the people's will, the Constitution holds the highest legal and political authority. Its explicit provisions are a legal manifestation of popular sovereignty, establishing the framework for protecting the people's will. The principle of "[w]e, the people of South Africa" also demonstrates the participatory nature of democracy. It emphasises the importance of civic engagement, public participation, and inclusive governance. It serves as a reminder that government legitimacy is derived from the people's consent and active involvement, and that government exists to serve the entire citizenry.¹⁹ Consequently, the people hold political power, which they exercise through elected representatives. South Africa is no exception. Therefore, the inclusion of the words "[w]e, the people of South Africa" established a fundamental pillar of South Africa's nascent democracy. This confirmed that the people are the ultimate source of political power.

These are the first five words of the Preamble to the *Constitution*. They are symbolic, conveying profound political dimensions. They confirm that the *Constitution*, and the institutions and processes within it, are established by the people. All power or authority emanates from "[w]e, the people of South Africa", is exercised on behalf of "[w]e, the people of South Africa", and is for the benefit of "[w]e, the people of South Africa". South Africa's democratic experiment, institutions, and processes rest on these five words. In other words, "[w]e, the people of South Africa" means that the people of South Africa own the political authority they delegate to representatives. These representatives must exercise this authority only for, or on behalf of, the people who granted it, and the exercise of that authority must be for the people ("[w]e, the people of South Africa"). This suggests that public officials derive their authority not from any individual in power, but from "[w]e, the people of South Africa". The *Constitution* establishes the structure of public power, creating specific institutions with clear mandates

¹⁴ Sandra Liebenberg, "Human Development and Human Rights: South African Country Study," *Human Development Report 2* (2000).

¹⁵ Daniel Pratt Morris-Chapman, "An Ambazonian Theology? A Theological Approach to the Anglophone Crisis in Cameroon," *HTS Theological Studies* 75, no. 4 (2019): 1–11; Partha Chatterjee, "The Politics Of the Governed: Reflections On Popular Politics In Most of The World," *New York*, 2004.

¹⁶ Karl Kössler, "Who Are 'We, the People'? Pluralist Constitutional Identity after Democratic," *Constitutional Identity and Constitutionalism in Africa*, 2024, 110.

¹⁷ Section 2 of the *Constitution of the Republic of South Africa, 1996 (the Constitution)* (hereafter *Constitution*).

¹⁸ Neha Ummareddy and Aniket Alam, "What Do Preambles Do? A Study of Constitutional Intent and Reality," *Studies in Indian Politics* 9, no. 2 (2021): 221–38.

¹⁹ *Ex parte Chairperson of the Constitutional Assembly: In re Certification of the Constitution of the Republic of South Africa 1996* (4) SA 744 (CC), paras. 45, 48.

and defining the organisation and powers of government. However, the *Constitution* also stresses that these authorities and institutions would be defective on their own. They require the supreme mandate from the will of the people, embodied in the words “[w]e, the people of South Africa”, to act with authority. Without this mandate, public authority is baseless and lacks legitimacy. The use of the words “[w]e, the people of South Africa” as the source and purpose of political authority makes South Africa a republic. Through chosen representatives, a republican government is established, a government of the people, by the people, and for the people. Political and legal philosophers argue that a social contract is the basis for exercising political power over a people, implying a commitment to their ultimate good.²⁰ A government, based on this social contract and the legitimate expectations of the governed, must work for the welfare of the people it represents. A government of officials drawn from the people that fails to work for the people loses its legitimacy. This creates a disjuncture between the led and their leaders, fracturing the social relationship built on political and legal foundations.

Lincoln's notion of democracy as a government of the people, by the people, and for the people aligns with the phrase “[w]e, the people of South Africa”. For this alignment to be accurate, however, the entire definition must be incorporated, not just certain aspects. Unfortunately, socio-economic and political realities in South Africa since the new dispensation began suggest that the phrase “[w]e, the people of South Africa” has become obscure in the public realm. Although drawn from the people, public power has not been wielded for “[w]e, the people of South Africa”.

