Socio-Economic Exploitation, Meaning Contestation and the TRC: Problematic Foundations for a Discourse of Social Citizenship in Post-Apartheid South Africa

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ABSTRACT
This paper is based on an examination of the TRC-related documentation dealing with socio-economic aspects of the apartheid regime. This material includes submissions by organised business and labour, and the TRC Report's findings (Vol. 4, Ch. 2) and recommendations (Vol.5, Ch.8, Para. 38 to 46) concerning business' involvement in human rights abuses and repressive practices under Apartheid. The analysis will be conducted in relation to an evaluation of the model of social citizenship developed by apartheid South Africa, and the challenges it determined for social integration and rights in the new democratic dispensation. The main argument of this paper is that, by grading business responsibilities in three qualitative "orders" of involvement –depending on direct connections with the formal repressive structures of the apartheid state -- the TRC Report obscures important dimensions of continuity in the preservation of crucial aspects of the apartheid social order and social citizenship arrangements. In particular, the Report fails to evaluate the power relations and the business-state systemic convergence underlying Apartheid's peculiar model of "racialised welfare", based on shifting divisions and boundaries in the recognition of extremely limited benefits and guarantees to sections of the excluded and oppressed majority. Such a neglect is shaped by the TRC’s discursive and institutional location in a process of democratic transition shaped by macroeconomic and social policies that privilege reduced state intervention in the sphere of social citizenship, the centrality of private capital in dynamics of social change and commodification of expanding aspects of social life. Conversely, such a location limited the understanding by the TRC of the devastating and enduring outcomes of apartheid’s approach to social citizenship for the oppressed majority. In fact, the maintenance of a legacy of welfare provision segmented along class, racial and territorial bases has deepened forms of socio-economic expropriation and inequality that now oppose possibilities for an approach to social citizenship based on fiscal redistribution and universal access to basic social rights on a decommodified basis. While the response of the TRC Report is largely based on targeted reparations, market-based empowerment and professional promotion, its failure to elaborate the impact of apartheid social citizenship arrangements on the basis of "human rights violations" diminishes the relevance of proposed solutions for fundamental social change. Among the causes of such shortcomings are the TRC Report's formal legalistic framework, which is ostensibly unable to define "benefiting from" apartheid as part of a definition of "participating in" apartheid.

In conclusion, the TRC's analysis of the problem of socio-economic oppression under apartheid, and its consequent proposed solutions, constitute both an underestimation of the socio-economic legacy of the past regime, and a weak foundation for an alternative social citizenship discourse. This, moreover, delays and obscures the relevance of economic redistribution, universal social welfare and generalised access to basic social rights as a decisive terrain of policy and political action.

1 Many thanks to Sampie Terreblanche and the South African Chamber of Business for copies of their TRC submissions, and to Elsa van Huyssteen for materials, support and long chats.

The discussion in the Truth and Reconciliation Commission (TRC) of the social and economic aspects of the apartheid regime has been a relatively underdeveloped theme in the burgeoning literature and media coverage of the TRC’s investigation of apartheid’s abuses and human right violations. Very little, in fact, has been written on the application to such aspects of the narrative role of "truth-telling" and "memory". These in the TRC functioned as, at the same time, juridical constructs required to extinguish past violations and as moral sources of legitimacy for a new state formation requiring "reconciliation" between "victims" and "perpetrators". The expressions presented here in inverted commas became keywords of both the TRC's legal and conceptual framework, and of its popular perception. Parallel to this, such expressions also organised a historical reconstruction of the past that could be operationally useful to the TRC's two main aims. In fact, at a juridical level, this reconstruction allowed to identify precise responsibilities in violations and abuses as a condition for amnesty. At a political level, the juridical identification of "perpetrators" and "victims", and the associated assumptions of personal responsibilities, were necessary components of a sub-text of "reconciliation", whose ramifications are much broader than the TRC's legal framework. Such ramifications invest, in fact, the whole sphere of the political and constitutional foundations of the "new South Africa". Influential analyses (Webster and Adler, 1995) have emphasised how the success of the South African democratic transition depended on social and political compromises where opposing forces from the past could reciprocally shape their programmes in the search of “win-win” policies that could marginalise irreconcilable conflict-generating differences. From this point of view, the TRC parallels a whole array of normative and institutional arrangements (the 1996 Constitution, tripartite organs of societal decision-making such as NEDLAC, or the new workplace industrial relations framework) that share as a priority the prescriptive desirability of compromises to reduce social conflict and contestation.

This paper suggests that the TRC's construction of “participation” in the apartheid regime and the meanings it attached to "violations" and "abuses" severely narrow its frame of analysis of socio-economic aspects of apartheid, whose permanence faces the new democratic system. These inadequacies are precisely shaped by the TRC’s internalisation of a discourse of “national unity” as primarily aimed at de-legitimising conflict and contestation as ways to advance collective organised interests for change. In particular, I will discuss the TRC Report's findings on the role of business under apartheid as characterised by serious flaws in understanding the nature of the apartheid state in the sphere of welfare and social citizenship. These limitations can be attributed both to the peculiar location of the TRC inside the political economy, institutional forms and ideological imperatives of the South African transition, and to the inherent ambiguities in its mandate and legitimacy. The TRC's shortcomings in this regard, finally, reinforce the question of social citizenship as a crucial, and fundamentally unresolved and unaddressed aspect of the current transition.

The extension of socio-economic rights has been generally recognised as decisive in the establishment of democratic representative governments in societies characterised by deep social inequalities and a potential for mobilisation by possibly anti-systemic mass forces. In the

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2 The act which established the TRC states, in this regard, that "the objective of the Commission shall be to promote national unity and reconciliation in a spirit of understanding which transcends the conflict and divisions of the past" (Promotion of National Unity and Reconciliation Act, No. 34 of 1995, Ch.2, Sect.2, Para 1).
South African case, the constitutional and political elaboration of the post-apartheid transition recognises, in particular, the importance of "second generation", social rights (education, health, housing, social security) as a foundation for the exercise of the newly recognised civil and political liberties (Du Plessis and Corder, 1994). These rights were originally products of the historical trajectory of "social citizenship" in Western capitalist democracies. "Social citizenship" implied in that case the recognition of an enlarged form of inclusion in the political community of the nation-state. This had to manage the "social question" originated by the entry on the electoral scene of mass actors (primarily the organised working class), which carried demands for fundamental transformations in patterns of ownership, production and distribution of social resources (Flora and Heidenheimer, 1981; Baldwin, 1990). In this historical trajectory, social citizenship included aspects that, to various degrees and with different levels of coverage and institutionalization, were present on a variety of cases ranging from "minimal" state intervention in free-market systems to fully-fledged welfare states (Esping-Andersen, 1996).

