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**TITLE: Legislated Restitution: A strategy to address poverty and inequality within South Africa**

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*I'm a pessimist because of intelligence, but an optimist because of will. [1]*

## **Introduction**

This paper is based on the notion of “pedagogy of hope” (Freire, P. 1995, *Pedagogy of Hope. Reliving Pedagogy of the Oppressed*, New York: Continuum) so well articulated by Prof Russell Botman in addressing the challenges at Stellenbosch University. An “optimism of the will” (as the quote above indicates) can, through an inclusive legislative, pedagogic and healing process, be transformed into hopeful actions. Since the majority of South Africa’s citizens claim to be Christian, a faith that is based on the notion of “hope against hope” and is not only concerned with the life hereafter but with transformation now, Christian theology and spirituality can rightfully promote this transformative pedagogic task in South Africa, especially amongst its policymakers but also its people. Christianity also does not permit or promote cheap forgiveness, but a forgiveness, restoration and restitution that is costly.

It is not surprising to the writers of this paper that one of the people who most personifies hope, Archbishop Emeritus Desmond Tutu, should have been at the forefront of promoting such a transformative pedagogy of hope that would lead to a deeper understanding of justice and reconciliation in South Africa, as well as a deeper understanding amongst the people of South Africa. But Tutu is an “intuitive theologian”, a term used by Allan Boesak to describe him (in a private conversation in St George’s Cathedral on 7 October 2011) and therefore he would not necessarily use the words we use in this paper. He also believes in the goodness of people and is disappointed when this is not displayed, but this paper will argue that individual goodness is not enough, and that a societal process towards economic redress needs to be legislated for it to have legitimacy, especially in a context where economic injustice was legislated before.

The purpose of this paper is to highlight some efforts to retrace those transformative steps that need to be taken to reconstruct a new political, social and economic growth path in South Africa, adjusted to the new contextual challenges facing it. We do this cognisant of the fact that these efforts have generally been resisted because our institutional arrangements and the current dominant discourse negates – for whatever reasons – what is fundamentally necessary to build greater co-operation and cohesion. We wish to argue that to give substance to hope, the institutional arrangements need to be transformed in order for South Africa to reach its constitutional mandate.

Unfortunately the economic effects of political crimes, and the way that those who owned the economy and benefited from apartheid, were not part of the mandate of the Truth and Reconciliation Commission (TRC), but it could become part of a new process that would include the deliberate building of citizenship and support for a vibrant and more active citizenry. The re-configuration of the inter-relationship between state, capital and civil society is critical in building a re-imagined and more equal and value-driven South Africa.

It is therefore encouraging to note that the National Planning Commission (NPC) is reverting back to the Reconstruction and Development Programme (RDP) as a guideline for reconstructing our society. Point 4.1.1 of the RDP document refers to the dispossession causal argument, though unfortunately it is silent, just as is the NPC, on restitution as a key element to reduce poverty and minimise inequality. According to the RDP, *“The South African economy is in a deep-seated structural crisis and as such requires fundamental reconstruction. For decades forces within the white minority have used their exclusive access to political and economic power to promote their own sectional interests at the expense of black people. Black people have been systematically exploited and oppressed economically and South Africa now has one of the world's most unequal patterns of distribution of income and wealth. A disproportionate share of the burden of poverty and inequality has fallen on black women who have been subject to systematic gender oppression. Economic deprivation has created a fertile base for the violence and instability now engulfing our country. The ever-changing and destabilising global economy has also adversely affected the local economy.”*

None of this has changed, and the global economic outlook has worsened, putting the majority of black South Africans in a perpetual state of economic depression. This has been inherited over many generations, while the majority of the white population has inherited wealth for several generations as a result of legislation. To arrest intergenerational poverty would therefore require an acknowledgement that a severe injustice has been perpetrated and that political power without real access to the economy will perpetuate the existing cycle.

## **A. A HISTORY OF INEQUALITY**

### **1. Theoretical assumptions**

The developing and ‘acned ’South African teenage democracy is at a place of critical reflection; pondering seriously where it is coming from and where it is going. Today, unlike during the euphoric years following the ushering in of our new democratic order in 1994, the

South African public sees our rainbow nation in shades of grey. The jubilation is somewhat tainted with pessimism, the bliss slightly worn off and the shine of the future much dimmer. Reminiscent of the dark days of apartheid, the masses are protesting in our streets and townships, demonstrating their anger and frustration against a system they believe is failing them dismally. [2]

It is claimed that we have the highest per capita rate of social protest in the world, an average of 10 000 incidents per annum (Bond, 2011) and we ask why? Why, despite our past victories on the political battlefield, are we still in the throes of economic and social injustice? Why have we failed to make any real progress to redress the economic inequalities and injustices which we inherited from the colonial and apartheid era? In short, political and economic achievements, although grand within themselves, did not translate into economic freedoms and human agency.

