



For more information on the
Apartheid Debt & Reparations
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International legal action for
apartheid reparations has
proceeded with much publicity.
This briefing provides an
overview of the background to
and current status of the
Apartheid Debt and Reparations
Campaign and legal actions

BRIEFING ON THE APARTHEID DEBT AND REPARATIONS CAMPAIGN.

This briefing serves to provide an overview of the background to the process undertaken and the current status of the campaign and legal action.

Apartheid Debt and Reparations campaign and background to the Legal Action

The Apartheid Debt & Reparations Campaign was officially launched in Cape Town in November 1998 and has therefore been running for three years and eight months. For nearly three years, we had campaigned in various ways for the cancellation of illegitimate apartheid debt, the return of profits made from apartheid debt servicing, and compensation from businesses that profited from apartheid abuses.

We argued that reparation is due both for broad social reconstruction and development programmes in affected communities, and for individual compensation to victims of apartheid human rights abuses. We further argued that the first step towards reparations must be an acknowledgement of the wrongs of the past and a focus on the persistent social damage that has been done as a result. This damage needs to be repaired to the extent that is reasonably possible. Being considered accomplices in the apartheid crime against humanity, banks that financed the apartheid state and businesses that invested in and profited from it have a responsibility to ensure that such reparatory action is taken. The major corporations named were from Germany, Switzerland, Britain, the US, and France.

We consistently raised this issue through media campaigns, popular education and mobilization, direct meetings with Swiss and German government officials, public events to which especially the banks were invited, ongoing research, and several international conferences. This happened particularly in South Africa, Germany and Switzerland, with supporting events in Zambia, Namibia, Ireland, and the Netherlands and endorsements from Jubilee campaigns throughout the world. We repeatedly called for the matter to be resolved decisively through the convening of an international conference that would include the relevant corporations, political authorities, campaigning organizations, and victims groups. At one stage, this matter was raised directly with the Swiss president.

However, our public calls were consistently rejected by the corporations as unjustified and ineffective, while the political representatives argued that the matter should be taken up directly with the banks and businesses.

The campaign, in the meantime, began looking into the possibility of international legal action to have the matter resolved. At that stage, after a campaigning visit to Switzerland by Archbishop Njongonkulu Ndungane and Neville Gabriel in May 2000, the campaign was contacted by a US attorney who had been involved in the holocaust-related compensation claims. We entered into discussions with Mr Fagan while at the same time investigating possibilities with other prominent lawyers that were involved in the holocaust claims.

After several public statements that we were prepared to facilitate legal action if our calls continued to be rejected, the campaign took a decision at the end of 2001 to file legal suits as a strategy to ensure that the issues were addressed.

Lawyers invited

We appointed Charles Abrahams as the legal representative of the Apartheid Debt & Reparations Campaign and invited Dumisa Ntsebeza (a patron of Jubilee South Africa) to be the lead South African advocate for apartheid reparations claims. The Task Team that was managing the campaign included representation from the South African Council of Churches (SACC), the South African National NGO Coalition (SANGOCO), the Congress of South African Trade Unions (COSATU), Khulumani Support Group, the Centre for the Study of Violence and Reconciliation (CSVR), the Institute for Justice & Reconciliation, and several legal specialists, researchers, and patrons and officials of Jubilee South Africa.

Having done several background checks on Edward Fagan, we cautiously entered into ongoing dialogue with him. At the same time, we initiated dialogue with the US attorney Michael Hausfeld who was a leading and respected lawyer in the holocaust claims. Background checks on Mr Hausfeld indicated good credentials.

During briefings and consultations with various individuals, organizations, and government officials, we indicated that legal action was imminent.

However, the legal complaints to be filed in New York that were announced on 17 June 2002 were neither on our instruction nor had we planned to file claims on that date. The claims were nonetheless filed by Mr Fagan with the full knowledge and participation of the South African lead advocate we had mandated.

This raised further serious concerns about the manner in which the cases were being handled and resulted in a breakdown of communication between the Apartheid Debt & Reparations campaign and the South African and US lawyers involved in the filing of the June 17 claims. We did however, commit our support to the victims in whose name the case was filed and supported the legitimacy of the issues over which the claims were filed, and indicated in a letter to the South African lawyers involved in the case that we wanted to ensure the unity of our efforts by convening a meeting of all parties involved in the claims.

