**A FRAMEWORK FOR A THEOLOGY OF RESTITUTION**

**Social and political analysis of the need of restitution: The crimes of colonialism and apartheid**

***Background***

The exploitation and prolonged generational human rights abuses of black South Africans unjustly benefitted white South Africans, and enabled them to enjoy very high living standards. This injustice is one of the root causes for the conflict in the country today. The only solution to our current crisis is to address the root causes through acts of restitution, facilitated by the church.

The Portuguese explorer Bartholomew Diaz established Europe’s first contact with South Africa in 1488. Amongst others, this contact set in motion a process of colonialism and apartheid – which had a devastating effect on the lives of many South Africans of colour and those brought to South Africa through slavery. In the process many indigenous people were robbed of their land and of the mineral wealth on the land. It dehumanised and subjected people of colour to euro centralism, white superiority, humiliation, slavery, socio-economic exploitation, inequality, poverty, torture and death. And it robbed people of colour of many things, including their dignity, the freedom to express their identity, their traditional religious beliefs and cultural practises, and the value of indigenous knowledge and wisdom.

Adoption of the policy of apartheid by the white minority government in 1948 legislated the racial discrimination of the colonial era and legitimised racism in all spheres of South African society, including sexual relationships, marriage, home, school, work-places, places of worship, sport fields, hospitals and even grave yards. The indigenous people of South Africa were treated as strangers in their own country. And South Africa became one of the most unequal societies in the world.

A large part of South Africa’s people were deeply hurt by what happened in the past. Unfortunately, much of this hurt is still ongoing today. The first step in dealing with the hurt and broken trust is restitution. Steve Biko sounded the following warning: “…in adopting the line of a non-racial approach, the liberals are playing their old game… They want to remain in good books with both the black and white worlds. They want to shy away from all forms of ‘extremisms’, condemning ‘white supremacy’ as being just as bad as ‘Black Power’! They vacillate between the two worlds, verbalising all the complaints of the blacks beautifully while skilfully extracting what suits them from the exclusive pool of white privileges.”

Furthermore, it is important to bear in mind that, as the perpetrators, white people cannot participate in the restitution debate – other than to *do* sorry (i.e. to apply restitution).

***Restitution and charity***

Each year large amounts of money are donated to charitable projects by Christian communities and others in South Africa. Food baskets, winter clothing and Christmas gifts are familiar acts of charity. Charity can be described as: giving out of one’s surplus; being non-relational; is often a one-time act; the giving is what the giver thinks is needed rather than what the recipient has identified as a need; and it is an act that identifies who the giver is, and who the recipient is. It usually makes the giver feel good, quite naturally.

Generally, charitable giving is used to fund projects where the physical needs of many poor and disenfranchised people are being addressed. But all too often charity, done by well-meaning givers, is merely applying a band aid on a gaping wound. It is often a short-term answer – which does more for the giver than for the recipient. Charity can be an assault on the dignity of the recipient: she is not asked what her needs are; why she is in the desperate situation she finds herself in; why her community is suffering; what she thinks the solution is. But she is simply reminded that she is poor, while others have plenty.

Restitution, on the other hand, is a way of trying to make right a historical injustice. It entails recognising that a wrong has been committed; that there were perpetrators who applied the injustice or who were somehow complicit in it; that the ramifications of these injustices continue to be felt; and that giving back is the essential next step.

A significant difference between charity and restitution is simply a paradigm shift on the side of the donors/perpetrators: recognising that he/she is in fact a perpetrator and is not giving out of magnanimity. Restitution, unlike charity, is very relational; potentially costly; of a long-term nature; is developed in conversation with those toward whom restitution is being made; and is an act taking place between two equal partners rather than one who always gives and another who always receives. Restitution always involves the development of relationships between givers/perpetrators and recipients/disadvantaged.