Such aspects refer to, first, the nature of social citizenship as the expansion of decommodified aspects of life, or social services whose provision and access are not depended on market relations (Marshall, 1950). Second, social citizenship's coverage is based on a discourse of social integration that constitutes collective social subjects (from specific areas of "disadvantage" to broad status-occupational groups to, ideally, the totality of the population), rather than individuals, as targets-recipients of services. This construction has been often accompanied to the promotion and extension of waged labour, both as a device to integrate working class organisations in the management of the system, and as a condition for the fiscal maintenance of its institutions (Kolberg, 1992). Third, the form of social service delivery enforced, as an alternative to mere voluntary or charitable interventions, the constitutionalisation -- or the stable insertion in the country's codified institutional life -- of social rights, related specialised bureaucracies and the social subjects covered (Negri, 1996). In the case of labour, this latter aspect involved, for example, the inclusion of union rights and collective bargaining in constitutional provisions. It has been noticed that constitutionalisation is an inherent contradictory process: from one side potentially anti-systemic actors are invested with a new disciplining ideology of participation, technocracy, "responsible governance" and compromise. However, on the other hand, this very process defines social rights and the "social wage" as a unifying horizon of struggle for potentially dispersed and fragmented forces in the production of society (Hardt and Negri, 1994:211). This, moreover, adds new legitimacy to popular conceptions of justice based on resource redistribution and reappropriation. Finally, such a contradiction emphasises the potentially authoritarian elements in social citizenship arrangements, as based for example on the reproduction of capitalist workplace hierarchies (Krahl, 1972) or on an intensified sexual division of productive versus reproductive roles inside the family (Dalla Costa and Dalla Costa, 1991).

In the South African case, the incorporation of decommodified social services in the definition of "basic needs" and "human rights" is part of the 1994 Reconstruction and Development Programme (RDP). This represented a recognition of the place occupied by social rights in popular expectations for a post-apartheid democracy. Such aspirations were clearly present in the political culture of the anti-apartheid struggle. In an oft-quoted passage, Murphy Morobe, "publicity secretary" of the UDF argued:

"The national struggle involves all sectors of our people - workers (whether in the factories,
unemployed, migrants and rural poor), youths, students, women and democratic-minded professionals (...). Democracy is the means by which we conduct our struggle (...). The key to a democratic system lies in being able to say that the people of our country can not only vote for a representative of their choice, but also feel that they have some direct control over where and how they live, eat, sleep, work, how they get to work, how they and their children are educated, what the content of that education is" (quoted in Neocosmos, 1996: 11).

In COSATU’s official discourse, a sphere of social rights should moreover provide a form of superior political rationality on a universal basis, to which markets, private capital, reconciliation and nation building are required to adapt:

"The private sector should not be allowed to escape its commitments to redirect investment towards the poor (...). Wealthy South Africans are using the policies of nation-building and reconciliation to clamour for their privileges to be left untouched. They fail to see that the stability of the new democracy cannot be built on squeezing the poor. There is one important source of income to assist in creating greater equity in society, and that is to tax the wealthy. Indeed, modern fiscal policy has developed to achieve this aim" (Congress of South African Trade Unions, 1996).

If this trajectory reflects the general relevance of social citizenship in the South African transition, the specific nature of the structural challenges facing the new state formation in this regard has been the subject of an increasingly intense debate on the "social legacies" of apartheid. The apartheid social citizenship arrangement, in fact, tried to incorporate black waged labour inside the racial state form in a peculiar way. Such a model of citizenship was, rather than aimed at social integration, based on differential patterns of reproduction of a labour force deprived of political rights and representation. This differentiation was the product of shifting configurations of capitalist interests (Lipton, 1986), competing allegiances in state bureaucracies (Posel, 1991) and recurring cycles of reform aimed at consolidating a, mainly urban, black population in moments of crisis triggered by working class insurgency (Hindson, 1987), which intensified since the 1970s. The expanded social security nets and labour market privileged access of the white minority (O'Meara, 1996) therefore contrasted with shifting boundaries of inclusion based on limited rights to urban residence, restricted collective bargaining and minimal social services -- “self-financed” on a local basis -- for the black majority (Bonner, Delius and Posel, 1993: 78). In this sphere, even if the state’s attempt at stabilisation of sections of the urban working class inside urban areas could be construed as an extension of citizenship rights, the funding mechanisms envisaged for black municipalities did not allow for decommodification and cross-subsidization from the wealthier to the poorer areas.

The shifting boundaries of apartheid’s “racialised welfare” responded, moreover, to policies of reproduction of class and ethnic divisions. These depended on often contradictory needs of mobilizing skills and compliance from the urban labour force, while at the same time trying to emasculate its stabilization and organization at the level of communities, hostels and workplaces. Therefore, exclusion and socio-economic oppression of the majority were made possible under apartheid by a specific turn in each of the three elements that I have used to define social citizenship arrangements. In fact, the apartheid social citizenship arrangement aimed to upgrade a limited section of the oppressed majority through measures of urban stabilization based on highly commodified delivery of very limited social services (housing,
water, electricity, education). Second, the identification of social subjects-targets for delivery was not primarily geared to growing social integration, but was premised on racial exclusion and selective incorporation of sectors divided along class and ethnic lines. Third, constitutionalisation concerned the establishment of political and labour market institutions specifically aimed at increasing the rate of exploitation, and therefore the dependence on the market, of the black working class while at the same time accommodating changing requirements of (primarily manufacturing) capital with regard to skills and urban stability. Even when limited collective bargaining rights were recognised (as in the case of the 1979 Wiehahn reforms), these were crucially aimed at incorporating black trade unions in a state-controlled system of recognition to deprive them of their social and political militant connotations.

