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Apartheid South Africa as a Case Study for Cancellation of Illegitimate Debt
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The anti-debt movement: forerunner of the anti-globalisation movement

In the 1990s we witnessed a dramatic shift in the balance of forces internationally. This shift followed the collapse of the USSR and the ending of the cold war. The USA as the only remaining super power was able to prosecute imperialist wars in the Gulf, the Balkans, Afghanistan and we now stand on the brink of another war that will probably change the face of the Middle East creating greater levels of destabilisation and insecurity in all parts of the world.

This shift in power was not just geo-political in nature. Free market economics pursued under of the mantle of structural adjustment programmes were rolling back the gains of the national liberation struggles and post independent development in the South. In the industrialised states neoliberal reforms were undermining the welfare state. Just as war is not a natural phenomena, nor is neoliberal globalisation. It is driven by the growing influence and power of finance capital and the transnational corporations, which successfully were able to shift the costs of economic crisis on to the shoulders of the working poor.

However there has been a gradual reawakening of popular mobilisation that has confronted the neoliberal attack on people's living standards in the South as well as in the North. The coming into existence of the Anti Globalisation movement has been a remarkable process and the struggle against the external debt of the so-called Third World countries has been a critically important component of the anti-globalisation movement in all its different forms.

I do not want to spend much time on a history of the anti-debt movement but suffice to say just when a number of experienced anti-debt movement activists were beginning to believe there was not much chance of taking forward the issue of the debt the Jubilee movement and other anti-debt campaigns arose and put the question of the debt on the international agenda and in the South and

North many thousands if not millions of people were mobilised in favour of the cancellation or repudiation of foreign debt.

By mobilising thousands of people in protest at G7/8 meetings, an example and precedent was being set for future broader anti-globalisation demonstrations. In addition the anti-debt movements' critique on the role and consequences of the debt formed a fundamental pillar of the critique of globalisation. Debt was fundamental to the analysis of the oligarchic power of the financial and capital markets around which the ATTAC movements have emerged and grown. I also believe it was the way the anti-debt movement had analysed the role of the IMF and World Bank that served as a powerful metaphor for the analysis of the role of GATT and later the WTO, and around which important global campaigns have been launched. On the basis of these campaigns and movements (and of course countless others) that the power underpinning capitalist globalisation has been challenged and institutions like the WTO, World Bank and IMF are now facing their worst crisis of illegitimacy.

From Democracy to Neoliberalism in South Africa

This process played itself out in South Africa with the formation of Jubilee South Africa in 1998. This followed the move by the South African government to abandon the more or less progressive post-apartheid reconstruction and development programme developed by the popular movement and the ANC. In its stead it developed a home-grown stabilisation policy which we in South Africa know as GEAR, Growth, Employment and Redistribution. In almost all respects it resembled the IMF stabilisation programmes that were imposed on indebted Third World countries. It contained the normal set of fiscal deficit reduction, monetarism, trade liberalisation, privatisation, labour market flexibility and wage restraint policies.

The implementation of GEAR was the clearest examples that a similar shift in power was taking place in South Africa against the expectations of the millions that were mobilised in the struggle against apartheid and racial capitalism. The new South Africa was gradually embracing the interests of South Africa's powerful bankers and industrialists that had grown rich and powerful under apartheid and whose wealth had remained untouched by the ending of apartheid.

In the years since GEAR was adopted and the RDP abandoned more than 500,000 jobs were lost, South Africa has become the country with the fastest HIV/AIDS infection rate in the world, most unequal country in the world and according to official government statistics has seen rising poverty.

For those of us who were at the forefront of the formation of Jubilee, the taking up of the issue of apartheid debt was a means by which we could expose and challenge this shift to neoliberalism and facilitate the coming into existence of a broad movement that could start challenging not just the apartheid debt but also neoliberalism.

The reluctance of the government to challenge the apartheid debt and negotiate its cancellation with its foreign creditors had much to do with the development paradigm and economic strategy it had adopted. Since GEAR depended so heavily on attracting foreign direct investment and appeasing the markets the government was opposed to taking action on debt for fear of “upsetting the markets”. It also did not wish to jeopardise the responsible roles it had been given in the IMF and World Bank.

