

The „Unfinished Business“ of Apartheid – a pending issue not only in South Africa

In April of this year South Africa has been celebrating the tenth anniversary of Democracy and of the overthrow of apartheid. Yet, the effects of the apartheid legacy are still around and need to be addressed in order to allow the new Democratic South Africa to achieve its aims. The Truth and Reconciliation Commission was one of the tools with which the new Government intended to come to grips with this past. In its recommendations to Parliament the TRC strongly recommended that reparations be paid to the survivors of Apartheid as a means of their restitution and integration into society.

The TRC received more than 1500 victim statements concerning persons who went missing or who disappeared after being forcibly abducted during the period between 1960 and 1994. Some of these cases could be resolved as a result of various amnesty hearings for perpetrators. In 447 cases, some investigations have been conducted, yet without determining the actual fate of the person named. The remaining cases have not been investigated or resolved. For the family members concerned the anxieties and the suffering caused by this uncertainty amounts to a daily torture where there can be no rest, no mourning, no closure as long as the truth has not emerged. This reality is part of the „unfinished business“ of Apartheid.

Khulumani Support Group is a membership organisation of people who are direct or indirect victims of gross human rights abuses. The organisation supports its members to find out what really happened to their beloved ones. Khulumani Support Group also upholds the right of its members to have the wrong done to them acknowledged by those responsible for it. Khulumani helps its members to restore their human dignity that has been affected by the hardships they had to endure, and - in many cases - still endure.

In a paper recently given at the University of Witwatersrand Yasmin Sooka, the former Truth and Reconciliation Commissioner, Director of the Foundation for Human Rights, and Patron of Jubilee South Africa, rightly argued that human dignity has a strong material aspect to it (06-07-2004). How can your dignity be restored if you are unable to get treatment for your suffering from post-traumatic disorder? How can you be reintegrated into mainstream society if you are unable to get employment because of physical or mental disability on account of torture? How can you overcome marginalisation if your family was deprived of a breadwinner and hence no education was available? Restitution may therefore not be separated from the question of reparation for the victims of gross human rights' violations.

Shifting the focus to the victims is what the *Swiss Apartheid Debt and Reparation Campaign* is trying to achieve with the present tour of a representative of Khulumani, Mrs. Elizabeth Sefolo, who is the wife of a brutally murdered husband, and the lawyer Mr. Charles Abrahams. It is about understanding what it means to be a survivor of serious human rights violations, and understanding why reparations are necessary as an acknowledgement of the wrongdoing suffered, and as a redress to the actual material plight. Following Yasmin Sooka, the focus must be on justice for victims, on the unalienable right of the victims to seek justice by asking those international companies who aided and abetted the crime of apartheid to pay reparations. International law provides for this right, as the legal adviser of Khulumani and Jubilee

South Africa, Charles Abrahams will tell you more aptly and competently than I possibly could.

The South African Government has taken a stand against the Apartheid claims by arguing with national interests and issues of sovereignty. However, the right of grossly wronged individuals to seek redress cannot be outweighed by so-called national interests.

Furthermore, the demand for reparation is an important issue in a globalised world where society needs to be empowered to hold international business accountable for their actions. Aiding and abetting criminal regimes is to become risky business once companies and financing corporations may be held accountable in civil litigations. In this sense, the apartheid claims of the Khulumani plaintiffs are of a preventive nature. The risk of being taken to court for aiding and abetting in the commission of gross human rights' violations is meant to eventually prevent business from getting involved in such practices.

There has been a concerted effort by companies and governments, including the Swiss defendants (Credit Suisse and UBS) and the Swiss Government, to portray the lawsuits as a lost battle. This is just wishful thinking. In the recent *Sosa v. Alvarez* case, the US Supreme Court upheld the invoked Alien Torts Claim Act (ATCA) as a means for victims to sue for gross human rights abuses. This is a hopeful development.

The international community of human rights organisations has rallied in defence of the act. There is growing international support for the Khulumani case not only in South Africa, with more than 100 organisations and individuals of international stature including Archbishop Desmond Tutu, Nobelprizewinner Joseph Stiglitz and the renowned lawyer Charles Ogaltree endorsing the Khulumani litigation against multinational corporations.

Mrs. Sefolo and Mr. Abrahams have been invited to Switzerland by the Swiss branch of the International Apartheid Debt and Reparations Campaign. Their visit is about giving a human face to the lawsuits, and allowing their audiences to hear for themselves. Public meetings will take place tonight in Geneva, tomorrow in Basel, and on Wednesday in St. Gall. The meetings are intended to project the otherwise easily overlooked perspective of the victims of Apartheid.

The Swiss Campaign – which is supported by over thirty NGOs, church organisations and relief agencies - has set itself the following objectives:

- We support the inalienable rights of apartheid victims
- As Swiss citizens we demand to know the truth about the various forms of co-operation between our Government and business with the Apartheid regime. -.

I would like to draw your attention to the fact that the campaign has launched its own website where current documents on the apartheid lawsuits will be made accessible. www.apartheid-reparations.ch

06-09-2004

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