The implications of shifting boundaries of inclusion in terms of social control and fragmentation have been discussed in Mahmood Mamdani’s (1996) account of "bifurcated citizenship" under colonial systems and apartheid. In this view, "citizenship rights" are the stake of a contestation over political representation limited to those sectors of the population located in the urban core and immediately exposed to the racial nature of domination and exclusion. Conversely, rural peripheries subject to customary, traditionalised forms of subjection would tend to mobilise political participation along ethnic lines, even in the case of rural migrants to industrial centres. However, such a polarity overestimates the impacts on forms of identity and consciousness of the institutional conjunction between social control "from above" and ethnic participation "from below". Conversely, the autonomous significance of resistance by labour and social movements in defining languages of struggle and patterns of expectations is relatively underestimated. In fact, the relevance of South African labour in social opposition to apartheid was largely responsible for spreading demands for social rights and popular conceptions of social justice that crossed the rural-urban divide and re-shaped the borders between "citizens" and "subjects" beyond their institutional categorisation. Such popular conceptions of justice had a direct impact on the TRC’s discussions of the socio-economic aspects of apartheid.

2. The TRC and Its Socio-Economic Assumptions

Issues related to socio-economic oppression and social citizenship were debated in the TRC mainly during the hearings, held in November 1997, that discussed the role of business in human rights violations under apartheid. The reconstruction of the socio-economic, institutional and ideological factors underpinning the past regime was considered crucial by the TRC, both as part of historical "truth" and as identification of distortions that the nascent democracy is called to redress in order to prevent, in its constitutional and political foundations, a repetition of past violations. The investigation of "gross violations of human rights", established as the primary goal for the TRC by the Promotion of National Unity and Reconciliation Act (No. 34 of 1995), implies three aspects that are crucial to this paper’s argument:

First, the definition of "gross violation of human rights" is left substantially vague, including any politically-motivated act of "killing, abduction, torture or severe ill-treatment" (Ch.1, Sect.1, Para IXa). It seems here that "severe ill-treatment", in particular, can include a wide variety of practices, a conclusion that seems supported by the Act’s broad definition of "victims" as:

"Persons who, individually or together with one or more persons, suffered harm in the form of physical or mental injury, emotional suffering, pecuniary loss or a substantial impairment of
human rights” (Ch.1, Sect.1, Para XIXa).

Conversely, "perpetrators" of violations included "persons, authorities, institutions and organisations" engaged in both individual acts or in a "systematic patterns of abuse" (Ch.2, Sect.4, Para a, I).

Third, the TRC was given a power of investigation and recommendation for future policies to promote "national unity and reconciliation". In exercising such a power, the TRC had not to be limited by its prerogatives in the, already quite ample, domain of human rights violations (Ch.1, Sect.2). This combination of definitions could easily authorise the expectation that among the tasks of the TRC were the identification of the social, economic and ideological factors, processes and structures that underpinned acts of "violations" and "ill-treatment", and the possibility of making policy recommendations to address these aspects. The TRC, therefore, was endowed with the authority and the legitimacy of a unique forum to discuss the socio-economic bases of apartheid, and to delineate possible programmes for reform and societal alternatives.

With regard to the TRC’s definition of “human rights”, it has been convincingly noticed that in many societies characterised, as South Africa is, by deep social inequalities, exclusion and traditions of popular struggle, the definition of fundamental rights tends to blur the divide between different "generations" of rights, towards a more inclusive picture (De Villiers, 1993: 29). As Alan Hunt (1993: 29) notices, this can have the effect of depoliticising the sphere of social rights, of separating rights from policies, material actors and the exercise of collective power, and of confining them in an empty ideological domain to enforce consent around dominant socio-economic paradigms and orientations. In this sense, the codification of basic rights in the RDP was as important as the RDP’s phrasing in a language of macroeconomic realism, pragmatic expectations and co-operation that effectively moderated popular expectations around those rights. However, the codification of social rights can also, in a contradictory way, facilitate the expression of popular conceptions of rights [which] are a field of engagement between alternative social policies and political objectives, and are at the same time important sources of mobilization and for securing political advances (and defeats of course!) (Hunt, 1993: 108).

However, popular expectations clashed, in the case of the TRC, with contradictions inherent in its mandate. In fact, a broad socio-economic assessment of apartheid was here ostensibly defined as crucial to the explanation of the context and circumstances of human rights violations. However, the ideological priority of promoting reconciliation and unity in a

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3 As Bohmke (1997) shows, in the end the RDP’s phrasing proved decisive in the reconstruction of its very “basic rights” inside the technocratic, conservative and privatising logic of GEAR (Marais, 1997). As a consequence, the sphere of policy as shaped by grassroots social movements and worker struggles declined, to become fragmented in its elementary technical components and replaced by a discourse of “good governance” as a reserve for institutions of social compromise, government bureaucracies and consultancy agencies.

4 Such an assessment was required by many participants to the TRC and by a vast civil society mobilisation. A submission by the South African National NGO Coalition and several allied organisations argued, for example, that violations of socio-economic and cultural rights are integral to the definition of gross violations of human rights and ill-treatment, and that assessing the state of social, economic and cultural rights is a condition to avoid the repetition of such abuses. Among the examples quoted in this regard are the racially-skewed nature of socio-economic
“conflict-free” society militated against exploring future policy approaches that could address expectations for social justice, but also legitimate militancy and mobilisation aimed at challenging the present continuities with past socio-economic structures, policies and orientations. In other words, the imperative of “reconciliation” entered a contradiction with the political and policy implications of “truth” and acted as a restraining and disciplining mechanism in the public discussion of such truth. Richard Wilson (1996) convincingly argues that the reconciliation-speak could be established as a priority -- I would say over the “truth” component -- in the TRC’s ideological set-up because of its correspondence with the need of establishing in a narrative-dramatic way a sense of national-populist, non-ethnic political identity. Such a conclusion would, in exchange, require to locate the TRC’s source of legitimacy not so much in the context of a “transition” characterized by uncertainty, contestation and search for a compromise, but from the point of view of already established, fully-fledged dominant state ideologies.

