BOOK REVIEWS


‘South Africa is what she is today because, driven by the spirit of human and international solidarity, you, the peoples of the world took a stand and said that apartheid in South Africa will not pass!’ With these words, Thabo Mbeki welcomed dignitaries to the World Summit on Sustainable Development in August 2002. Amongst his listeners were high-level staff of the World Bank and International Monetary Fund (IMF). In fact, South Africa is what she is today in part because the Bank and Fund facilitated both apartheid industrialisation and post-apartheid neo-liberal policies which have shrunk black South Africans’ income by more than a fifth. Even if the ‘Bretton Woods twins’ lack the power in South Africa

1 T Mbeki Address by President Mbeki at the Welcome Ceremony of the WSSD (25 August 2002).
2 As noted below, there were explicit lending relationships that allowed the Bank and IMF to profit from apartheid. Subsequent to the halt of such activity (by the Bank in 1967 and the IMF in 1983), lending and policy advice by the Bretton Woods twins that, arguably, contributed to worsening inequality, included:

- an $850 million IMF loan to South Africa in December 1993 which carried conditions of wage restraint and cuts in the budget deficit, which in turn hampered the transition to democracy;
- Bank promotion of ‘market-oriented’ land reform in 1993-94, which established such onerous conditions (similar to the failed Zimbabwe policy) that instead of 30 per cent land redistribution as mandated in the Reconstruction and Development Programme, less than 1 per cent of good land was redistributed;
- the Bank’s endorsement of bank-centred housing policy in August 1994, with recommendations for smaller housing subsidies;
- Bank design of South African infrastructure policy in November 1994, which provided the rural and urban poor with only pit latrines, no electricity connections, inadequate roads, and communal taps instead of house or yard taps;
- the Bank’s insistence that corrupt Lesotho Highlands Development Authority chief executive Masupha Sole stay in his job in December 1994 (six years after he began taking bribes from international construction companies), in a threatening letter to the Lesotho government;
- the Bank’s promotion of water cut-offs for those unable to afford payments, opposition to a free ‘lifeline’ water supply, and recommendations against irrigation subsidies for black South Africans in October 1995, within a government water-pricing policy in which the Bank claimed (in its 1999 ‘Country Assistance Strategy’ review) it played an ‘instrumental’ role;
- the Bank’s conservative role in the Lund Commission in 1996, which recommended a 44 per cent cut in the monthly grant to impoverished, dependent children from R135 per month to R75;
- the Bank and IMF’s consistent message to South African workers that their wages are too high, and that unemployment can only be cured through ‘labour flexibility’;
that they enjoy in most of the African continent, it is not for lack of trying – and their influence as the most prestigious financial and development institutions of global capitalism remains unparalleled.

The question before us is whether the Bank and IMF act in venues like South Africa in a manner consistent with human rights values, or even the minimalist ‘do no harm’ obligation embedded in Bretton Woods operational directives. In Mac Darrow’s new book, *Between Light and Shadow: The World Bank, International Monetary Fund and International Human Rights Law*, South Africa’s experience does not feature as strongly as it could. The author is secretary of the Committee on the Elimination of Racial Discrimination in the Office of the High Commissioner for Human Rights; his book is updated from a 2000 PhD from the European University Institute in Florence. A formidable work of scholarship, there are 1390 footnotes, 814 major reference works cited, and 130 interviews. However, compared to at least a generation’s worth of ferocious attacks on the Bank and IMF from across South Africa, Africa and the Third World, Darrow stretches long and far to offer optimistic policy suggestions, but seems unable to consider the most obvious evidence – including contemporary social movement activism – that would undermine his elite, insider mode of human-rights reformism.

