Challenging Apartheid's Foreign Debt

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South Africa's widely commended Truth & Reconciliation Commission has a blind spot. Surprisingly, no attention appears to have been given to the foreign corporations, individual investors and Western governments that helped create and sustain the racial dictatorship which came to be known as apartheid.

The Cape Town-based Alternative Information & Development Centre (AIDC) undertook a study and produced a report on a strategy for challenging the foreign debt incurred during the apartheid era but which democratic South Africa is now expected to pay. The Report, located in the search for truth and reconciliation in South Africa, seeks to address the omission of apartheid's international face. Post-apartheid South Africa has inherited a foreign debt of $18.7 billion (some R90 billion). The dominant view amongst economists and politicians is that this sum presents no special problem. According to the measures most economists use in such matters the foreign debt is not a course for concern.

The AIDC's Report challenges this complacency on three grounds. First, R90 billion is an awful lot of money for the vast majority of South Africans who, in varying degrees, remain deprived of the basic necessities of life. Any unnecessary and unjustifiable diversion of resources away from meeting these needs has to be opposed and stopped. Second, the balance of payments, which is already near to the danger zone, might not be able to bear the additional burden of the debt repayments. These repayments, of between $1.5 billion and $2.6 billion a year for the period 1997 to 2001, are more than enough to create a balance of payments crisis. Morality and international law provide the third basis for challenging the debt.

Morality and international law lie at the heart of the AIDC's strategy. The Report revisits the Doctrine of Odious Debt, a doctrine of jurisprudence the US Government and US Chief justice helped develop. The US Government, in the aftermath of the American-Spanish War of 100 years ago, used the doctrine to repudiate Cuba's debt to Spain. The US Government argued that the debt was "odious" and unenforceable since it had been incurred without the consent of the Cuban people and by means of force of arms. The US Government further maintained that the creditors knowingly took the risk of investment when they made the odious loans.

In 1923, the Royal Bank of Canada sought to recover debt from the recently established democratic government of Costa Rica. In the Costa Rican submission, the debt was illegitimate. The new government argued that the debt has been incurred by a dictator not the people of Costa Rica; the submission being that, at the time the loans were made, the people had been engaged in a political and military struggle to bring democracy to their country. The case was heard by Chief Justice Taft, of the US Supreme Court. Taft, sitting as arbitrator, fully upheld the repudiation of the debt.

The legal authority who did most to codify the Doctrine of Odious Debt was the émigré Russian, Alexander Sack, while he was a Professor of Law in France. It was his opinion that governments invoking the doctrine would be required to prove that the debt ill-served the public interest and that the creditors were well aware of this. Provided these proofs were met, the onus would be on the creditors to show that the funds were utilized for the benefit of the country. If the creditors could not do so before an international tribunal the debt would be unenforceable.

Using Sack's principles, the Report argues that all debts incurred during the apartheid years are illegitimate because the apartheid regime itself was illegitimate. The UN and the International Court of Justice were the most authoritative of the wide range of international bodies that proclaimed apartheid to be a crime against humanity.

Apartheid loans came from three sources: the IMF/World Bank, foreign private commercial banks and individual speculators in various countries around the world. The Report shows how each of these three groups actively and continuously supported apartheid and worked to undermine the international campaign to free South Africa from its racial dictatorship.

The Report's central proposition is that the democratically elected government of the new South Africa should invoke the Doctrine of Odious Debt and should then enter into negotiations with the creditors for the cancellation of all the foreign debt from the apartheid years.

The Report recognizes, however, that even if sympathetic to the claims of democratic South Africa, the banks and their governments would probably balk at the precedent it might set for countries with debt burdens much greater than South Africa's. The strategy, therefore, anticipates the need for international solidarity action in support of democratic South Africa and suggests that the people who formed the anti-apartheid movements around the world would be a natural initial constituency to promote such action.

The Report further calls for the internationalization of both Affirmative Action and South Africa's universally praised Truth & Reconciliation program. It invites the outside world — more especially governmental and business forces in Britain and elsewhere — to acknowledge their own long role in the creation, development and defense of what eventually came to be known as apartheid. Moreover, many shareholders, speculators and ordinary citizens in the West benefited, whether directly or indirectly, from the very features that helped make apartheid a crime against humanity. The injustices inherited from apartheid that Affirmative Action is supposed to redress thus also have an international dimension.

The Report acknowledges that the debt cancellation might well have a price-tag for a number of Western citizens, not just large, anonymous and enormously wealthy transnational banks. The document suggest that the debt cancellation should also be seen as a form of reparation. By canceling the debt, the banks, governments and peoples of the West would be acknowledging their debt — both financial and moral — to the oppressed people of South Africa and that this acknowledgment would in effect be the West's acknowledgment of its responsibility before the Truth and Reconciliation Commission.

The Report acknowledges that similar arguments can be made for the cancellation of the internal debt that the beneficiaries of apartheid passed on to democratized South Africa. Tackling the bigger internal debt, however, requires further research and would be a logical consequence of the settlement of the foreign debt. The AIDC is currently addressing this aspect of the debt problem.

The Report asks what would happen if South Africa falls in its attempts to negotiate the cancellation of its foreign debt. In this event, the strategy calls upon the South African Government to be prepared to invoke the Doctrine of Odious Debt unilaterally. The strategy anticipates that the government will almost certainly need to be encouraged to take such a unilateral measure. Should South Africa's negotiators be left with little option other than unilateral implementation of the Doctrine of Odious Debt, the proposal is for a campaign by civil society to urge the government to take such a step.

The Report predicts an outraged response from business and some politicians in South Africa to any move that challenges apartheid's foreign debt. These sources, it says, will seek to terrify the South African public with dire warnings of economic collapse. Debt repudiation, according to these predictions, will result in South Africa alienating such powerful institutions as the World Bank/IMF and "being cut off from international capital." To allay these fears — and thereby also to facilitate the mobilization of civil society — the document brings three certainties to the caution it acknowledges. These certainties are:

- the manifest failures of the World Bank/IMF policies elsewhere in the world and particularly in Africa;
- the fact that the South African economy survived the unilateral debt freeze that the apartheid government actually imposed in 1985;
- and the clear inability of the Government's existing macro-economic policy, with its focus on "foreign investor friendliness" to address the basic needs of the majority of the population.

The document draws attention to three precedents: the Government of the new South Africa unilaterally canceling the debt owed to South Africa by Namibia and doing so because of the immorality of the debt;

and the Paris Club of western creditor governments canceling a large part of the debt owed by Poland and Egypt.

The Report ends on a note of urgency. Apartheid's debt is being paid back now. The strategy to challenge apartheid's foreign debt is seriously weakened by time. The need is to act now.

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Preface

Be Reasonable — Demand the Impossible![1]

The AIDC's brief is nothing if not audacious: provide a strategy to challenge the foreign debt dumped on the new South Africa by the apartheid State. The problem of the foreign debt and the need for a counter strategy is recognized by only a tiny number of small organizations. But it wasn't always thus. From today's vantage point it might be hard to remember that it was once fashionable to be bold and that this practice went out of fashion only a few years ago. During the late 1980s to early 90s, when the apartheid order was everywhere crumbling, people were encouraged to be daring. Yet this flowering of radicalism, that covered a large number of the most creative of the intellectual activists, failed to produce a strategy challenging the foreign debt. Slogans were not in short supply. Only a coherent and developed plan was missing.2 A handful of these intellectual-activists are still with us today; but, in the spirit of the new age, the most they are now prepared to offer are passing and vague calls for the debt to be rescheduled.

Methodology

The study is based entirely on a trawl through secondary sources. The material used comes principally from the South African Library and the library of the University of Cape Town. Time constraints made these restrictions unavoidable. But the nature of the study itself, together with the richness of the secondary sources, made original research unnecessary. This study is not an academic exercise so much as a policy document of consideration and, hopefully, implementation. Technical complexities and what might be considered to be "finer points" are generally out of place in an action-directed study. So, too, are references. References will thus be kept to the best minimum and will be used only in instances where facts or conclusions may be contentious or little known. Intellectual rigor, coherence and consistency are nonetheless amongst the key criteria against which the document must be measured. These criteria are especially important, because, as we need constantly to remind ourselves, the facts to which we anchor our particular world views are invariably dismissed as false by those holding contrary views.

Style

Two objectives shape the style adopted. The first one is brevity. Length intimidates (most) people who have been deprived of an adequate education. On the other hand, those who are comfortable with large amounts of text are usually so busy keeping pace with the volume produced by the information age that lengthy documents outside their narrow field tend to be put to one side.

Brevity dictates that, with one exception, the Report looks, in any depth, only at those areas where the available material is scattered or where memory loss has been encouraged for ideological purposes. Marx once apologized for having written a long letter because, he explained, he hadn't the time to write a short one. I intend making the time to avoid Marx's problem.[3]

The second objective regarding style is clarity. Here I can do no better than quote Beatrice Wright who advised Eric Wright:

> *You must learn to write in such a way that it will be as easy as possible for your critics to know why they disagree with you.*[4]

Apartheid's Foreign Debt

Apartheid's foreign debt refers to foreign loans and credits received before the establishment of the Transitional Executive Council in December 1993 that have still to be repaid. A country gets into foreign debt by borrowing from two elements: the national government and the private sector. Governments borrow (a) from the he World Bank and foreign, private commercial banks in order to help pay for projects that they cannot afford from their own resources; (b) from the International Monetary Fund (IF) when they don't have enough money — in internationally recognized currencies such as dollars — to pay for all the imports that come into the country; and (c) through selling bonds on the international money markets. Private sector borrowings are either for speculative money market purposes or for payment to foreign suppliers of imported goods. Domestic banks are heavily involved in private sector borrowings. In South Africa these borrowings consistently exceed those of the government.