Michael Hausfeld Visits South Africa

At the invitation of the Apartheid Debt & Reparations Campaign, US attorney Michael Hausfeld visited South Africa from July 31st to August 3rd. On our initiative, we have had ongoing and detailed discussions with Mr. Hausfeld over the past year in regard to legal strategies. Several meetings with our international research team,

partner organizations, Khulumani, the Jubilee SA National Executive Committee (NEC), and other partners took place during his visit.

Attorney Michael Hausfeld and three of his associates provided the Jubilee SA NEC and partner representative Khulumani with a thorough briefing of the proposed legal claim(s). A very lively interchange and discussion transpired.

The Jubilee SA NEC meeting agreed to instruct Jubilee legal representative, Charles Abrahams, to formally engage Michael Hausfeld on a contingency basis to move forward with the proposed legal claims on behalf of the ADR campaign.

Networking with International Solidarity Partners

The campaign is international. We have vibrant and growing partner campaigns in Switzerland and Germany, with solidarity partners in Britain, and the US continuing to strengthen their support. In addition, partner networks in Namibia, Canada, and the Netherlands are active in supporting the campaign. This is happening both on sectoral and national lines of communication, with requests to deepen sectoral communication especially in regard to the churches and trade unions.

Research

The Apartheid Debt and Reparation Campaign has both a national research team and an international network of researchers in support of the campaign, this network is coordinated by the South African ADR Campaign coordinator and Jubilee South Africa's attorney, Charles Abrahams. The Apartheid Debt & Reparations Campaign called an international researchers meeting to further develop our strategy in accordance with our proposed legal strategy, to identify key research areas, to concretize plans for implementation of our research strategy, and to agree on time frames for the delivery of the required research. The meeting brought together partner campaigns in Switzerland and Germany, local researchers, partner organizations, legal professionals Charles Abrahams and Michael Hausfeld.

The ADR international research network embarked on specific research for the current claim. The research for the claim is of extremely high quality. The research network will continue to produce high quality research for the Apartheid Debt and Reparations Campaign of Jubilee South Africa.

Today

The Apartheid Debt and Reparations campaign together with Partner campaigns in Europe and the United States are meeting with the press to share with the world of the claim filed in the United States on behalf of victims of Apartheid. Today the Khulumani support group for victims of Apartheid, the plaintiff in this legal claim will tell their stories. Together with the ADR Campaign, Khulumani will put on record their aspiration for the acknowledgement of the Truth as they seek Justice and demand reconstruction of communities in South Africa.

Extract from Jubilee South Africa Media Statement, Sunday 11 November 2001

BALL IS IN CREDITORS COURT, SAY CAMPAIGNERS

"We will only take up legal claims for apartheid reparations as a last resort - if we are forced to," Jubilee South Africa said in a statement today, concluding its national consultation on apartheid debt and reparations in Johannesburg.

"It would be unfortunate to have to resolve reparations in court like the holocaust claims were, but we are prepared to do so if there are no other options open to us," said Jubilee South Africa. "After recent revelations about Swiss military backing for apartheid's chemical and biological weapons programme, the onus rests on apartheid's creditors and political underwriters to seriously address the issue - the ball is in the creditors court. We would be open to discussions with them."

Swiss government officials reportedly indicated that they are not worried about apartheid reparations claims being filed in United States courts because Jubilee South Africa does not have money and because the solidarity lobby in the United States is not strong.

Jubilee South Africa said in response: "The question is what the truth is and what justice and integrity demands, not money or lobbying strength. Jubilee South Africa will continue to uncover the truth of apartheid's international economic, military, and political relations, and to secure justice for the victims of apartheid through reparations for the reconstruction and development of our

Jubilee South Africa is part of the international Jubilee movement for debt cancellation and economic justice. It is a broad-based coalition of NGOs, trade unions, religious communities, and popular movements across many social sectors. You may contact the Jubilee SA National Office at Tel - +27 (0)11 403 7624 , Fax. +27 (0)11 403 8703 or e-mail: j2000sec@sn.apc.org - PO Box 31471 Braamfontein 2017