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Social restitution: Tools and actions to rehumanise and transform injustice

Restitution has predominantly been described as a legal rather than a social action in international law, as well as in South Africa's history of truth, reconciliation and redress policies after the end of apartheid. Introducing the concept of 'social restitution' this paper argues for a reimagined and wider understanding of restitution to address the need for social justice in the spaces between the law court and individual acts of charity, and between policies for redress and personal antipathy against these. Social restitution can be defined as intentional voluntary actions and attitudes developed through dialogue based on a sense of moral obligation aimed at addressing the damage done to individuals and communities by unjust actions and legacies of the past. Drawing on international debates about and understandings of the meaning of restitution, social restitution is shown to be both continuous with legal restitution and distinguished from it through its voluntary nature, its potential to be forward-looking rather than punitive, generative rather than accusatory, and offering everyday opportunities to bridge the gap between 'knowing' about injustice and 'acting' to repair it. Following this discussion, the latter part of the paper outlines the need for new categories of actors in contexts of injustice beyond those of victim, perpetrator and bystander (the Hilberg triangle of actors), introducing the ideas of beneficiaries and resisters; argues for the potential social restitution has as a mechanism for rehumanising all actors; and offers recommendations

for how engaged action-oriented dialogues might contribute to achieving this aim, while noting the limits and dangers of dialogue. It draws on an empirical study on the meaning and actions of restitution conducted with black and white adult South Africans in making some of its arguments.

Keywords: social restitution, action dialogues, actors in transformation; Hilberg triangle

Introduction

Restitution for injustices globally and in South Africa has occurred mainly through the law courts. Such restitution has consisted of repealing discriminatory and unjust laws; establishing truth commissions and new national constitutions that enshrine human rights; ensuring financial restitution as a means to returning dignity and security (Braithwaite 1999); and enacting laws of redress and dealing with symbols and memory (Booth 1999; Encarnación 2007). In the South African context, the Truth and Reconciliation Commission (TRC) established through the Promotion of National Unity and Reconciliation Act 34 of 1995 (RSA Parliament 1995) is a well-known vehicle for restitution in the country's transition from apartheid to a democratic and inclusive society. The purpose of the South African TRC was truth-telling, amnesty for perpetrators upon acknowledgment of actions, and limited financial compensation for victims of gross human rights violations (Swartz 2006). It has been widely discussed, applauded and critiqued: see for example Mamdani (2002) on the shortcomings of the amnesty process; Bowsher (2020) on the TRC's political expediency that sacrificed justice for victims; Kashyap (2009) who offers a feminist critique of the TRC; and Lephakga (2015) who offers a theological and ethical critique. Financial compensation for property loss and land redistribution too has been well documented in South Africa with many showing how it has failed to bring about adequate redress (see Atuahene 2014; Ngcukaitobi 2021).

More recently Ntsebeza and Kazeem (2023) have offered a focused critique on the state's failure to prosecute perpetrators who either did not present themselves for amnesty or failed to meet the requirements of amnesty asking "why the TRC cases were never investigated or prosecuted with zeal" (Ntsebeza and Kazeem 2023, 69). While acknowledging that "the TRC process had the central objective of healing the divisions of the past, of providing an opportunity for reconciliation, and of facilitating the just prosecution of perpetrators of gross violations of human rights. *Only half of the work has taken place*" (Ntsebeza and Kazeem 2023: 5, emphasis added).

Alan Boesak (2017) offers a succinct analysis when he describes the TRC as opting for political justice in contrast to, for example, the criminal justice of the Nuremberg trials following the Holocaust. Neither, he argues, offers a sufficient pursuit of justice, including that of social justice. The final TRC report itself noted its shortcomings and made strong recommendations for an ongoing process to ensure socio-economic justice in South Africa and expressed the hope that only if the “emerging truth unleashes a social dynamic that includes redressing the suffering of victims will it meet the ideal of restorative justice” (Truth and Reconciliation Commission 1999, Volume 1, 131). Many have lamented the fact that such a ‘social dynamic’ has not yet emerged in South Africa, with South Africa remaining the most unequal society in the world, with inequality starkly existing along racial lines (Swartz 2006). These inequalities remain, 30 years into South Africa’s democracy, despite a new Constitution being enacted with guarantees of equality and social redress, and a raft of laws being dismantled at the end of apartheid to end racial discrimination, and numerous policies put in place to redress the effects of these laws (including affirmative action laws; anti-hate speech laws; and land reform).

This paper therefore sets out to consider the meanings and practices of restitution, beginning with its legal meanings and understandings, and then offers a broader conception, termed ‘social restitution’, to address the need for social justice in the spaces between the law court and individual acts of charity, between policies for redress and personal antipathy against these. The latter part of the paper then outlines how social restitution might be enacted including the need for new categories of actors in contexts of injustice beyond those of victim, perpetrator and bystander; argues for the potential of social restitution as a mechanism for rehumanising all actors involved in injustice; and demonstrates (with multiple caveats) how engaged action-oriented dialogues might contribute to achieving this aim.

This paper also draws on the responses recorded in an empirical study about the meaning and actions of restitution conducted with black and white adult South Africans to illustrate social restitution. The study was conducted in South Africa in 2014 and interviewed 80 black and white South Africans aged between 18 and 80 and who had participated in an earlier study conducted by the author (Swartz 2009) and who were involved in work with a non-governmental organisation around redress with further snowball sampling to obtain a varied group across racial, age, class and gender boundaries. The study, published as *Another country: Everyday social restitution* (Swartz 2016), asked participants how they understood restitution, what forms restitution should take in their opinion, and how (or whether) the past injustices in South Africa affected them in the present.