Very few people seem to be concerned about our foreign debt nowadays. Could this apparent indifference have anything to do with the size of the debt?

Size

Lack of attention to the foreign debt is almost certainly a (partial) consequence of what is perceived to be its small size relative to the total public debt.[5]

The approximate size of the total foreign debt at December 1993 was $20 billion. What is important to bear in mind is that the debt is measured in US dollars even though some of the loans were issued in other currencies. This means that over the years the rand's devaluation against the dollar and the dollar's decline against currencies such as the German Mark and Swiss Franc greatly increase the size of the original debt. The debt is currently just short of R90 billion.

Don't Panic!

R90bn certainly sounds like a log of money. Most economists are not alarmed, however. Economists around the world measure foreign debt in terms of the ratios of the debt to either gross domestic product (GDP) or exports. The South African debt is well within what is considered to be acceptable limits.

— Unless You're Poor

For South Africans deprived of the basic necessities of life — work; land; shelter; clean, potable water; electricity; transport; education; health care, etc. — R90bn is somewhat more than an economic ratio about which there is no need to lose any sleep. That most South Africans are, at best, inadequately covered by these basic needs merely adds to the vital importance of R90bn, notwithstanding the economists who are so sanguine about the foreign debt. R90,000,000,000 has so many noughts that it becomes a measure beyond the scale of understanding for most of us. A comparison with the national budget for 1997-1998 and some RDP costs should help make it easier to understand what all those noughts mean in practice, even though the measures are not strictly comparable.

National Budget

The total national budget for 1997-1998 is R186,7 billion. The foreign debt of R90 billion represent almost half what government ill spend this coming year.

Education - R40.2 bn	Health - R20.2 bn	Social Security & Welfare - 18.4 bn
Housing - 4.1 bn	Water - 1.8 bn	Interest - 38.5 bn

The interest on the total government debt, which is almost entirely debts incurred under apartheid, is 38.5 billion. The second largest expenditure item in the budget.

RDP estimates

The table below gives an idea what R90 billion can buy:

300,000 new homes - R10 bn	Electrification of 2.5 million homes - R11 bn over 5 years
Water and sanitation for 21 million people - R36 - R56 bn over 5 years	1060 new clinics - R1.2 bn
Total cost to employ all unemployed - R82.8 bn per annum	Upgrading 50,000 classrooms, rehabilitating 20,000 schools, building 77,000 new classrooms by the year 2000 and providing schools with textbooks R15 to R17 bn

— Or Concerned About the Balance of Payments

Some mainstream economists do voice grave concern over one aspect of the foreign debt. The country is on the brink of a balance of payments crisis. Current gold and foreign exchange reserves provide cover for only about 1 month's imports. Yet economist (including those who are happy with our debt ratios) accept that reserves should cover at least 3 month's worth of imports. The Government is scheduled to repay between $1.5bn and $2.6b a year until 2001. $2.6 billion amount is due in 1997 unless roll-overs are negotiated.[6]

Add the above (relatively small) debt repayments to the equation and South Africa faces the very real prospect of a balance of payment crisis. The financial press reports on this looming problem from time to time. The Government and its advisor s continue to play dumb, however.

— Or Alarmed by IMF Remedies

A balance of payments crisis, aggravated by foreign debt repayments, may push the government into the arms of the IMF. IN this event, the cost of borrowing from the IMF, in order to pay for the trade deficit, may well have to be acceptance of an IMF Structural Adjustment Program (SAP). If anything like other SAPs, the surrender of our sovereignty to the IMF will make the lives of most South Africans even harder than at present. This pint is revisited in due course.

A Problem in Need of a Remedy

What all this means is that the foreign debt is something only a few of us can afford to ignore and that it takes self-protective blindness not to see the debt as a problem. Reaching this conclusion is only the first step, however. The next — and bigger — challenge is to find an answer to what, if anything, can be done about the matter.

Odious Debt

At a time when the anti-apartheid forces were at their strongest there was talk of unilateral repudiation of the debt. However, even in those heady days, such talk was more posture than practical politics. Evidence for this observation is that repudiation was never part of any program adopted by the ANC, UDF, COSATU, the SACP. Indeed, no representative organization seems to have unambiguously adopted debt repudiation as official policy.

In the changed climate of today's South Africa, unilateral debt repudiation is not even a slogan. As previously mentioned, the most one hears nowadays are calls for the debt to be renegotiated.

There is a third option, however. And that is to have the debt canceled by; international agreement. What is more, a long- standing legal doctrine exits that allows for precisely this outcome.

The US Precedent[7]

Almost 100 years ago, having used military might to seize control of Cuba from Spain, the US unilaterally repudiated the debt Cuba had accumulated with Spain. The US justified its action by invoking what at the time was still the somewhat vague Doctrine of Odious Debt. The US successfully argued that so the called "Cuban debt" was unenforceable legally and morally because it had been

> imposed upon the people of Cuba without their consent and by force of arms (and) was one of the principal wrongs the termination of which the struggles for Cuban independence was undertaken.

The US further argued that much of the debt had been incurred for the purpose of crushing attempts by the Cuban population to free themselves from Spanish domination. This made the objective of the debt contrary to Cuba's interest.

> They are debts created by the Government of Spain, for its own purposes and through its own agents, in whose creation Cuba had no voice.
>
> For this reason, the debt could not be binding on the successor state, the US maintained.

As for the lenders, the US argued that

> the creditors, from the beginning, took the chances of the investment. The very pledge of the national credit, while it demonstrates on the one hand the national character of the debt, on the other hand proclaims the notorious risk that attended the debt in its origin, and has attended it ever since.[8]

The main burden of the US case was that the debt was unenforceable not because it imposed an excessive burden on the successor state but because the debt was contracted for illegitimate purposes by illegitimate parties.

The Bolshevik Revolution and the Codification of the Doctrine of Odious Debt

The new Soviet government unequivocally decreed in 1918:

> All foreign loans are hereby annulled without reserve or exception of any kind whatsoever.[9]

Borrowing a central argument that the US had used so successfully in its claim that the Spanish debt was odious, the Soviets maintained that the debts it inherited were the personal ones of the Tsar and his government and could not, therefore, be transferred to the Soviet government.

This Soviet action was seen as a challenge to the integrity of international finance and the sanctity of international law. According to this view, the Soviet action showed how the Doctrine of Odious Debt could be abused by self-seeking interpretation. To avoid further instances of what was considered to be arbitrary repudiation of debt, Alexander Nahum Sack, a former Minister of Tsarist Russia and, after the Russian Revolution, a professor of law in Paris, wrote two major works on the obligations of successor systems: *The Effects of State Transformations on Their Public Debts and Other Financial Obligation* and *The Succession of the Public Debts of the State*.

Sack firmly upheld the general principal of the enforceability of public debts. Without strong rules enforcing this principal chaos would reign in relations between nations, and international trade and finance would break down. But Sack believed that debts not created in he interests of the state should not be bound by this general rule. Some debts, he said, were “dettes odieuses.”

> If a despotic power incurs a debt not for the needs or in the interest of the State, but to strengthen its despotic regime, to repress the population that fights against it, etc., this debt is odious to the population of the State.
>
> This debt is not an obligation for the nation; it is a regime’s debt, a personal debt of the power that has incurred it, consequently it falls with the fall of this power.
>
> “Odious” debts, incurred and used for ends which, to the knowledge of the creditors, are contrary to the interests of the nation do not…fulfill one of the conditions that determine the legality of the debts of the State…The creditors have committed a hostile act with regard to the people; they can’t therefore expect that a nation freed from a despotic power assume the “odious” debts, which are the personal debts of that power.[10]

Sack proposed that henceforth Governments invoking the Doctrine of Odious Debt would be required to prove that the debt ill-served the public interest and that the creditors were aware of this Sack declared:

> When a government incurs bets to subjugate the population of a part of its territory or to colonize it with members of the dominant nationality, etc., these debts are odious to the indigenous population…[11]

Provided these proofs were met by the successor government, the onus would be on the creditors to show that the funds were utilized for the benefit of the country. If the creditors could not do so, before an international tribunal, the debt would be unenforceable.

A clear precedent, based on Sack’s submissions, was provided by Chief Justice Taft of the US Supreme Court. Sitting as arbitrator in the 1923 case, Great Britain vs. Costa Rica, Chief Justice Taft upheld the Costa Rican Law of Nulleties. This law, passed by the successor government to the dictatorship of President Tinoco, drew on the Doctrine of Odious Debt to repudiate the debts entered into between the fallen dictator and the Royal Bank of Canada. Chief Justice Taft’s ruling decided:

> The transactions in questions…were made at a time when the popularity of the Tinoco Government had disappeared, and when the political and military movement aiming at the overthrow of that Government was gaining strength…The case of the Royal Bank depends not on the mere form of the transaction but upon the good faith of the bank…It must make out its case of actual furnishing the money to the government for its legitimate use. It has not done so…The Royal Bank of Canada cannot be deemed to have proved that the payments were made for legitimate government use. Its claim must fail.[12]

In 1982, lawyers at The First National Bank of Chicago warned lenders of about making loans that ran the risk of falling foul of Odious Debt Doctrines and precedents. They reminded financial institutions that:

> The consequences of a change of sovereignty for loan agreements may depend in part on the use of the loan proceeds by the predecessor state. If the debt of the predecessor is deemed to be "odious," i.e., the debt proceeds are used against the interests of the local populace, then the debt may not be chargeable to the successor[13.]

