



MERIT < SKIN COLOUR

?

**The status of  
non-racialism  
at South African  
universities**

## Abbreviations used in this report

<b>ANC</b>	African National Congress
<b>DHET</b>	Department of Higher Education and Training
<b>NMU</b>	Nelson Mandela University
<b>NWU</b>	North-West University
<b>PAIA</b>	Promotion of Access to Information Act
<b>SMU</b>	Sefako Makgatho Health Sciences University
<b>SPU</b>	Sol Plaatje University
<b>SU</b>	Stellenbosch University
<b>TUT</b>	Tshwane University of Technology
<b>UCT</b>	University of Cape Town
<b>UFS</b>	University of the Free State
<b>UJ</b>	University of Johannesburg
<b>UP</b>	University of Pretoria
<b>UWC</b>	University of the Western Cape
<b>UKZN</b>	University of KwaZulu-Natal
<b>Wits</b>	University of the Witwatersrand

## Content

<b>Introduction and summary of racialism in the Constitution.....</b>	<b>1</b>
<b>Non-racialism and the Constitutional Dispensation .....</b>	<b>2</b>
<b>Non-racialism at South African public universities.....</b>	<b>5</b>
Contextualised questions and answers of AfriForum Youth’s PAIA application .....	5
Real-life experiences of racial exclusion at South African public universities .....	11
The South African political climate is perfect for racism to flourish .....	12
<b>Conclusion and policy proposal.....</b>	<b>13</b>

## Introduction and summary of racialism in the Constitution

The Supreme Court of the United States recently delivered a groundbreaking judgement in which it was held that college admissions based on racialised criteria should be abolished.<sup>1</sup>

Drawing closer to home, the ideal of abolishing race-based admission criteria for universities seems far removed from the grassroots realities faced by South Africans today. In fact, as often touted, South Africa is the most racialised country in the world – with more than 132 active race-based laws, 116 of which were promulgated after the 1994 election.<sup>2</sup> This stands in stark contrast to the ideals amplified by the ANC in the Freedom Charter of 1955, whereby the ruling party envisaged a South Africa in which all race-based laws would be repealed.<sup>3</sup>

While it is true that the ANC government repealed a range of race regulations and laws imposed prior to 1994, it must also be recognised that they diligently committed themselves to substitute repealed race laws with newly promulgated ones. As such, 30 years after the end of the previous dispensation, South Africa is still saturated with race regulations.

One of the most pertinent spaces where one is confronted with the onslaught of racial regulations is public universities. Here, in a milieu that ought to be centred on the pursuit of research, study, personal development and self-realisation, individuals and minority groups are often suffocated with race regulations, policies, and ideologies.

A space that ought to be stationed at the pinnacle of any modern society seems trapped in a constricted and contrived way of thinking, where the colour of people's skin often plays a bigger role than their character.

Individuals who were born years after the end of the previous dispensation are, once again, subjected to a “pencil test” under the mandate of the state – and are forced to self-classify themselves in accordance with racial groups cemented in under a repealed law from the apartheid era.

Those who are supposed to broaden their horizons, think outside the box and thereby contribute to the development, furtherance and enrichment of our society are forced to place themselves in a (racial) box to obtain a place in a university – provided there is still room in the quota for their specific box.

---

<sup>1</sup> Debusmaan, B. 2023. *Affirmative action: US Supreme Court overturns race-based college admissions*. BBC News, 29 June. Available at <https://www.bbc.com/news/world-us-canada-65886212>. Accessed on 29 June 2023.

<sup>2</sup> South African Institute of Race Relations. 2023. *Index of race laws*. Available at <https://racelaw.co.za/index-of-race-law/>. Accessed on 1 July 2023.

<sup>3</sup> African National Congress. 1955. *Freedom Charter*. Available at <https://scnc.ukzn.ac.za/doc/HIST/freedomchart/freedomch.html>. Accessed on 1 July 2023.

To amplify our concern regarding this issue, this report will provide a brief outline of non-racialism within the Constitutional-legal framework of South Africa.

This report will then provide an overview of the current implementation and use of race laws and regulations within public universities in South Africa by providing an outline of 26 different PAIA applications (one was sent to each of the public universities in South Africa), where the institutions' race policies are examined, their implementation of non-racialism is questioned, and the institutions' race-madness exposed.

Finally, the report will deliver policy proposals intended to bring the use of race regulations in South African public universities in line with our Constitutional framework.

## **Non-racialism and the Constitutional Dispensation**

The preamble of the Constitution of 1996 provides a clear exposition of the fact that the Constitution – from the outset – attempts to bring about a balance between restitution and non-racialism.

The first paragraph of the preamble reads:

We, the people of South Africa, recognise the injustices of our past; Honour those who have suffered for justice and freedom in our land; Respect those who have worked to build and develop our country; and Believe that South Africa belongs to all who live in it, united in our diversity.

In reading the Constitution, one is immediately confronted with the ever-present tension between the ideals of our “[belief] that South Africa belongs to all who live in it, united in our diversity” and our “[recognition of] the differences between South Africa’s people” and the mutual recognition of and respect for one another.

This tension is predominantly brought about by the difficulty in considering the ideals of reconciliation and restitution in a vacuum, separated from the ideal of non-racialism. It sets the trend for a series of political struggles and court cases that have ensued over the past 30 years – all to balance the values of non-racialism and restitution (or tipping the scales in furtherance of political goals).

However, even a skin-deep investigation into our current policy framework will reveal that this balance has not yet been found. Instead, it is abundantly clear that the scale is tipped under the weight of 132 race-based laws, strict enforcement of race regulations, divisive racialised rhetoric, and above all, the continued enforcement of the draconian system of racial self-classification.