Yet ambivalence to the institutions is justified by Darrow’s remarkably short ‘positive side of the ledger’, which comprises just seven parse paragraphs, highlighting ‘abstract’ (not actual) potentials for the IMF and Bank to play a role in the progressive realisation of human rights. The main self-justification for institutional apathy is the periodic insistence that human rights ‘fall beyond the mandate’ given at the founding Bretton Woods conference in 1944. Still, the two institutions have been suffering delegitimation thanks to decades of developmental,

- the Bank’s role in Egoli 2002 (the Johannesburg commercialisation plan), including research support and encouragement of municipal privatisation;
- the Bank’s repeated commitments to invest, through its subsidiary the International Finance Corporation, in privatised infrastructure, housing securities for high-income families, for-profit ‘managed healthcare’ schemes, and the now-bankrupt, US-owned Dominos Pizza franchise;
- the consistent failure of Bank and IMF ‘structural adjustment programmes’ in Southern Africa since the 1980s; and
- the refusal by the Bank and IMF to cancel debt owed by our impoverished neighbours since the mid-1990s, except in tiny amounts and with brutal conditionality provisions. For background, see PBond *Against Global Apartheid: South Africa meets the World Bank, IMF and International Finance* (2003).

3 It is beyond the scope of this review to pose a larger question: whether rights, values and related judicial processes are indeed valid as the basis for social reform strategies. Because they have emerged in cosmopolitan-democratic discourses in recent years at the same time anti-neoliberal social movements across the world have begun articulating grievances in terms of rights denied (for example to basic needs, or dignity), it is reasonable to pose the problem in these terms. However, it is also crucial to bear in mind critiques of rights discourses, because institutions like the World Bank have the capacity to appropriate and distort these to fit their institutional needs. See, for example, M Tuchnet ‘An Essay on Rights’ (1984) 62 Texas LR 1363-403.

environmental and macroeconomic failures, and both have recently committed, rhetorically, to use their influence against corruption and political repression. The next obvious question is whether, given their background and ongoing controversies, the Bretton Woods Twins can indeed be genuine allies of human rights campaigners – except in the negative sense when they are regularly requested by democratic mass movements to rebuff loan requests from countries like Burma and Zimbabwe whose leaders are blatantly oppressive, or reject project loans such as mega-dams and energy projects destructive of nature and indigenous people.

Given Darrow’s own strong anti-racist orientation and the ongoing controversy over reparations lawsuits – ie distinguishing through the US and Swiss courts those ‘peoples of the world’ who ‘said that apartheid in South Africa will not pass’ from those who made profits from apartheid – it is useful to dwell on the Bank and IMF’s role in South Africa as the basis for considering a broad-based human rights challenge to the institutions’ very existence. This is certainly not Darrow’s agenda – he is a ‘fixer’ not a ‘nixer’. The furthest he imagines the analytical trajectory is towards ‘more foundational critiques seeking to contest the dominant neo-liberal paradigm’ embodied in the Bank and IMF, and he admits that ‘reform discussions in this area [human rights] must be guided by at least some measure of modesty’.5

Yet in the wake of the Seattle protests, and given the urgency of the fight against global apartheid, such modesty is unsatisfying and inappropriate. After all, as this review went to press, the World Bank’s former senior vice president and chief economist, Joseph Stiglitz, rebutted arguments against apartheid-profits reparations by Mbeki and Justice Minister Penuell Maduna; and a year earlier, Stiglitz asked whether the IMF should not be closed down in the wake of its failure to reform. To ask these two bigger questions – did the Bank and IMF profit from propping up apartheid? And should they be decommissioned (in 2004, at age 60, an appropriate retirement age) once reparations are paid for systemic human right violations? – is not unreasonable, as argued below.

After all, activists and large institutional investors across the world are posing the problem in these familiar terms: if it was immoral to invest in apartheid, is it not also immoral to invest in global apartheid? Should profits drawn from the World Bank’s bonds – responsible for 80 per cent of its funding – swell the portfolios of churches, university endowments, pension funds and municipal treasuries? Multinational corporations which invested in apartheid-era South Africa inevitably called forth the answer: ‘We are reforming the system from the inside’. Darrow believes in the same project, and the resulting lack of vision is the book’s fatal flaw.

