

Blood money won 't heal victims

COMMENT
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Payment to victims of apartheid is just a short-term solution. An integrated approach to uplift their economic life is what is needed.

Multinational corporations are indispensable partners in the South African nation-building process. Many of these corporations were also instrumental in building the apartheid state.

Herein lies the paradox that has led to a bitter standoff between government and those supporting litigation against US-based multinationals that, despite sanctions, conducted business in apartheid South Africa.

Last Tuesday oral arguments began in a New York court where apartheid-era victims are pursuing reparations said to be in the region of \$400-billion (about R2,4-trillion) from 23 multinational companies.

The South African government is opposed to this action, arguing that it violates the country's sovereignty, jeopardises international investment and subverts what Truth and Reconciliation Commission sought to achieve, namely some measure of closure as a platform for getting on with the all-important task of political and economic reconstruction.

Government paid victims identified by the TRC a once-off sum of R30 000, while the TRC had recommended between R17 029 and R23 023 per annum for six years.

But victims, supported by Archbishop Tutu and several TRC commissioners, argue that renewed legal action is directly in line with the commission's intentions and findings. In a letter to the court, Archbishop Tutu wrote: "The obtaining of compensation for victims of apartheid, to supplement the very modest amount per victim to be awarded as reparations under the TRC process, could promote reconciliation, by addressing the needs of those apartheid victims dissatisfied with the small monetary value of TRC reparations." Victims argue that litigation is a matter between the companies and individual victims and is not relevant to state sovereignty. They contest the opinion that the lawsuit will lead to disinvestment.

Defendants argue that the causal relationship between apartheid crimes and their commercial activities are too tenuous to implicate them in any crime. The victims' rejoinder is that far from merely doing business, companies were active partners in the crime of apartheid.

IBM provided computers to run the hated passbook system. Daimler-Benz and Ford provided armoured vehicles to patrol the townships. Oil companies, when summoned by the late Minister Chris Heunis to his office in alphabetical order and instructed that our petrol pumps must stay

wet, eagerly complied. Barclays provided a cash lifeline to Pretoria. The list goes on.

It is of course the same Barclays that recently bought a 56% stake in Absa promising a R33-billion inflow that could boost South Africa's gross domestic product with as much as 0,5% in the short-term. Government is eager to welcome Barclays back seeing this as providing a boost to the economy.

Exactly where does legitimate investment end and criminal complicity begin?

Internationally, a body of law is slowly emerging to clarify grey areas. These efforts enjoy wide support in the light of the Iraqi war's multibillion-dollar spin-offs resulting in unprecedented levels of corporate involvement in military matters. A long-standing piece of US legislation, the

Alien Torts Claims Act (ACTA), is playing a central role in this regard by enabling plaintiffs, such as apartheid victims, to bring a broad range of international human rights cases to US courts.

In another ACTA case currently running in the US, the Canadian Oil Giant Talisman is sued for genocide in Sudan. Central to this case, as in the apartheid case, is establishing the true extent of Talisman's complicity in human rights violations. The Sudanese army sought to increase oil security through a brutal ethnic cleansing campaign against communities perceived to be sympathetic to government adversaries.

This they did through indiscriminate high-altitude bombing and other measures that systematically destroyed villages,

schools and hospitals in the vicinity of the oil rigs. Allegations are that in this illegal war, the Sudanese army operated from Talisman airstrips, used Talisman vehicles, even strategised with Talisman security experts about which villages to target next.

To rub salt in the wounds, Talisman made over \$1,5-billion profit during their four years in Sudan at a time when thousands died around their operations and millions more were displaced. At the same time oil taxes enabled Khartoum to increase military capacity. As one report says: Dollar for dollar, oil paid for the war in Sudan.

Together with the apartheid case, the outcome of the Talisman case will have a decisive impact on international efforts to curtail corporate impunity in war situations across the globe.

The tenth anniversary of the TRC is highlighting the fact that we are not finished with the past. Victims say key questions about accountability and impunity remain insufficiently answered: Who is to take responsibility for their suffering? Who, consequently, is to be forgiven?

Reluctant as it is to chase away potential investors, the government cannot afford to cultivate the perception that it is indifferent to the plight of apartheid-era victims. The fact that Justice Minister Bridgette Mabandla, when approached in the run-up to last week's court hearing, allegedly refused to meet with victim groups, is not helpful in this regard.

Victim groups face an even bigger challenge: how best to rebuild shattered lives and move on. Financial redress may go some way towards this goal, but is at best only a small part of the solution. The bigger challenge remains full participation in society as empowered and responsible citizens. In this quest business remains an indispensable partner.

Possible payment of reparations by companies, no less than the once-off payment to the victims identified by the TRC, is important. A modest payment can go a long way to relieve the plight of poor families. It is however, not the long-term solution. At worst it is a band-aid on a gaping wound.

The need is for an integrated approach to relief that effectively ensures that economic growth reaches the poor through consultation, job creation and skills training. Above all it requires more effective international regulations to govern corporate involvement in conflict areas.

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