**RESTITUTION**

*A new and surprisingly positive agenda for transformation in South Africa*

By Sharlene Swartz

Restitution is a difficult word. Historically and in legal language, the word ‘restitution’ has been 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 dishonored, dispossessed, enslaved and sometimes killed, and where racial superiority has become institutionalized and privilege engrained into the psyches of whole groups, what was lost is irretrievable.

However, if we take the word restitution to simple mean ‘paying back’ or ‘making things right’ for wrongs previously committed we find it’s a very useful term to use when thinking about what can and should be done about the past. In addition, although we usually associate the term restitution with land claims - returning land unjustly taken - the term applies to more than just land. It is one of the ways in which we can truly heal the damage of the past, and extends beyond financial ‘paying back’ to include spiritual, material and other practical and symbolic actions to ‘make things right’.

In my opinion, restitution has four main legs.

First, we need to understand and recognise the way in which our past has damaged our humanity – no matter which side of the divide we find or found ourselves on. Apartheid’s damage to the human spirit has resulted in ongoing social ills such as violence, crime, addictions, joblessness, educational failure, poor physical and mental health and senses of social inferiority along with enduring economic deprivation. For those in positions of privilege, harm has also occurred. While it cannot be compared in scope and severity, aspects of these include indifference, the normalization of inequality, the numbing to and fatigue of need, along with the lack of ability to connect, listen and empathize. These effects of the past on the present need to be understood in order to serve as a catalyst for forward-looking action.

Second, and related to our understanding of the past, is what roles each of us has played, recognising how these roles become complicated over time. In the South African context, the conventional triangle of perpetrator-victim-bystander seems to be inadequate for engaging people across multiple generations and in the light of popular disavowal of (or at least amnesia about) past atrocities. Instead we need to locate ourselves within a set of more complex positions and locations of actors in order to achieve social transformation through material and symbolic restitution. Proposed labels that might help us to enrich the conversation include that of architect, implementer, dishonoured, beneficiary, and inheritor - categories described in relation to both injustice and resistance to injustice. Offering a wider range of positionalities serves to broaden the debate and defuse simple accusations of guilt and blame. In the context of a country such as South Africa, which is still deeply divided along racial lines corresponding to the legacy of Apartheid, this approach is able to present to individuals their accountability for the past without alienating them from a national process of healing through acts of restitution.

Third, acts of restitution need to happen at different levels alongside government programmes and in dialogue with all affected, and will only be effective if everyone sees themselves as having a role to play. So while government and legal programmes such as penalty payments, land redistribution, and affirmative action (acts of restitution with which we are most familiar) are important in bringing about social transformation after conflict and injustice, the participation of civil society, communities and individuals is vital in fulfilling restitution’s wider aims.

Fourth, restitution should have as its ultimate aim restoring our sense of humanity and should do so in solidarity with others for all our benefit. Strategies for restoring personhood comprise remembering past injustices, working towards human dignity, fostering active senses of belonging (including citizenship and equality) and implementing projects to foster physical and psychological flourishing. Such restitution-in-practice actions tied to individual and group actions might include building friendships across former lines of enmity, learning an indigenous language, asking for forgiveness and disrupting the perpetuation of inter-generational transfer of wealth through inheritances, for example.

These ideas of restitution offer a surprisingly refreshing opportunity for dialogue and a more relational interaction between those dishonoured by injustice and those complicit with it. In this way the issue of restitution should not leave us angry or jubilant (depending on where we are located with regards the past). Instead it has the potential to show how we all have a role to play in building the future we want for ourselves and our children across all of the divisions of the past.

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