The architects of modern South Africa clarified the meaning of these words by articulating specific objectives to be fulfilled. The final 1996 *Constitution* retained the first five words, “[w]e, the people of South Africa”. These words are followed by a statement of guiding objectives that “[w]e, the people of South Africa”, acting through mandated public officials, would seek to achieve for their own benefit. One of these objectives is to “heal the divisions of the past and establish a society based on democratic values, social justice and fundamental human rights...”.²¹

“We, the people of South Africa” is the cornerstone of South Africa's constitutional democracy and modern republic. It entrenches the notion of popular sovereignty, where power belongs not to any official, elected or appointed. Public power is not derived from an external body or a deity. It comes from the people because it belongs to the people. However, the exercise of this political power through elected representatives must seek to achieve specific outcomes, including healing the divisions of the past and establishing a society based on democratic values, social justice, and fundamental human rights. Referring to the “divisions of the past” cannot be limited to racial inequalities. Such a narrow interpretation would devalue the broader inequalities and divisions created by apartheid. These divisions include economic injustices, class structures, the gap between rich and poor, and income inequality. Although these divisions affected all races, the system of racial segregation and resource control meant the majority of black people were deprived of resources and left in poverty. Tackling these divisions and inequalities is a practical way to uphold fundamental human rights, including the social and economic rights entrenched in the *Constitution*.

This analysis raises a question. Have the wielders of public power considered the words “[w]e, the people of South Africa” in their decision-making? In other words, over the thirty years since the new political dispensation began, and the twenty-eight years since the 1996 *Constitution* came into force, has public power been committed to healing the divisions of the past to achieve equality and respect for fundamental human rights?

The Fundamentals of Social and Economic Justice

Contemporary democratic societies are built on respecting, promoting, and protecting human rights, which include social and economic rights. Arguably, the right to social and economic justice, founded on the realisation of socio-economic rights, is a democratic entitlement. Such entitlements must not be

²⁰ Jonathan Riley, “Jean-Jacques Rousseau: The Social Contract,” *Central Works of Philosophy, Volume 2: Seventeenth and Eighteenth Century 2* (2005): 193; Joseph T. Ekong, “Hume’s Critique of Locke’s Variant Of” Social Contract Theory”: A Ratiocinative Assessment,” 2022; John T Scott, “The Major Political Writings of Jean-Jacques Rousseau: The Two” Discourses” and the” Social Contract”,” 2012.

²¹ Preamble to the Constitution; *Mahlangu v Minister of Labour* 2021 (1) BCLR 1 (CC), para. 5; *City of Tshwane Metropolitan Municipality v Afriforum* 2016 (9) BCLR 1133 (CC), para. 5.

limited to civil and political rights. Although scholars and practitioners often create a dichotomy between these two classes of rights in international law, this approach is difficult to defend. First, these rights are interdependent and interrelated, not mutually exclusive. Second, socio-economic rights address the material needs of individuals. These needs include housing, food, quality education, healthcare, employment, clean water, and accessible social infrastructure. Social and economic rights therefore have a direct relationship with a person's dignity and worth.²² These are fundamental human needs that any government system must meet.

Against this philosophical background, South Africa, in the immediate aftermath of apartheid, did not need an international instrument to recognise the importance of social and economic rights. Its commitment to entrenching these rights in its legal framework was seen as an overhaul of the old system and a vehicle to surmount socio-economic injustices and achieve the goal to “heal the divisions of the past and establish a society based on democratic values, social justice and fundamental human rights...”. Unlike many other African countries facing social and economic injustices, South Africa took an unprecedented path. It granted social and economic rights constitutional recognition and protection in the 1996 *Constitution* before it had ratified the relevant international instrument, the *International Covenant on Economic, Social, and Cultural Rights (ICESCR)*.²³ The *ICESCR* was signed on 3 October 1994 and ratified on 12 January 2015,²⁴ over two decades later and almost two decades after the final *Constitution* was adopted. This approach was sound for several reasons. First, a domestic legal instrument gave these rights legal recognition and protection. Second, the rights were integrated into the broader legal and political framework. Third, their inclusion in a supreme law made them readily justiciable. On the African continent, no judiciary has produced more case law on social and economic rights than South Africa's, which has developed a rich jurisprudence on their contextual application relative to available resources in a developing country.