It is therefore, important, while discussing the shortcomings of the TRC, to read the Commission’s text against the background of institutional, policy and ideological imperatives that are at the heart of the political and constitutional structure of the nascent state form. This includes a macroeconomic policy context marked by the adoption of policies, such as the Growth, Employment and Redistribution (GEAR) strategy, through which the state has self-imposed heavy limitations on any strong public involvement in thorough policy responses to the social inequalities generated by apartheid. In fact, GEAR resumes and re-legitimizes, on one hand, crucial elements of the National Party government’s own reform programme (such as privatisation, public sector downsizing, labour market flexibility, opening to international markets). Such goals are framed in terms that result fashionable for the neoliberal economic orthodoxy of the day, such as fiscal discipline, deficit reduction, export-driven industrialization, avoidance of “unrealistic” socio-economic expectations (Marais, 1997). It is remarkable, from this point of view to underline the ideological impact of such shifts in the form of state and policies. In fact, the centrality that foreign investment, business confidence and public-private partnerships assume in this context -- while restraining the once popular motif of state intervention in redistributive policies -- is a fundamental constraint for a radical reversal of the hyper-commodified pattern of social citizenship arrangement that the majority of the population has inherited from the past. The Department of Welfare has indeed made clear that, where such a reversal is going to happen, it will affect (along lines not dissimilar from the World Bank’s construction of “safety nets” and of Esping-Andersen’s characterization of minimal welfare state) only the extremely “disadvantaged”:

“While welfare programmes should be available to all South Africans, the focus must be on the poor, those who are vulnerable and those who have special needs. Particular attention should also be paid to addressing the needs of people in rural areas, informal settlements and the part of urban areas where people are not integrated into the mainstream of society (...). In view of fiscal constraints it is not possible for the welfare function to grow in real terms in the medium term. Real growth will be accommodated by restructuring of the welfare function. The Ministry for Welfare and Population Development will however continue to advocate increases in real oppression and exclusion in South Africa (95% of South African poor were African in 1996), which was enforced through apartheid’s repressive means, and the commodification of basic social services -- as in the case of self-financing and the application of market rates for water and electricity in black townships -- as a way to perpetuate exclusion (Community Law Centre et al., 1997).
terms in order to redress the underfunding of this component” (Department of Welfare and Population Development, 1997: Ch8. My emphasis).

At the very least, any attempt by the TRC to support its historical reconstruction of the “truth” in relation to socio-economic oppression under apartheid with strong, decisive recommendations for systemic social and economic restructuring would have faced formidable obstacles in terms of the dominant political discourse. More than this, any attempt by the TRC to challenge those obstacles would have probably entered a contradiction with the very *raison d’etre* of the TRC itself: the promotion of national unity and reconciliation. For the government of the day, in fact, that aim necessarily required business confidence, roll-back of the public sector and avoidance of “excessive” socio-economic expectations. Jonathan Klaaren (1998) is therefore correct in stressing the constitutional relevance of the TRC based on its broad participatory appeal, the promotion of national unity and the education to the values of the new Constitution. However, these expressive and ideological functions are not exempt from contradictions: in fact, the promotion of national unity by the TRC was premised on silence and omissions regarding the conflictual and contested socio-economic dynamics that lie below that unity. As a result, as Klaaren continues, the pedagogical functions of the TRC are limited by its neglect of a culture of socio-economic rights. However, such omission cannot be regarded as merely due to the technicalities in the TRC’s legal mandate and frame of reference. It is rather a product of the contradictory location of the Commission in the political economy of the South African transition as reproducing a de-racialised hyper-commodified capitalist citizenship arrangement, and of its ideological discourse.

The TRC’s role reflected an unclarified border – implicit, probably, in any attempt of incorporation of basic rights inside legal formulations and institutional “liturgies” -- between politics as the expression of popular expectations for change and the reduction of politics as the limited technical domain of “governability”. This aspect has not received much attention in local and international analyses of the TRC. The most influential literature on "reconciliation" in the new South Africa tends to ignore altogether the social and economic implications and contradictions inherent in the rationale of an organ like the TRC. When it does that, it reads such implications and contradictions nearly exclusively from the point of view of the socio-economic priorities of the government of the day. Therefore, for example, Asmal, Asmal and Suresh-Roberts (1996: 141) translate the problems arising from exploitation, racial labour market hierarchies, repression and denial of basic social and economic rights for the majority under apartheid into the heading of violation and denial of property rights. In their view, one of the worst crimes of the past regime is that of having undermined a culture of “legitimate property”. This would have detrimentally affected not only blacks, but white capitalists as well, whose enjoyment of, however enormous, property was impaired by its illegitimate, “undeserved” and disreputable nature. Therefore, it is also in these latter’s interest that the new Constitution enforces private property as a certain, legitimate, fundamental right\(^5\). This

\(^5\) It is interesting that not even business submissions to the TRC presented, to my knowledge, this aspect of human rights “violation” under apartheid. Maybe if they had read Asmal et al’s account beforehand, Oppenheimer, Rupert and Rosholt, to name a few, would have had a strong legal case in appearing in front of the TRC as “victims” of the past regime on the basis of their, albeit unconscious, pain resulting from being deprived of what the new South African Constitution recognizes as a fundamental human right: the *legitimate* enjoyment of the fruits of their profits. From this point of view, Asmal et al’s account of the establishment of pure, legitimate property as an achievement of the new South Africa reflects what Marx (1973: 104) recognized as one of Adam Smith’s fundamental
subordination of understanding socio-economic rights’ violations under apartheid to the
primacy of private property in the new order, and its related constitutional clause,
“reconciliates” past oppressors and oppressed inside a legal framework where the main task of
social policy for (to use the Department of Welfare’s phrasing) “people with not special needs”
is nothing more than to guarantee fair rules to compete for property in the “free market”. In fact,
Asmal et al’s remark on the existence of clauses for expropriation in the public interest in the
Constitution does not address the fact that once property is established as a fundamental right it
also establishes a logical priority. This makes the burden of proof for any social policy based on
“public interest” limitations of property fall on the supporters of such policies. As Bond et al
(1996) show, this burden of proof has often to be enforced against powerful corporations and
privileged vested interests that can use precisely their newly gained fundamental rights to block
legislation in the sphere of housing, service provision and land reform that could impair their
“legitimate property”. Finally, Asmal et al’s construct of reconciliation and the TRC’s mandate
as important contributions to rebuild the respectability of private property, which apartheid
made “fall in disrepute” (142), fails to consider property from the point of view of social power
structures. Therefore, while it establishes private property and private enterprise as central
regulators of social life, it reinforces a separation inside the concept of “rights” between a sphere
of desirable social goals and “public interest”, and a material terrain of policy process and
power. On this terrain, in fact, the advancement of such goals would have to stop before
infringing rights whose preservation is required by unity and reconciliation, even if such rights
preserve and reproduce structures of social exclusion and oppression that nurture old and new
elites.