The lawyers warned that although the intended use of loans or credits is usually indicated in bank loan agreements the use described is often too general to ensure that the loan benefited the people and thus ensure the enforcement of the debt repayment. The lawyers drew further attention to the fact that the loan documents rarely restrict the money's use. The accordingly advised:

> Commercial banks should be alert to the danger of […Odious Debt Doctrines]. Because successor governments have invoked doctrines based on an "odious" or "hostile" use of the proceeds, lenders should describe with specificity the uses of the loans proceeds and, if possible, bind the borrower by representation, warranty, and covenant to those uses[14].

In her exposition of the Doctrine of Odious Debt, Patricia Adams concludes with an observation that is particularly germane for the apartheid debt:

> Lenders who finance the arming or enrichment of despotic rulers and the suppression of popular insurrections — as the Spaniards discovered with their Cuban debts — have no guarantees of protection from international law…For years bankers have not exercised the vigilance that would make state debts lawful. The consequences could be breathtaking: the Chase Manhattans, Lloyds and Ex-Im banks might find that their Third World loans were uncollectable, except from the personal estates of the Marcoses and the Mobutus who contracted them[15].

The Stench of the Apartheid Debt

The Doctrine of Odious Debt arose centuries before formal apartheid and underwent its development in jurisprudence without the slightest recognition of apartheid. Yet the Doctrine matches the circumstances of the apartheid state so perfectly that is almost as though Odious Debt was established in law with the express purpose of allowing the first democratic government in South Africa to repudiate the apartheid debt it inherited.

The Doctrine has two main aspects, as we have just seen: the legitimacy of the borrower's purpose in seeking the loan and whether the lender was recklessly indifferent to the status of the contracting state. Both of these aspects warrant closer examination contextualized in apartheid South Africa.

(I) The Illegitimacy of Apartheid

The question whether a loan was sought for legitimate purposes has an entirely unequivocal answer during the apartheid era. No loan could have had a legitimate purpose during the apartheid years because apartheid itself was illegitimate. Moreover the illegitimacy of apartheid was affirmed and repeatedly re-affirmed by every relevant international forum. The United Nations (UN) and the International Court of Justice (ICJ) were the most significant of the international bodies that pronounced on the illegitimacy of the apartheid state. Beginning in 1973, the UN repeatedly found apartheid to be a crime against humanity. The apartheid sate was additionally a persistent and extensive violator of a least for legally entrenched international obligations. These obligations were:

Self Determination

In 1970 the General Assembly (GA) of the UN unanimously adopted the Declaration on Principles of International Law Concerning Friendly Relations & Co-operation among States in Accordance with the Charter of the United Nations (hereinafter referred to as the Declaration on Friendly Relations). In terms of this Declaration all member states agree that self-determination is a legal right with corresponding legal obligations:

> …all peoples have the right freely to determine, without external interference, their political status and to pursue their economic, social and cultural development, and every sate has a duty to respect this right in accordance with the provisions of the Charter.[16]

The Declaration defines the right of self-determination as, inter ail, the right of people in independent and sovereign states to be ruled by a

> …government representing the whole people belonging to the territory without distinction as to race, creed or colour.

The blank majority in apartheid South Africa constituted a "people" for purposes of self-determination. It accordingly follows that, as long as black South Africans were denied the right to determine their own political future, the apartheid state failed to fulfill its legal obligations in respect of self-determination.

(b) Human Rights

The UN Charter binds member states to promote and encourage respect for human rights.17 The Charter further imposes a legal obligation on member states to take joint and separate action to promote

> …universal respect for, and observance of human rights and fundamental freedoms for all without distinction as to race, sex, language or religion.[18]

The human rights member states are pledged to observe are set out in the Universal Declaration of Human Rights of 1948. Apartheid deliberately and explicitly violated many of these rights, especially the human right not to be discriminated against on the grounds of race and color. As the International Court of Justice (ICJ) observed in the case in which it found that South Africa was in illegal occupation of Namibia:

> To establish…and to enforce distinctions, exclusions, restrictions and limitations exclusively on the grounds of race, color, descent or national or ethnic origin, which constitute a denial of fundamental human rights, is a flagrant violation of the purposes and principles of the UN Charter.[19]

(c) Destabilization of Southern Africa

Article 2(4) of the UN Charter requires states to refrain from the threat of use of force in their international relations. Article 2(4) further prohibits the following state conduct, according to the General Assemble (GA) of the UN:

> Organizing or encouraging the organization of irregular forces or armed bands, including mercenaries, for incursion into the territory of another State
>
> …Organizing, instigating, assisting or participating in acts of civil strife or terrorist acts in another State or acquiescing in organized activities within its territory directed towards the commission of such acts…[20]

Moreover, the ICJ has held that the assistance to rebel forces in the form of the provision of weapons constitutes a threat or use of force in terms of Article 2(4).21 South Africa's destabilization of its neighboring States is well documented.22 In view of the fact that the General Assembly has authoritatively interpreted Article 2(4) to prohibit a state's forcible denial of the right of self-determination, the apartheid regime's violent repression of the struggle constitutes an instance of the prohibited use of force.

(d) The Rule of Non-Intervention

A state acts contrary to the legal prohibition of intervention when it applies, inter alia, economic coercion to force another state to take action it has a sovereign right to refrain from taking. The apartheid regime's illegal economic assault on states in southern Africa took the form of trade and transport boycotts, unreasonable border checks to delay the passage of goods, as well as embargoes on food, oil and other exports to these states.23

Fergusson-Brown concludes his closely argued research with the observation:

> The effect of these persistent violations by South Africa of its legal obligations is clear: they constitute a flagrant disregard for international law, undermine the authority of the UN and seriously threaten international peace and security. As such they present a challenge to the international community.[24]

(II) The Illegitimacy of Loans to South Africa

Recall that Sack's contribution to the systematization of the Doctrine of Odious Debt was to require a new government to prove that the foreign loans were contrary to the public interest and that the creditors were aware of this. Having established these criteria, the burden of proof then moved to the creditors: they would have to persuade an international tribunal that the funds were utilized for the benefit of the people as a whole, as opposed to a self-serving and unaccountable elite. The debt would be unenforceable unless the creditors were able to do this.

No foreign loan granted to South Africa during the apartheid years could have been legitimate because the apartheid sate was itself illegitimate; and any attempt to claim ignorance of this fact would not be credible. This single circumstance means that, with only one very limited exception (the 1993 IMF loan to the Transitional Executive Council), no foreign lender would have a valid claim against democratic South Africa for any loans outstanding from the apartheid years. Nonetheless, the creditors' inability to enforce any claims against post-apartheid South Africa is even more overwhelming.

International loans to South Africa came from three sources: the World Bank/International Monetary Fund (IMF), private commercial banks and high-risk-speculators. In developing the argument of the unenforceability of the foreign debt, over and above the fact of the illegitimacy of apartheid itself, it is convenient to examine these three sources in turn.

(a) World Bank/IMF

None of South Africa's existing foreign debt is with the World Bank, South Africa having discharged all it loan obligations to the World Bank in 1976. Since then, the World Bank has had to reclassify South Africa as a donor rather than a recipient country, a reclassification made necessary on the basis of South Africa's per capita GDP.

Between 1946-47, however, South Africa received 11 World Bank loans, the last of which were made in 1966-67. Seven of these loans were in support of the country's transport system. The remaining four loans were to ESKOM for improvements and extensions to the electricity grids.[25] The military significance of the improved transport network should be noted. So, too, should the fact that the improvements to the electricity grids had nothing to do with supplying power to black South Africans.

World Bank loans to South Africa far exceeded those received by any other African country during the period 1946-47. Only Nigeria cane even close to matching the level of World Bank support to South Africa. The total value of South African loans indeed compared favorably with countries like France & Holland.[26]

The World Bank indirectly assisted the apartheid regime after the time when South Africa was no longer eligible for direct World Bank loans. The World Bank (along with the British and US governments) rejected the Tanzanian and Zambian Government's request for funds to build the Tanzanian railroad to reduce Zambian dependence on South Africa (and white-ruled Rhodesia). The World Bank argued that Zambia already had adequate rail links through South Africa. The World Bank also refused to finance construction of a railway or tarmac road from Botswana directly to Zambia to enable Botswana to transport copper to Zambia's smelters. The Bank asserted that there was no need for such a direct route as access was already available via South Africa.[27]

The IMF's relationship with South Africa was one in which the apartheid state enjoyed a long and very favorable position. This special relationship came to an end in 1983 when the US government imposed a veto on all further IMF loans. Escape from this veto was possible only if the US Secretary of the Treasury certified in person before the IMF's decision-making committee that the loan would reduce the distortions of apartheid. In acting thus the US government was belatedly responding to the influence of anti-apartheid forces within the US.

The great proportion of IMF loans to South Africa were made after 1970 and was heavily concentrated in the period between the mid-1970s and 1982. Until the IMF was forced to stop loans to South Africa, only Yugoslavia received more IMF assistance than South Africa amongst the IMF-classified sub-group of "major exporters of manufactures" among non-oil developing countries.[28] IMF assistance to South Africa in the two years 1976-77 was in fact greater than the combined assistance to all other African countries for the same period. In those two years only Britain and Mexico were bigger recipients of IMF support.[29] There were two IMF loans in 1976; in January and November. Arguing in support of the January loan, the British government saw its importance being that it

> would give the (South African) authorities…some feeling of international support which they deserve.[30]

The November loan, of course, came only five months after the Soweto uprising. The loan, strongly criticized by several countries, was granted with the heavily weighted support of the US and Britain.