This reality stands in stark contrast to the guiding principles of equality, human dignity and non-racialism, as found in our Constitution, and specifically contradicts the core message articulated in sections 1, 3, 9, 18, 29, 30, 31, and 39 of the Constitution. It is worth noting that these sections unashamedly amplify the promotion of non-racialism – while allowing sufficient space to consider reconciliation and restitution. However, the practical implementation thereof, especially through current legislation, institutional policy, and specifically political rhetoric, obliterates any resemblance to the ideal of a balanced and holistic approach to non-racialised restitution.

We live in a “race-crazed” country – where our day-to-day lives, choice of studies, residence admissions, and specifically our access to employment opportunities are saturated with a racialised hue. Race obsession, classification and differentiation are ever-present in South Africa. Each of the 132 race laws takes a running leap away from the non-racialist ideals promised in the Constitution.

Despite the current legislative and policy framework’s blatant departure from non-racialism, the Constitutional Court has not only failed to condemn the same but also confirmed and approved the formulation and institution of race-based legislation, as well as the iron hand with which it is applied, effectively cementing the racialised reality in South Africa.

The Constitutional Court has, despite its ongoing recognition of non-racialism as a core value in our Constitution, failed in its duty to provide us, and specifically policymakers, with a clear exposition of what the nature, content and practice of non-racialism should entail. In doing so, the Constitutional Court allowed for the subjugation of non-racialism to racial transformation.

This reality emphasises the need for civil organisations, such as AfriForum, to unyieldingly pursue and uphold the ideals of true non-racialism, to persistently hold institutions accountable, and to relentlessly put pressure on the broader society to also pursue this ideal.

However, before setting off on this noble pursuit, it may be wise to articulate what exactly non-racialism is and why it needs to be pursued.

Many proponents of the racially centred legislation often argue that those who want to promote non-racialism are keeping themselves blind to the overtly racialised history of South Africa – and accordingly attempt to negate their role in addressing the pervasive consequence of inequality brought about by this racialised history.

However, this is not the case at all.

In fact, those who promote non-racialism are acutely aware of the above reality but realise that the mistakes of the past cannot be corrected with the same methods and tools that caused them in the first place.

Non-racialism is not a total blindness for or denial of race. Although advocates of non-racialism will admit that race does not exist on an ontological basis, they also recognise the fact that race has played, and continues to play, a major social, political and economic role throughout history.<sup>4</sup>

Non-racialism is the culmination of our beliefs and philosophies, which allow for the creation of a platform for those who aim to end the use of racial distinction and categorisation, ultimately bringing about equality and unity among all people.<sup>5</sup>

Non-racialism is the ideal to bring about a society in which all people can live free from racial classification and discrimination. This ideal will accordingly ensure that all will live free from the shackles of race, be treated equally and be enabled to enjoy the same rights and freedoms.<sup>6</sup>

Non-racialism is an unashamed call to society not to take the easy (downhill) path of “them versus us” but to deliberately face the difficult decisions, hard work and painful patience required to bring about real transformation in society – without repeating the mistakes of the past.

This is why advocates of non-racialism consider the absolute removal of race as a substitute for a disadvantage of utmost importance. Instead, if transformation, restitution or any other redistribution must be implemented (as is provided for in the Constitution), tangible, measurable and non-arbitrary criteria (such as poverty) must be utilised to replace the arbitrary standard of race within our current policy framework.

The pursuit of a non-racial society, together with genuine action steps to address and prevent a reoccurrence of our race-based past, will play an indispensable role in the ultimate success or failure of South Africa.

In summation, the Constitution’s emphasis on non-racialism and our society’s adherence to it will be a defining element that is essential to our pursuit of ensuring peace, prosperity, and progress for all here at the southern tip of Africa because non-racialism:

- is a core principle and fundamental human right which ensures that everyone enjoys the same rights, freedom and protection under the law;
- promotes national unity and social cohesion by loudly and unashamedly rejecting racial classification and discrimination while celebrating our shared humanity; and

---

<sup>4</sup> Suttner, R. 2012. Understanding non-racialism as an emancipatory concept in South Africa. In *Theoria*, 59(130): 22–30. Available at <https://www.jstor.org/stable/42705231>. Accessed on 12 September 2023.

<sup>5</sup> Everatt, D. 2009. *The origins of non-racialism: White opposition to apartheid in the 1950s*. Johannesburg: Wits University Press, pp. 195–214.

<sup>6</sup> Van Staden, M. 2019. The Liberal Tradition in South Africa, 1910–2019. In *Econ Journal Watch*, 16(2): 258–341. Available at <https://econjwatch.org/articles/the-liberal-tradition-in-south-africa-19102019>. Accessed on 12 September 2023.

- recognises the importance of merit, character, and competence (over and above arbitrary standards) in creating a peaceful and progressive society where people are judged on their performance, merit, and abilities rather than the colour of their skin.

Thus, non-racialism should be promoted, pursued, and implemented at face value and without the pseudo-intellectual virtue signalling often found in our current discourse, both as a matter of principle and for the sake of practicality.

## Non-racialism at South African public universities

AfriForum's central argument against any policy involving racial classification or self-identification is its perpetuation of the troubling practice of apartheid-era racial categorisation. This pertains specifically to the Population Registration Act Repeal Act 114 of 1991. Astonishingly, this reprehensible practice persists despite more than three decades having passed since the Registration Act's repeal.

Racial classification represents a severe infringement of the right to equality as envisaged in The Constitution of the Republic of South Africa (1996), and it stands as a violation of the foundational principles of non-racialism and the rule of law.

To investigate racial classification at universities, AfriForum Youth took the initiative to formally request information from all 26 public universities in South Africa on 8 March 2023, in accordance with the Promotion of Access to Information Act (PAIA). This request, attached as Addendum 1,<sup>7</sup> forced these universities to disclose information regarding their racial classification practices to the youth organisation.

## Contextualised questions and answers of AfriForum Youth's PAIA application

The information provided by the universities will be summarised and examined in this section of the report.<sup>8</sup> This analysis serves to highlight the deficiency in upholding the principle of non-racialism and underscores the significant prevalence of racialism within South African public universities.