The battle to achieve social and economic justice in South Africa, as in any other part of the world, is rooted in debates with profound moral, economic, religious, legal, and philosophical underpinnings. For reasons of space and focus, this article cannot address all of them. However, there are numerous instrumental reasons to explain the place of social and economic justice in African society. First, unlike in European contexts where the focus is the individual versus the state, African societies are often constructed on the premise of *ubuntu*, “I am, because we are,” or *umuntu ngumuntu ngabantu* (“a person is a person through other people”).²⁵ My survival depends on your survival, and a threat to me is a threat to all. Archbishop Desmond Tutu supported this idea when he declared, “My humanity is bound up in yours, for we can only be human together”.²⁶ Second, the resources bestowed by nature belong to everyone. Third, if resources belong to everyone, it is unfair for any person or group to exploit them for personal rather than communal benefit. Fourth, it is unfair to provide privileges to a few at the detriment of others. If these premises are true, they must be imported into the political fabric to guide the political elite. Unfortunately, the pursuit of social and economic justice in South Africa has been misguided, resulting in the continued perpetration of injustices with numerous adverse consequences. This problem, though in full manifestation today, is as old as modern South Africa itself.

The political fanfare following South Africa's first democratic elections in 1994 was short-lived. An immeasurable euphoria had consumed the country after these major political developments, which were rightly seen as heralding a system that would mend historical divides and build a society founded on democratic principles, social equity, and fundamental human rights. Healing the divisions of the past remains one of South Africa's most unfinished tasks, requiring urgent attention. Research in human rights, international criminal justice, and politics shows the role of socio-economic injustices in causing

²² Mazibuko, paras. 51, 58; *Grootboom v Oostenberg Municipality* (6826/99) [1999] ZAWCHC 1 (17 December 1999), paras. 7, 22.

²³ *Ex parte Chairperson of the Constitutional Assembly*, paras. 70–79.

²⁴ U N General Assembly, “International Covenant on Economic, Social and Cultural Rights,” 2025. https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtidsg_no=IV-3&chapter=4&clang=_en.

²⁵ Julian Müller, John Eliastam, and Sheila Trahar, *Unfolding Narratives of Ubuntu in Southern Africa* (Routledge, 2018); Nomusa Mlondo, “Umuntu Ngumuntu Ngabantu (a Person Is a Person Because of/or through Others) and the Notion of Inclusive Education,” in *Handbook of Research on Creating Spaces for African Epistemologies in the Inclusive Education Discourse* (IGI Global Scientific Publishing, 2022), 1–13.

²⁶ Gilda A Barabino, “Science for Humanity,” *Science* 380, no. 6647 (2023): 737; Tim Ingold, “When ANT Meets SPIDER: Social Theory for Arthropods,” in *Material Agency: Towards a Non-Anthropocentric Approach* (Springer, 2008), 209–15.

violent social conflicts within African communities. South Africa is no different, as service delivery protests indicate popular disappointment in the political system. Such conditions have given rise to agents of socio-economic justice, who are by their nature anti-corruption activists. These actors would largely agree that political leadership has failed to achieve social and economic justice, not because it is impossible, but because their efforts lack genuine political will.

The pursuit of social and economic justice as a remedy for socio-economic injustices is founded on an understanding of human rights. From a human rights perspective, it is linked to the inherent dignity and worth of every human being. The perpetuation of socio-economic injustices, meaning systemic exclusion from economic and social services, is an assault on the dignity and worth of the person denied access. Millions of South Africans endure the challenge of social and economic injustices, which are largely traceable to the apartheid system. To overcome this societal burden, public office holders must adopt a specific mindset. They must understand that they work for “[w]e, the people of South Africa” because they come from “[w]e, the people of South Africa”.