It is encouraging that the ruling party in particular has woken up to the challenges of eradicating the triple scourge of poverty, inequality and unemployment (Business Report 2012). Suffice to say that we will never be able to achieve this by reverting to the same level of thinking and practice we have had over the past 18 years. A radical shift, new approaches, new thinking and new models of development are indeed needed. The authors are of the opinion that even with our grandiose scientific analyses, we are not in a position to accurately engineer a near-perfect society by 2030.

South Africa and the world, particularly the West, are experiencing tensions, contradictions and different forms and shapes of crises, and grappling with their inability to resolve the crisis of the triple scourge. The general response of the ruling class has not had the desired effects to resolve the crisis at a global level. This inability of the ruling class to respond creatively is echoed by Trevor Manuel when he states that “*the foundations of the global economy have been shaken, but I don't think there is anybody who can put their finger on what actually replaces it*”. (Mapumgubwe, keynote address by Manuel 2012)

The African proverb, *we make the path by walking it* is possibly the best metaphor to describe how we should approach our present gap between thought and practice. Put bluntly, as we do not have immediate alternative authentic solutions to address the challenges facing us, we should not simply be deterred but rather continue to creatively engage in the reconstruction our society. The pessimism of the intellect should not undermine the optimism of the will.

The new millennium has thrown up multiple issues and challenges with large degrees of insecurity and uncertainty, which we believe can only be appreciated and engaged with through a conceptual framework and practice based on critical thinking and analysis of complexity. We need a conceptual framework that has the potential to take us beyond the sterile, mechanical, dogmatic, reductionist, and rhetorical route of analysing our present appalling material conditions.

The fall of the Berlin Wall, the disintegration of the then Soviet Union and China's re-invention of the market, do not mean that we have to abandon sources that are still inspiring in understanding and reading our social relations and conditions, and by implication defending and mobilising ordinary citizens and the poor for a better quality of life.

The work of Antonio Gramsci provides some insight into the type of dynamic and changing world we attempt to reconstruct. It is a framework that takes reflective space seriously and acknowledges that a changing world requires a rigorous changing theory if its interventions are to be effective. We live in a world of complexity where we have to comprehend, identify and respond to the multiple cracks and cleavages this complexity throws up. In essence, the theory and practice of change we work out of, should entail new concepts and new perspectives that deepen the understanding of the historical conditions of our time and constantly provide us with sense-making, not only of a changing historical reality, but, and perhaps more importantly, of how the ruling class are responding to present forms of crises. [3]

A key theoretical assumption in support of the notion of restitution is our philosophical understanding of the concept of democracy. Although democracy is a contested concept, there is agreement among theorists that the term refers to the notion of freedom or liberty. In the next three paragraphs, two notions of freedom, called negative and positive liberty, are described to get a firmer grasp of how our view of democracy would add value to the alleviation of poverty and to the redress of inequality.

The notions of negative and positive liberty are mapped out by Isaiah Berlin in his book, "Four Essays on Liberty". The distinctions being made by Berlin are entailed in the following *The first one, which I shall call the negative sense, is involved in the answer to the question, What is the area within which the subject - a person or group of persons - is or should be left to do or be what he is able to do or be, without interference by other persons? The second one, which I shall call the positive sense, is involved in the question, What, or who, is the*

*source of control or interference that can determine someone to do, or be, this rather than that?* (Berlin 1969, 121-122)

Putting it simply, negative liberty, or freedom, argues for strong limitations on interventions by the state. Positive freedom presupposes the intervention of the state to capacitate individuals and groups to participate meaningfully in a democratic development economy. Positive freedom would claim that many human beings are stunted and debased because of the operant values and *oppressive* institutions in which they are entrapped. It can be further argued that in South Africa in particular, the majority of people, in this case the poor, suffer under conditions of disparity which are contradictory to the exercising of their democratic rights. Perhaps a better way of explaining positive freedom is to associate it with capacity freedom. In essence, the restitution argument will favour positive freedom, as ordinary poor people need many forms of support and capacity, including financial support to lift them out of this abysmal situation of poverty and inequality.