In an important exception to mainstream analyses of socio-economic aspects of the institutional
forms of the transition, Elsa van Huyssteen (1998) argues that only a vibrant civil society, with
independent collective actors able to open spaces of contestation around radical programmes for
change, rather than state-imposed "realism" in the name of national unity, can bridge the gap
between the normative embodiment of popular conceptions of social justice and the
consequential social policies. From this point of view, however, it has to be stressed that the
ideological priority on national unity, to the extent of silencing the TRC’s most far-reaching
socio-economic implications, was a more than likely outcome well before the commencement
of the TRC's operations. To this contributed the disciplining effect linked to the shift of many
civil society organisations from a role of opponents of the state to technical functions of
partnership and "watchdog“. This contradicted any serious role in emphasizing structural
continuities with the past and the permanence of structures of domination and privilege.
Therefore, the TRC's inherent ambiguities did very little to rebuild such a critical capacity by
organised civil society actors (Hamber, Mofokeng and Simpson, 1998).

The TRC hearings on the business role in apartheid mobilised a wide array of contributions
from a plurality of sector of society. Employers’ organisations and major corporations (with the
notable exception of international oil companies), trade unions (with the notable exception of
NACTU) and NGOs sent submissions, which generally dealt with the role of business in the
context of broad socio-economic structures. This _de facto_ broadened the definition of violations
and abuse under discussion. The issue of business’ responsibility during apartheid is not a topic

contributions: “With the abstract universality of wealth-creating activity we now have the universality of the object
defined as wealth”. “Wealth” is here, n fact, intended as based on an exploitation of waged labour that is totally free
from the fetters and moral impediments of the “imperfect” past forms of capitalism.
for this paper. However, the findings and recommendations of the TRC Report (Truth and Reconciliation Commission, 1998)⁶ in this regard ostensibly provided an assessment of socio-economic violations under apartheid, an identification of challenges for the present democratic state, and possible ways of addressing these in relation to the problem of establishing new patterns of social citizenship.

Such findings are based on a differentiation of business’ role in the past regime according to three “orders” of involvement. The “first order” defines a "central role in helping to design and implement apartheid policies" (TRCR, v.4, c.2: 24-25), which includes oppressive policies and practices that resulted in low labour costs (or otherwise boosted profits), as in the case of the migrant labour system in the mining sector.

Involvement of the “second order” includes "businesses that made their money by engaging directly in activities that promoted state repression", be they aware (such as arms deals) or unaware (such as bank funding through “covered” credit cards; TRCR, v.4, c.2: 25-26).

The “third order” is constituted by indirect benefits “by virtue of operating within apartheid society” (TRCR, v.4, c.2: 26-27). This includes the overwhelming majority of labour market, residential and welfare practices (from separate collective bargaining structures, to segregated hostels, job reservations, racial wage determinations, benefits from the “homelands” system, neglect of health and safety as resulting from existing legislation). This “order” recognises that "(...) not all businesses profited equally from apartheid. It is, however, difficult not to conclude that, between 1910 and 1994, government and business (despite periodic differences and conflicts between them) co-operated in the building of an economy that benefited whites. On the one hand, they promoted and maintained the structures of white power, privilege and wealth and, on the other, the structures of black (mainly African) deprivation, discrimination, exploitation and poverty" (TRCR, v.4, n.2: 42).

Such a conclusion seemed to legitimize high levels of expectation for a recognition of an organic link between the apartheid state and racial capitalist exploitation as a systemic and consistent cause of human rights violations. This would have, consequently, authorised a demand for recommendations that could advocate a complete reversal of those very structural and systemic sources of violation. This would inevitably have had broad implications for the present, highly skewed, distribution of resources, for public commitment in the provision of decommodified social services, and for progressive fiscal approaches to redistribution. Even if the TRC substantially lacked a real normative capacity in this regard, the mobilisation and participation it raised, together with a worldwide attention to its proceedings, could have had a not negligible moral and symbolic impact on political decision-making. The Report itself recognizes this context as an opportunity for tackling the present systemic continuities with the past as a challenge facing the new political dispensation:

"the current distribution of wealth (which is substantially concentrated in white hands) is a product of business activity that took place under an apartheid system that favoured whites. This acts as a counterbalance to statements by business that apartheid harmed them, a reminder that

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⁶ Hereinafter TRCR.
white business accumulated (sometime vast amounts of) wealth in spite of this alleged harm. It also raises the question about the need for business as a whole to commit itself to narrowing the gap between the rich and the poor” (TRCR, v.4, c.2: 26-27).

However, the way in which the TRC constructed business’ “role” in apartheid as the basis of its own historical socio-economic reconstruction proved ultimately not compatible with these expectations.


The Report’s findings and recommendations on the business’ role present two fundamental flaws which severely impair the validity of its reconstruction of apartheid’s social and economic order, make the identification of challenges for social citizenship in the new South Africa, to say the least, grossly inadequate, and define extremely weak and reticent policy recommendations. Each of these two flaws can be connected to the already noticed contradictory and ambiguous location of the TRC in the political-ideological economy of the South African transition. Conversely, the analysis of several crucial responses that could have addressed such shortcomings and that were raised in many submissions was neglected by the Report, beyond the level of mere declarations of principles. As a result, Sampie Terreblanche (1998) argues that the Report ended up endorsing a position that was predominantly influenced by assumptions held by many submissions from the business sector, from the points of view of historical reconstruction of the past, recommendations for the present, and social vision for the future.