If the political elites understand that their mandate comes from “[w]e, the people of South Africa”, then fulfilling the constitutional mandate of healing past divisions and achieving social justice is sacrosanct. If they consider “[w]e, the people of South Africa”, the pursuit of social and economic justice would be a cornerstone of modern political and legal structures. Modern democracies are assessed on their inclusion of human rights, the mechanisms in place to protect those rights, and good governance. Tackling social and economic injustices within such political structures should be a critical dimension of the system if the political elite remember the words “[w]e, the people of South Africa”.

If national constitutions are reliable common instruments, then the purpose of government can be found within them. Re-echoing Jean-Jacques Rousseau, the relationship between the governed and the governors is a social contract. This requires the government to operate for the benefit of the people, making their welfare its ultimate purpose.²⁷

Social and economic justice should be seen as a key indicator for assessing the success of political leadership. On a continent infested with intra-state conflicts often attributable to socio-economic injustices, the pursuit of social and economic justice requires rethinking political, economic, and legal institutions. This includes ensuring transparent and responsible management of natural resources, respect for social and economic rights, and the inclusion of all groups in decision-making processes. Pursuing social and economic justice means levelling the playing field for everyone, regardless of any distinguishing factor. It means closing the inequality gap and improving access to social and economic institutions and services as a means to build an equitable society. The principle of “[w]e, the people of South Africa” requires that pursuing and mainstreaming social and economic justice in the national agenda reinforces the rightful position of social and economic rights within the legal order. This debunks the view that they are merely aspirational goals that fluctuate with political and economic contexts.

Without the principle of “[w]e, the people of South Africa”, social transformation, cohesion, and stability would be unattainable if social and economic justice were not pursued. Social and economic justice offers the political elite and government a clear objective to address inequality, inequity, deprivation, and other legitimate grievances. A failure to do so may trigger social instability and political violence.

Where systematic denials of social and economic justice regarding work, housing, healthcare, and education have sparked protracted violent conflicts in South Africa, it is because the principle of “[w]e, the people of South Africa” was ushered into obscurity. Looting, theft of state property, and vandalism of infrastructure have been used as weapons by the disadvantaged to express contempt for the political elite. These acts occur because the political elite has failed to be reminded of the words “[w]e, the people of South Africa”.

South Africa's reality is unfortunately quite dismal. It reflects a society unmistakably split between prosperity and access for a few and poverty and deprivation for many more. For vulnerable groups post-1994, the situation is more dire, as their vulnerabilities are made more complex with little

²⁷ Riley, “Jean-Jacques Rousseau,” 193–222; Scott, ed., *Major Political Writings of Jean-Jacques Rousseau*, 153–272.

possibility for redress through legal processes. The question is whether the political elite still considers the words “[w]e, the people of South Africa”.

Social justice, it is argued, involves the redistribution of goods and resources to improve the situation of the disadvantaged and vulnerable. This redistribution is not presented as a matter of national interest or compassion. Instead, it concerns the rights of the disadvantaged and vulnerable to make claims on the rest of society. To achieve this, the political elite must have “[w]e, the people of South Africa” at heart. Accountability and fairness in opportunities and resources require that “[w]e, the people of South Africa” remain the primary consideration in fulfilling the goals of public office.

Endemic Corruption and the Challenge of Tackling the Scourge of Socio-Economic Injustices

The primary obstacle between the people of South Africa and the achievement of social and economic justice is the corrupt political elite at every level of public service, from local municipalities to the national government.²⁸ Despite institutional mechanisms and a strong legislative framework to combat corruption, over the past thirty years, corruption in South Africa has become widespread, settled as a normal part of negotiations, and has adversely affected service delivery. Extensive literature exists on corruption in the South African context, and to revisit it here would be redundant. The ineffectiveness of anti-corruption measures is further exacerbated by the absence of the political will required to defeat this malaise.

A year after Nelson Mandela was sworn in as president, South Africa was the only African country included in Transparency International's newly established corruption reports. In 1996, it topped other African countries, ranking 23rd globally, followed by Egypt (41st), Uganda (43rd), Cameroon (49th), Kenya (52nd), and Nigeria (54th). Over the years, its global rank declined, moving into the thirties between 1997 and 2002. In the years from 2018 to 2022, South Africa's global standing in Transparency International's ranking was in the seventies, placing 73rd in 2018, 70th in 2019, 69th in 2020, 70th (with Tunisia) in 2021, and 72nd in 2022.

