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The discourses on the Right to Housing in Gauteng Province, 1994-2008.

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A thesis submitted to the Faculty of Humanities, University of the Witwatersrand, Johannesburg, in fulfillment of the requirements for the degree of Doctor of Sociology.

Johannesburg, February 2010

abstract

The post-apartheid government of 1994 is a product of the 'Age of Rights'. State-making processes and the exercise of state powers is managed by the rule of law based on a constitution. Constitutionally recognised rights, and rights protection institutions, animate a transition from a legacy of Black political exclusion and underdevelopment. Intensifying class stratification and inequality constrain Black's formal realisation of citizenship rights, placing great pressure on creative interpretation of constitutionally legitimated claims.

My thesis examines the rights discourse informing the Constitution, particularly issues about the realisation of social and economic rights. I examine the unfolding of discourses on the right to housing between 1994 to 2008, to illustrate of the complexity of the discourse. Episodic housing protests suggest significant degrees of alienation, marginalisation, and disappointment with expectations of citizenship and the non-realisation of social and economic rights. Housing rights is an issue that will affect the democratic consolidation and political stability prospects of the new political order. I examine the interface between macro-economic policies, budgets, and the realisation of housing rights, and assess the impact of an identifiable configuration of forces expected to play important roles in realising a rights culture and broadening the discourse.

My study draws on a spectrum of qualitative, interpretive, and analysis of discourse approaches, using data from: published articles, annual reports and archives, speeches, court proceedings and statements, interviews with persons whose scope of activities impact the unfolding of the concerned rights, namely, representatives of government departments, private sector developers, financing institutions, and civil society formations.

My main findings are that few actors in the configuration support the view that the Constitution should be changed to make explicit the state's obligations on the realisation of social and economic rights. Nevertheless, there are isolated cases of people expressing an absolute entitlement sense of rights --- the state should deliver when demands are made. My conclusions are that considerable political unrest about non-realisation of these rights will persist, but will not cause a collapse of the post-1994 political institutions and processes. More likely, political actors, legal scholars and jurists, will persistently engage the prevailing rights discourse and the variety of institutions acting towards their realisation, without effecting drastic changes to these, but always invoking positions about how they still are suited for a post-apartheid transformation project yet need critical interrogation and improvisation.

KEYWORDS: apartheid, transition, citizenship, rights discourse, Constitution, socio-economic rights, inequality, redistribution, configuration of institutions promoting rights, right of access to adequate housing, qualification of rights, fiscal limits on state capacities, available resources.

Declaration

I declare that this thesis is my own unaided work. It is submitted for the degree of Doctor of Sociology in the University of Witwatersrand, Johannesburg. It has not been submitted before for any other degree or examination in any other university.

_____

Christopher G Thomas

_____day of _____, 2010

Dedication

In memory of my parents, George and Mary,
whose tireless struggle to provide their children
with a comfortable house and home inspired my values.

Acknowledgments

To Professor Ran Greenstein,
for meticulous supervision through the years.

Abbreviations

AB	Afrikaner Broederbond
AHI	Afrikaanse Handel Instituut
ANC	African National Congress
APF	Anti-Privatisation Forum
AZAPO	Azanian People's Organisation
BASA	Banking Association of South Africa
BCM	Black Consciousness Movement
BESG	Built Environment Support Group
CALS	Centre for Applied Legal Studies
CASE	Community Agency for Social Enquiry
CODESA	Convention for a Democratic South Africa
COHRE	Centre on Housing Rights and Evictions
COSATU	Congress of South African Trade Unions
CSIR	Council for Scientific and Industrial Research
DA	Democratic Alliance
DBSA	Development Bank of South Africa
DP	Democratic Party
DPLG	Department of Provincial and Local Government
DRC	Dutch Reformed Church
FC	Final Constitution
GATT	General Agreement on Trades and Tariffs
GEAR	Growth, Employment and Redistribution
GNU	Government of National Unity
HSRC	Human Sciences Research Council
IC	Interim Constitution
IDT	Independent Development Trust
IFP	Inkatha Freedom Party
ICCPR	International Convention on Civil and Political Rights
ICESCR	International Convention on Social and Economic Rights
ICRS	Inner City Regeneration Strategy
IMF	International Monetary Fund
JMPD	Johannesburg Metropolitan Police Department
JOTA	Johannesburg Tenants Association
LPM	Landless People's Movement
MEC	Member of Executive Committee
MPNF	Multi-Party Negotiating Forum
MK	Umkhonto we Sizwe
MWT	Marxist Workers' Tendency (of ANC)
NEDLAC	National Economic Development and Labour Council
NEM	Normative Economic Model
NHBRC	National Home Builders Registration Council
NF	National Forum
NGO	Non-Governmental Organisation
NHF	National Housing Forum
NIA	National Intelligence Agency
NIMBY	'not in my back yard'

NP	National Party
PAC	Pan Africanist Congress
PEBCO	Port Elizabeth Black Civics Organisation
PIE (Act)	Prevention of Illegal Eviction and Unlawful Occupation of Land Act
PISA	Prevention of Illegal Squatting Act
PLANACT	an NGO assisting communities, mostly in Gauteng, adversely affected by apartheid policies
PRC	Peoples' Republic of China
PWV	Pretoria/Witwatersrand/Vereeniging
RDP	Reconstruction and Development Programme
RSA	Republic of South Africa
SAAU	South African Agricultural Union
SABRA	South African Bureau of Racial Affairs
SACC	South African Council of Churches
SACP	South African Communist Party
SAHRC	South African Human Rights Commission
SAIRR	South African Institute for Race Relations
SALC	South African Law Commission
SANCO	South African Civics Organisation
SANGOCO	South African National Nongovernmental Organisations Coalition
SAPs	Structural Adjustment Plans
SAPS	South African Police Services
STATSSA	Statistics South Africa
TRA	Tembisa Residents Association
TRC	Truth and Reconciliation Commission
UCDP	United Christian Democratic Party
UDF	United Democratic Front
UDHR	Universal Declaration of Human Rights
UF	Urban Foundation
UN	United Nations
UNDP	United Nations Development Programme
USAID	United States Agency for International Development
USN	Urban Sector Network
WOSA	Workers' Organisation for Socialist Action

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