The Report’s weaknesses are identified in the final part of this paper.

**Individualisation.** The construction of three orders of involvement is functional to a hierarchy of business’ responsibilities that is mainly based on individual, particular participation in the apartheid state machinery, whereby having benefited from the organisation of capitalism presided over by that machinery is allowed a lesser degree of “seriousness”. In doing so, the TRC deliberately chose a narrow, legalistic definition of human rights over the possibilities of its broader investigative mandate (Terreblanche, 1998). While the practical usefulness of such a definition can be questioned on the basis of the lack of normative and sanctioning capacity by the TRC in this regard, such a choice undermined from the start a deeper look into the persistence in the present of “beneficiaries” of apartheid that cannot only be defined as individuals, but as structures of ownership, access to wealth, allocation of resources, fiscal arrangements:

“[Apartheid as racial capitalism] was deliberately constructed in a very close collaboration (conspiracy?) between white business men and white politicians to create a (mainly African) labour repressive system on behalf of white business (…). The TRC does not succeed - or not even tried - to explain the causative role played by the systems of white political dominance, racial capitalism and/or apartheid over a considerable period of time in bringing about (and in sustaining) white wealth and white privileges on the one hand, and black poverty, black
deprivation and black humiliation on the other hand” (Terreblanche, 1998: 4-6. Own emphasis).

Such an explanation would have unquestionably been more useful in confronting what the TRC itself identified as the current challenges of social inequality and exclusion. Rather, the Report’s legalistic framework -- more interested in emphasising the direct, individual, specific involvement in “designing and implementing” repressive apparatuses, rather than in the indirect, collective, long-term benefits of such involvement in terms of social control, reduction of labour costs and increased profitability -- abdicated immediately from such a task. Individualisation of responsibilities reflected indeed the positions advanced in submissions by representatives sympathetic to business. Ann Bernstein (1997) used the distinction between individual responsibility and systemic social injustice to argue that capitalism as a system is legitimately indifferent to human rights issues that belong to the individual morality of each businessman. Rather, business could be regarded as a social force that, by promoting growth and employment, contributed to “thicken” civil society, to accelerate modernisation and to create individual opportunities which ultimately unleashed democratic pressures. Therefore, capitalism as a system could contribute to overcome apartheid, whereby an individual political commitment by single businessmen against the state on the basis of “non-business-like” considerations of human rights would have only jeopardised their activities with no effective challenge to the system. By implication, therefore, in this view not only business’ profits (among the highest in the world before the 1970s political crisis of apartheid) were obtained in spite of apartheid. But the transition to democracy had the effect of defining business’ “truth” (this time in a Hegelian sense) in its most adequate political environment. This is compatible with a view of the new South Africa in which, following GEAR’s emphasis on “fiscal discipline” and the Department of Welfare’s view of “residual” welfare, the private enterprise and trickle-down policies remain the central vehicle of modernisation, job creation and social delivery.

Conversely, the acceptance by the TRC of individual responsibilities over systemic social injustice as the explanation of past socio-economic oppression pushes redistribution and access to decommodified social services further at the margins of the policy priority of the new democracy. Once this aspect is removed, then, the TRC has cleared the way to a view of the outcomes of democratisation that echoes the conclusions in the submission by the South African Chamber of Business (SACOB). While it claims that the end of apartheid would allow capital to complete the trajectory of modernisation and industrialization that started under apartheid itself, this submission summarises the main tasks such a modernisation has now to address to develop a new form of corporate citizenship in a proper shareholder democracy:

“(…) a need for organisations such as SACOB to “sell” the private enterprise ethos to the broader community – particularly to those who feel partially or totally excluded from it (…)”. Within this context, SACOB has committed itself to supporting the Government’s Growth, Employment and Redistribution [GEAR] Strategy (…). Whilst it is important for South African business to adhere to sustainable development strategies, and to adopt a longer-term approach to profits, this will have to take place within the prevailing world order. To some extent, this means that the business of business needs to shift back to business (…). Business still has some way to go before ownership and participation levels in the economy are more representative” (South African Chamber of Business, 1997: 24. My emphasis).

This view of a fundamental continuity in the alleged modernising and democratizing trajectory
of business, beyond the twists, turns and accidents of history, and the “mistakes” in individual actions and evaluations is not new. On the contrary, rewriting history in the form of corporate cosmology and myth-making has been noticed as a common phenomenon in transitions to post-authoritarian societies where capital’s role in past authoritarianism has been questioned, as in the case of post-1945 Germany:

“The assumption of business crimes against humanity forced the industrial elites of the Ruhr to look grudgingly backward. In the process of doing so, they selected and creatively refashioned images that would serve as both tools in their own process of professional self-evaluation and weapons in the campaign against their enemies on the Left” (Wiesen, 1996: 225).

In South Africa, the TRC proved a particularly favourable battlefield to use such weapons against the possibility of radical social change. In fact, business’ ideological constructs of the new South Africa and of “private enterprise ethos” as what “those who feel excluded” really need constitute the logical implications of the Report’s separation between “participation in” and “benefit from” apartheid. Such implications are possible, on the other hand, only on the basis of fundamental omissions on the human rights dimensions of the enormous benefits accruing to business from a social citizenship model that effectively deprived the majority of social rights and services and relieved the state and corporate sector from paying wages adequate to international labour standards. In fact, the Report’s response to Bernstein’s argument does not tackle these omissions and their systemic implications. It rather de facto endorses the centrality of the private enterprise in democratic transition and consolidation by merely contesting to Bernstein that morality is in any case relevant to sound business, which should be held responsible towards “social concerns, business ethics and moral accountability” (TRCR, v.4, c.2: 54). This actually confirms the basic thrust of Bernstein’s point that if any “wrongdoing” was committed by capital during apartheid, this was mainly a matter of individual lack of moral sense.