This kind of reasoning could be seen as base and unacceptable and arguably only demonstrate the totalitarian nature of positive liberty. Berlin supports this claim by stating that, “*All forms of tampering with human beings, getting at them, shaping them against their will to your pattern, all thought control and conditioning, is therefore, a denial of that in men which makes them and their values ultimate*”. (Berlin 1969, 137) For a negative libertarian, the only function of the state is to protect individual rights and the individual should not be coerced in any way. The weakness of this plea is that it does not accommodate notions of unintended coercion, which masquerades under different institutional arrangements of society. “*Yet if institutions such as laws of property and contract coerce non-owners incidentally or unintendedly, they still coerce them, and coercion is still the result of arrangements made by other human beings*” (Macpherson 1973:98). Most importantly, unintended coercion in most cases would obviously benefit those who construct the institutional arrangements. In this sense, unintended coercion is extremely dangerous because it is practiced in a discreet manner. Negative liberty restricts participation to the political terrain, whilst positive freedom creates conducive conditions, such as restitution to emancipate the poor.

Though not necessarily a theoretical assumption, it is worthwhile to note that there are inspiring lessons to be learnt from the 2030 Chinese planning project, entitled *China 2030 Building a Modern, Harmonious, and Creative High-Income Society*. The document emphasises that what is important is not only what is to be reformed, but also how to undertake these reforms. Though we recognise that China is a state characterised by an oppressive regime, it has shifted from a command economy to a market-based one and from

an agricultural based economy to an industrial society, with spectacular results. According to the 2030 document, the poverty rate fell from 65% to less than 10%, with 500 million people lifted out of poverty, and all the Millennium Development Goals have been reached or are within reach. South Africa is likely to fail on both accounts (depending on definitions and measuring tools used).

Concurring with Ecumenical Foundation of Southern Africa (EFSA)'s research on the complex relationship between inequality and poverty, China's Gini coefficient, which thirty years ago was close to zero, has risen to 0.47, higher than the United States. The main goal and challenge of China is to take 1.3 billion people from a middle to a high-income status against the backdrop of an ongoing and dangerous global financial crisis.

But, as Glen Ashton writes, the advance of the Chinese socio-economic development has huge implications, for third world countries in particular. In Africa, mega-projects funded by China employ Chinese contract workers instead of local labour. Corporate and nation-funded African land grabs displace self-sufficient local farmers and communities. These are replaced by industrialised farming projects producing bio-fuels or commodity crops for export. Local workers and communities lose in every way. In fact, a third of college graduates are unemployed. (Glen Ashton, SACSIS report, July 2012)

## **2. THE FACTS ON INEQUALITY AND POVERTY**

Extreme concern about South Africa's inequality rating was echoed by the World Bank recently in a report titled *Focus on Equality and Opportunity*. It states that inequality had become a *corrosive* reality and without social grants, 40% of the population would have had a decline in income. It rates South Africa as one of the most unequal countries in the world, with the top 10% of the population accounting for 58% of its income and the bottom half less than 8%. It further shows that 70% of the poorest 20% of South Africans were jobless in 2008. The growth forecast for South Africa has gone down to 2.5% from the 3.1% estimate in November 2011. The country's economy has to grow by more than 3.5% in order to address the unemployment rate of 25.2%, which is also one of the highest in the world. What is at issue is that these dramatic statistics, are an indication of the high risks the country is entering in respect of social and political instability.

## **3. THE CHURCH'S UNDERSTANDING OF THE COMPLEXITY OF POVERTY AND EQUALITY**

The church, through the EFSA Institute, warned the Government as early as 2003, that *the most important single issue facing South Africa ten years after the transition to democracy is breaking the grip of poverty on a substantial portion of its citizens*. Then, the Gini score was 0.6%, it has now increased to 0.67%. [4] The EFSA Institute and the prophetic voice of the church has been interrogating three key questions on the poverty and inequality issue. These are: ‘What is the role of the church, as well as other religious communities, in social welfare and developmental programmes?’; ‘What is the best model of partnership between religious communities and different levels of the state?’; and ‘What models of partnership between religious communities and the business sector could enhance the impact and effectiveness of social programmes?’ In essence, the report, and by implication the church, acknowledge the complexity in addressing the notions of poverty and inequality. In this regard, the following points are worth mentioning:

- a) The quest to roll back poverty and inequality requires multi-dimensional analysis and thinking from all. The enormous moral capital of the church should not be squandered on one-dimensional analysis and thinking. Preferably, it should be used to push the debate forward towards a more holistic approach.
- b) A society with a low level of poverty may still be a society with a high level of inequality. The United States clearly has a lower level of poverty than Tanzania, but it also has inequality.
- c) A fairly equal society may still have a high level of poverty. Many developing countries would have a lower Gini coefficient than South Africa, thus a lower level of inequality, but poverty is much worse. This will partly explain why citizens from those countries migrate to South Africa, some legally and others illegally. Judging by the way that people vote with their feet, inequality with less poverty is more attractive than equality in poverty.
- d) A society in economic take-off will, whilst in the transition from poor to less poor, experience rising inequality. Whilst progress is being made with poverty reduction, inequality may be worsening.
- e) The goal of transforming the ownership and composition of the economy to reflect the country’s demographics more accurately will inevitably entail a worsening of the Gini coefficient within the black community itself.
- f) Poverty and inequality will respond differently to growth. High growth will certainly help to roll back the one (poverty), but it might exacerbate the other (inequality). This confronts policy makers with a brutal choice: which one gets the priority? Under socialism the priority was equality – which ended with everybody being equally poor and societies collapsing. Examples would include Nyerere’s African socialism, the Soviet

Union and countries in Eastern Europe. Under rampant growth philosophies, combating poverty is the priority. The best example of that would be present-day China, Korea, Taiwan and Malaysia.