The subheadings provide context for the inquiries posed in AfriForum Youth's PAIA application, while the subsequent paragraphs offer an overview of the responses furnished by the universities.

---

<sup>7</sup> AfriForum. 2023. *AfriForum Youth demands transparency from public universities on racial classification information*. Media statement on 8 March. Available at <https://afriforumjeug.co.za/en/afriforum-youth-demands-transparency-from-public-universities-on-racial-classification-information/>. Accessed on 20 July 2023.

<sup>8</sup> Hurter Spies Inc. 2023. *AfriForum // Various universities PAIA*. Email correspondence from Daniël Eloff, 8 March. Available pending approval from Hurter Spies Inc.



**Please note** – The following universities failed to answer:

- Durban University of Technology
- University of Limpopo
- University of Mpumalanga
- Mangosuthu University of Technology
- University of Venda
- Vaal University of Technology
- Walter Sisulu University
- Central University of Technology

The Cape Peninsula University of Technology sent a response letter but failed to answer the questions.

### **Do universities require the racial classification of students and why?**

Racial self-declaration is required by all the universities as part of the application process. These institutions substantiate this mandate for one of two overarching reasons: either statistical analysis or promoting principles of fairness and equity.

Evidently, racial classification is deemed necessary to fulfil statistical needs and qualitative reporting obligations as outlined by the relevant legal compliance stipulations imposed on universities by the Department of Higher Education and Training (DHET). Certain universities have also indicated that this alignment derives from the responsibility outlined in Section 37(3) of the Higher Education Act 101 of 1997. This provision mandates the University Council to establish mechanisms to address historical inequalities in its admission policy. Upon enquiring about the decision record concerning the policy documents that demand the inclusion of racial classification information, the NWU included portions from the Council's meeting minutes. These excerpts distinctly mention that race is a key criterion to be considered in the student's file. The stated reason for this is that

[t]he race and nationality of students can affect their eligibility for state funding through the subsidy formulas and the national student financial aid scheme. The accuracy of these data must, therefore, be checked.

Rhodes University and Sol Plaatje University further declared that the racial classification of students is also collected for the Higher Education Management Information System (HEMIS). This implies that the evaluation of performance by higher education institutions is influenced by the availability

of racial data.<sup>9</sup> Moreover, the Rhodes University website lists another reason for racial classification, namely that some donors have imposed a condition stipulating that their bursaries may only be awarded to a particular race.<sup>10</sup>

The Stellenbosch University (SU) stated that applicants classifying themselves as Black, African, Coloured, Indian or Asian “will be eligible for placement in terms of institutional racial composition redress considerations.” The University of Cape Town (UCT) has even introduced a “redress category” for applicants derived from the racial classification of their parents during the apartheid era.<sup>11</sup> Wits University’s Admission Policy justifies the forced racial self-classification of students with the statement that “The University commits itself to the development of access criteria that do not rely entirely on success in school leaving examinations (as reflected in matriculation points rating), for identifying potential candidates from disadvantaged groups and socio-economically deprived backgrounds.”<sup>12</sup>

Additionally concerning is the fact that the University of the Free State (UFS) provided misleading information by falsely claiming that they do not engage in the racial classification of students. This is contradicted by the compulsory requirement for students to self-classify their race, as clearly outlined in their admissions policy. The policy states that<sup>13</sup>

[t]he UFS bases its identification of an applicant’s race on the self-classification of applicants and the use of criteria that is compatible and in accordance with the Regulations of the Employment Equity Act 55 of 1998 and the Commission for Employment Equity Report.

### **Do students have the option not to disclose their racial identity, and what would the consequences be for an applicant refusing to provide this racial self-classification information requested by the University?**

Prospective students are not allowed to refrain from sharing their racial identity, as self-identification by race is mandatory for university applicants, with SU and Fort Hare being the exceptions. If applicants choose not to provide their racial self-classification, their application is

---

<sup>9</sup> Department of Higher Education and Training. 2023. *2000 to 2020 First time entering undergraduate cohort studies for public higher education institutions*. Available at <https://www.dhet.gov.za/HEMIS/2000%20TO%202020%20FIRST%20TIME%20ENTERING%20UNDERGRADUATE%20COHORT%20STUDIES%20FOR%20PUBLIC%20HEIs.pdf>. Accessed on 24 July 2023.

<sup>10</sup> Rhodes University. 2023. *The application procedure*. Available at <https://www.ru.ac.za/admissiongateway/application/applicationprocedure/>. Accessed on 14 August 2023.

<sup>11</sup> University of Cape Town. 2023. *2024 Undergraduate prospectus*. Available at [https://uct.ac.za/sites/default/files/media/documents/ug\\_prospectus\\_10-May-2024.pdf](https://uct.ac.za/sites/default/files/media/documents/ug_prospectus_10-May-2024.pdf). Accessed on 25 July 2023.

<sup>12</sup> University of the Witwatersrand. 2022. *Admissions policy*. Available at <https://www.wits.ac.za/media/wits-university/students/documents/Wits-Admissions-policy.pdf>. Accessed on 15 August 2023.

<sup>13</sup> University of the Free State. 2021. *Admissions policy*. Available at [https://www.ufs.ac.za/docs/default-source/policy-documents-documents/admissions-policy-\(website\).pdf?sfvrsn=5be67520\\_0](https://www.ufs.ac.za/docs/default-source/policy-documents-documents/admissions-policy-(website).pdf?sfvrsn=5be67520_0). Accessed on 3 August 2023.

considered incomplete. The UFS stated, “Incomplete applications may not be processed.”

Consequently, applications without a racial classification are regarded as invalid.

Most universities utilise an online application process that designates the student’s race or ethnic group as a required entry. This implies that the application process cannot be finalised if the student chooses to “skip” this field. The exception in this case is the University of Zululand, which explained (*italics original*):

Application for admission is managed by the Central Applications Office (CAO) on behalf of the University. The CAO may require applicants to disclose their racial identity, in which instance the applicants are free to select *other*. Where biographical data is recorded in the University’s Integrated Tertiary Software (ITS), students have an option not to disclose their racial group by declaring *other*.