As Darrow notes, the Bretton Woods twins drew criticism from the

5 Ibid 298-99.
United Nations during the 1960s for lending to the Verwoerd regime. In 1966, the General Assembly passed a resolution against such activity. The Bank’s lawyer replied that ‘the Bank’s articles provide that the Bank and its officers shall not interfere in the political affairs of any member and that they shall not be influenced in their decisions by the political character of the member or members concerned’. The following ‘apolitical’ activity was observed during apartheid:

- the Bank’s US$100 million in loans to Eskom from 1951-67 that gave only white people electric power, but for which all South Africans paid the bill, as well as US$100 million more for railways;
- IMF apartheid-supporting loans of more than $2 billion between the Soweto uprising in 1976 and 1983, when the US Congress finally prohibited lending to Pretoria;
- a Bank loan for Lesotho dams which were widely acknowledged to ‘sanctions-bust’ apartheid South Africa in 1986, via a London trust; and
- IMF advice to Pretoria in 1991 to impose the regressive Value Added Tax, in opposition to which 3.5 million people went on a two-day stay away.

Because it covers a wide variety of rights violations and remedies, Darrow’s book draws upon the two major local socio-economic cases judged by the Constitutional Court – Government of RSA v Grootboom and Minister for Health v Treatment Action Campaign – in his argument that socio-economic rights will increasingly be considered justiciable, and should be taken more seriously. However, staying within the realm of incrementalism and lacking a sufficient sense of historical justice, he fails to contribute to a South African debate that is now making explicit the extent to which the post-apartheid government protects the economic forces it formally opposed.

Not only does Mbeki explicitly aim to ‘fix’ not ‘nix’ the varied institutions of global apartheid through a variety of high-profile interventions, the debate has underscored extreme political schizophre-
nia when it comes to obvious linkages between human rights and financial power. Mbeki addressed the question of divestment many times, as a leading ANC diplomat during the exile era, firmly in the affirmative. But since the World Conference Against Racism (WCAR) in September 2001, he has been forced to make an embarrassing U-Turn worth a brief review. At the WCAR, neither Mbeki nor Kofi Annan deigned to meet the main delegation of 20,000 demonstrators who marched within a few metres of the Durban International Convention Centre entrance. Indeed, even the official conference risked being torn apart over the demand by NGOs and some African governments that payment be made to compensate for centuries of plunder. Ironically, even though Nigerian president Olusegun Obasanjo endorsed reparations along with other African official delegates, Mbeki and his foreign minister, Nkosazana Dlamini-Zuma, very publicly refused support, saying merely that more donor aid was needed.

A wedge issue, reparations subsequently led to a huge division between the ANC government and civil society activists. Frustrated by the failure of the WCAR – the single most appropriate international forum – to advance their agenda, leaders of Jubilee South Africa and other church groups subsequently turned to the US and Swiss courts. Following the model set against Swiss and German bankers and corporations which violated human (and property) rights during the Nazi era, civil cases for billions of dollars in damages were filed on behalf of apartheid victims against large multinational corporations which profited from South African investments and loans (by 2003, Anglo American, Gold Fields and Sasol were added to the corporate defendants’ list). The fear engendered was so great that the Bush regime and corporate lobbies pleaded with US courts, initially unsuccessfully, to nullify an interpretation of the Alien Tort Claims Act that made the apartheid-reparations suits possible.

Mbeki had first responded to the reparations campaign with ‘neither support nor condemnation’. However, in April 2003, in the wake of the

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10 This was forgotten at one point, when Mbeki beseeched a San Francisco audience in May 2000: ‘We will succeed in the struggle to end poverty and underdevelopment in our country and continent, provided we can count on the kind of support you gave us as we fought together to end the system of apartheid’. The audience comprised representatives of US business, who in reality had for decades been diehard supporters of apartheid, nearly uniformly opposing ANC calls for comprehensive sanctions. See T. Mbeki Address to the Commonwealth Club, World Affairs Council and US/SA Business Council Conference (24 May 2000).