COSATU’s submission (Congress of South African Trade Unions, 1997: par. 98-101) shows how the denial of health and safety, medical aid (with only 3% of black workers covered) and pensions (a major cause of strikes and dismissals) jeopardised black workers’ well-being, employment and lives to an extent proportional to business’ rate of profitability (which did not raise any particular resistance by business with regard to these aspects). The link between suppression of living standards, denial of social rights and human right abuses in the everyday operations of companies under apartheid is a crucial theme in COSATU’s submission. And yet such a systemic connection between individual business practices and the structure of racial capitalism was substantially ignored in the TRC’s recommendations. This leads me to the second TRC’s weakness.

Voluntarism

The neglect of the analysis of systemic connections between capitalism, apartheid and racial welfare arrangements, and the replacement of socio-economic inquiry with moral formulations and techniques of business ethics, had a profound impact on the TRC Report’s policy recommendations. The Report, in fact, advocated a policy mix in the form of a “business contribution to Reconstruction and Development”, whereby the “feasibility” of various options would be explored in an undefined way, and none of these options was actually favoured on
analytical grounds. Such a “basket” would include, among other, a wealth tax -- as suggested in the submission by Sampie Terreblanche -- a one-off payment of 1% of market capitalisation for JSE-listed companies -- as suggested by former Financial Mail editor, Stephen Mulholland -- tax exemptions for land and donations destined to the “disadvantaged” population, the improvement of hostel facilities, a support for affirmative action and employment equity policies, and the defence of the independence of the Reserve Bank (TRCR, v.5, c.8, par.38-46). Terreblanche (1998) defines these measures “vague, tentative and rather superficial”, and based on “naïve” assumptions that capital can enter some voluntary monetary deal in the form of reparation for past abuses.

These assumptions follow, on the other hand, the TRC’s construct of capital as a fundamentally neutral actor during apartheid, whereby when it did not “help to design” the structures of the regime, it essentially benefited from it in an indirect and unintentional way. From this point of view, Charles Simkins ruled out entirely, at the TRC “business hearings”, not only the relevance of systemic linkages between capital and apartheid in explaining current challenges to democracy and social citizenship, but also the relevance of the question and, indeed, the very existence of something definable as “capital”. Expressing a view that would find comfort in the TRC’s construct of “individualisation” of capital responsibilities, Simkins argued that business under apartheid was a heterogeneous reality. It was therefore defined, rather than on the basis of structural advantage or benefit, by diverse “attitudes”, whereby the prevailing attitude was “pragmatic adaptation” as a rule based on uncertain perceptions. From this point of view, it would become meaningless to discuss even about a business’ role under apartheid since, as Barlows’ Mike Rosholt said, business’ role under any political system is one and the same: to make profits, leaving politics to the politicians.

The construct of capital-as-neutral deeply influenced the Report’s recommendations relevant for social citizenship. In fact, the TRC decided that the link between social injustices of the past and human rights abuse was mainly a matter of lack of individual morality, and not an issue of systemic convergence between racial capitalism and apartheid state. This, as a consequence, ruled out an investigation not only of the continuities of such systemic convergence, but also of the possibility for radical social policies and redistribution, which would have, moreover, hampered capital’s newly discovered “enjoyment of legitimate property” -- in Asmal et al’s words -- as a crucial component of “national unity”. In the absence of any recommended social policy to address the repressive, unequal and exploitative pattern of social citizenship of the past, the whole question was therefore resolved into a mere accountancy matter of “reparation” as monetarisation of past social injustice. Apart from that, the TRC confirmed the emphasis on individual professional promotion and labour market competitiveness (rather than decommodification as reduction on labour market dependence) as vehicles of social upliftment coded under “affirmative action” and “employment equity”.

Moreover, the TRC’s emphasis on the “feasibility” of the proposed policies, rather than on their actual content, reproduces the transcript of “national unity” that was already more precisely codified in macroeconomic policy documents. In fact, crucial to GEAR are the advocacy of policies adopted as a matter of consent and compromise between all the “relevant stakeholders”.

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and the emphasis on the “feasibility” of any proposed policy in view of the government’s macroeconomic constraints and its self-defined inability to interfere with global capital flows (a point that the TRC echoed directly and readily in its support for the independence of the Reserve Bank). Voluntarism and indifference to policies’ contents, therefore, allowed the TRC to drown in an undifferentiated basket of wishful thoughts the only two proposals made at the business hearings that addressed the question of social citizenship and redistribution as crucial to overcome, or at least to radically reform, the socio-economic system inherited from the past.

The first of such proposals, made in Terreblanche’s (1997) submission, was rejected with outrage and ridicule by business representatives at the hearings. Although phrased in terms of moral restitution and “improvement of the quality of [African] poverty” (29, own emphasis) and as a device for social stabilization, rather than of social citizenship, such proposal aimed at combining a recognition of the inherently exploitative nature of the apartheid system with fiscal measures that would have penalised the “beneficiaries” of apartheid at large (and not only the “direct participants”). Significantly recognizing the failure of GEAR in delivering growth and job creation, and the reason for such a failure in the absence of a thorough reform of the South African social structure, Terreblanche suggested the imposition of a new wealth tax. Such a tax (of 0.5% annually and the duration of 10 or 20 years) would have applied to persons with net assets of more than R2 million and would have been devoted to the upliftment of the poorer 40% of the population (Terreblanche 1997: 33). It is apparent that such a proposal would constitute, given its limited fiscal base and its coverage based on income targets (and, probably, a substantial dose of stigma) a very modest social citizenship arrangement, compatible with minimal or “residual” state intervention in Esping-Andersen’s (1996) sense. And yet, it is interesting to notice the observation that the TRC’s Deputy Chair, Alex Boraine, addressed to Terreblanche at the hearings:

“A wealth tax] would create enormous instability and therefore make business development almost impossible as well. If we have to take that with the seriousness that you have taken it with, the people, who would be requested or demanded of to pay that tax, would be, in large measure, a small white community. In terms of the new Constitution, it has been argued against me publicly, this would be unconstitutional, because you cannot discriminate on the ground of race”.

