

The Violation of Human Rights under the Apartheid Regime in South Africa

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January 9, 2017

International Baccalaureate Program

Word Count: 3,992

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### **Abstract**

In contemporary society, human rights have surfaced as an important concern throughout the world. Countless countries have signed agreements promising to honor human rights, and those who refuse to do so are often looked down upon. The following study focuses on one of these countries in particular: South Africa.

The question studied is as follows: To what extent was the implementation of apartheid in South Africa during the second half of the twentieth century a violation of human rights? Before any research was done, it was hypothesized that apartheid was a violation of human rights to a rather large extent, with very limited exceptions.

In order to investigate the topic, research was conducted on four unique theories of human rights: natural rights, social contract, utilitarianism, and universalism vs. cultural relativism. Information from different perspectives was also obtained about the different aspects of apartheid and what living under it entailed. The research was done using a combination of primary and secondary sources. Once the information was obtained, it was analyzed by considering what took place under apartheid in the context of each human rights theory, and determining whether apartheid violated the theory. This was expanded upon by combining the four theories above into an original definition of human rights, and repeating the process of analysis.

At the completion of the investigation, the initial hypothesis was concluded to be correct, as South African apartheid violated every human rights theories except cultural relativism.

Therefore, it was concluded that apartheid was indeed a violation of human rights to a large extent, with few exceptions.

Abstract Word Count: 260

### **Introduction**

At the southern tip of Africa lies a mid-sized country known as South Africa, a beautiful country with a dark history. During the second half of the twentieth century, this place was home to what is believed to be one of the worst human rights violations of modern history. After World War II, South Africa's National Party came to power under the banner of "apartheid," a form of racial segregation which forced horrific living conditions upon colored people. This would last until 1994, despite the decades earlier global movement toward equality and justice throughout the rest of the world.

This investigation will aim to answer the following question: "To what extent was the implementation of apartheid in South Africa during the second half of the twentieth century a violation of human rights?" To gain a thorough understanding of the issue, three main aspects to this question must be analyzed: 1) the meaning and theory of human rights, 2) the definition and realities of apartheid, 3) and a comparison of apartheid to different existing theories of human rights—including natural rights, social contracts, utilitarianism, and universalism vs. cultural relativism—in order to determine if apartheid violates them.

In recent history, human rights have generally been respected more than in the past. As a result, exceptions to this are of great interest. Investigating apartheid in South Africa not only provides a clearer understanding of the tensions present there, but also raises implications applicable to the rest of the modern world. Understanding how extensively and in what ways human rights were violated can prevent such actions from occurring again, and as a result this issue is a significant one to investigate.

Based on the context of the situation and basic prior knowledge, the majority of arguments appear to support the notion that apartheid did indeed violate human rights. Therefore, it is predicted that apartheid in twentieth century South Africa was a violation of human rights to a fairly large extent, though exceptions may exist.

### Investigation

In their simplest form, human rights are “basic rights that many societies believe every person should have” (Merriam-Webster). Of course, the concept features many different complexities. It is believed to have first emerged in ancient Greece, with Aristotle’s mention of “natural rights” (Heard, 1997). Since then, it has undergone much development, and today a number of different human rights theories exist. Prominent among these are the natural rights theory, social contract theory, the theory of utilitarianism, and the theory of universalism vs. relativism. These theories can be applied to real-world situations to discover whether human rights are being respected. One such situation occurred throughout the 20<sup>th</sup> century and ended a mere two decades ago—South African apartheid.

Following World War II, South Africa faced many economic problems, and whites were beginning to feel threatened by black urbanization. The prime minister, Jan Smuts, was lax in terms of addressing these fears, while the Sauer Commission of the opposing National Party argued that “separate development of the races was the only way forward” (Oxford University Press, 2006, p. 42). Many whites did not feel Smuts was doing enough in his current position, and so in 1948 the National Party came to power under its slogan of “Apartheid.” Gradually, it created “two different racial worlds,” with white society characterized by “wealth and luxury,” and black society characterized by poverty and struggle (Oxford University Press, 2006). Nelson Mandela, the most famous icon of the anti-apartheid movement, states in his autobiography *Long Walk to Freedom* that under apartheid “There were many dark moments when my faith in humanity was sorely tested, but I would not and could not give myself up to despair” (1994). There are, of course, other perspectives which paint a different picture. All of these must be

considered when analyzing apartheid in the context of human rights. Still, in the majority of cases, there are few perspectives and theories which can effectively deny that apartheid was a failure in the area of human rights.