In 1981, with the gold price plummeting and imports surging (in part because of increasing militarization), South Africa once again ran up a deficit on the current account of the balance of payments. The South African authorities approached the IMF for a loan of $1.1 billion in mid-1982. Acting on US advice the approach was not made public until October that year; the delay being a tactical one to better manage the expected opposition to the approach. Sixty-eight countries did indeed subsequently oppose the loan while a further nine countries called for its postponement. The US, Canada, and the major West European countries, the small block with the majority voting rights, backed the loan. The loan was approved.[31] Later that year, in June, a report submitted by the IMF's own staff was critical of apartheid on economic grounds. This critique of apartheid was the first in the IMF's history.[32] The report led directly to the US imposing its previously mentioned veto on further IMF loans to South Africa.[33] The 1982 loan was repaid in full by 1986.

One the eve of the new South Africa, in December 1993, the IMF granted its first new loan in more than 11 years. The loan, for $850 million, was approved by the ANC through the short-lived Transitional Executive Council. Repayment is due to commence in March 1997 and will be in 8 equal quarterly installments. ANC endorsement of the loan complicates what is otherwise the clear-cut case of the odiousness of IMF loans to apartheid South Africa. IN assessing whether, or to what extent, this 1993 loan is odious, regard should be had of the undoubted odiousness of loans that have already been paid off. Due consideration should also be given to the part played by the IMF in its deliberate protection of apartheid, prior to the 1983 US veto.

In this respect — and in addition to the preceding points — regard must be had of the IMF's role as advisor, salesman and sanctions buster to and for the apartheid regime. IMF economists visited South Africa in 1975 to advise on the regime's rising indebtedness. The IMF approved the subsequent reforms even though it called for even more unrestrained rights for capital (so-called liberalization), including having the rand as a free-floating currency. The IMF applauded the scrapping of the financial rand in 1983 and was directly involved in the design and introduction of VAT in 1991.[34]

The racial dictatorship's good standing with the IMF, prior to 1983, helps explain why 20% of all transnational bank loans to African states went to South Africa.[35] A country that wins the IMF seal of approval invariably attracts capital from other sources. This connection is well established and is of universal applicability. Between December 1981 and September 1984, transnational loans to South Africa doubled from $9.9 billion to $19 bn.[36]

The IMF's sanctions-busting took the form of insisting, in 1980, that Zambia reopen its trade routes with South Africa, as a precondition for IMF assistance.

The IMF/World Bank might seek to argue that, as banks, they were merely acting in accordance with their understanding of the then prevailing best economic practices. For them to have done anything more would have been a transgression into political matter from which they were precluded by their own charters. They could not sustain this argument, however. Their repeated interference in the politics of a large number of different countries around the world is a matter of well-established record.

A question arises from the role of the World Bank/IMF as a loyal and substantial ally of the racial dictatorship over many generations: are these two principal institutions of international finance morally bound to return all the money that has already been paid in settlement of previous debts? As we have seen, other than $750 million that is due for repayment, beginning 1997, all World Bank/IMF debts have been settled. The possibility of having the debt settlement money returned to the new South Africa is fully in keeping with the spirit of Odious Debt even though it might appear to lie outside the strict letter of the Doctrine. As we have seen, other than the $750 million that is due for repayment, beginning this year, all other World Bank/IMF loans have already been repaid. The question that arises is whether these two principal institutions of international finance are morally bound to return all this repaid money to the new South Africa?

(b) Private Commercial Banks

The role of the Banks in actively defending apartheid is clearly illustrated by the three rescheduling agreements made with the apartheid regime between 1986-1993 following the Government's unilateral freezing of (part of) its foreign debt in 1985.

The immediate background to the foreign debt crisis of 1985 was as follows: On the 20th of July 1985, after 10 months of almost continuous unrest in the then Transvaal and the Eastern Cape, the government declared a State of Emergency in 36 magisterial districts and detained hundreds of anti-apartheid activists. A few days later the French government announced restrictions on French investments in South Africa. IN the week following the State of Emergency the market value of shares on the Johannesburg Stock Exchange (JSE) fell be R11 billion. Brokers described the wave of selling, mainly by US, UK & French shareholders, as a "bloodbath".[37]

In the same week there were rumors that Chase Manhattan Bank, Citibank and others would refuse to renew short-term loans to South Africa, many of which were to fall due at the end of August. On July 31st, Chase Manhattan announced that it would neither extend credit on maturing short-term loans to South African borrowers, nor advance credit to South African new private borrowers. The next day Chase Manhattan's lead was taken up by the Security Pacific Corporation with other US banks following the same path during August.

On August 15th, P.W. Botha delivered his widely anticipated "Rubicon" speech. But, in place of the reforms the public had been led to expect, he offered only more repression at home and bitterly attached the "interference" coming from abroad. The rand fell 20% on the Johannesburg foreign exchange the next morning. The government suspended all trading on the JSE and in foreign exchange on August 27th, after the rand had reached a then record low of $0.35. The Governor of the Reserve Bank flew to London, New York & Washington to negotiate relief, but his mission was fruitless. On September 2nd, the day before the exchanges reopened in South Africa, the government announced a (partial) debt moratorium.[38]

International pressure on the banks built up quickly and steadily. Punitive action against South Africa was urged. Alternatively, the banks were recommended to require major political reforms as the price for allowing the apartheid regime to renegotiate its debt. The banks felt sufficiently exposed for them not to wish to be seen to be negotiating directly with the odious regime. They, therefore, accepted the South African Government's proposal of mediation by Fritz Leutwiler whose banking credentials were as impeccable as his record for acting on non-commercial considerations was wanting. Leutwiler was the former President of Switzerland's central bank and Chairman of the Bank of International Settlements, a "body which in many respects acts as the central bank to central bankers".[39] At the time of his appointment, he was the head of the Swiss industrial multinational, Brown Boveri.

The committee established to negotiate the debt met for the first time in London in October 1985. A second London meeting scheduled for November was canceled, apparently due to political pressure. In December, Archbishop Tutu, the Rev. Alan Boesak and the Rev. Beyers Naude called on the banks not to reschedule the debt unless fundamental political reforms were first undertaken by the government.[40] Even before this call, the Governor of the Reserve Bank, Dr. de Kock, admitted that tangible evidence of political reform was a precondition for the debt rescheduling. He

> hinted that this message has finally reached the Government after direct warnings from Dr. Fritz Leutwiler.[41]

Like the South African Government, and amidst a growing clamor for change from leading sections of South African business, the banks, too, appeared to accept the need for substantial political reform if public opinion in their own countries was to be appeased. As early as the 29th of August 1985, the Guardian noted "a considerable consensus" amongst British bankers and business leaders typified by the statement that

> Political rights for Africans are now on the agenda. In the past you could have talked about social rights or human rights alone. That is no longer enough.

Similarly, in announcing Barclays' results for 1985, the Group's Chairman announced that the Bank wanted

> changes which confirm an end tot he bankrupt political institution of racial discrimination

and expected

> the release of the imprisoned black leader, Nelson Mandela, as a sign of good faith.

After the disaster of Botha's "Rubicon" speech of the previous August, much was expected of "Rubicon II," Botha's second attempt to match the requirements of the new political and economic realities. The banks did their best to make the most of Rubicon II when it was delivered in January 1986. But even mainstream Western commentators were not deceived. The Financial Times, for instance, carried an article entitled "Botha aims to modernize apartheid, not kill it."[42] Any doubts about the intentions of Rubicon II would have been dispelled by Botha himself when he criticized his Foreign Minister for saying that apartheid was being dismantled and that a black President was foreseeable.

Botha's antics allowed the anti-apartheid forces to up the ante. The strongest action open to the banks to recover their unilaterally frozen debts would have been the freezing of South Africa's assets abroad. This strategy was indeed proposed by Tutu, Naude and Boesak. They wrote to Dr. Leutwiler, in February 1986 proposing

> that the banks should immediately freeze all South African bank balances in their books and refuse to effect any transfer instructions over these accounts.

They further suggested

> that the banks…obtain court attachment of aircraft, ships and other South African assets and apply the proceeds against South African indebtedness.

Such asset freezes had already been applied elsewhere by governments, notably those of Britain and the US. Moreover, the asset freezing could have covered the debt without even having to seize the ships and aircraft mentioned by the clerics.[43]

The pressure on the banks was thus enormous. They were also the innocent party in the South African government's reneging on its debt commitments. They were, therefore, well placed not to rescue the apartheid regime. Yet that is precisely what they did. The terms of the First Interim Agreement, of February 1986, could hardly have been kinder to the racial dictatorship. Archbishop Trevor Huddleston, President of the Anti-Apartheid Movement, condemned Dr. Leutwiler as being "little more than a mouthpiece for Botha." Neil Kinnock, Leader of the Opposition in Britain, described the decision to postpone the bulk of the repayments as being of "great assistance and encouragement to President Botha."[44]

This first "Interim Arrangement" covered the period from March 1986 6o the end of June 1987, at which point the apartheid government would have to renegotiate the payment of the remainder of the outstanding frozen debt.

The State of Emergency that was lifted shortly before the first agreement was reached was reimposed with far greater rigor, within months of the agreement having been signed. Less than four months after negotiations for the First Interim Arrangement had been completed, the accord was openly thrown into question when Dr. Worral, the South African Ambassador to the UK, threatened that his government might renege on the agreement and default. The regime repeated this threat a month later, when the Commonwealth leaders agreed to more wide-ranging trade sanctions.