11 For a discussion, see P. Bond *Talk Left, Walk Right: South Africa’s Frustrated Global Reforms* (forthcoming 2004).

Truth and Reconciliation Commission’s final report, recommending a reparations payment by businesses which benefited from apartheid, Mbeki changed tack. It was suddenly ‘completely unacceptable that matters that are central to the future of our country should be adjudicated in foreign courts which bear no responsibility for the well-being of our country and the observance of the perspective contained in our constitution of the promotion of national reconciliation’. The president expressed ‘the desire to involve all South Africans, including corporate citizens, in a cooperative and voluntary partnership’ – not reflecting on the numerous attempts by the Jubilee SA, the Apartheid Reparations Task Force and Cape Town’s Anglican archbishop Njongonkulu Ndungane for several years prior to filing the lawsuits.13

Trade minister Alec Erwin added during the April parliamentary discussion that Pretoria was ‘opposed to and contemptuous of the litigation’ and that any findings against companies ‘would not be honoured’ in South Africa. Moreover, he said, the wealth tax promoted by the Truth and Reconciliation Commission would be ‘counter-productive’.14 In July 2003, Maduna then explicitly defended international lenders and corporations against two major reparations proceedings in the US courts, arguing that by ‘permitting the litigation’, the New York judge would discourage ‘much-needed foreign investment and delay the achievement of the government’s goals. Indeed, the litigation could have a destabilising effect on the South African economy as investment is not only a driver of growth, but also of employment’.15 As noted above, Stiglitz replied that Mbeki and Maduna’s concern had ‘no basis’ because ‘[t]hose who helped support that system, and who contributed to human rights abuses, should be held accountable. Holding them accountable would contribute to confidence in the market system, creating a more favourable business climate. If anything, it would thereby contribute to South Africa’s growth and development’.16

The matter of ‘accountability’ is occasionally addressed by Darrow, in discussions of the futility of both governance modernisation (the US still enjoys veto power over Bretton Woods decisions and is unwilling to let go) and NGO reform campaigns in many areas (the most important have generally unsuccessfully tackled transparency, participation, environment, gender equity and post-Washington Consensus economics). One savvy technocrat who repeatedly tried to reform the Bank from the inside, David Ellerman, had a vantage point in the chief economist’s office during the late 1990s and early 2000s. Finally in 2003, Ellerman threw up his hands:

13 See Financial Times (19 May 2003).
14 Ibid.
16 Sunday Independent (9 August 2003).
Agencies such as the World Bank and the IMF are now almost entirely motivated by big power politics and their own internal organisational imperatives. All their energies are consumed in doing whatever is necessary to perpetuate their global status. Intellectual and political energies spent trying to ‘reform’ these agencies are largely a waste of time and a misdirection of energies. Dominant global institutions, like monopolies or dominant oligopolies in the private sector, can be counted on to use the power to maintain their dominance and yet that dominance or monopolistic power is the root of the problem.\(^\text{17}\)

Abuse of power and dogmatic ideology were long-standing complaints of Stiglitz, and justified his August 2002 call to consider abolition of the IMF:

I used to say that since we are going to need these institutions it is better to reform them than to start from scratch. I’m beginning to have second thoughts. I’m beginning to ask, has the credibility of the IMF been so eroded that maybe it’s better to start from scratch? Is the institution so resistant to learning to change, to becoming a more democratic institution, that maybe it is time to think about creating some new institutions that really reflect today’s reality, today’s greater sense of democracy. It is really time to re ask the question: should we reform or should we build from scratch?\(^\text{18}\)

Simultaneously, George Soros complained about inadequate debt cancellation on offer from the Bretton Woods Institutions, whose ‘failure to bring the required relief indicates that there is something fundamentally wrong with the international financial system as currently constituted. . . . In recent years, the so-called Washington Consensus has put its faith in the self-correcting nature of financial markets. That faith has been misplaced’.\(^\text{19}\)

Closer to home, Archbishop Njongonkulu Ndungane has recently laid out the threat in no uncertain terms:

[If] we must release ourselves from debt peonage by demanding the repudiation and cancellation of debt we will campaign to that end. And if the World Bank and IMF continue to stand in the way of social progress, movements like Jubilee South Africa will have no regrets about calling for their abolition. To that end, the World Bank Bonds Boycott movement is gaining even great momentum. Even a money centre city like San Francisco decided to redirect funds away from Bank bonds into other investments, on the moral grounds that taking profits from World Bank operations contributes to poverty, misery and ecological degradation. More and more investors are realising that profiting from poverty through World Bank bonds is not only immoral, but will not make good financial sense as the market shrinks.\(^\text{20}\)

Statements from such powerful voices would be disputed, of course, by several South Africans at the helm of the Bank and Fund. In 2003 these included Trevor Manuel as chair of the IMF/WB Development Committee (which sets policy); the Bank managing director responsible for human development, Mamphela Ramphele; Bank vice president for


\(^\text{18}\) *Financial Times* (21 August 2002).