The downward drift over the years signals the invasive character of corruption in South Africa's public service. Corruption is commonplace, affecting all sectors. A bribe is often required for any service, whether in medical institutions or law enforcement. Municipalities have delayed the issuance of licences,²⁹ coercing applicants to offer bribes to issuing authorities. The Department of Home Affairs, which manages migration, is infested with corrupt officials who delay the adjudication of permits to solicit monetary incentives.³⁰ In an incident that shocked the nation, an official from the Department of Home Affairs accepted a bribe of R300 (USD 15) to allow an illegal border crossing, compromising national security and public health. This is just one example among many incidents of financial racketeering involving colossal sums of public funds. Worse, senior political elites have been involved in corruption scandals, such as former President Jacob Zuma and the multitude of corruption cases exposed, including the R300 million security upgrade to his private residence in Nkandla.³¹

The decadence of South Africa's senior political elite was evident during the pandemic. Opportunists used the crisis to inflate data for securing contracts, to justify lockdown measures, and to

²⁸ R.K Manyaka and N.W.Nkuna, “The Phenomenon of Corruption in the South African Public Sector: Challenges and Opportunities,” *Mediterranean Journal of Social Sciences* 5, no. 27 (2014): 1572–80; Marius Nel, “The South African Pentecostal Ostrich of Corruption,” *Theologia Viatorum* 44, no. 1 (2020): 1–10; Laetitia C Rispel, Pieter De Jager, and Sharon Fonn, “Exploring Corruption in the South African Health Sector,” *Health Policy and Planning* 31, no. 2 (2016): 239–49.

²⁹ Malesela Jim Masenya and Admire Mthombeni, “Governance, Ethics and Public Service Delivery: The Ramifications of Corruption,” *Journal of Governance Risk Management Compliance and Sustainability* 3, no. 2 (2023): 39–48; Yusuf Nanabhay, “Enhancement of Accountability within the South African Public Sector: Knowledge Gained from the Case of a National Commissioner of the South African Police Service,” *International Journal of Law and Political Sciences* 6, no. 6 (2020): 1267–73.

³⁰ Kudzayi Savious Tarisayi, “Afrophobic Attacks in Virtual Spaces: The Case of Three Hashtags in South Africa,” *Migracijske i Etničke Teme* 37, no. 1 (2021): 29–46.

³¹ Gilbert Motsaathebe, “Media Discourse, Legal, and Ethical Issues Arising from the Zuma Saga and Nkandlagate,” *Communicatio* 49, no. 2 (2023): 72–90; Peter Brett, “Politics by Other Means in South Africa Today,” *Journal of Law and Society* 47 (2020): S126–44; Olivia Lannegren and Hiroshi Ito, “The End of the ANC Era: An Analysis of Corruption and Inequality in South Africa,” *J. Pol. & L.* 10 (2017): 55.

put the public in a state of apprehension.³² These measures, as experienced nationwide, ushered many people in informal employment into poverty and hopelessness. "Tenderpreneurship", used sarcastically to describe a path to wealth through public sector tenders, has become a career path many youths seek.³³ The impact of corruption on social and economic justice is clear. If a public official misappropriates R350,000,000 meant for upgrading a public hospital and recruiting competent medical personnel, the effect on patients is severe. They queue for long hours because of inadequate staff or cannot get a timely diagnosis because equipment is unavailable. If undergraduate tuition at a public university costs R35,000, that stolen money could have paid for the education of 1,000 students, contributing to manpower development. If small-scale businesses require start-up capital of R35,000, that sum would mean about 1,000 South Africans could establish small enterprises, recruit workers, pay taxes, and put revenue into circulation. The same analogy applies to social security benefits, the crumbling infrastructure, and state-owned enterprises.

South Africa's corrupt political elite is the primary obstacle to remedying the social and economic injustices affecting millions of its people. The elite makes it more difficult for any social and economic justice programme to thrive because they drain needed resources for personal benefit and withhold the sincere political will required for success.