Let us hasten to say that the prophetic voice has a particular view on the definition of poverty and inequality that is totally ignored by dominant discourses and policy-makers on this issue. We argue that there is a conceptual link between poverty, dispossession, exclusion and restitution. In fact it is almost a *fait accompli* that dispossession on a communal scale without restitution is irreversible. Put another way, one of the central causes of poverty is the legacy of dispossession left by colonialism, slavery and white settlement, particularly in the form of apartheid. Put yet a third way and so well articulated by Andries du Toit (2003: 31) “*the measures required to effect a large-scale and fundamental re-balancing of asset distribution in the short term are unavailable, and certainly unthinkable within the narrow terms of what development agencies and international financial institutions are prepared to imagine*”. The paper argues in favour of restitution, as the net effect of this will afford the poor, among others, “*the resources and capabilities that they need in order to be able to claim rights and entitlements that are theoretically afforded them in democratic society*” (Du Toit 2003: 27)

## **B. RESTITUTION AS A KEY ELEMENT TO REDUCE POVERTY AND INEQUALITY**

### **1. THE SOUTH AFRICAN TRUTH AND RECONCILIATION COMMISSION (TRC)**

The TRC was based on the Promotion of National Unity and Reconciliation Act, No 34 of 1995. With the proclamation of the act, the South African Government envisioned the commission as a mechanism to address the injustices committed by the apartheid regime and the liberation movements during the struggle for power.

Many South Africans had high hopes that the TRC, under the leadership of Archbishop Tutu, would address the injustices that had led to the socio-economic inequalities in South Africa. In the words of the first Minister of Justice of the democratic South Africa, Mr Dullah Omar, the commission was “... *a necessary exercise to enable South Africans to come to terms with their past on a morally accepted basis and to advance the cause of reconciliation*” (Truth and Reconciliation Commission Website: 2009).

In its final report the TRC made pertinent restitution recommendations related to health, housing, education and employment as strategies to address past injustices and the laying of

foundations for lasting reconciliation in South Africa. There was an expectation that the beneficiaries of apartheid would respond generously to the magnanimity shown by those who suffered under apartheid. Very few of these expectations have materialised. There is a range of reasons that can be given for the beneficiaries of apartheid's lack of commitment to restitution but for the purpose of this presentation the authors would like to focus on three specific reasons:

1. The TRC's narrow focus on gross human rights violations and extraordinary violence allowed ordinary beneficiaries of apartheid to escape moral and political responsibility for apartheid.
2. The white community's too narrow understanding of reconciliation.
3. The democratic government's lack of will to promulgate restitution legislation.

## **2. THE NARROW FOCUS OF THE TRC**

The Ugandan born academic, Dr Mahmood Mamdani, believes the TRC wasted an opportunity for real reconciliation because it focussed too narrowly on gross human rights violations and "extraordinary" violence. Through this narrow focus, the TRC has allowed white South Africans to escape moral and political responsibility for terror of apartheid (Mamdani 2009: 470-473; Robins 1998). In this narrow focus on gross human rights violations and extraordinary violence Mamdani (2000:178) argues that the TRC compromised on truth. The truth of the TRC shied away from bringing to light the unresolved tensions between the white minority who benefited from apartheid and the black majority who were victims of apartheid. The TRC did not encourage a social debate on how apartheid affected the personal lives of all the citizens of South Africa. The truth that South Africa needed from the TRC was one that would capture both the violence of the apartheid state as well as the relationship between the victims and the beneficiaries of apartheid. The truth that South Africans received from the TRC was a very selective individualised truth. It only reflected the experiences of a tiny minority of South Africans: that of some perpetrators who, as government agents, violated South African law while relating to political agents resisting the apartheid state, and that of those political agents (Mamdani 2000:178; 2001:59).