\(^\text{19}\) *Financial Times* (13 August 2002).

public relations, Ian Goldin; and other high-profile technical and administrative experts such as Lesley Lipshitz, Geoffrey Lamb, Caroline Moser, John Briscoe, Jeff Racki, Alan Gelb, Roland White and John Roome. Nevertheless, as a result of many experiences with failed reform, it has become clear that weakening the Bretton Woods component of global apartheid is an extremely important strategy for South African, Southern African and African human rights movements. Many Africans, especially in the Jubilee debt-cancellation campaign, have long argued against the Washington lenders, because they are:

- global neo-liberalism’s ‘brain’ and policeman;
- active across the African continent, in nearly every country;
- reliant upon unreformed neo-liberal logic, ranging from macroeconomics to micro development policy;
- responsible for even project-level conditionality;
- capable of commodifying even the most vital public services; and
- already subject to periodic IMF Riots and other activism, and suffering a severe legitimacy crisis.

Already, African campaigning against the IMF and World Bank is quite sophisticated:

- several international and local lobbies aim to force the WB/IMF and WTO to stop commodifying water, health, education and other services;
- economic justice movements such as Anti-Privatisation Forums and environmental justice groups exist in many African cities;
- the African Social Forum and Southern African People’s Solidarity Network links progressive activists, churches, etc in an explicit ideological challenge to the Washington Consensus;
- Jubilee movements continue fighting for debt repudiation;
- most Southern African progressive movements demand that IMF and Bank quit their countries; and
- reparations protests and lawsuits are underway against financiers – including, potentially, the Bank and IMF – which supported apartheid and African dictatorships.

Surprisingly, these kinds of movements receive no attention from Darrow, nor does the most intriguing tactic against global apartheid, so reminiscent of the anti-apartheid divestment movement: the World Bank Bonds Boycott.21 US groups like Center for Economic Justice and Global Exchange continued to work with Jubilee South Africa and Brazil’s Movement of the Landless, amongst others, to demand of the Northern investment community: is it ethical for socially-conscious people to invest in the World Bank by buying its bonds (responsible for 80 per cent of the

institutions’s resources), hence drawing out dividends which represent the fruits of enormous suffering? The boycott impressed a London Evening Standard financial markets commentator during the IMF/Bank spring 2002 meetings: ‘The growing sophistication of radical activists increases the likelihood that once – accepted fixed – income investment practices can no longer be taken as off limits from the threat of moral suasion’. A massive wave of Bond Boycott endorsements have come from municipality funds (like San Francisco’s), large trade union pensions, church and university endowments, and socially responsible investors (eg the Calvert Group). In turn, some of the organisers hope, this lays the basis for a ‘run on the Bank’, to de-fund the institution entirely, initially through a collapsed bond market and then through taxpayer revolt.

Better than Darrow, the human rights campaigners understand that the Bank and IMF may have changed their rhetoric but not their structural adjustment programmes, no matter their renaming as Poverty Reduction Strategy Papers and Highly Indebted Poor Country Initiatives, and no matter the attempt by Mbeki to give the Bretton Woods twins more legitimacy, power and resources via the New Partnership for Africa’s Development. Perhaps most crucially, the rhetoric of human rights does not quite cover up the fact that virtually everywhere, the Bretton Woods Institutions maintain their commitment to accumulation via the commodification of everything. In contrast, a common strategic thread is emerging, that will allow the human rights, democracy, environmental justice and socio-economic justice movements to continue growing: the decombination of crucial goods and services, and in the process the decommissioning of the Bretton Woods institutions that respected international intellectuals such as Walden Bello and Iris Young have begun to spell out. It is in recognising many of the problems caused by the Bank, but not recognising the logical conclusion, that Darrow himself falls between light and shadow.

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22 London Evening Standard (17 April 2002).