TUT, on the other hand, explained that there is no provision for students to opt out of racial self-classification because

... reporting of required information will be skewed. DHET requires universities to report back with precise and 100% accuracy. TUT relies on funding from the government and the university is obliged to conform to the DHET requirements. Funding of universities is also in line with the quantiles ...

### **What procedure and/or policy does the University use to determine the race of its students?**

Many universities failed to answer this question, yet it can be derived that they base their determination on the race criteria selected by the students/applicants, given that the majority of other universities confirmed this approach.

The criteria for race provided by universities in most cases are the population groups used by the current South African government, which were defined by the old apartheid-era government, namely African, Coloured, Indian and White.<sup>14</sup> The UFS, for example, states that<sup>15</sup>

[t]he UFS bases its identification of an applicant’s race on the self-classification of applicants and the use of criteria that is compatible and in accordance with the Regulations of Employment Equity Act and the Commission of Employment Equity Report.

Upon investigation, it was discovered that the online application for NMU surprisingly presents the following choices: African, Asian, Chinese, Coloured, Indian, Japanese, Ndebele, North Sotho, Other, South Sotho, Swati, Tsonga, Tswana, Venda, White, Xhosa, Zulu. It is concerning that NMU lists

---

<sup>14</sup> Statistics South Africa. 2023. *Quarterly labour force survey – Quarter 1: 2023*. Available at <https://www.statssa.gov.za/publications/P0211/P02111stQuarter2023.pdf>. Accessed on 24 August 2023.

<sup>15</sup> University of the Free State. 2021. *Admissions policy*. Available at [https://www.ufs.ac.za/docs/default-source/policy-documents-documents/admissions-policy-\(website\).pdf?sfvrsn=5be67520\\_0](https://www.ufs.ac.za/docs/default-source/policy-documents-documents/admissions-policy-(website).pdf?sfvrsn=5be67520_0). Accessed on 14 August 2023.

various cultural groups under the “race” category but offers only “white” as a choice for different cultural groups with this skin colour.<sup>16</sup>

In their reply dated April 2022, the NWU attached an Annexure with the headline “Department of Higher Education and Training – revised directives for external auditing of student, staff and academic programme data”. Even though the NWU did not provide an answer to the question of what procedure or policy they use to determine the race of students, this Annexure emphasises “race” as a mandatory check in the student file. It further states that this check must be made by confirming that the data correspond with the student’s signed application and/or registration forms or an audit trail of an online registration.

### **How many of the University’s policy documents refer to race?**

Only some universities were willing to answer this question and the answers were shocking. The public universities of South Africa claim to be non-racial institutions but they refer to race so often that racializing every possible aspect of universities seems to be an underlying goal. The SU attached 17 policies referring to race, while the NWU attached 15 such policies.

SMU emphasised that their *Selection and Admission Policy* and *Admission and Selection Rules* provide for race as a consideration in the admission of students, but it is unclear how many other policy documents of this university refer to race. The UP listed ten policy documents where reference is made to race, and it is noteworthy that this even includes the *Policy on Students with Disabilities*.

### **What is the University’s position on the constitutional values of non-racialism and equality?**

Surprisingly various universities did not answer this question. Among the universities that furnished a response, the majority confirmed their commitment to the principles of non-racialism and equality despite the obligatory racial classification imposed. SPU, for instance, aired their commitment to these principles as provided for in Section 1 of The Constitution of South Africa 108 of 1996. The NMU stated that the university is underpinned by and consistent with the supreme law of South Africa, while SMU also claims that they uphold these constitutional values. Some universities also believe themselves to be non-racial, but their answers provide more clarity and suggest the opposite.

---

<sup>16</sup> Nelson Mandela University. 2023. *Online Applications 2024*. N.d. Available at [https://zwadmissions.com/nelson-mandela-university-undergraduate-online-application/?gclid=EAlaIQobChMI3f6W7uGkgQMVzqfVCh3VqAOYEAAAYASAAEgLF3vD\\_BwE](https://zwadmissions.com/nelson-mandela-university-undergraduate-online-application/?gclid=EAlaIQobChMI3f6W7uGkgQMVzqfVCh3VqAOYEAAAYASAAEgLF3vD_BwE). Accessed on 29 August 2023.

The SU stated that they are committed to transformation and inclusivity and that equity is one of the university's core values, but it is “restitution in response to our past legacy and fairness in our aspirations”. They further admit that “[t]he University's Admissions Policy deals extensively with matters of race.”

The NWU referred us to their *Governance and Management* web page, where all approved policies are published. Even though they did not provide us with an answer to their position on non-racialism and equality, the referred web page offers 12 guiding documents, including the *Declaration on the Decolonisation of University Education* and the *Transformation Charter*. The two documents mentioned, like 15 other NWU policies, also refer to race in a manner suggesting that they are not a non-racial university but rather a university that increasingly focuses on race. The *Declaration on the Decolonisation of University Education* states that<sup>17</sup>

[m]any South African students call for an end to domination by white, male, Western, capitalist, heterosexual, European worldviews in higher education.

The closing question of the PAIA application asked: “How does the University justify the racial classification of students and/or applicants applying to be admitted to the University in light of the South African Constitution that champions non-racialism and equality?” Exploring the individual responses in detail would lead to repetition, as this topic has already been addressed in the section “*Why do universities require the racial classification of students?*” Nonetheless, Wits' answer captures the essence of the various justifications provided by the universities mentioned in this report. Wits stated that they are an institution of public higher education and should therefore meet the requirements of the DHET to ensure transformation, as well as redress past discrimination by ensuring representation and equal access, as set out in the Higher Education Act 101 of 1997. Similarly, the UP stated: “This is a DHET requirement for funding and statistical purposes.” These responses, echoing those of numerous other South African public universities, point toward the DHET's requirements. These requirements must be exposed and scrutinised for their preoccupation with racial requirements.