Mamdani continues his argument about the narrow focus of the TRC by highlighting that instead of focusing on the minority perpetrators and the minority political victims of apartheid (*à la* the South American model) the South African truth commission should have focussed on the majority of white South Africans who benefited from apartheid and the majority of black South Africans who, in one way or the other, experienced discrimination because of the

system of apartheid (c.f. Mamdani 2000:179; 2001:59). By limiting the truth of the TRC to individuals (the political elite) the TRC enabled the beneficiaries of apartheid to separate themselves from any involvement with the apartheid system (Mamdani 2000:182). It allowed them to put all the blame for apartheid on the shoulders of the few individual perpetrators who testified before the TRC. This response allowed the majority of white South Africans to avoid accounting for the ways in which they have benefited from apartheid whilst rubbing salt in the wounds of black South Africans whose human rights were violated under apartheid.

Mamdani argues further that through this narrow focus of the TRC, it failed to do justice to the victims and beneficiaries of apartheid. The TRC ignored the illegality of the apartheid laws and their negative effects on the lives of the majority of South Africans. It was only the victims of the narrowly defined human right violations who qualified for TRC reparations as acts of restorative justice. The majority of South Africans whose daily lives had been affected by apartheid did not qualify for the same redress. In this way Mamdani (2000:182) proposes that the TRC denied justice to the overwhelming majority of black South Africans.

The TRC also denied justice to the beneficiaries of apartheid. Justice would have required that white South Africans take responsibility for their unjust benefits through apartheid. The privileges they exclusively enjoyed by virtue of their race needed to be accounted for and reorganised in a fair and just way to the benefit of all South Africans. The TRC did not enable this to happen. White South Africans escaped justice by not having been held accountable for unfairly benefiting from apartheid. White South Africans, by virtue of their race, were on the receiving end of cumulative advantage. This advantage came at the expense of black South Africans and was a major contributing factor to the inequality and other social injustices within the South African society. For real reconciliation to take place within South Africa the beneficiaries of apartheid needed to acknowledge their unjust benefits and take responsibility to participate in the creation of a just and equal society (Mamdani 1996:5).

### **3. NARROW UNDERSTANDING OF RECONCILIATION**

In an article titled “Differing interpretations of reconciliation in South Africa: a discussion of the Home for All Campaign” Matthews (2010:1) argues that one of the reasons why white South Africans have not taken more responsibility for benefitting from apartheid is because of a very narrow understanding of reconciliation. She quotes Jody Kollapen (former head of the Human Rights Commission) when he stated that “... *white South Africans see reconciliation and transformation as being in opposition to one another. Reconciliation within the understanding of the white community comes at the expense of transformation*”. Matthews

point out that Kollapen, in contrast, argues that reconciliation should not only be about apologising for the past but should also include commitment to making good the ills of the past. Kollapen believes that the white community's narrow interpretation of reconciliation is problematic as it requires very little from white South Africans.

Matthews builds on Kollapen's argument using the Home for All Campaign as illustration. When the TRC came to a close there was, amongst some white sectors, an understanding that some symbolic gestures were needed to show remorse for the abuse of the past and to address the socio-economic divide within the country (Du Toit 2008; Burton 2008; Matthews 2010:6). This desire culminated in the launch of the Home for All Campaign on 16 December 2000 in St George's Cathedral, Cape Town. The wording of the Home for All Declaration was straightforward and concise: There is an acknowledgement that apartheid greatly harmed black South Africans and 'undermined our common humanity', an admission of the guilt of most (but not all) white South Africans in supporting apartheid, and a recognition of the continuing legacy of apartheid and of the persistence of racism in post-apartheid South Africa. The acknowledgement was followed by a statement of commitment to redressing the wrongs of the past. Alongside the declaration, a Development and Reconciliation Fund was established through which white South Africans could make financial contributions which would then be used to promote development and reconciliation. A website was set up so that people could sign the declaration on-line and also find out more about the campaign. In addition, an initiative was set up whereby skills were matched with needs so that white South Africans could use their skills to help uplift poor black communities (Matthews 2010:7).

This initiative was vehemently criticised and rejected by many different sectors representing white interest. The DA referred to the campaign as fuelling polarisation. The National Party referred to the campaign as engineering collective white guilt as 'a form of permanent psychological enslavement' (quoted in Nagy 2004:720; Matthews 2010:8). The Freedom Front Plus described the campaign as being propaganda for the ANC (Isaacson 2000). The FW de Klerk Foundation rejected the campaign, arguing that the Declaration presented an 'over-simplistic analysis' which would effectively label white South Africans as 'morally inferior' (SAPA 2000e).

The campaign was in the end only signed by 2000 white South Africans (Matthews 9).

Despite the resistance within the white community, the campaign enjoyed general support from the black community. It was even mentioned in the 2001 State of the Nation address by President Mbeki.

Matthews explains the response of the white community to the Home for All Campaign as an indication of how conservative white South Africans really are and how they remain unwilling to take responsibility for the devastating effect apartheid had on the lives of the majority of South Africans (Matthews 2010:10).