In a general sense, most corporate social investment (CSI) spending by companies and the giving to the poor (*barmhartigheidswerk*) by churches in the country is charitable by nature, as opposed to restitutive. This also applies to most situations where a white family gives gifts to their domestic worker or gardener. Gifts by an employer can also be regarded as “fringe benefits”, and these would therefore not be classified as restitution. However, this CSI spending by companies and giving to the poor by churches can have a powerful impact on our society if the focus is justice/restitution and not charity – for this to happen a paradigm shift will be required by the givers/perpetrators.

For example, at a household level, if a white family wishes to give a house to their domestic worker, the restitution approach would be: have a conversation with the person to discuss the reasons for the massive inequality in their respective living standards; in the conversation the white family acknowledges their role in this unjust history; the white family declares their willingness to take responsibility for the role they played; the white family asks what the employee thinks the white family could/should contribute towards restitution; the white family then shares that they are willing to buy/build a house and gives opportunity and space to explore and reflect on what the employee thinks about the idea and how best to make this happen.

***The church and restitution***

All white South Africans have a restitution responsibility due to their immediate or generational unjust socio-economic benefit from colonialism and apartheid. As highlighted, this unjust benefit is one of the root causes for the conflict in South Africa today. There can only be real and sustainable peace in the country if the root causes for the conflict are addressed. The church, both black and white, should accept responsibility for securing the future of South Africa; and act as facilitators for restitution to take place in the country.

Most white South Africans profess to be Christian, yet many (if not most) supported or tolerated racial discrimination within the church environment. For example, different salaries for ministers of the different racial groups, racially segregated church services, unrepresented racial demographics in church leadership, and so on. The unequal financial relationship between the rich white and poor black churches make the black church dependant on the white church; and this situation perpetuates white supremacy.

Churches themselves should apply acts of restitution. For instance, in a town where a specific denomination has more than one church building, one of these should be given to a black church community as an act of restitution. Another example is for privileged white congregations to partner with under-privileged black congregations (but not in a charitable/paternalistic manner), and ensure that the income of the two churches are divided equally between the two.

Ministers and other church leaders (both black and white) are well positioned to accept the leadership responsibilities and roles with the promotion of the need to apply restitution; and with the practical implementation of restitution. They need to develop an understanding of and provide guidance in the various phases of the restitution processes: acknowledgement that an injustice occurred; truth telling about what the wrong doing entails; identification of who was affected by the wrongdoing; listening to the stories of those affected by the wrongdoing; confession of who was responsible for the wrongdoing; listening to their reasoning as to why they committed the wrong; offenders need to be challenged to take responsibility for the wrongdoing; offenders must show remorse for the wrongdoing; offenders must render an unconditional apology for the wrong doing; offenders must show clear signs of transformed behaviour (i.e. their lives must not be the same anymore); offenders must show the fruit of their new life through acts of restitution, which is the proof of the sincerity of their remorse and unconditional apology.

**Defining Restitution**

The word restitution is defined as ‘restoring matters to the state they were before an injustice occurred’. Naturally, such an aim is not easily achieved: where people have been dishonoured, dispossessed, enslaved and sometimes killed, and where racial superiority has become institutionalised and privilege engrained into the psyches of whole groups, what was lost is irretrievable. However, if we take the word restitution to mean ‘paying back’ or ‘making things right’ for wrongs previously committed, it becomes a very useful term to use when thinking about what can and should be done about the past.

In the South African context restitution is usually associated in terms of land. However, restitution applies to more than just land and becomes a tool to better address the damage of the past. It extends beyond financial ‘paying back’ and includes spiritual, material and other practical and symbolic actions to ‘make things right’.

**Restitution and extra-biblical sources**

Institutionalised restitution dates to ancient times. Under the Babylonian Code of Hammurabi (c. 1750 B.C.) victims were entitled to receive payment for certain property offences.

Mosaic Law required thieves to repay oxen to victims from whom they had stolen oxen. The Roman law of Twelve Tables (449 B.C.) prescribed repayment schedules for theft of property according to when, and under what circumstances, the thief stole and handed over the property. In the case of violent offences, Middle Eastern codes, such as the Sumerian Code of Urnammu (c. 2050 B.C.) and the Code of Eshnunna (c. 1700 B.C.) required restitution.