One might have expected such bad faith by the apartheid government to be reflected in a second agreement with the now chastened bakers being far less accommodating of South Africa than they had been in the first agreement had been. Yet, the Second Interim Arrangement, announced in March 1987, surprised even the South African ruling circles by its forgiving character. All pretense of reform was dropped; the international bankers made no political demands whatsoever. Howard Preece, the Deputy Editor of the South African business journal, *Finance Week*, noted that the relationship between South African and international bankers was almost back to its normal state of coziness. He pointed out that the return to normalcy was so complete that even Dr. Leutwiler had not been required to play the intermediary role in securing the second agreement. Preece observed that both the Finance Minister and the Governor of the Reserve Bank were fully justified in calling the agreement a "great day" for South Africa.[45]

If the Second Interim Arrangement was a "great" achievement for apartheid, the Third Interim Arrangement, announced on the 18th of October 1989, was an occasion for the regime's disbelieving celebration. The negotiations took place at a time when the apartheid state was most exposed financially and when the international anti-apartheid movements were at their most powerful.[46]

Eight billion dollars was due for repayment when the Second Arrangement expired at the end of June 1990. In addition, a significant amount of the debt that had not been frozen in 1985 was scheduled to fall due in the same period. For this reason, supporters of financial sanctions saw mid-1990 as a critical opportunity for maximizing pressure on the South African government.

US Congressmen set 7 condition for rescheduling the debt: ending the state of emergency; releasing all political prisoners; lifting of the ban on all political organization; allowing the return of political exiles and refugees; restoring Press freedom; repealing all apartheid legislation; establishing a process to negotiating a new constitution for democratic, non-racial and unitary South Africa.[47]

Eight Commonwealth Foreign Ministers agreed, in August 1989, to put pressure on banks to impose stringent repayment terms on the $12 billion they were owed by South Africa in an attempt to end apartheid. The action, designed to coincide with South Africa's need to renegotiate its debt by June 1990, was agreed to at a meeting of the Commonwealth Committee of Foreign Ministers on South Africa. The Committee Chairman, Canada's Joe Clark, told reporters

> We want to exert the most stringent possible pressure on South Africa at a critical time.[48]

The South Africa Coalition, formed in September 1989, served to coordinate all anti-apartheid struggles in Britain. All the nine main churches in Britain as well as bodies such as Oxfam and Friends of the Earth were part of this coalition of some 70 organization. The Coalition's Chairman, Simon Barrington-Ward, the Bishop of Coventry, warned the apartheid regime to expect "major pressure" when trying to reschedule its foreign debt.[49]

ELTSA (End Loans to South Africa) was launched in early October 1989 to spearhead the international campaign against the rescheduling of the regime's foreign debts.[50]

On the eve of the Commonwealth Conference, in mid-October 1989, Sonny Ramphal, the secretary-general, called for united action to pressure the banks holding South Africa's debt.[51]

The UN added its voice to the pressure on the banks. The main thrust of its resolution, "International Financial Pressure on the Apartheid Economy of South Africa," noted

> Considering that the rescheduling of South Africa's external debt at this particular time represents an attempt to undermine the efforts of the international community to promote a peaceful resolution of the conflict in that country…Strongly urges governments and private financial institutions to deny new bank loans to South Africa, whether to the public or private sectors.[52]

Requirements that focused much more narrowly on the technical side of the debt itself included delaying completion of the negotiations until just before the June 30th 1990 deadline in order to keep pressure on F.W. de Klerk, who had only recently been elected the new President,[53] restricting the life of the new arrangement to no more than one year,[54] and charging the highest possible interest rates.[55]

The Third Interim Arrangement was announced on the 18th of October 1989. This made it some eight months earlier than it need have been. (It was also some four months before the unbanning of the ANC and other political parties and the release of Mandela.) Instead of being restricted to the called for maximum of one year it was to run for three and a half years, thus making it the longest of the three arrangements. Only 19% of the outstanding debt was required to be paid during this extended period. The Arrangement contained none of the provisions sought by the international organizations acting on behalf of the "public good" by representing the disenfranchised majority of South Africans.

The ANC condemned the Arrangement describing it as an act of "inhumanity" whose purpose was that

> of helping perpetuate the evil system of apartheid…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.[56]

Even the US government described the Arrangement as being "particularly favorable to South Africa.[57]

The part played by international banks is actively supporting apartheid includes three additional aspects which are worthy of note: the composition of the foreign debt, correspondent banking and trade credits. Short-term inter-bank loans had become the dominant form of foreign capital by 1985. Direct, long-term risk capital investments declined in proportion to the deepening crisis facing apartheid after 1976; the risks were considered to be too high for long-term investment. On the other hand, short-term loans offered foreign banks profitability with the perception of acceptable risk. The transformation of South Africa's debt from long-term to short-term was dramatic. Thus the proportion of the country's foreign debt with an unexpired maturity of less than one year rose from 49% at the end of 1980 to 68% in 1984 and to 72% by the end of 1985.[58] By the time of the August 1985 debt crisis, 85% of all US loans to South Africa were short term.[59] Short-term debts accounted for over three-quarters of South Africa's total foreign debt in 1990.[60]

For the apartheid regime as well as their willing bankers, a major attraction of the short-term loans was their anonymity; transactions on the inter-bank credit markets are never published. Short-term loans thus allowed banks to trade freely with the apartheid state without third parties' knowledge. For this reason, short-term loans were an ideal sanctions-buster.

The difficulty in tracing short-term loans — even the conservative (British) Daily Telegraph described them as "a near perfect disguise." [61] Together with the instability of the long-term loans as the struggle against apartheid intensified, made inter-bank transactions highly attractive to both borrower and lender and accounts for the unusually high ratio of short- to long-term debt in South Africa. The South African ratio, at the end of June 1984, was some 22% higher than in comparable developed countries.[62]

It was an open secret that the banks who were victims of the apartheid regime's reneging on its debts were the same banks that nonetheless continued to supply the interbank credit used by South Africa to breach sanctions with impunity. Furthermore, the financial institution used to facilitate international payments — the Brussels based Society for Worldwide Interbank Financial Telecommunications (SWIFT) — allowed the odious regime to enjoy the full benefits of membership despite procedures available for expelling member banks. The US Assistant Comptroller General, commenting on this last point in 1990, observed:

> Even though it would be difficult to effectively exclude South African banks from SWIFT…, barring them from […SWIFT] might have the symbolic effect of excluding South Africa from yet another international system.[63]

Apartheid South Africa was indeed expelled from the international financial institution that facilitates international payments. This New York based body, the Clearing House Interbank Payments System (CHIPS), served 139 national and international depository institutions and processed transfers valued at $165 trillion in 1988. Nedbank was admitted to CHIPS in 1984 but was asked to leave in 1986. Its expulsion made no difference however because of the help given by other member banks. Thanks to these "correspondent" banks apartheid South Africa continued to have its accounts maintained and its dollar transactions processed, notwithstanding its formal expulsion.

Trade credits provided another life-line for apartheid.[64] Trade credits provided South Africa with a major form of new credit at a time when international banks were supposedly severing, or at least restricting, ties with the international outcast. Trade credits add mightily to the weakness of the banks' case in any action they might bring to enforce their claims against democratic South Africa for debts accrued during the apartheid years. Most of the banks that declared they would end loans to South Africa explicitly excluded trade credits from the ban.

The bulk of South Africa's trade, which in the late 80s amounted to between $10bn and $12bn per year, was financed through trade credits. Indeed, at least 25% of those credits were actually guaranteed by the export credit organizations of foreign Governments. Trade credits played a critical role in the international credit structure of the apartheid state. Not only did they make it possible to import products, including capital goods for expansion, but they allowed long-term borrowing to take place. It is for these reasons that the Governor of the Reserve Bank exhorted importers to use foreign credit during difficult foreign exchange periods. It is for these reasons too that he made special arrangements to cheapen the cost of the foreign credit, in order to bring in the foreign capital, however small and for however short a time.[65] The last words on the importance of trade credits to the odious regime belong to its Director of Finance, Dr. Chris Stals:

> If the world banking community should effectively exclude South Africa from international trade and payments systems, it would be a much more effective sanctions measure than trade sanctions applied by governments.[66]

(c) High-risk Speculators

Individual investors (and a number of speculative financial institutions) were the third source of loans drawn on by the apartheid regime. It was the very odiousness of apartheid that made investment attractive for this group. Facing mounting political turmoil at home, while being out of favor with the international community and having reneged on its debt with the large, mainstream banks, the apartheid state was forced to borrow expensive money from a source that was willing to make loans, at above market rates, to anyone.

Hirsch notes dryly:

> Neither the crisis over the unilateral freezing of debts nor the political turmoil in the country put a stop to high risk money coming into South Africa. The crisis meant that the cost of foreign money went up and that all transactions were kept secret. The volume of loans was reduced, however; but, at some R800m in 1987 alone, the volume was not insubstantial… Small private banks in Switzerland, the Federal Republic of Germany and the Benelux countries are known to be involved in gathering finance for South Africa, often through hidden complex deals.[67]

Piecing together the scattered and difficult to obtain information reveals the following deals: December 1988 — a small Swiss private bond of $37m; 1989 — three small Swiss private bonds totaling $128m and a German private placement for ESCOM; 1990 — seven German private placements raising a total of $264m; 1991 — eight bond issues, five of which are know to have come from Germany, totaling $554m.[68]

The Deputy Editor of the Finance Week was commendably candid when referring to the "hot" money making its way into the apartheid state. He noted approvingly:

> Foreign bankers are remembering that ultimately they are money-lenders not moralists. They are noting that profitable business can still be done with South Africa.[69]

(d) Apartheid-Contamination of all Loans

To say that no loans made during the apartheid years could have been legitimate warrants further, brief explication. Desegregation of the debt — the ability to specify who lent what, to whom, and for what purpose — requires far greater research than was possible here. What can be said, however, is that apartheid generated its own enormous and varied costs.[70] To the costs of the inefficiencies and duplications of apartheid must be added those of defending the system. The Sharpeville Massacre of 1960 resulted in the militarization of the state, a transformation that grew at a phenomenal pace after the Soweto Uprising of 1976. Sanctions-busting, together with its corollary of stock-piling, was also enormously expensive. Foreign loans helped pay for all these costs in a multitude of ways, any of which might appear to have nothing to do with apartheid.