#### **4. LACK OF WILL TO LEGISLATE RESTITUTION**

In a review essay titled “Truth and Reconciliation Commission of South Africa Report, Volumes 1-5” (1998) the Dutch Academic Stephen Ellis responded to Mamdani’s criticism of the TRC by suggesting that it is directed at the wrong people. Instead of blaming the TRC for the continued social inequality and racial polarisation, Ellis argues that the criticism would be more appropriately directed at the democratically elected South African government’s inability to ensure delivery on its promises to create a more just and equal society (Ellis 2000:70).

Ellis concludes his article by stating that the onus to bring about justice and reconciliation in South Africa lies with politicians (Ellis 2000:71). They should not only take the criticism expressed by individuals like Mamdani seriously, but should also take responsibility for implementing successful strategies to address the concerns. The South African government has the political power to do so and in the interest of justice and reconciliation in South Africa they should do so urgently. Up till now they have had all the necessary political power to enforce the transformation needed but they have as yet not taken and implemented the difficult decisions that could facilitate restitution and redress.

The time to do so is now.

#### **5. TUTU’S RESPONSE TO THE LACK OF RESTITUTION**

At the 10th anniversary of the South African Truth and Reconciliation Commission (April 2006) the chairperson of the commission, Archbishop Emeritus Desmond Tutu, expressed his anger and disappointment with the lack of response from white South Africans in the ten year period after the Commission’s report: *“A deep sadness has been the fact that, by and large, the sheltered white community has yet to acknowledge and respond to the incredible generosity that has come from the black community”* (Tutu feels let down:1996). Tutu said that although whites had feared retribution when the TRC began its work, most still refused to acknowledge that they had benefited from apartheid and their former leaders still refused to

accept the responsibility for the system or its consequences: *"I just hope that one day, somehow, there will be a way in which to say thank you for not wanting to knock our heads off"* (Tutu feels let down: 1996).

On 11 August 2011 Archbishop Tutu reiterated his frustration with the lack of a restitution response from the white community. At a book launch in Stellenbosch he spoke to the white community: *"You all benefited from apartheid. Your children went to fancy schools, you lived in posh suburbs."* He then called for a "wealth tax" to be imposed on all white South Africans. Tutu said that such a suggestion had been made during the TRC process, and had enjoyed support at the time. He continued by saying *"It could be quite piffling, maybe one percent of their stock exchange holdings. It's nothing. But it could have helped... maybe building new homes, and that would have been an extraordinary symbol of their readiness."* Asked whether he was again calling for a "wealth tax", Tutu said: *"That's what I'm saying."*

Tutu did not say how he wished the tax to be implemented, but said he hoped whites themselves would "agitate" for it to be imposed upon them (Williams 2011; City Press 2011).

## **6. WHITE RESPONSE TO TUTU**

The responses from the sectors representing white interest were overwhelmingly negative.

The Freedom Front Plus stated that calls made by Archbishop Tutu for white South Africans to be taxed were racist and thoughtless. "It borders on the emotional statements of [ANC Youth League president] Julius Malema and does not contribute to the debate on how to address the country's economic problems properly". "It was improper to single out white people as they have contributed disproportionately more to the fiscus than any other group for the past 17 years". "The request for introspection and a greater moral contribution should instead be addressed to the ANC government itself." One of the spokespeople of the Freedom Front Plus said "Tutu's race argument was so much more immoral if taking into account the fact that there were already more than 600 000 poor whites". "Taxes levied on white people will merely be damaging social cohesion and will not contribute anything toward a sustainable economy."

The Business Day, a newspaper representing white privilege, in an editorial said: *"It is hard to fault this morally, even if imposing a racially targeted tax would almost certainly be unconstitutional. But the suggestion is also on shaky ground economically because it appears to accept that the reason poverty has actually worsened in SA after apartheid is that the*

*government doesn't have enough money, when this is simply not true. The real problem is that the state does not have policies, infrastructure or personnel to spend funds effectively. As a result, far too much gets wasted or stolen” (Business Day 2011).*

The FW de Klerk Foundation in a press release stated: *“However devastating apartheid might have been we cannot continue ad infinitum to ascribe everything that goes wrong in South Africa today to the past. Nor can we accept the dangerous idea of racial guilt - or the very unchristian notion that some South Africans are morally superior to others simply because of the race to which they belong”.*

Many white South Africans expressed their total rejection of the suggestion of Tutu in the electronic and printed media. The overwhelming majority of responses to Tutu's suggestion from white South Africans were extremely negative. The electronic and printed media carried a huge number of letters and posts rejecting Tutu's call as racist and totally unacceptable.