The repercussions of the astonishing racial classification mandates within universities extend beyond mere policy documents. They manifest in tangible instances of racial exclusion that obstruct young individuals with white skin colour from fully pursuing their academic potential.

---

<sup>17</sup> North-West University. 2018. *North-West University's declaration on the decolonisation of university education: The imperative to transform teaching and learning, the research agenda and community engagement*. Available at [https://news.nwu.ac.za/sites/news.nwu.ac.za/files/files/Robert.Balfour/2018.Report.Decolonisation\\_of\\_University\\_Education\\_Declaration.pdf](https://news.nwu.ac.za/sites/news.nwu.ac.za/files/files/Robert.Balfour/2018.Report.Decolonisation_of_University_Education_Declaration.pdf). Accessed on 23 August 2023.

## Real-life experiences of racial exclusion at South African public universities

The universities' answers to AfriForum Youth's PAIA application suggest that an obsession with race prevails. The exposure hereof on paper seems dramatic, but the worst is that this race obsession doesn't stay on the paper of policy documents or legislation – students across South Africa experience it intensely. AfriForum Youth, as part of a civil rights organisation that fights for minority rights, receives numerous complaints from students who experience racial exclusion at South African public universities. We will highlight only three examples.

Solidarity recently threatened the University of KwaZulu-Natal (UKZN) with legal action after it became known that the institution's College of Health Sciences differentiates between students based on their skin colour when awarding bursaries and fellowships.<sup>18</sup> In a UKZN advertisement, it can be seen that the bursaries awarded to “black South African citizens” for master's and doctoral degrees are to the value of R120 000 and R60 000 respectively while the bursaries awarded to “other South African citizens” are only to the value of R80 000 and R45 000.<sup>19</sup>

A Golden Key student who wanted to study Veterinary Sciences is currently busy with a BSc programme at UP because she is not allowed to enrol for the course of her choice. Her application to study BVSc (Veterinary Sciences) was declined repeatedly, and upon enquiring about this, the Head of Student Administration told her that only applicants from the designated ethnic group could apply for admission to BVSc. Page 14 of UP's *Undergraduate faculty brochure of 2024*<sup>20</sup> states: “Designated ethnic groups are interpreted in terms of the Employment Equity Act 55 of 1998 and include black Africans, Coloureds and Indians.” Membership in the Golden Key International Honour Society is extended exclusively to individuals who rank academically within the upper 15% of their class.<sup>21</sup> This international society seeks to motivate hard-working students who excel academically. However, the racial bias exhibited by South African public universities with their racially discriminatory policies discourages top students from applying because their skin colour is more important than their merits. Consequently, this aspiring vet needs to pay for another year of studies in the BSc programme, while students with less academic merits are admitted to commence with their studies in veterinary sciences simply because they have the desired skin colour.

---

<sup>18</sup> Van der Bijl, A. 2023. Solidarity threatens UKZN with legal action. *Politicsweb*, 18 April. Available at <https://www.politicsweb.co.za/politics/solidarity-threatens-ukzn-with-legal-action>. Accessed on 14 June 2023.

<sup>19</sup> University of KwaZulu-Natal College of Health Sciences. 2023. *Doctoral and masters research scholarship for new registrations: 2023*. Available at <https://chs.ukzn.ac.za/wp-content/uploads/2023/02/CHS-Scholarship-advert-1.pdf#:~:text=Doctoral%20and%20Masters%20Research%20Scholarships%20are%20available%20in,citizens%29%20for%20Masters%20%28one%20year%20of%20funding%20only%29>. Accessed on 15 June 2023.

<sup>20</sup> University of Pretoria. 2023. *Undergraduate faculty brochure of 2024*. Available at [up\\_fb-veterinary-science-2024\\_devv15\\_web.zp227869.pdf](https://www.up.ac.za/undergraduate/faculty-brochure-2024_devv15_web.zp227869.pdf). Accessed on 24 April 2023.

<sup>21</sup> Golden Key. 2023. *About GK*. Available at <https://www.goldenkey.org/about/>. Accessed on 25 April 2023.

There was a media storm in February 2023 after AfriForum Youth exposed that the NWU excluded city residences from the annual Potchefstroom campus welcoming function based on the colour of the students' skin. A student council member said that the city residences are not diverse enough, and when they are asked to stand up during the function, it will look too white.<sup>22</sup>

In addition to enduring these distressing real-life situations, students also grapple with a sense of despair as the political landscape in South Africa perpetuates the misguided notion that anti-white racism does not exist.

The political climate in South Africa champions racialism even though the Constitution of South Africa emphasises non-racialism and promotes equality for all citizens, and even though the ruling ANC was founded on the principles of non-racialism.

### **The South African political climate is perfect for racism to flourish**

The ANC government recently promulgated the Constitutional Employment Equity Amendment Act 4 of 2022, which will, among other things, empower the Department of Labour to set race targets for all economic sectors.<sup>23</sup> Blade Nzimande, Minister of Higher Education, Science, and Technology, fails to recognise Afrikaans as an indigenous language of South Africa.<sup>24</sup> More than this, his department, the Department of Higher Education and Training (DHET) has a strategic plan for 2020–2025, which refers to transformation 51 times.<sup>25</sup> The Higher Education Act 101 of 1997 also states that the institutional forum of a public higher education institution must advise the council on issues affecting the institution, including race and gender equity policies.

Systemic racism in South African universities remains active in suppressing the 7,7% white minority and other marginalised groups while granting the 81% black majority an inequitable advantage.<sup>26</sup>

Because of this, AfriForum Youth aims to highlight the importance of introducing a new and non-racial approach to public universities in South Africa.

---

<sup>22</sup> AfriForum. 2023. *AfriForum Youth demands answers from the Puk about racial exclusion*. Media statement on 11 February. Available at <https://afriforumjeug.co.za/en/afriforum-youth-demands-answers-from-the-puk-about-racial-exclusion/>. Accessed on 24 August 2023.