A large number of the inter-bank loans, for instance, had no direct connection with apartheid. Yet, the foreign exchange given for a seemingly innocuous purpose — ranging from the development of ESKOM[71] to the financing of a domestic home[72] — was recycled as part of apartheid's sanctions-busting strategy. Similarly, some foreign loans were used for purposes of international trade and, in this respect, were no different from those regularly found throughout the world. Yet, even the seemingly most pristine of these trade loans were tainted by apartheid. The simple fact of trade with South Africa inescapably meant helping to sustain and reproduce the structures, practices and life-styles normalized by apartheid. No loan could avoid this institutional contamination.

Negotiating the Debt Cancellation

A Notable Precedent

A modern precedent does exist whereby a government freely canceled a debt owed it and did so purely because of the immorality of the debt which it canceled in full. What is more, this government canceled the debt on its own initiative and evidently without even being aware of the Doctrine of Odious Debt. The government in question is, of course, that of democratic South Africa and the debt (of R1.242 billion[73]) was that inherited by the government of democratic Namibia.

The Limits of Debate

The point to emphasize about the strategy being proposed here is that it rests, in the first place, on a negotiated recognition of the odiousness of the apartheid debt. This is to say, the cancellation of the debt would be the ideal outcome of multi-lateral negotiations between the new South African government and the foreign creditors from the apartheid period.[74]

The powerful persuasiveness of the argument that the apartheid debt is odious in the extreme and therefore unenforceable would not be the only consideration behind the negotiated debt cancellation. The new South Africa is in many ways a miracle and the hopes and good wishes of a huge body of people around the world are pinned on the miracle surviving and seeding a transformative development and reconstruction of the country that significantly touches the lives of all South Africans. Moreover, as part of the miracle, South Africa has a leader revered throughout the world. Mandela's stature is unique in modern times. For these various reasons, South Africa could approach the negotiations with great confidence.[75]

However, it must be accepted that, even if the banks were to be sympathetic to the case of Mandela's South Africa, the debt is arguably not of a size that can easily be lost in the intricacies of the banks' bookkeeping. And, certainly no less important, the banks would be mindful of the precedent that might be set if the arguments of the democratic South Africa were to be accepted. Precedent would not be an issue if South Africa was alone in having inherited a debt burden. But this is not the case. A large number of other countries would be watching the negotiations very closely and would not be disinterested in the outcome.

In situations of conflicting interests, reason and justice seldom have a look in when it comes to the final decision-making. Nor does the weight of evidence or the cogency with which the case is presented. Thus far I world history, the conflicts of real life, especially those involving the material interests of large numbers of people, are rarely settled according to the standards of a debating society.

Recognition of this reality shapes the specificity's of the strategy.

International Solidarity

Only Vietnam and South Africa have attracted solidarity action that could accurately be described as international and mass-based. Vietnam comes a remote second when compared with the number and diversity of the people mobilized against apartheid. The anti-apartheiders, in all continents of the world, would form a natural constituency for solidarity action designed to encourage the banks to be reasonable according to criteria wider than narrow commercial interest.

The size of the debt, together with the fear of the precedent any cancellation would set, virtually guarantees the involvement of the Governments of the countries in which the banks are (nominally) based. At the end of 1990, 87% of South Africa's outstanding debt was owed to the banks of 5 countries in descending order, they were Britain, Germany, France, the US and Switzerland. British banks accounted for 26.8% of all bank debts, whereas Switzerland, the fifth largest creditor, accounted for 11.8%.[76] Solidarity action must accordingly expect to be directed at those Government's that might oppose the cancellation of the debt.

A brief comment on the complicity of these Governments in the creation, development and defense of what came to be known as apartheid is therefore apposite. An understanding of the role of the West as an accomplice of apartheid would be an important component of the solidarity action expected by a broad-based movement in those countries.

Internationalizing Affirmative Action and Truth & Reconciliation

Action is very much a feature of contemporary South Africa and forms a prominent part of government policy.

Internationally — and especially in those countries which have had a long experience of their own Affirmative Action programs — Affirmative Action is viewed much more critically than in South Africa. What can be said about the practice of Affirmative Action everywhere is that it has come to mean Affirmative ethnicising class-mobility for an elite amongst those previously disadvantaged by racism. Color-coded affirmative action reinforces pre-existing racism, encourages the formation of new "ethnic" groups, discriminates against mainly innocent members of the previously privileged "race" who, in the main being young, have not enjoyed the preferential employment opportunities that marked the previous order — and it leaves untouched the lives of the vast majority of those who inherited the inequalities Affirmative Action is supposed to redress.

On the other hand, the logic behind the theory of Affirmative Action is impeccable: the disadvantages and inequities endured by people formerly subject to institutionalized racism will naturally reproduce themselves, even when all forms of discrimination have officially been outlawed, unless imposed interventions are made by the newly non-racial state. The Reconstruction & Development Program (RDP), even in the much watered down version in which it now appears, exemplifies the depth and range of state interventions required to establish some semblance of equality amongst South Africans. The RDP seeks to provide the infrastructural necessities of life that, under apartheid, were the exclusive prerogative of the white dictatorship and its handful of black surrogates in the Bantustans and Tri-cameral Parliament. Affirmative Action is theoretically a form of reparation, a recognition by the group previously privileged by apartheid of the wrongs done, of the enormous debt owed to those who suffered the crimes of apartheid.

Western Governments — and especially those representing the banks most heavily involved in apartheid — were themselves more than willing accomplices of apartheid, a complicity; that endured to the very end of the regime's existence. (The fact that the likes of Lady Margaret Thatcher now elbow their way to the head of queues to shake Mandela's hand must not allow us to forget that, if left to them, Mandela would still be on Robben Island.) These points cannot be developed here but are thoroughly documented in an extensive literature.

Cheap and highly regimented labor, the bedrock upon which the South African economy was built, created enormous wealth for some citizens of western countries, and, through cheap raw materials and agricultural products, benefited most West inhabitants to a greater or lesser extent. This needs to be clearly understood. For it must equally be accepted that "ordinary" citizens might well have a small financial cost to bear if the debt is canceled.

The cost to be borne by banks and citizens alike, by canceling the apartelitist debt, would be the West's contribution towards an Affirmative Action program directed at the majority of South Africans rather than its highly elitist current form. Cancellation of the apartheid debt would be the West's reparation for its complicity with apartheid. The cost would be the West's acknowledgment of the debt it owes countless millions of black South Africans over many, many generations. This acknowledgment would in effect be the West's submission before the Truth & Reconciliation Commission.

Western Precedents for Debt Cancellation

Western Governments and banks have already shown a willingness to be governed by non-commercial considerations and, indeed, to take the initiative in canceling (some of) the debt owed them. Poland and Egypt have both recently benefited from western generosity. Both countries were granted substantial debt relief for exclusively political reasons. Neither country qualified under the compelling doctrines of Odious Debt yet each was awarded genuine relief.[77]

Repudiating the Debt

The question that needs to be asked is: What happens if, despite everything, the negotiations fail? What happens if the banks and/or their governments refuse to cancel the debt?

Unilateral Cancellation

In actual practice, long before the collapse of the negotiations South African negotiators would know how far the bankers were prepared to go — or to be pushed. The South African negotiators should be prepared, if necessary, to indicate South Africa's readiness to cancel the debt unilaterally should they be forced into that position. The precedent for such unilateral action — let us remind ourselves — was established in 1898 by the US when, acting in accord with the Doctrine of Odious Debt, it unilaterally repudiated Cuba's Spanish debt.

Mobilizing Civil Society

It remains an open question whether, or to what extent, the South African government would be enthusiastic even to enter into the negotiations to cancel the debt by agreement. Mandela has in the not too distant past been exceedingly quick to repudiate the ANC's secretary-general and other official spokespeople when they warned that an ANC government would consider whether to honor debts incurred by the outgoing apartheid government.[78]

What can be predicted with greater assuredness is that the government would almost certainly need encouragement in order to be willing to take unilateral action. All the people who are currently suffering the Government's economic policies (this point is developed below) and all the people who would stand to benefit from an RDP that was not permanently suspended in a state of (virtual) postponement due to insufficient resources being made available — there of course being a great deal of overlap between the two groups — would form a natural constituency for a mass based campaign of direct-action democracy. It would be hard for a popularly elected government that sees itself as the custodian of the people's aspirations to ignore the people's demonstrated will.

In the same way that demonstrating the West's complicity in apartheid is necessary if one is to promote and sustain international solidarity, so an understanding of the Government's economic policies and the options available for South Africa would be a condition for the popular mobilization at home.

There Are Always Alternatives

What can be guaranteed is that business interests and the Government's present economic advisors would speak with one voice on this issue. And they would do so loudly and at the earliest indication that the government might be contemplating, not unilateral action, but even just negotiations to cancel the debt with the consent of the creditors. With most of the media as their accomplices, they could be expected to assert that there is no alternative to GEAR — "Growth, Employment & Redistribution" — the Government's macro-economic policy document. They would proclaim the end of civilization if we upset international bankers and financial speculators; they will predict the collapse of the economy, unemployment and starvation on a scale that dwarfs even today's horrendous levels. A balance of payments crisis would be affirmed as a certainty. Above all, they will assert the collapse of economic activity in the absence of the lifeline of international capital.