A well-known theory of human rights is that of natural rights, most fully developed by Enlightenment thinker John Locke. Locke felt that all human beings innately possess the rights of life, liberty, and property, and the foremost duty of government is to protect these rights. In his *Second Treatise Concerning Civil Government*, Locke argues that “Being all equal and independent, no one ought to harm another in his life, health, liberty, or possessions.” (1689). In layman’s terms, Locke essentially asserts that man is inherently free and possesses certain rights which should be respected by both individuals and governments. When it came to apartheid, this was simply not the case. For instance, in 1950, the South African National Party passed the Group Areas Act, establishing racial segregation in which blacks were “forcibly removed” from their homes to ghettos (Oxford University Press, 2006, p. 46). This blatantly impedes upon the natural rights of property and possessions, effectively having removed the ability of blacks to remain in their own homes. Furthermore, the previous year, the Prohibition of Mixed Marriages Act had been passed, forbidding marriage between whites and the other races (Oxford University Press, 2006, p. 45). Quite literally the ability of blacks along with the other races to make a decision concerning their own lives and happiness was taken away. Even Locke’s argument that all men are “equal and independent” was not applied in South Africa, seen in the highly superior treatment and lifestyle of white people. Consider the gap in terms of money spent on education. According to statistics from 1978, the annual expenditure on education per student was only \$45 for black pupils, and \$696 for white pupils (Leonard, 1980). The basic foundations of natural



rights theory were violated through apartheid. Rather than protect the rights of its citizenry, the government purposefully denied them, enforcing repressive policies and laws. Now, some might argue the importance of noting that Locke wrote his theories centuries before apartheid, so they are biased in the sense that they were meant for Locke's era. However, when Locke originally wrote his ideas, they were considered so radical that Locke "never dared sign his name to [them]" (Powell, 1996). They are far more applicable in the modern context of apartheid than they ever were in Locke's own time; and in that context, apartheid clearly violated the theory of natural rights.

Another well-known theory is that of the social contract, which was strongly advocated by Enlightenment philosophe Jean-Jacques Rousseau. Though not strictly a human rights theory, in the proper framework—such as South African apartheid—it can be considered as such. A social contract is precisely what it seems—an agreement between the government and the people. Specifically, it is "an agreement on the part of an entire society to be governed by its general will" (Spielvogel, 2015, p. 511). Now, this is commonly misinterpreted as the will of the majority. More accurately, the general will entails that what is best for a community as a whole is best for each individual as well, which is the will of the majority at times, but not always. Looking at South Africa during apartheid, no such situation existed. According to a 1960 census, the South African population was 77.7 % black or colored, and 19.3% white (*The Statesman's Yearbook*, 1968). Yet, as is apparent, nearly every action taken by the South African government during this time period benefitted the rights of white people, and seized those of colored people. A clear example of this was the Bantu Authorities Act of 1951. On the surface, this law created a basis for ethnic government in African reserves. Human rights groups worldwide had criticized

the fact that blacks had no voting rights in many areas of South Africa, and these reserves were an attempt to portray an illusion that rights existed for black and colored people. The underlying goal, meanwhile, was to restrict the political rights of Africans to their reserves, in effect leading them to forfeit “their citizenship to South Africa” (Suzman, 2009). In addition, these reserves consisted of extremely low quality land, unfit for making a living. Many of the residents eventually had to move into other areas to find menial jobs, leading to the creation of “shantytowns” such as Johannesburg (Oxford University Press, 2006, p. 46). This is merely one example that legislation passed during apartheid did not even remotely represent what was best for the South African community as a whole, instead benefitting only a small minority.