<sup>23</sup> Republic of South Africa. 2023. *President Cyril Ramaphosa assents to Employment Equity Amendment Bill*. Media statement on 12 April 2023. Available at <https://www.gov.za/speeches/president-cyril-ramaphosa-assents-employment-equity-amendment-bill-12-apr-2023-0000>. Accessed on 17 July 2023.

<sup>24</sup> Isaacs, L. 2021. DA: SAHRC must force Nzimande to recognise Afrikaans as an indigenous language. *Eyewitness News*, 28 September. Available at <https://ewn.co.za/2021/09/28/da-sahrc-must-force-nzimande-to-recognise-afrikaans-as-indigenous-language>. Accessed on 20 July 2023.

<sup>25</sup> Department of Higher Education and Training. 2019. *Strategic plan 2020–2025*. Available at <https://www.dhet.gov.za/SiteAssets/DHET%20Strategic%20Plan%202020.pdf>. Accessed on 18 July 2023.

<sup>26</sup> Statistics South Africa. 2022. *Mid-year population estimates, 2022*. Available at <https://www.statssa.gov.za/publications/P0302/MidYear2022.pdf>. Accessed on 24 August 2023.

## Conclusion and policy proposal

AfriForum Youth's main aim with this report is to highlight the ongoing discrimination against a minority community in South Africa and to put forth non-racial policy recommendations for public universities in the country.

A concern arises from the fact that several universities claim to be non-racial, even though they mandate racial self-classification and place considerable emphasis on gathering racial data.

It is crucial to highlight the inconsistency in consistently referring to equity and equality, as such discourse fails to promote true equality in the presence of unequal opportunities for young South Africans.

Other words like "redress" and "transformation" are also misused in a disgraceful manner since no person who lived under the previous apartheid government is younger than 29 years (while apartheid ended in 1994) and is rarely an applicant at a university at present.

In light of the wide divergence between the above realities and the ideal of non-racialism set out in our Constitution, it is necessary to reconsider the suitability of race-based laws and policies – especially in our public universities. This reconsideration will be necessary to cross the divide and bring the grassroots realities in line with the Constitutional ideals of non-racialism.

It is essential to adopt new policies. As such, AfriForum Youth hereby provides the following guiding principles for consideration by institutions in formulating and implementing their policies:

### **1. Abolish racial classification**

Policies must be formulated and implemented fairly and lawfully so as not to perpetuate racial classification or division. Any provision requiring racial classification should be scrapped – regardless of the stated purpose. It must be recognised that racial classification inherently creates the opportunity for racial discrimination.

### **2. Non-racialism is non-negotiable**

To favour someone simply based on their race contradicts the principle of justice. One cannot arbitrarily award benefits or preferences to individuals simply because of their skin colour. Equally, one cannot arbitrarily discriminate against an individual simply because of their skin colour. The proverbial saying, "What's good for the goose is good for the gander" is true – all should be treated equally.



Simply put, non-racialism must be non-negotiable. All policies, practices and directives must be subject to the principles of non-racialism.

### **3. Recognition of non-racialism is a cornerstone of our democracy**

Institutions' policies must give due recognition to the fact that non-racialism is foundational and a cornerstone of our democracy. These policies must reflect that non-racialism is necessary to protect our society's individual liberties and collective progress. Non-racialism is an indispensable element in building a just and equal society.

The policies must articulate and implement the functions and principles of non-racialism in such a way as to ensure that no space can be created for people, institutions, or policymakers to treat individuals differently based on race.

Non-racialism is centred on realising the ethos and principles encapsulated in our Constitution – thereby counteracting and overcoming all forms of racism.

**Hurter Spies Incorporated**  
Reg. no. 2008/009761/21  
Attorneys/Notaries/Conveyancers

**Pretoria-offices:**

Second Floor, Block A, Loftus Park  
416 Kirkness street, Arcadia  
Pretoria, 0007

**Centurion-offices:**

54 Union Avenue (c/o Union Avenue & Kort street)  
Kloofsig, Centurion, 0158

P O Box 14505  
0140 Lyttelton  
Docex 34, Centurion  
Tel : 012 941 9239  
Fax : 012 644 1997

e-mail : [admin@hurterspies.co.za](mailto:admin@hurterspies.co.za)  
Internet : [www.hurterspies.co.za](http://www.hurterspies.co.za)

**Our ref. D Eloff/MAT4736**

**Your ref.**

07 March 2023

**UNIVERSITY OF PRETORIA  
C/O THE REGISTRAR: PROF. CAROLINE  
NICHOLSON**

Cnr Lynnwood Road and Roper Street  
Hatfield  
Pretoria

**INFORMATION OFFICE OF THE UNIVERSITY  
OF PRETORIA  
C/O THE INFORMATION OFFICER:  
PROF T KUPE**

**By e-mail: [informationofficer@up.ac.za](mailto:informationofficer@up.ac.za)**

**By e-mail: [regis@up.ac.za](mailto:regis@up.ac.za)**

Dear Sir/Madam,

**RE: AFRIFORUM // UNIVERSITY OF PRETORIA – REQUEST FOR INFORMATION IN TERMS OF  
THE PROMOTION OF ACCESS TO INFORMATION ACT (NO. 2 OF 2000)**

1. We write to you on behalf of AfriForum, a registered non-profit company and civil rights organisation with more than 305 000 members (hereafter “our client”). Our client is a staunch advocate for the rights enshrined in our Constitution and aims to protect these rights.
2. This letter is addressed to the Registrar of the University of Pretoria (“the University”) as well as the the designated information officer as provided for in the PAIA manual of the University.

3. This letter is sent to the Registrar of the University and insofar as the University deems this request to be a request for access to information in terms of the Promotion of Access to Information Act (hereafter "PAIA") it is also sent to the Information Officer of the University.
4. This letter particularly relates to the continued use of racial classification of students at the University or the obligation placed by the University on students to racially self-classify. Our client submits that the importance of non-racialism given South Africa's racially discriminatory history cannot be overemphasized.