There dire warning can be predicted with such confidence because they derive from the standard economic theories that have prevailed for a long time in South Africa. What is not recognized — but needs to be widely publicized according to the strategy being unfolded here — is that the assumptions behind each and every warning have been questioned by respected economists who are guided by the same broad economic principles as the harbingers of doom. A perusal of the business press shows that mainstream economists hardly speak with a single voice. Not being privy to these controversies, the general pubic would hardly believe the range of alternatives being presented.

The point is that power helps decide what is "The Truth" in many aspects of life; and it serves the interests of those presently powerful in South Africa to popularize the idea that "There is no alternative" to reliance on the good-will of foreign banks.

Stuck in GEAR

Any debate about alternatives invariably carries a degree of uncertainty. This uncertainty is almost a matter of definition in cases where radical alternatives are being considered. Being radical almost certainly means that the alternatives are more or less untested. Uncertainty is a necessary feature of the untested.

However, the debate on alternative economic policies, that do not make us all hostages to foreign capital, can firmly be anchored to three certainties.

These who would be apocalyptic in their warnings of the consequences for democratic South Africa if the government, on grounds of morality and justice, were unilaterally to repudiate the foreign debt, forget one over-riding fact. It is just over ten years since the government of odious apartheid unilaterally froze (part of) its foreign debt. As a consequence, South Africa did experience capital-starvation in South Africa,[79] and the economy did indeed suffer.[80] As always workers and the huge segment of the marginalized suffered most. But the economy did survive. This is the first certainty anchoring the debate on alternatives.

If survival was demonstrably possible in the worst of possible contexts, both at home and abroad where the debt-freeze further fueled the world-wide campaign to free South Africa, why should the same not happen when the circumstances are considerably better? Why should survival not be even more likely when the action of a now democratic government would be fully supported by the majority of its citizens and when, it can safely be assumed, the majority of world opinion would be against the banks and those governments that refused to acknowledge their own huge debt to the majority of South Africans?

The second certainty concerns the IMF/World Bank. Since 1991 South Africa's economic policies have increasingly been shaped by both these institutions. GEAR, the government's macro-economic policy document of June 1996, was heavily influenced by direct World Bank input. Two World Bank economists helped formulate GEAR, which, moreover, was based on an economic model provided by the World Bank. As early as 1992, a *Business Day* journalist noted approvingly that the World Bank was a "key player in the formulation of post-apartheid economic policy" not because of any loans provided but "by making available…its vast experience."[81]

The "vast experience" of World Bank/IMF policy is one of manifest failure not only for the great majority of the people who have had to suffer their policies but, frequently, even in terms of the World Bank/IMF's own very narrow economic criteria for what they consider to be growth. The failure of World Bank/IMF economics — especially in Africa — has been extensively documented by numerous writers over the years. It is a subject that cannot be undertaken here. But the fact of the failure provides the strategy that is being outlined here with its secondary certainty.

The third certainty is the glaring failure of the Government's existing macro-economic policies to deliver the socio-economic benefits to which the government says it is committed. Foreign capital is absolutely critical to the realization of those benefits, according to current policy. Ever since 1991 the ANC and now the government have been doing and saying whatever they were told would please foreign capitalists. That this often meant turning formal ANC policy on its head has been no obstacle. Even the business press has been ready to acknowledge the Government's "huge emphasis on being investor friendly."[82]

There appears to be no bottom line when it comes to placating the foreign investor. Out went nationalization to be replaced by constitutional safeguards to private property that far exceed those of most other countries. Radical land reform was ditched because it was inconsistent with the sanctity of private property and "sent out the wrong signals" to foreign capitalists. The first Finance Minister and Governor of the Reserve Bank of democratic South African were also the last Finance Minister and Governor of the Reserve Bank of apartheid South Africa — a choice urged upon Mandela by Michael Camdessus, Managing Director of the IMF, and other business circles in order to "reassure international investors," as the highly influential Financial Times of London editorialized.[83]

For the same reason, Mandela appointed a retired leading banker, Liebenberg, to replace Derek Keys, the first Finance Minister when Keys unexpectedly resigned. Within days of the announcement of his appointment, Liebenberg made his position perfectly plain. His role was to steer South Africa back into the world economy "by achieving what the international market and agencies see as reasonable and fair."[84] To make South Africa even more enticing for foreign profit-making, the government was advised to provide tax incentives for foreign capital. It duly obliged. business demanded the abolition of the financial rand. The ANC quickly agreed, followed 3 months later by the Governor of the Reserve Bank who announced, in June 1993, that the financial rand would go "within four years." The IMF loan of December 1993 approved retaining the financial rand for 3-5 years.[85] It was actually abolished just over a year later, in March 1995.

Always doing more than required according to a neo-liberal policy agenda has become a pattern in the Government's economic practice. World Bank economist, Michael Walton, speaking of the South African situation, described inflation of 20% as "moderate" and said South Africa could comfortably live with it.[86] The government has gone instead for single-figure inflation.

The conditions attached to the IMF loan of 1993 include the requirement to reduce the Government's budget deficit to 6% of GDP. However, the IMF accepted that the deficit might exceed that figure for the first few years. The IMF merely urged that the ratio should be reduced in the direction of 6%. The World Bank, also in a 1993 document, was even more accommodating. It approved a deficit of 10% for the rest of the decade.[87] In its eagerness to appease capital, GEAR sets a target deficit of just 3% by 1999. The new government surprised many by its readiness to open the domestic market to (unequal) foreign competition, as required by GATT (now the World Trade Organization — WTO) in 1994. The Government's actual practice has been to remove import tariffs at a rate even faster than required by the WTO.

But nothing the government has done has been enough. Foreign capital has far richer pastures in which to forage in other parts of the world. South Africa's net, long-term capital inflow has been very small and sporadic and has occurred only since late 1994. Moreover, very little of the capital that has come in has gone into long-term, direct investments that provide new productive capacities. Indeed, the primary function of capital inflows has increasingly been to pay for capital outflows, as the Financial Mail acknowledged.[88]

At first, in the early 1990s, when the expected flood of foreign capital turned into a drought, the "experts" who predicted the bountiful harvest fertilized by foreign capital, attributed the problem to fears of socialism and nationalization. So the ANC stopped talking about such things. But foreign capital still stayed at home. In came a new explanation. This time "political uncertainty" over the peaceful transition to democracy was the answer. The Reserve Bank Governor predicted an early return of the capital that left South Africa in a torrent, in the run-up to the 1994 election. The Governor spoke of a "substantial backflow" of capital that would "dramatically" change the situation.[89] The *Sunday Times* described the outflow as having reached "mega-proportions."[90] Indeed, the hardly insignificant R3.7bn that left the country in 1992 increased 440% in 1993, when it totaled R16.3bn.[91] And that is just the capital the fled legally. The miracle of the peaceful birth of the "rainbow" nation made no difference, however. "Political violence" between the ANC and Inkatha was shipped into the explanatory frame. But bringing the violence under control made no difference either. Foreign capital remained as elusive as ever.

The problem was then identified as the financial rand. So out went the fin rand; but the drought persisted unabated. And so it has continued with ever more explanations being added to account for the flood that refuses to flow. The country's ability to survive the local elections was a favorite throughout 1995. Crime, the delay in implementing privatization, the persistence of labor regulations that restrict the freedom of capital and the failure to abolish exchange controls are amongst the current favorites. (The government is told it will have to borrow R17bn in order to pay for the R50bn that is excepted to flood out of the country when exchange controls are lifted. Yet, the logic behind abolishing exchange controls is supposedly to bring capital in to South Africa!) Uncertainty over the 1999 general election and the successor to Mandela as President are amongst the more fanciful of the recent diagnoses.

The failure of existing foreign-investor-friendly policies is even more overwhelming that the above facts indicate. From the late 1980s to the early 1990s the air was full with optimism regarding the prospects for the post-apartheid economy. Much of this optimism was well-grounded in an economy that would be free of the apartheid distortions, inefficiencies, duplications and waste.[92] The optimism also derived from the freeing of human creativity and the access to talent that would be available with the death of apartheid. Finally, the optimism was bedded I the post-apartheid readmittance of South Africa into a world that, moreover, would be full of good will towards the new nation. These are all real considerations. The failure of the country's economic policies is even more stark when contextualized in this not to be repeated set of circumstances.

(What must be noted in passing is that there are some people who have every reason to view the present economic order as being highly successful. But even the Financial Mail had no difficulty in seeing how very limited this success actually is. The headline to a recent leading article spoke volumes when it declared: "Shift to Right Benefits Black Elite."[93])

Alternatives to Foreign Capital

Elaboration of this huge subject is beyond the scope of this report. Suffice it to say that South Africa has — and indeed suffers from — a huge stock of unproductive capital[94] and that documents detailing alternatives to foreign capital do exist. Most of these documents need to be dusted down; for they come from an earlier age. However, even the present version of the RDP contains alternatives that have quietly been ignored. The original versions of the RDP contain much more daring alternatives. So, too, do now mostly forgotten COSATU documents. Policy options that have already been identified include: prescribed assets; a wealth tax[95] (with variations that include heavy death duties, a general tax on luxury imports, a swimming-pool tax and a tax on ownership of more than one home); delaying approval of capital flight by the major insurance companies; applying additional exchange controls and making it harder to transfer funds illegally; tight control on the importation of capital-intensive equipment as part of an industrial strategy to use home-manufactured appropriate technology that, being more labor intensive, moreover helps transform large-scale unemployment from a problem into an advantage; reducing the pace of trade liberalization to World Trade Organization requirements and thereby dampening the local demand for imports; tightly regulating the availability of luxury-related credit; guiding finance, at favorable rates, to where it is socially needed;[96] cross-subsides to help make electricity, water and sewage affordable for all. Freedom from the imposed dictates of the market also makes room for alternate forms of economic ownership and organization that are people-centered and far less reliant on foreign capital for their viability.