The moral decadence of South Africa's political elite demonstrates the ineffectiveness of the country's anti-corruption mechanisms and legislative framework. Because of widespread corruption in senior public offices, administrative processes stall as administrators expect an informal reward to perform their duties.³⁴ The outcomes of administrative processes, especially those requiring judicious discretion, depend on the payment of a bribe. Law enforcement has become venal, requiring an 'injection' to start any investigatory process. The results of this systemic corruption in the public sector are obvious. The poor cannot obtain the services they need and are made poorer, the gap between the rich and poor widens, and the disadvantaged are rendered more vulnerable while the political elite grows personal wealth at the expense of the masses. The gross theft of state resources results in the deprivation of funds meant for the realisation of social and economic rights. Such state resources become the private wealth of the individuals involved, depriving "[w]e, the people of South Africa". This constitutes a betrayal of trust against "[w]e, the people of South Africa". The misappropriation of public funds by the political elite is an irreparable assault on the foundations of social and economic justice and explains why ending these injustices has been a great challenge. The phrase "[w]e, the people of South Africa" has been sent into obscurity by the acts of the political elite.

RECOMMENDATIONS

First, anti-corruption institutions must be insulated from partisan interference and possess adequate investigative, prosecutorial, and financial capacity to respond promptly to grand corruption. A constitutional commitment to "[w]e, the people of South Africa" requires public power to be exercised for public benefit, not for private accumulation by politically connected actors.

Secondly, public procurement and tender administration must be transparent, auditable, and open to meaningful public scrutiny. Procurement processes that determine access to housing, healthcare, water, education, social security, and infrastructure should be treated as socio-economic rights matters rather than as ordinary administrative transactions.

Thirdly, government planning and budgeting must be assessed through a socio-economic rights lens. Policy choices should demonstrate how they reduce inherited apartheid inequalities, protect vulnerable

³² Munhuweyi Kenneth Takudzwa, "The Dearth of Democracy in South Africa: ANC's Factionalism, State Capture Inquiry, and Riots," *International Journal of Criminology and Sociology* 11 (2022): 73–81; Motsaathebe, "Media Discourse, Legal, and Ethical Issues Arising from the Zuma Saga and Nkandlagate."

³³ Augustine Edobor Arimoro, "Private Sector Investment in Infrastructure in Sub-Saharan Africa Post-COVID-19: The Role of Law," *Public Works Management & Policy* 27, no. 2 (2022): 108–26; Madeleine C Fombad, "Accountability Challenges in Public-private Partnerships from a South African Perspective," *African Journal of Business Ethics* 7, no. 1 (2013).

³⁴ Fombad, "Accountability Challenges in Public-private Partnerships from a South African Perspective"; Zimitri Erasmus, "The Nation, Its Populations and Their Re-Calibration: South African Affirmative Action in a Neoliberal Age," *Cultural Dynamics* 27, no. 1 (2015): 99–115.

communities, and give practical content to the constitutional commitment to social justice and fundamental human rights.

Finally, civic participation, legislative oversight, and judicial accountability must be strengthened so that the people remain the source and beneficiaries of public power. The constitutional phrase “[w]e, the people of South Africa” must operate as an enforceable political ethic and not merely as a symbolic preambular statement.

CONCLUSION

The phrase “[w]e, the people of South Africa” encapsulates popular sovereignty, constitutional supremacy, and the democratic duty to exercise public power for the benefit of the people. In the South African context, the phrase also carries a transformative mandate to heal the divisions of the past and establish a society based on democratic values, social justice, and fundamental human rights. This article has argued that grand corruption by the political elite undermines that mandate because it diverts public resources, weakens institutions, corrodes accountability, and deepens socio-economic exclusion. The persistence of poverty, inequality, and inadequate access to basic services stems from the failure of political leadership to internalise the constitutional meaning of “[w]e, the people of South Africa”. Therefore, the promise of South Africa’s constitutional democracy depends on the text of the Constitution and the integrity with which public officials exercise delegated power. To rescue the Preamble’s opening words from obscurity and oblivion, public power must be re-oriented towards transparent governance, socio-economic transformation, and practical accountability to the people in whose name that power is held.

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