Apartheid Debt and neoliberalism

Dialectically of course the neoliberal development strategy adopted by the government can equally be seen as a consequence of the debt it had inherited. The sheer scale of the apartheid debt helped convince wavering ANC leaders that belt tightening and fiscal restraint should be the order of the debt. A series of compromises made during the negotiating period and especially in 1993 at the economic level served to open the way for the ANC government’s shift to neoliberal and pro-globalisation policies.

Some of these include agreeing to

- Sign on to the Uruguay Round of the GATT Agreement as a **developed** country and endorse the establishment of the WTO;
- A constitutional guarantee of Central Bank Independence;
- Job Security for Apartheid bureaucrats;
- Constitutional protection of private property as well as **EXISTING** property rights (regardless of how these had been acquired);

As part of the Transitional Executive Council ANC leaders played a central role in signing an IMF balance of payments loan of \$850 million based on a letter of intent that anticipated much of the neoliberal policies of the GEAR.

Perhaps even more significantly the ANC played a central role in October 1993 in negotiating the rescheduling of \$5 billion foreign debt that had been caught in the 1985 debt moratorium. The terms of which were so arduous and disadvantageous that it probably necessitated the IMF loan just a few weeks later

Of course all this was done secretly outside of the public realm and therefore did not elicit a response from within the ANC nor from the popular mass movement. It is worth noting that to this day the terms of the IMF loan have still not been made public by the government. These were breathtaking compromises that have had a profound impact on the nature of the post-apartheid transition.

The agreement to honour the apartheid debt and to take out a loan with the IMF meant that the new government had tied its hands in relation to increasing state expenditure to overcome the legacy of apartheid oppression and underdevelopment. It had committed itself to paying to \$500 million in 1994 alone of apartheid debt and of repaying the entire IMF loan by 1997. Commitment to austerity and honouring its debt burden is well captured by ANC leader and Finance Minister Trevor Manuel when delivering his first national budget he stated:

"The first charge against government revenue is interest on government debt. The bigger our deficit, the more we have to borrow, the higher the interest bill and the less money there is available to invest in social development, in poverty relief and in the development of our human resources. It is for this reason that reducing our debt burden is important. It is important because it will free up the resources we need to create a better life for all. (Budget Speech March 1997)

The Nature of Apartheid Foreign Debt

Just after the launch of Jubilee South Africa. The Director General of the Ministry of Finance in a published press interview denied that South Africa had any apartheid debt. "Apartheid debt – What debt?" she rhetorically replied.

Historically, the Apartheid government made extensive use of its World Bank and IMF credit to fund infrastructure development in the country. These loans ensured the development of the energy sector, which was at the core of mining in South Africa. In fact if you wish to characterise the nature of the South African economy it would be apt to do so in terms of a Mineral – Energy Complex where mining is crucial to the generation of electricity and where cheap electricity is key to deep level mining. In addition loans were used for the development of transport infrastructure and networks, in the iron and steel industries and later the synthetic fuel industries important for overcoming possible oil sanctions. It is necessary to bear in mind how energy and transport were crucial aspects of the Apartheid's militarisation programme. The armaments industry benefited indirectly from these injections of foreign

capital both in terms of the fungibility of credit in relation to the national budget and in terms of funding imports of capital goods that this sector is dependent on.

It was only in 1983 under pressure from the global anti-apartheid movement, that these multilateral institutions stopped lending to apartheid South Africa.

However, inter bank loans and various bonds continued the flow of credit to apartheid South Africa until 1985 when in the midst of the repressive state of emergency the French government announced restrictions on investment in South Africa and a range of US banks refused to roll-over short term loans. The result was the declaration of a debt moratorium by the then South African President PW Botha. After two year of negotiations with its creditors and to the dismay of the anti-apartheid movement and the ANC a deal was made with apartheid's creditors on very favourable terms to the government.