#### **PARTICULARS OF PERSON REQUESTING ACCESS TO INFORMATION**

5. Herewith the full details of our client:
  - 5.1. Name: AfriForum
  - 5.2. Registration number: 2005/042861/08
  - 5.3. Address: 58 Union Avenue, Kloofsig, Pretoria

#### **PARTICULARS OF INFORMATION AND REASON FOR REQUEST**

6. In light of the above, we kindly request on behalf of our client and in terms of Section 18(1) of the Promotion of Access to Information Act, 2 of 2000 (hereafter "PAIA"), to be furnished with the following information and/or records:
  - 6.1. Whether the University has any admission and/or selection policy that requires the racial classification of students and/or applicants applying to be admitted to the University?
  - 6.2. Whether the University requires prospective students to provide the racial classification of their parents and if so, for what reason is this disclosure required?
  - 6.3. Written reasons why the University racially classifies students and/or applicants applying to be admitted to the University, as alluded to in paragraphs 6.1 and 6.2?
  - 6.4. The record of decision relating to the policy documents referred to in paragraph 6.1 to 6.3 above.
  - 6.5. Whether the University offers prospective students the option to not disclose their racial identity?

- 6.6. If so the answer to the above question in paragraph 6.5 is yes, are applications upon which racial classification is not provided considered valid applications, equal in validity to applications where racial classification is provided?
- 6.7. What would be the consequences of an applicant refusing to provide the racial classification information requested by the University?
- 6.8. The procedure and/or policy of how the University determines the race of its students and/or applicants applying to be admitted to the University?
- 6.9. All adopted policy documents of the University where reference is made to race.
- 6.10. Whether the University has an adopted and/or formal position on the constitutional values of non-racialism and equality and if so, what that adopted position is?
- 6.11. How does the University justify the classification of students and/or applicants applying to be admitted to the University in light of the South African Constitution that champions non-racialism and equality?

## **BACKGROUND TO REQUEST**

7. AfriForum's primary bone of contention with any policy of racial classification or racial self-identification is that it keeps the abhorrent practice of the apartheid era's racial classification alive, despite the fact that the Population Registration Act has been repealed for over 30 years. Our client submits that this practice of racial classification is a gross violation of the right to equality as envisaged in our Constitution as well as a violation of the founding values of non-racialism and the rule of law.
8. AfriForum is not opposed to redress as envisaged in the Constitution. However, AfriForum is very much opposed to using the very same approaches and policies that gave rise to the need for redress. Using the same apartheid era racial lenses to view the world will not lead to any substantial or meaningful redress.

9. Non-racialism as a founding value cannot be considered an empty filler in the Constitution, but rather as a substantive underlying value that permeates the rest of the Constitution and particularly the Bill of Rights, and as a result must be regarded with seriousness. As its pedigree shows, non-racialism is framed as the absence of its opposite — racialism or racial prejudice. Thus, non-racialism cannot be achieved without the acknowledgment that its opposite, racialism, actually exists; that its effects should be countered and its power neutralised. Non-racialism cannot imply some form of judicially imposed collective amnesia or feigned blindness. Rather, it must imply that the Constitution is founded on the imperative to counter and surmount racialism by all lawful means.

## **DISCLOSURE**

10. Our client relies on its and its members' rights to access to information, just administrative action, right to equality and human dignity in sending this request for access to information. It, moreover, relies on its rights to transparency and accountability by public institutions such as the University. Our client submits that providing the above requested information is in the public interest.
11. Our client submits that should the records or part thereof contain commercial information of a third party (as per section 36 of PAIA) that the third party's consent to provide the records should first be sought. Should the third party, however, not consent then our client submits that the records should be appropriately redacted to exclude any information that ought to be excluded in terms of section 36(1)(a)-(c) of the PAIA.
12. Similarly, should the records or part thereof contain certain confidential information of a third party (as per section 37 of PAIA) our client submits that the third party's consent should first be sought, failing which the records should be appropriately redacted to exclude any information that ought to be excluded in terms of section 36(1)(a) and (b) of the PAIA
13. Lastly, should the records or part thereof contain information that is deemed mandatorily protected in terms of the PAIA, then our client submits that the records or part thereof should be appropriately redacted to exclude any information which is deemed to be protected, while the remainder of the record is provided to our client.

## FEES AND FORM OF ACCESS TO INFORMATION

14. If the information is in written or printed form our client wishes to request a copy of the information which our client would collect from your offices.
15. If the information consists of visual images our client wishes to request a copy of the information which our client would collect from your offices.
16. If the information consists of recorded words or information that could be reproduced in sound our client wishes to request a transcription of the information which our client would collect from your offices.
17. If the information is held on or in electronic or machine-readable format our client wishes to request a printed copy of the information which our client would collect from your offices.
18. We look forward to receiving your response and to be informed of the decision regarding the above-mentioned request via email at the following addresses:

[johann@hurterspies.co.za](mailto:johann@hurterspies.co.za)

19. Kindly see attached as **annexure A** the signed and completed access to information request form. This cover letter should be read in conjunction with the completed PAIA request form. Furthermore, the power of attorney provided by our client is attached hereto as **annexure B**.
20. Lastly, kindly inform us whether any requester fee is payable and if so kindly provide us with the banking details in order for us to facilitate the payment of the requester fee.

Yours faithfully,



**HURTER SPIES INC.**

Per. Johann Venter

E-mail: [johann@hurterspies.co.za](mailto:johann@hurterspies.co.za)

## FORM 2

## REQUEST FOR ACCESS TO RECORD

[Regulation 7]

**NOTE:**

1. Proof of identity must be attached by the requester.
2. If requests made on behalf of another person, proof of such authorisation, must be attached to this form.