But despite the predominant negative reaction a few white individuals publically endorsed Tutu's call:

Fanie du Toit, Director of the Cape Town based Institute for Justice and Reconciliation, responded to the negative responses within white society by posing the question “what alternatives could be proposed that promote reconciliation and a more inclusive, fair society?” He then continued by asking if those that criticised the call of Tutu “think that South Africans have really reconciled, and that those of us who have benefited from the past are now free once again to get on with our lives despite rampant and growing inequality in our society?” (Du Toit 2011).

Prof Pierre de Vos, a well known constitutional law expert, was also supportive of Tutu's call. He wrote on his popular blog site “It is ... an important and welcome idea that must be supported by all right-thinking South Africans with even a smidgen of a conscience or common sense. The tax would be a small gesture towards reconciliation and redress” (De Vos 11). De Vos further alluded to what he thought the reason was for the negative response from within the white community: “The problem is, of course, that some white people – out of shame or ignorance or maybe a bit of both – do not want to admit that white South Africans almost all benefited from apartheid vis-à-vis black South Africans” (De Vos 2011).

Clem Sunter's response to Tutu's call was to suggest that “he should have couched his request in different terms and referred to the super-rich generally as opposed to whites

in particular; but the point he makes about achieving a greater sense of justice and moral probity in our society is as valid here as it is in America.” He espouses the idea of “shared sacrifice” and defines it thus: “Shared sacrifice means something different to what happened when the Titanic sunk and virtually all the seats in the available lifeboats were taken by first-class passengers. It means creating the feeling that rich and poor alike are in the same boat and must share the hardship.”

He then goes on to make two proposals: “I would propose two initiatives in South Africa to turn the principle of shared sacrifice into reality. Both initiatives would apply to people earning more than R1m a year, in other words to the upper income group alone regardless of race:

1. A compulsory annual contribution to an NGO of the individual’s choice which carries out essential work in fields such as education, health, welfare, legal representation and enterprise development in either urban rural areas. Such a move would offset the serious financial pinch that many of our best NGOs find themselves in as a consequence of declining corporate and international contributions. Obviously, like income tax, the contribution percentage could rise as you head into the heavens of millions of rands of income but it would start at an income of one million.
2. A one-off compulsory investment into a venture capital fund of the individual’s choice which is devoted to creating a new entrepreneurial class in South Africa, the objective being to create one million new businesses in the economy by 2020. This will lead to the government’s target of five million jobs by the same date. The size of the investment could be related to either a person’s wealth or income but with the proviso that he or she is earning at least R1m a year.”

The call of Archbishop Emeritus Tutu, however, remains and cannot simply be overlooked. Without a clear response from government, other responses will emerge that might endanger our democracy.

### **What values do we share as South Africans?**

Before looking at specific proposals, we need to examine whether there are values that we share, and whether new words could be used to describe that which we share as South Africans. The word “ubuntu” is often used to express our common humanity as South Africans.

## **SAMEHORIGHEID as an expression of Ubuntu and indaba**

The Afrikaans term “samehorigheid” could possibly assist us to move forward. It has two possible meanings: (1) that we belong together – ons hoort saam, and (2) that we listen together – ons hoor saam. This fits in with the understanding of Ubuntu (that we are human together) and that we ought to talk to and listen deeply to each other (indaba). With these and other rich values that we share as South Africans, we have the foundation to do what needs to be done to ensure that justice is seen to be done. And if we understand that what needs to be done to fight the triple scourge of poverty, unemployment and inequality, needs to be done together (saam) as a communal act (and not simply as individual actions), then we will be on the way to build a society that is less fractured than South Africa is at the moment.

### **3. LEGISLATION OF RESTITUTION**

It is clear from the negative response of the white community to the challenge of Archbishop Tutu that the majority of white South Africans to date do not fully comprehend to what extent they have benefited from apartheid. The majority of white South Africans also do not appreciate that reconciliation necessitates transformation. As long as this is the case there will not be any reasonable expectation for any sincere commitment to restitution. Lasting and sincere reconciliation in South Africa depends on acts of restitution from those who unjustly benefited from apartheid. The only possible solution to this dilemma is for the South African government to use its political power and, in the interest of reconciliation, legislate restitution as necessary for the strengthening of democracy and social cohesion in South Africa.

### **8. MOVING TOWARDS A PROPOSAL**

Our proposal is therefore the following:

- a. That restitution be legislated. Voluntary initiatives were tried and it simply does not have the effect of ensuring that injustice of the past is addressed, and the rejection of it by significant individuals/organisations tends to take away the energy for it. The 20<sup>th</sup> Anniversary of our democracy might be the right time to introduce such legislation, and hopefully Reconciliation Day 2014 could be the day when such legislation could be publicly launched.