It must be recalled that almost throughout the 1980s the South African economy registered negative growth, and with its main exports such as gold realising less foreign revenue the government was heavily dependent on foreign credit to reproduce the apartheid system. It was also a time of dramatic increase in military spending as the apartheid state embarked on the systematic destabilisation of the Southern African region and repression of growing internal resistance and insurgency. This led to steadily increasing budget deficits and thus greater dependence on credit both external and internal.

By the end of apartheid and the first democratic elections in April 1994 South Africa had a \$20 billion apartheid foreign debt. This does not include a series of sanction-evading credits which were not contained in the official data and which makes the significance of the debt even greater for the "new" South Africa.

Illegitimacy of the Apartheid Debt

One of the most important aspects of the apartheid debt campaign in South Africa is the highlighting of the illegitimate nature of the debt. Internationally this brought into focus a different perspective into the anti-debt struggle which had been predominantly based on the problem of sustainability.

Sustainability, while important in focusing on the impact that debt was having on poor countries and their capacity to attend to the basic needs of their people especially in the fields of education,

health and social welfare, tended to deflect attention from the unequal and unjust relations that underpinned the indebtedness of Third World countries. Sustainability does not consider questions like what was the debt used for, who contracted the debt and on whose behalf, who benefited from and who suffered as a result.

It was by asking these and other related questions that we in Jubilee South Africa could argue that all loans made to the apartheid government are tainted by the criminal nature of the regime and as such must be deemed illegitimate. In our view the burden of legitimacy of any of these loans falls on the creditors to prove. This argument is fairly easy to make given the widespread condemnation of apartheid in a host of international forums including the United Nations, the International Court of Justice, the Commonwealth, Non-Aligned Movement, etc. It would be difficult for any creditor to argue they were unaware of the criminal and undemocratic nature of the apartheid regime. To be sure, many creditors even turned apartheid's odiousness to their commercial advantage. These creditors made super profits on their South African loans by imposing a surcharge to cover both the unpopularity of the regime and the UN strictures on loans to apartheid.

It is in this context that we invoked the Doctrine of Odious Debt. The fit between the Doctrine of Odious Debt and the apartheid debt is so close that it is almost as though the Doctrine was formulated on the basis of the apartheid debt alone. As we know, a debt has to meet two criteria in order to be odious. To qualify under the Doctrine of Odious Debt, a debt has to be (a) contrary to the needs and wishes of the population – especially an indigenous people – and (b) the creditors have to recognise their loans as having been made by a despotic regime for its own very narrow advantage.

It is the illegitimate nature of the apartheid regime and the odious nature of the apartheid system that defines the illegitimacy of the apartheid debt. Also important was the mass struggle and movements that were formed in that struggle both in terms of the national liberation movement and the international solidarity movements mobilised against apartheid and which called for sanctions including financial sanctions that gives legitimacy to Jubilee's argument.

In this regard consider the response of the ANC in 1989 when the banks and the Apartheid government reached an agreement favourable to the government on rescheduling the debt caught in the debt standstill of 1985:

When the time comes, the South African people will not be unmindful of the role of banks in making profit out of the misery of our people.

We in Jubilee have taken up this case precisely because we have become mindful of the role of the banks and the international financial institutions. And we do not do so only in terms of South Africa but because we believe the South African case serves as such a good example for other struggles for the annulment of illegitimate debt whether it is the Congolese debt under Mobutu, the Nigerian, Argentinian, Brazilian and many other military dictatorship debts. The case of Rwanda deserves special attention. Evidence has come to light that shows World Bank loans were used to purchase weapons that were used in the genocide where a million people were slaughtered. The sickening irony is that the new government in Rwanda is being made to repay these loans.

From Odious Debt to Odious Profit and Reparations

As you may know most of the apartheid debt has now been repaid. This has necessitated a shift in strategy by Jubilee South Africa. On the one hand we are now focused on pursuing reparations against those commercial, financial and multilateral institutions that did business with apartheid South Africa. On the other hand we are focussing on illegitimate new loans that the ANC government has taken out in especially in relation to a very large arms procurement deal.