**TO:** The Information Officer

University of Pretoria

C/o Prof T Kupe

(Address)

E-mail address: informationofficer@up.ac.za

Fax number: \_\_\_\_\_

Mark with an "X"

Request is made in my own name

Request is made on behalf of another person.

PERSONAL INFORMATION	
Full Names	Johann Venter
Identity Number	██████████
Capacity in which request is made <i>(when made on behalf of another person)</i>	Attorney of record
Postal Address	PO Box 14505, Lyttelton
Street Address	2nd Floor, Building A, Loftus Park, 416 Kirkness Street, Pretoria
E-mail Address	johann@hurterspies.co.za / eloff@hurterspies.co.za
Contact Numbers	Tel. (B): 012 941 9239      Facsimile: _____
	Cellular: _____
Full names of person on whose behalf request is made <i>(if applicable)</i> :	AfriForum NPC
Identity Number	N/A
Postal Address	(See above)

Street Address	58 Union Avenue, Kloofsig, Centurion		
E-mail Address	(See above)		
Contact Numbers	Tel. (B)	012 941 9239	Facsimile
	Cellular		
<b>PARTICULARS OF RECORD REQUESTED</b>			
<i>Provide full particulars of the record to which access is requested, including the reference number if that is known to you, to enable the record to be located. (If the provided space is inadequate, please continue on a separate page and attach it to this form. All additional pages must be signed.)</i>			
Description of record or relevant part of the record:	(Kindly see attached letter)		
Reference number, if available	N/A		
Any further particulars of record	(Kindly see attached letter)		
<b>TYPE OF RECORD</b> <i>(Mark the applicable box with an "X")</i>			
Record is in written or printed form			X
Record comprises virtual images <i>(this includes photographs, slides, video recordings, computer-generated images, sketches, etc)</i>			
Record consists of recorded words or information which can be reproduced in sound			
Record is held on a computer or in an electronic, or machine-readable form			



<b>FORM OF ACCESS</b> <i>(Mark the applicable box with an "X")</i>	
Printed copy of record <i>(including copies of any virtual images, transcriptions and information held on computer or in an electronic or machine-readable form)</i>	X
Written or printed transcription of virtual images <i>(this includes photographs, slides, video recordings, computer-generated images, sketches, etc)</i>	
Transcription of soundtrack <i>(written or printed document)</i>	
Copy of record on flash drive <i>(including virtual images and soundtracks)</i>	
Copy of record on compact disc drive <i>(including virtual images and soundtracks)</i>	
Copy of record saved on cloud storage server	

<b>MANNER OF ACCESS</b> <i>(Mark the applicable box with an "X")</i>	
Personal inspection of record at registered address of public/private body <i>(including listening to recorded words, information which can be reproduced in sound, or information held on computer or in an electronic or machine-readable form)</i>	
Postal services to postal address	
Postal services to street address	
Courier service to street address	
Facsimile of information in written or printed format <i>(including transcriptions)</i>	
E-mail of information <i>(including soundtracks if possible)</i>	X
Cloud share/file transfer	
Preferred language <i>(Note that if the record is not available in the language you prefer, access may be granted in the language in which the record is available)</i>	

<b>PARTICULARS OF RIGHT TO BE EXERCISED OR PROTECTED</b>	
<i>If the provided space is inadequate, please continue on a separate page and attach it to this Form. The requester must sign all the additional pages.</i>	
Indicate which right is to be exercised or protected	(Kindly see attached letter)

Explain why the record requested is required for the exercise or protection of the aforementioned right:	(Kindly see attached letter)

<b>FEEES</b>	
a)	<i>A request fee must be paid before the request will be considered.</i>
b)	<i>You will be notified of the amount of the access fee to be paid.</i>
c)	<i>The fee payable for access to a record depends on the form in which access is required and the reasonable time required to search for and prepare a record.</i>
d)	<i>If you qualify for exemption of the payment of any fee, please state the reason for exemption</i>
Reason	

You will be notified in writing whether your request has been approved or denied and if approved the costs relating to your request, if any. Please indicate your preferred manner of correspondence:

Postal address	Facsimile	Electronic communication <i>(Please specify)</i>
		johann@hurterspies.co.za

Signed at Pretoria this 6 day of March 2023



*Signature of Requester / person on whose behalf request is made*

**FOR OFFICIAL USE**

Reference number:	
Request received by: <i>(State Rank, Name And Surname of Information Officer)</i>	
Date received:	
Access fees:	
Deposit (if any):	

\_\_\_\_\_  
*Signature of Information Officer*

SPECIAL POWER OF ATTORNEY

I, the undersigned

**MONIQUE TAUTE**

(ID number:                     )

in my capacity as Head: Campaigns of AfriForum NPC (registration number: 2005/042861/08) and duly authorised thereto with chosen *domicilium citandi et executandi* at 58 Union Avenue, Kloofsig, Centurion, Pretoria, 0157.

Do hereby nominate, constitute and appoint:

**HURTER SPIES INCORPORATED**, to be my true and lawful attorney of record to request on my behalf access to any records held by any tertiary institution in South Africa or any other relevant body as the case may be in terms of the Promotion of Access to Information Act, 2000.

**AND** in my place and stead to sign the application form for the request for access to records and all documents necessary in connection with any such action or proceedings;

**AND** to appear and represent me in any court and before all judicial or other offices whomsoever as the agent shall consider advisable;

When necessary, to employ and pay attorneys and counsel to conduct any such action or proceedings;

Generally for effecting the purposes aforesaid, to do and cause to be done whatsoever shall be requisite as fully and effectually for all intents and purposes as I might or could do if personally present and acting herein;

**AND** I hereby ratify and agree to ratify all and whatsoever the agent shall lawfully do or cause to be done by virtue of these presents.

DATED at Pretoria on this 6th day of March 2023.

**AS WITNESSES:**

- 1. Etheand \_\_\_\_\_
- 2. Monique \_\_\_\_\_



\_\_\_\_\_  
**MONIQUE TAUTE**