The demand for restitution is therefore as old as humanity itself.

**Restitution guidelines from biblical texts**

***Zacchaeus and restitution (Luke 19:1-9):***

Zacchaeus’ job as tax collector made him one of the rich and privileged people in Jericho. He made most of his money through corruption and the exploitation of the poor. Ordinary people hated the tax collectors and saw them as the source of their oppression. Zacchaeus knew that his tax corruption deeds alienated him from Jesus and the community. For him to be reconciled with Jesus and his people he had to make amends for his unjust behaviour through acts of restitution. As soon as Zacchaeus encountered Christ, he gave half of his money to the poor (i.e. charity), and compensated those he defrauded four times the value of what he had stolen from them (i.e. restitution). The Zacchaeus story provides specific theological guidelines for the process that leads to restitution, peace, reconciliation and forgiveness: Naming and acknowledgement of the injustice; Taking full responsibility for unjust behaviour; Truth telling about unjust behaviour; Remorse; Repentance; Unconditional apology; and finally, transformed behaviour. Zacchaeus’ transformation process and acts of restitution paved the way for potential reconciliation with his former enemies, his family and friends, and with himself. Zacchaeus’ commitment to restitution opened the door for forgiveness to be considered. His acts of restitution convinced Jesus of his sincere remorse for his unjust actions. But Zacchaeus did not demand or expect forgiveness from his victims even after he declared his commitment to restitution.

***Lazarus and the rich man (Luke 16:19-22):***

When the Zacchaeus story is considered together with the story of the rich man and Lazarus, further guidelines for restitution are highlighted: i) Getting to know your victims – the offenders (i.e. the rich man) need to see and take notice of the victims (i.e. Lazarus) and ensure that the victims (Lazarus) are seen and taken notice of by others; ii) Action in the repair and replacement of unjust systemic structures follows – after seeing and taking notice of Lazarus, the offending party needs to draw the links between the poverty of Lazarus and the wealth of the rich man; iii) Urgency - the Lazarus story highlights the fact that the need for restitution is urgent and requires a decisive response from the offending individuals and community.

***Restitution for the Gibeonites (******2 Samuel 21:1-14):***

Important additional guidelines are gleaned through the story of the Gibeonites: The offended party must lead the restitution process and determine what type of restitution should be rendered. The cost of restitution might mean that the offended party must give up everything they acquired unjustly.

***The widow demanding justice (Luke 18:2-5)******:***

This story highlights more valuable restitution dimensions: Victims must persist in their demand for restitution; victims must maintain the restitution pressure on the offenders until restitution is forthcoming.

***Nehemiah’s restitution (Nehemiah 5):***

While Nehemiah was busy with the building work on the wall around Jerusalem, the poor people rebelled. They borrowed money and food and were now being exploited by the rich, who were selling their children as slaves and taking possession of their properties. Nehemiah was appalled and immediately called a national gathering. He reproached the nobles and the officials for their exploitation and ordered them to give back to the poor their fields, vineyards, olive groves and houses. The immediate response of the rich was: “We will give it back… and we will not demand anything more from them.” (Nehemiah 5:12) The priests were appointed to oversee that this restitution process was correctly executed. All the people were satisfied and praised God; and it seems clear that they resumed the building of the wall together. In a general sense, this is probably the best biblical example regarding the application of restitution for South Africa today. And the facilitators (i.e. Nehemiah and the priests) should be the church in our country.

***Seven chosen to serve (Acts 6:1-7):***

Hard feelings developed among the Greek-speaking believers toward the Hebrew-speaking believers because their widows were being discriminated against in the daily distribution of food. The Twelve called a meeting and asked that seven leaders be chosen to handle this task; i.e. care for and serve the poor. It seems that the seven were Greeks, because all of them had Greek names. It seems that, in a general sense, the Twelve were responsible for “collecting” donations/gifts from believers. The Twelve were all Hebrews, yet seven Greeks were chosen to distribute the donations/gifts – clearly without the Twelve wanting to “look over the shoulders” of the seven. This is an important restitution principle for the church in South Africa at this time.