Now, some might argue that in reality apartheid did not violate the general will, as whites in South Africa, being more affluent and educated, made decisions best for the society as a whole. While it is true this perspective exists, that does not make it correct. It is based on racist opinion rather than fact; moreover, the failures of the South African apartheid society were apparent in the horrors that took place in the reserves and ghettos. Furthermore, another component of Rousseau’s social contract theory, direct democracy (where the people vote directly for all legislation) also was not practiced. In fact, considering that most colored people had no right to vote whatsoever, no legitimate form of democracy was practiced at all. Therefore, even when considering multiple perspectives and components, it remains apparent that the apartheid government consisted of no fair and just “social contract” with all of its people.

A third context in which to consider apartheid is the doctrine of utilitarianism. The earliest origins of this doctrine lie in the teachings of ancient Greek philosopher Epicurus, who called for the seeking of “modest pleasures in order to attain a state of tranquility” (Mastin, 2008,

para. 1). Centuries later, in the late 1700s, philosopher Jeremy Bentham would establish the principle of utility, arguing utility to mean “that property in any object, whereby it tends to produce benefit, advantage, pleasure, good, or happiness ... to prevent the happening of mischief, pain, evil, or unhappiness to the party whose interest is considered” (Bentham, 1781). Although seemingly complex, Bentham is essentially promoting actions leading to happiness and discouraging those leading to displeasure. In its simplest modern-day form, utilitarianism calls for “conduct which promotes the greatest happiness for the greatest number of persons” (dictionary.com). This was hardly the case under South African apartheid, with only a small minority benefitting from the policies instituted. Of course, many proponents of utilitarianism note that what one’s condition appears to be does not necessarily represent how that person actually feels (Taranovsky, 2003). That is, a person who appears to be unhappy may be happy in actuality, or vice versa. Some, such as the ruling party in South Africa at the time, might have contended that there is no actual way of knowing how the blacks in South Africa felt during the years of apartheid. In reality, this is more of an unsubstantiated claim than it is an argument, refuted by existing first hand sources written by blacks who lived under apartheid. Within his autobiography *Kaffir Boy*, Mark Mathabane relates how affluent South Africans often claimed “blacks in South Africa [were] well fed and materially better off under the chains of apartheid than their liberated brothers and sisters in the rest of Africa” (1986, p. 3). Yet in reality, he argues, they “certainly [did] not know me” ... did not know “firsthand the inhuman conditions under which blacks had to survive” (Mathabane, 1986, p. 3). Mathabane throughout the book discusses his misery while living under the terrors of apartheid. Moreover, his autobiography paints a general picture of how the majority of blacks lived under apartheid. Considering the

significant portion of the population which was black, it is apparent that apartheid most certainly did not lead to the greatest amount of happiness for the greatest number of people, as both the quality and quantity of happiness was rather low.

Now, it is true that *Kaffir Boy* was written by a black South African, so is likely to be supportive of the black cause. However, evidence that apartheid violates the doctrine of utilitarianism is also apparent in objective statistics from the time. In 1978, blacks numbered approximately 19 million in South Africa, and whites 4.5 million. Still, blacks received only 13 % of the land, less than 20 % of the national income, and had an average infant mortality rate nearly 30 % higher than that of whites (Leonard, 1980). These statistics are clear indicators of the inhuman conditions Mathabane discusses. Utilitarianism calls for the greatest pleasure for all, both physically and psychologically. Unfortunately, it is palpable in the facts that under apartheid blacks were systematically denied the right to live a complete life.

Unexpectedly, there does exist a human rights theory which apartheid does not fully violate: universalism vs. cultural relativism. This theory considers the two latter extremes, with proponents of either end vehemently opposing the other. Universalism is best explained in the Universal Declaration of Human Rights, adopted by the United Nations in 1948:

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust,

non-self-governing or under any other limitation of sovereignty (The United Nations, 1948, art. 2).