- b. The legislation must be crystal clear about its intention (that it is not about revenge but about reconciliation) and must be in line with the Constitution.
- c. It could be prefaced with the idea that there was never any general amnesty given for those who committed economic and social crimes in apartheid South Africa.
- d. It should not be confused with the normal tax being paid at the moment, but should be ringfenced and must be used for extraordinary projects, eg. eradication of all shacks by 2020, eradication of the bucket system, etc.
- e. The express intention of the legislation must be to close the book on apartheid, and we cannot do so without restitution to those who were disadvantaged under apartheid.
- f. If this is broadly accepted, it could even go as far as to say that AA and BBBEE should give way as soon as a target amount (rand value) is reached with the legislation. (Our public representatives could, after consultation with civil society, academics, etc. decide on what this target amount should be, but it should be a significant amount eg. R1 trillion rand).
- g. The funds generated could be held in the Reserve Bank, but the fund should be run by independent leaders in society.
- h. Apartheid was a social act and therefore it must be responded to with something social, not individual. Individual initiatives happening should therefore still be encouraged but seen as separate although complementary from a joint societal initiative. Individual actions could be acknowledged and this acknowledgement could serve as a historical reference point for future generations of South Africans.
- i. The first monies to be paid to the fund must be from corporates that benefited from apartheid and from any corrupt activities that can be traced back from the enactment of the law to at least the beginning of apartheid.
- j. The first monies to be paid from the fund should be used for a generally accepted public goal, eg. the eradication of all shacks from South Africa, putting the public school and health system on par with certain agreed standards, etc. This should be over and above the normal budgeted amounts.

## **9. DETAILS OF THE SAAM PROPOSAL**

For the moment we will not go into too much detail of the proposal and how we think it should be managed, save to say that it is about South Africans All Moving (SAAM) together. Beyond symbolic and sport events, we must actualise this togetherness in concrete terms so that next generations do not have to deal with this question.

What is different from what Archbishop Tutu has proposed is that:

- (a) This is legislated and
- (b) This is not something to be contributed to by individuals only, but especially by corporate groupings and recouping of money from corrupt activities of the past 70 years.

Organised white community groupings will probably continue to resist it, and for that reason it should be taken to public representatives who have been elected to effect national reconciliation. Civil society should be consulted to contribute to the writing of this legislation and to ensure that this is enacted by the time we celebrate the 20<sup>th</sup> Anniversary of our democracy. If public representatives refuse to give urgent attention to this, civil society should – because of the moral nature of what is being proposed – continue to draft the legislation and present it to Parliament as soon as possible.

## NOTES

1. Mick Hume, editor-at-large of *Spiked*, in a speech given at the **Battle of Ideas festival** on 30 October 2010, said the following of this motto of Gramsci. Pessimism of the intellect does not mean always looking for the worst-case scenario, as many tend to do today. It means rather seeing the world as it is, rather than as we would like it to be or as others fantasise. It means accepting nothing at face value, doubting all that we are told, and questioning everything, not in the spirit of cynicism but of scepticism. But always, pessimism of the intellect needs to be underpinned by optimism of the will. That means a belief in the human capacity to meet new challenges, overcome them and move society forward - not a naive Stalinist ‘Forward ever, backward never’ attitude, but a confidence that man can make his own history, even if not in circumstances of his own choosing. Yet that optimism of the will seems to be in short supply today. Many have lost faith in humanity as a history-making agent. ....it is Man who is on the critical list today, at least as a political agent of progressive change.
2. According to the 2001 census the overwhelming majority of South Africans, or 79.8%, are Christian. The independent African Zion Christian churches predominate, being the faith of 15.3% of the total population, and 19.2% of all Christians. Roughly 15% of the population have no religion, and 1.4% are undetermined about their faith. Islam is the religion of 1.5% of South Africans, Hinduism that of 1.2%, African traditional belief 0.3%, Judaism 0.2% and other beliefs 0.6%.  
<http://www.southafrica.info/about/people/population.htm>

3. A conversation between Vernon Weitz and Merlinda Abrahams, during the latter's internship at the Community Development Resource Association [CDRA], August 2011.
4. Viswas Satgar and Michael Burrawoy, both from the University of the Witwatersrand, have written some interesting notes on Gramscian thought and working class struggles in Amandla magazine.
5. We have quoted extensively from Breaking the grip of Poverty and Inequality in South Africa 2004-2014, Current trends, issues and future policy options, Executive Summary, Co-ordinated by J P Landman, with the assistance of :Dr Haroon Borat, Development Policy Research Unit, University of Cape Town, Prof. Servaas van der Berg, Department Economics, University of Stellenbosch, Prof. Carl van Aardt, Bureau of Market Research, Unisa, Pretoria, December 2003.

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