Once again, the sub-text of reconciliation and national unity as purely ideological constructs in the interest of state, social and business stability defines the boundaries of admissible and not admissible ways for the TRC to carry on its own mandate. In this case, redistribution becomes a direct threat to national unity through the equation (Freudian slip?) wealth-tax = white-tax, which curiously confirms precisely Terreblanche’s point on apartheid as systematic promotion of white access to wealth.

The second submission that identified issues of fundamental social transformation as crucial to fulfil the TRC’s mandate and expectations in the sphere of social policy making was presented by the Alternative Information and Development Centre (AIDC) and the Apartheid Debt Co-ordinating Committee (1997). The AIDC submission addressed the contradiction between reconciliation and lack of economic justice in the new democracy from the point of view of the

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government’s self-imposed constraints to progressive and redistributive social policies. The submission showed, in fact, how government’s funding systems inherited from apartheid limit the range of policy options in a way that continues to benefit in the present the same corporate and financial actors that benefited in the past. This translated into an overall public debt that had increased nearly fourfold to R300 billion (20% of government budget) between 1989 and 1996. Such figures had swollen as a consequence of -- apart from the legacies of state indebtedness to pay for rising expenses for apartheid’s repressive and discriminatory apparatus -- one of the last social policy measures of the NP regime: the full privatisation of public employees’ pension funds, out of a “pay as you go” system into a “fully funded” scheme. To finance the new scheme, in fact, the state pension funds invested in the private market, whereby insurance companies and private pension funds could use these revenues to buy government bonds. In this way, employees’ contributions could serve, as a direct consequence of the full commodification of pensions, to expand the public debt, increase the weight of interest payments on public spending, and reduce the availability of funds for social services and social policy. In this case, the continuities of the funding practices of the old regime are reinforced by the privatisation policies supported by the NP’s rule in its dying days (and now by GEAR). Therefore, the AIDC’s demand to cancel such apartheid-inherited debt was both a specific measure of redress and mobilisation of funds, and a gesture of redistribution addressing systemic continuities transmitted by the past regime’s structure of exploitation. At the same time, it identified the commodification of welfare services, and therefore the reduction of social citizenship, as a main cause for such continuities.

The TRC’s reply to the AIDC failed, once again, to explore such connections in relation to needs and opportunities for a radical social policy choice. In fact, on one hand the Report recognises, in four lines and in extremely vague terms, that “there is a strong argument for discussion, consultation and co-operation with other countries facing similar debts” that have “crippling effects” on social delivery (TRCR, v.4, c.2, par.153). On the other hand, this recognition came soon after the Report had effectively buried -- with an impeccable “sound business” kind of reasoning that contrasted with the usual moral accents of the reconciliation-speak -- any possibility for policy recommendation and action besides desirable, long-to-come, “consultation”:

“(…) It has been suggested that cancellation of the debt could have certain adverse consequences for economic growth. Advocates for continued payment confirm the point made by the Apartheid Debt Co-ordinated Committee that a significant part of government debt is owned by domestic financial and commercial institutions. Cancelling it, they say, would erode their asset base, harm shareholders, pensioners (in cases where debt is owned by pension funds) and possibly employees. To the extent that such debt cancellation would undermine the level of confidence in government stock, it would also result in higher borrowing costs on new debt issues – or even an inability to market any debt domestically or abroad. This would severely constrain any subsequent attempt at redistribution on the part of the state” (TRCR, v.2, c.4, par.152).

4. Conclusion

This paper has argued, emphasising gaps in relevant literature on the subject, that the role, performance and outcome of the TRC in the context of democratisation in South Africa should
be read as part of the broader political economy of the South African transition. This implies that viewing the TRC as constituting a source of values and education based on a culture of human rights derived from some peculiar role in unveiling the truth through dramatic narrative of the past is flawed in many respects. In particular, such a view does not consider the extent to which the TRC itself is constituted by the institutional, socio-economic, political and ideological imperatives of the new South African State. I have shown how such imperatives have had a decisive influence in the TRC’s reconstruction of the past and recommendation for the future with regard to social citizenship as an unresolved issue for the present form of state. In particular, the way in which the TRC has addressed the exploitative and oppressive nature of racial capitalism shows important inadequacies with regard to the identification of systemic socio-economic continuities with the present, the understanding of challenges facing the extension of social citizenship and social rights, and the definition of appropriate policies of fundamental social change. Such failures are significantly related by the way in which the TRC’s definition of “reconciliation” and “national unity” is predominantly responsive to the dominant macroeconomic and social policy discourse. This discourse is centred around a nationalist construction of national unity as absence of social conflict and contestation, phrased in an orthodox economic text that privileges “realist” compromises, public spending restraint, moderation of socio-economic expectations, a substantial commodification of social life and the centrality of the private enterprise in dynamics of socio-economic change.

The TRC’s responsiveness to such a discourse was detrimental to its understanding of present social exclusion and exploitation on the basis of inherited power structures and social injustices (Terreblanche, 1998: 16), which led to a substantial lack of historical perspective and to an abdication from a systemic analysis. To this contributed a narrow legalistic framework based on individual actions and attitudes as main causes for past abuses and violations. On the other hand, the high level of functionality displayed by the TRC in promoting and reproducing such a view of national unity, together with the associated disciplining effect deriving from the Commission’s unique position of legitimising present policies through a thorough assessment of the past, left expectations and demands for radical social change from labour and civil society actors, unanswered and marginalised. The elaboration by these actors of the TRC’s failures, and possibilities to advance those very demands through autonomous social action, are a matter for further research.

References


Community Law Centre (UWC) et al. 1997. Submission to the Truth and Reconciliation Commission Concerning the Relevance of Economic, Social, and Cultural Rights to the Commission’s Mandate. 18 March.

Congress of South African Trade Unions. 1996. A Draft Program for the Alliance, Discussion paper presented to the Executive Committee (Johannesburg: COSATU).


Cape Town: University of Cape Town Press).


Terreblanche, S. 1997. Testimony Before the TRC Made During the Special Hearing on the Role of the Business Sector. 11 November .


