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TRUTH COMMISSION REPARATIONS

# 'Riot fund' may foot bill for apartheid sins

Government has begun to investigate a suggestion that it use part of the 18-year-old Sasria fund for human rights reparations

**B**usiness may not need to concern itself overly with a reparations levy from the Truth & Reconciliation Commission (TRC) — the money may already be sitting in the R9,4bn SA Special Risk Insurance Association (Sasria) fund, on which government has a claim.

But it's not a simple matter.

Business is alarmed by talk of a reparations levy and has so far not responded to Archbishop Desmond Tutu's plea last week for it to give substance to its collective apology for apartheid. Tutu asked for financial contributions to the President's Fund for reparations and rehabilitation — and indicated that the final cost could exceed R3bn over six years.

Business's bedrock argument appears to be that while the private sector may, or may not, have benefited from apartheid, it was not guilty of the "gross violations of human rights" that have been the most shocking revelations of the TRC hearings.

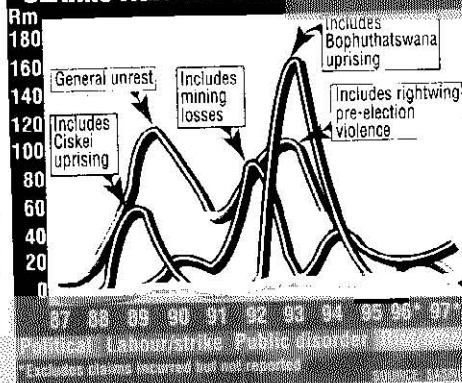
Tutu, in fact, appears to have been calling for a goodwill contribution to national healing rather than fullscale underwriting of the total reparations bill. The TRC-linked President's Fund — which had the immediate goal of handling urgent requests for financial assistance from victims who have appeared before the commission — currently stands at about R5m, and Finance Minister Trevor Manuel has given permission for it to rise to R12m.

Once government has digested the TRC's final recommendations on reparations and rehabilitation, the fund will be augmented by donations and subventions from the Treasury itself — meaning it will in effect become part of the national Budget, competing for scarce resources with every other

department. The TRC's final report is due in June 1998, though the Amnesty Committee's hearings are beginning to look too crowded for that deadline.

So far, payments of up to R2 000 per person have been

CLAIMS AGAINST SASRIA 1987-1997



TREFWOORDE

- 1 Wilhelm Peter
- 2 Regnerus Nas
- 3 Eenderheid
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- 5 Doorstelling
- 6 Benuutting
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- 8 Sasria
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# INSTITUUT VIR EIETDSE GESKIEDENIS

Die Universiteit van die Oranje-Vrystaat



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made from the President's Fund on an "urgent interim" basis — largely to give victims quick access to services such as counselling, or to help cover travel costs. Long-term reparations — at a cost of about R500m a year, once the TRC has completed its task and reported next June — are the responsibility of the State, which, as a TRC discussion document puts it, "has accepted that it is morally obliged to carry the debts of its predecessors and is thus responsible for reparation."

The problem is the cost. The solution,

though, may lie in a suggestion by the *Afrikaanse Handelsinstituut* (AHI), which government has begun to investigate.

In its submission to the TRC last week, the AHI recommended that the Sasria fund be converted into a vehicle for reparations and rehabilitation. Sasria's board has in fact been discussing its future with the Department of Finance for at least a year.

The legal status of the fund, which now stands at R9,4bn (R9,8bn before last month's market fall), looks like this:

Sasria is a legal persona and owns its own assets — that is, its fund and all proprietary rights to the fund invested in Sasria. The association was set up by the SA short-term insurance industry in the reaction to the 1976 student uprisings, when off-shore reinsurers declined to cover the "political risk" to assets — mainly property — inherent in continuing civic turmoil. It was incorporated in 1979 as a Section 21 (not for gain) company under the Companies Act, with the State as the reinsurer of final resort.

Sasria MD Mike

Strydom says the "riot insurance" fund is not unique: many countries have similar schemes. Nor have claims on the fund ceased with the transition to democracy. Indeed, in 1994 claims of R450m were met by Sasria, mainly for pre-election violence. About R100m a year is still being paid out by the fund, a fact that makes it difficult to know how much of the current balance is a real surplus. Given its mission, the fund must have sufficient reserves to cater for future claims.

Strydom says that though Sasria owns its own assets, the question of who owns Sasria itself remains a vexed question, with no distinct legal clarity. The policyholders have a vested interest in the accumulation of reserves through their premium income, to meet claims. But neither the policyholders nor the Sasria members (the short-term insurers) own Sasria in the legal sense since neither have any proprietary or other rights to Sasria assets.

But, though government has always been the ultimate underwriter, it has never col-

lected reinsurance premiums from Sasria and could have a claim on the fund. Could that providentially turn out to be R3bn?

Strydom stresses that Sasria's discussions with the Finance Department have been "amicable," and the board will listen to any suggestion "brought to the table." It seems reasonable to expect a compromise.

It also remains to be determined whether Sasria is still needed — or whether other reinsurers can take over its function, even though SA is not yet entirely stable.

So how did Tutu arrive at a reparations figure of R3bn? The TRC Reparations & Rehabilitation Committee's Dr Wendy Orr says the commission calculates that at least

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22 000 people will be designated as victims deserving assistance for past violations of their human rights. Each such victim could receive about R21 700 each year for six years — a sum anchored on the assumption that a victim's household would comprise seven persons. The victim may or may not still be living. The TRC discussion document makes clear that reparations include the restoration of dignity and community involvement in symbolic remembrance.

Orr's committee has had to consider painful problems like the degree of physical, psychological and social pain endured by the victims.

"Do you penalise people for coping?" she

asks rhetorically. The answer, of course, is no; and so what might be termed degrees of victimhood have had to be eliminated. Of course, no payments can recompense sufficiently for the trauma of many victims, but payments do affirm government's seriousness and acceptance of a moral duty to improve lives scarred by the worst excesses of apartheid — and the struggle against it.

The process could be taken further this week if talks with Finance DG Maria Ramos materialise. If the Sasria fund is "available," it could ease the burden on the Treasury, and allay fears of a reparations levy. Business contributions would then be up to the individual company's conscience. Peter Wilhelm

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