In theory, this is somewhat confusing, but understanding it is facilitated through application—in this case to apartheid. Rather than consider further examples, it is more effective here to simply refer back to apartheid's definition and realities: a system of racial segregation which existed in 20<sup>th</sup> century South Africa, and resulted in terrible living conditions for black and colored people. Universalism asserts that all, including black and colored people, are entitled to basic human rights. Therefore, proponents would argue the culture of the upper class was irrelevant, and apartheid was unacceptable as it denied the majority their basic human rights.

Cultural relativism argues the exact opposite, that “culture is the sole source of the validity of a moral right or rule” (Donnelly, 1984). This idea was first suggested by Michel de Montaigne within his book *Essays*, in which he criticizes Europeans for using “no other standard of truth and reason than the opinions and customs of [their] own country” (1580). He argues that simply because non-European nations have different customs does not make them barbaric. Applying cultural relativism to apartheid, an interesting conclusion is reached. In 1953, South African Minister of Native Affairs H.F. Verwoerd stated that Africans “[would] be taught from childhood to realize that equality with Europeans is not for them” (Oxford University Press, 2006, p. 47). Knowing this, it is then a fair extrapolation that many (not all) whites held racist beliefs at the time. At its core, racism is an implicit, incomplete ideology (Tomkinson, 2005, p.17). It was present in South African society in such a prevalent manner that it was considered the norm even to the oppressed, and it asserted that whites were superior to black and colored people. It is here where the counterargument to universalism comes into play, although it can get

somewhat abstruse. Whether this racist ideology is morally correct is irrelevant; it was a belief of many of the people—it was part of their *culture*. According to cultural relativism, culture takes precedence over morality, and therefore apartheid becomes acceptable. In addition, when one ventures even deeper into the realm of human rights as a whole, one discovers a long-held axiom: one's beliefs should not be forced upon another, no matter how much one disagrees. Apartheid supporters would then have argued that even if outsiders saw their practices as immoral, it would be wrong for them to try to force non-racist practices upon those who culturally held racist beliefs. As a result, considering cultural relativism and human rights as a whole, apartheid is doubly immoral in both contexts; however, because both under certain interpretations give precedence to culture over morality, apartheid becomes doubly acceptable as well. Interestingly enough, when thought of with regards to cultural relativism, apartheid is not a violation of human rights.

Of course, this interpretation is not perfect. Other human rights theories contain aspects which refute the argument that apartheid is justifiable through cultural relativism. Consider utilitarianism, which, as pointed out earlier, calls for the greatest amount of happiness for the greatest number of people. Though unconventional, utilitarianism holds that the “well-being” of all people, regardless of who they are, is “equally important” (Taranovsky, 2003). Cultural relativism argues that apartheid is acceptable because culture takes precedence over morality; utilitarianism refutes it by bringing a third variable onto the playing field: social status. Even if the racist notion that blacks are inferior to whites and so should have a lower social status is held, utilitarianism postulates that the well-being of all is equally significant, regardless of social status. Moreover, this is only one argument against cultural relativism; many of the human rights

theories earlier mentioned conflicted with it as well. Though cultural relativism does provide a thought-provoking perspective on how apartheid may not have violated human rights, the other side of this human rights scale contains a substantial amount more weight.

At this point, the potential human rights issue of South African apartheid has been interpreted from myriad different angles. To provide one final viewpoint, however, it is possible to look at a combination of all the theories above. This is not an established theory of human rights, but rather an original manner of interpretation, which for this purpose will be referred to as an “all-encompassing definition of human rights.” The four theories of human rights which have been discussed are natural rights, social contract, utilitarianism, and universalism vs. relativism. Aspects from each of these theories must be taken into account when developing a definition of human rights: inherent freedoms, individuals, communities, agreement, happiness, and cultural biases. When this is done, the following all-encompassing definition is reached:

*“Each human being has a right to his or her own beliefs, and the right to live in a manner which does not impede upon these beliefs, provided that this manner of living causes no detriment to the society around the individual, both psychologically and physically. Furthermore, each human being has a right to access resources which allow him or her to live in a manner which provides for basic human needs, including a healthy level of happiness.”*