The point of all this is that a whole range of alternatives have already been theorized. We also have the talent amongst ourselves to devise our own solutions to our own problems. What is currently lacking is the spirit to be daring — and, of the course, the determining political will.

Debtors' Cartel or Individual Action

The ideal of all countries caught in the debt trap forming a cartel to maximize the effectiveness of an international campaign of debt repudiation has been around for some time. That nothing has ever come of it indicates the difficulties in implementing and idea of such obvious appeal.

Campaigns involving Odious Debt, on the other hand, do not lend themselves well to collective action. The differences in the details of each country's circumstances are too broad for a joint case. Moreover, morality has been so severely mauled by the moloch of commercialism, in the decades since an Odious Debt claim was last made, that only a case of pristine virtue stands any chance of renewing the Doctrine.

For these several reasons, the collective cause would probably be best served by the individual action most likely to succeed in setting a modern-day precedent for the Doctrine. A strong argument can be made that the most effective form of solidarity open to the new South Africa on behalf of the hundreds of millions of people caught in the debt trap around the world, would be success in obtaining the creditors' consent to cancel the odious apartheid debt.

No Time to Lose

This strategy comes with one acknowledged and major defect. Time. Major debt repayments are due this year. The time to act is now.

April 1997.

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[1] The aphorism comes from the Paris Uprising of 1968.
[2] By suggesting a Susan George type solution of converting debt to a local development fund, the ANC's Banking/Finance handbook is a partial exception.
[3] I refer to Marx of the Groucho variety.
[4] Wright (1985: 1)
[5] What is most often ignored is that the 3.6% does not include parastal and private debt that the government has responsibility for paying.
[6] *Finance Week* (1995b; Millward & Pillay (1996); South African Reserve Bank (1996:: S95)
[7] I have drawn heavily on Adams (1991: 162-70) in what follows.
[8] This and the preceding quotations come from Adams (1991: 163-4).
[9] Cited by Adams (1991: 166).
[10] Cited by Adams (1991: 165).
[11] Cited by Adams (1991: 170).
[12] Cited by Adams (1991: 167-8). Such was the international significance of Great Britain vs. Costa Rica that Chief Just Taft accepted no payment for adjudicating the case. He explained [Cited by Adams (1991: 168)].
So far as the payment of the expenses of the arbitration is concerned, I know of none for me to fix. Personally, it gives me pleasure to contribute my service in the consideration, discussion and decision of the questions presented. I am glad to have the opportunity of manifesting my intense interest in the promotion of the judicial settlement of international disputes, and accept as full reward for any service I may have rendered, the honor of being chosen to decide these important issues between the high contracting parties.
[13] Cited by Adams (1991: 169).
[14] Ibid.
[15] Adams (1991: 169-70).
[16] Paragraph 1 of the Principle of Equal Rights and Self Determination of People, in GA Resolution 2625.
[17] Article 3.
[18] Articles 55 and 56.
[19] Advisory Opinion of the ICJ, The Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970), 1971 ICJ Reports 31.
See Fergusson-Brown (198?: 63-64) for some of the other fundamental human rights violated by apartheid.
[20] Cited by Fergusson-Brown (198?: 64).

[21] *Military & Paramilitary Activities in and against Nicaragua* 1986 ICJ Reports 230. Cited by Fergusson-Brown (198?: 64).
[22] See Fergusson-Brown (198?: 64-5) for examples and references.
[23] See Fergusson-Brown (198?: 66 for examples and references.
[24] Fergusson-Brown (198?: 66).
[25] Padayachee (1992: 268).
[26] Ibid.
[27] For Tanzania see, for example, Seidman (1986: 252). For Zambia see, for instance, Fundanga (1987: 18) Padayachee (1992: 273) Seidman (1986: 252).
[28] Padayachee (1991: 89-90).
[29] Padayachee (1992: 265-66).
[30] Both Padayachee (1992: 265).
[31] Padayachee (1992: 266).
[32] Padayachee (1992: 267).
[33] Ibid.
[34] Goldin (1992: 23).
[35] Mabirizi (1989: 163).
[36] Ibid.
[37] The Star 28.7.1985.
[38] This summary borrows heavily from Hirsch (1989: 39-40).
[39] Harris (1987: 178).
[40] See Hirsch (1989: 40-1).
[41] (London) Financial Times 27.11.1985.
[42] 6.2.1986.
[43] All Harris (1987: 189).
[44] Both, *The Guardian*, 21.2.1986.
[45] *Finance Week*, 26.3.1987.
[46] See, for instance, Bradlow (1991: 663-4).
[47] *Cape Argus*, 19.7.1989.
[48] *Cape Argus*, 8.8.1989.
[49] All *Cape Times*, 7.9.1989.
[50] *Cape Times*, 4.10.1989.
[51] *Cape Times*, 17.10.1989.
[52] Quoted by Botha (1990: 200). The resolution, passed a month after the third arrangement had been finalized, could do no more than “urge” compliance because it was opposed by the Governments of Great Britain and the US.
[53] See, for instance, Leap (1991: 13) & United States General Accounting Office (1990: 6-7).
[54] See, for instance, Leap (1991: 13) & United States General Accounting Office (1990: 7); *Cape Times*, 17.10.1989.
[55] See, for instance, *Cape Argus*, 8.8.1989.
[56] *Cape Times*, 20.10.1989.
[57] United States General Accounting Office (1990:2). The Fourth and Final Arrangement runs from 1.1.1994 to 15.8.2001 at the end of which time the frozen debt is due to be completely amortized.
[58] Leap (1991: 3) The bulk of the debt that was frozen in 1985 was short-term, inter-bank loans.
[59] Hirsch (1989: 39).
[60] Goldin (1992: 17).
[61] 7.9.1985.
[62] Lawrence (1987: 183) Short-term losses were so important (and lucrative) that South African banks opened offices abroad. Nedbank, the most energetic in this area, had offices in London, New York, Zurich, the Caman Islands and Jersey, in 1988 [Hirsch (1989: 49)].
[63] This and all the other information on CHIPS & SWIFT comes from United States General Accounting Office (1990: 8-10).

[64] Trade Credits are pre-payments to suppliers for the cost of commodities exported to third parties. Most of the credits are interbank transactions and a large number of them are guaranteed by the Government's of the exporting countries. Unless otherwise stated all information dealing with trade credits for South Africa comes from Hirsch (1989: 46-7).
[65] *Finance Week*, 27.4.1989.
[66] *Euromoney*, March 1987 — cited by Hirsch (1989: 46).
[67] Hirsch (1989: 43-44).
[68] See *Cape Times*, "Swiss stave off SA debt squeeze" 19.7.1989; Garner & Leape (1991: iv-v); Goldin (1992: 18); Leape (1992: 243-4).
[69] Preece (1987: 626).
[70] For the costs of apartheid, see, for instance, Savage (1986).
[71] ESKOM is responsible for the largest single slice of the total apartheid debt. For an analysis of ESKOM's financing see Bond (1992: 158-63).
[72] Crawford-Browne (1997a). Terry Crawford-Browne is an ex-banker who acted as advisor to Desmond Tutu and the other clerics during their campaign to end foreign bank loans to the apartheid state.
[73] *Cape Times*, 24.2.1997.
[74] The Paris Club would be an obvious body with which to initiate the negotiations.
[75] Saying this is not to lose sight of the "hard-headdress" with which creditor Government's and bankers have approached the whole question of the debt burden of the so-called "Third-World." The arrangements they have made even in respect of the 41 countries they have identified as being "heavily-indebted poor countries" and which they accept have no way of repaying their individual debts in the normal manner have been less than generous.
[76] Leape (1992: 233). The Swiss figure understates the true position as it excludes gold loans (ibid.).
[77] For Poland see Foreign Trade Research Institute (1994) & Mesjasz (1995). For Egypt see Moye (1997: 22).
[78] See, for instance, *Cape Argus*, 2.10.1991, 3.10.1991, 22.1.1992, 8.2.1992, 19.2.1992, 5.9.1992; and *Cape Times*, 12.10.1991, 22.1.1992.
[79]Recall that trade credits, interbank loans and private high-risk speculation continued to provide (some) capital.
[80] See, for instance, Gidlow (1989: 25). The difficulties encountered need to be contextualized in the economics and policy options of apartheid, of course.
[81] Barber (1992a). Also see Barber (1992b).
[82] Wood (1995).
[83] Cited by *Cape Argus*, 5.5.1994.
[84] Quoted by *Cape Argus*, 12.7.1994.
[85] Davie (1994d).
[86] *Cape Times*, 11.9.1992.
[87] Padayachee (1194: 591).
[88] *Financial Mail* (1993b).
[89] *Sunday Times*, 20.2.1994.
[90] Ibid.
[91] Ibid.
[92] See, for instance, Savage (1986).
[93] 30.8.1996.
[94] See, for instance, Bond (1991: Chapter 2 — A Crisis of Over-Accumulation) & Bond (1997).
[95] Young (1992).
[96] For this and other preceding points, see Bond (1996).