Jubilee South Africa has launched a major reparations claim in US courts. The claim is based on the multi-faceted illegality of the apartheid regime and is directed against US based companies that had apartheid links. The claim is for the profits made from the illegal regime out of the racially legitimised gross exploitation, pain, suffering, & humiliation. Large-scale deaths and torture, aided and abetted by these American companies, also figure in the reparations claim.

There are many similarities between the campaign for reparations and the one against apartheid debt:

- Both are rooted in apartheid being a crime against humanity.
- Both campaigns derive from international law.
- In both cases, neither national governments nor international bodies have enforced international law.
- In both cases, the same US banks are involved.

The crime of apartheid can never be fully costed. One cannot attach a price to the pain, suffering and humiliation caused by apartheid. The dead cannot be brought back to life. Yet, many of the injustices can be quantified individually. Taken together, however, the sum presents a problem.

The sheer size of the number makes it meaningless. For the total comes to an amount way beyond practical expectations. Bhopal, Cape Asbestos and the reparations claim to compensate former slave labourers under the Nazi regime highlight how extraordinary difficult it is to get any compensatory reparations out of large multinational corporations. Full-cost reparations, in other words, is not achievable no matter how compelling the legality or the morality of the claim. Of political necessity, therefore, the amount being claimed can never be anything more than symbolic.

What, then, should the symbolic number be? How should it be set, if it is not to be an entirely arbitrary one? This is where Jubilee's reparations campaign becomes one with its odious debt campaign. Jubilee's position is that the symbolic reparations paid should be based on two calculations. The total loans made by US banks and companies to the apartheid state, including all the loans that have already been repaid, is the first calculation. The second one is based on what would be a new development of the Doctrine of Odious Debt to cover the odious profits made by these US businesses in Apartheid South Africa. The total of these two figures provide a transparent, deeply meaningful yet objectively quantifiable basis for establishing a symbolic number.

Making the symbolic reparations claim equivalent to apartheid's odious debts and profits also have important organisational advantages. Linking debt and reparations simultaneously avoids duplication & potential divisiveness. Furthermore, the linkage ensures that each campaign concurrently builds on and strengthens the other so that the combined campaign exerts sufficient influence for each one to be taken seriously.

This strategic combination applies equally to the international arena. One of Jubilee's strength's in its apartheid debt campaign has been its ability to draw on the international anti-apartheid movements that played such an important role in the defeat of apartheid. The solidarity provided by these international groups can be expected in support of Jubilee's reparations campaign.

Making debt and reparations two strands of one campaign is thus likely to maximise the pressure against the apartheid profiteers and the governments that aid and abet them both within South Africa and internationally.

Conclusion

As we said above we in Jubilee South Africa present our case not as an exception wanting special consideration for the case of apartheid South Africa. We make our case not just in terms of issues related to South Africa but believe that it is a case that can help provide the basis for other countries in Africa and in the rest of the South to develop campaigns against illegitimate debt and odious profit. We do because we think in this way we can help expose how debt has become a tool for domination and subjugation by "**imperialist**" countries and their corporations.

But how do we define illegitimacy. We believe we should define it broadly and not simply in legal terms. In defining illegitimacy of debt we believe it is important to take into account:

- The historical context, i.e. the existing power and economic relations that forced Third World countries into Debt and into the debt trap;
- Conditions attached to loans especially Structural adjustment loans imposed by the IFIs and through which the economic and political sovereignty of independent countries has been eroded;
- The scale of the burden on debt, which leads to genocidal social neglect of the basic needs of the population;
- The many times over the original debt has been repaid and though compound interest and usury poor countries have become exporters of capital to the industrialised nations;
- All the legal, contractual and criminal elements of many loans and which is the basis for the Doctrine of Odious Debt
- And finally the historical, social and ecological debt that the North owes the South and by which the creditors become exposed as the real debtors.

Yes, this is a very broad definition of illegitimacy of debt but it is one we should build our movements around so that we through our mobilisation are able to shift the balance of forces in favour of the oppressed and in all parts of the world. It is in this context that we in Jubilee South Africa have developed our campaign.

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