What is important to note of this definition is that while it does not meet every single component of the four theories discussed, the definition also contains minimal direct contradictions with most of these theories. It may not call for the natural rights of life, liberty, and property explicitly, but does provide for them indirectly by ensuring access to proper resources and happiness. It may not focus on the well-being of the community primarily as the social contract does, yet it

does maintain that no individual shall harm the community. In addition, though this definition may somewhat conflict with cultural relativism, as it calls for happiness and resources to all, which some cultures deny to others, cultural relativism itself is only a developing theory which is not universally accepted, and so cannot be used to discount this definition of human rights. As can be seen, this “all-encompassing definition of human rights,” as all theories, is imperfect; however, it does effectively combine the assertions made by the theories previously discussed in the fullest manner possible.

Applying this definition to South African apartheid, one finds an interesting situation. The first aspect of the definition is seemingly followed, as both blacks and whites were technically free to hold their beliefs. However, Christianity was clearly seen as the superior religion, and other religions were more “tolerated” than “equally free” (Kilian, 1993, p. 42). Still, a number of blacks also practiced Christianity, and many Christians, especially Archbishop Desmond Tutu, were core activists against apartheid, so religious freedom was not the primary issue with apartheid. It is the second aspect of this definition of human rights which apartheid truly violates: “... provided this manner of living causes no detriment to the society around the individual.” Whites held the belief that they were superior and used it as a justification to treat blacks poorly and inhumanely, and throughout the 20<sup>th</sup> century the “dominant Church of the Afrikaner people,” the Dutch Reformed Church, played a large “role” in promoting the ideas of apartheid and separation (Ritner, 1967, p. 17). The church declared that apartheid was the will of God, and therefore was correct; that blacks and whites were spiritually equal, but not physically (<http://request.org.uk/issues/social-issues/case-study-apartheid/>). Because many Afrikaner whites then accepted that their religion permitted and even supported apartheid, the black population of



South Africa was denied access to basic provisions and happiness all individuals should have according to the above “all-encompassing definition of human rights,” as is apparent through Mark Mathabane’s discourse in *Kaffir Boy*. This was to be expected of course, as this definition is drawn from the four theories previously discussed, most of which apartheid violated.

### Conclusion

At the start of this investigation, it was predicted that apartheid would prove to be a violation of human rights with minimal exceptions. Based on the research and analysis done throughout the investigation, it can be concluded that this initial prediction was correct. Utilizing a range of sources, both primary and secondary, four different theories of human rights were used to interpret apartheid—natural rights, social contract, utilitarianism, and universalism vs. cultural relativism. Apartheid violated all of these theories extensively; save cultural relativism, which proved to be a potential counterargument. However, given the fact that the majority of evidence supports the assertion that South African apartheid was a violation of human rights, this is a valid conclusion.

Still, given the scope of research conducted, certain limitations on the validity of the conclusion must be pointed out. Unfortunately, the research produced few primary sources regarding apartheid from the white perspective. A quote from a white political leader was found, yet no firsthand sources were discovered containing the perspective of ordinary white citizens living under apartheid. Meanwhile, *Kaffir Boy* and *Long Walk to Freedom* provided insight into the black perspective. In addition, a portion of the evidence regarding the actual human rights theories was obtained from secondary sources—not from the original developer of the theories. Therefore, there is potential for bias in the definitions and aspects of the theories, though it is unlikely to have substantially altered the initial intentions of the developer.

Although these limitations may showcase slight flaws concerning the investigation, they are hardly significant enough to discount the conclusion reached. This is further supported by the fact that when all of the human rights theories discussed were combined into an original

definition of human rights, South African apartheid violated this as well. This system of racial segregation involved not only the “separation” implied, but also involved injustice, force, and inhumanity. The rights of countless human beings were snatched from them; what else can this be called but a human rights violation?

Apartheid was a horrible, but very real situation which took place in recent contemporary history. It provides a dark reminder of the terrible actions human beings are capable of committing; however, at the same time, its end also provides hope. It provides the hope that humans have the potential to climb out of the darkest ditches and rectify their mistakes—all made possible by the simple fact that despite cruel opposition, human rights have and will continue to survive as long as humanity itself does.

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