The idea of 'social restitution' can be defined as intentional actions and attitudes of redress developed through dialogue between those involved in injustice and based on the goal of restoring a sense of humanity or personhood, motivated by a voluntary sense of moral obligation. However, to show how this definition is derived, it is important to begin with a review of how restitution is formally understood, along with various debates about its meanings, intentions and *modus operandi*.

Defining legal restitution

The legal definition of restitution as described by the International Law Commission (2001, 9) is to *restore* "the situation which existed before the wrongful act was committed". Such an aim is not easily achieved: where people have been killed, land has been stolen and developed, people have been enslaved and geographically relocated over generations, racial superiority has become institutionalised and engrained into the psyches of whole groups, or children have been sexually abused, what was lost is almost always irretrievable. The International Law Commission continues to say that where such *restoration* is impossible, reparations and compensation should occur until there is 'satisfaction' or the injured party is 'content'.

While reparations and compensation are crucial in transformation, both rely on legal processes not easily accessible to those who have experienced, and continue to experience, the sequelae of past injustices. Furthermore, in contexts like South Africa and elsewhere, past injustices can become multiplied resulting in continuing inequalities in the present that are likely to be perpetuated into the future. In addition, while the usual processes of legal restitution focus on restoring, compensating (Birks 1985), gain-stripping (Butt 2009; Doyle and Wright 2001), and returning rights – civil, political and property (Teitel 2003, 69) – these are mostly reserved for those who have the means to go to court, or who experience the effects of legislation such as affirmative action. The result is that restitution seldom becomes a broad-based public practice. Given contemporary global struggles for justice, whether on the basis of historical racial, gender or other types of discrimination, it makes sense for restitution to be more broadly defined and to include more actors within its ambit.

Social restitution has the potential to be a bridge between legal liability on the one hand and vehement denial of wrong and avoidance of consequences on the other. It is distinguished from legal restitution through its *voluntary* nature, its broader aims, and has the potential to be forward-looking rather than punitive, generative rather than accusatory, and offers everyday opportunities to

bridge the gap between 'knowing' about injustice and 'acting' to repair it. Social restitution can thus be seen as separate from but continuous with legal notions of restitution.

Social restitution as separate from but continuous with legal notions of restitution

Legislated restitution programmes have played a prominent role in returning land, enshrining civil and political rights in a new constitution, and instituting various symbolic acts of remembrance – including national days of recognition, return of refugees, and protection of minority groups (Fay and James 2009; Hans and Stjernstrom 2008; Puttergill, Bomela, Grobbelaar and Moerane 2011; Walker 2005; Williams 2005).

Restitution as more than financial compensation

Restitution, as described legally, may therefore include “an expression of regret, a formal apology or another appropriate modality” (International Law Commission 2001, 10) – in other words, symbolic actions. The South African TRC Act also speaks of the place for remorse and apology (RSA Parliament 1995). Forms of restitution may include memorials or even truth commissions, but the key feature of legal restitution is that the injured party must be content with the action, and the action is prescribed by law. Clearly, in law, restitution is not to be limited to only material compensation, although this forms an important part of it.

Frequently, offering an injured party satisfaction as a response to injustice is not achieved through financial means. In 2008 for example, the Spanish parliament passed the Law of Historical Memory that aimed to end ‘amnesia’ about Spain’s civil war (1936-1975) and the 36-year-long brutal dictatorship that followed under Francisco Franco. It condemned the Francoist regime, made it illegal to hold political events at Franco’s burial place or display Francoist symbols, recognised victims of violence, rejected laws passed in this period, and declared the findings of military tribunals during this time null and void. It offered state help to trace the remains of those killed and allowed those forcibly exiled under Franco’s rule to return (Encarnación 2007). These acts aimed to end Spain’s shameful history under Franco, and to restore an accurate account of events through a restitutive law based not on material compensation but on symbolic actions.

Furthermore, legal restitution can also be seen as having as a key aim the rehabilitation of offenders (Fields 2003; Schneider PR, Griffith and Schneider AL 1982). In South Africa, the amnesty process that occurred as part of the TRC did

not include the rehabilitation of offenders. Perpetrators who gave a full and frank disclosure of the human rights abuses in which they were involved received amnesty and were not subjected to criminal prosecution if they could show that their actions were politically rather than criminally motivated. However, at least 300 applications were refused and handed over for prosecution, although only a few cases were tried due to alleged political interference (Rabkin 2015; Ntsebeza and Kazez 2023). Some of those who were prosecuted have participated in the South Africa Department of Correctional Services' Victim-Offender-Dialogue programme prior to parole being granted. Apologies to victims and community service placements formed part of the restorative restitution process. Albert Eglash (1958, 622) refers to such a practice in which offenders are rehabilitated as 'guided' or 'creative restitution', and suggests that this kind of restitution need not only occur between individuals but can be a group practice too. John Braithwaite describes such a group process as "restoring victims, restoring offenders, and restoring communities as a result of participation of a plurality of stakeholders" (Braithwaite 1999, 1).

These components of restitution: attempting to restore to its original condition, compensating or making reparations, satisfying the injured party symbolically or materially, stripping the perpetrator of unjust benefit, and returning civil, political and property rights is restitution in its legal form. Legal approaches to restitution are based on strict *liability* for an injustice that can be proved in court. More contemporary approaches, and of importance for social restitution, focus on the idea of *responsibility* (Barkan 2000; Calder 2010; Young 2006), broadening our understanding of individual versus corporate accountability, widening our vision for expected outcomes, and offering nuanced views of what it means to restore matters, including whether only a perpetrator is responsible or also a beneficiary of the injustice across generations.

Restitution as shared voluntary moral obligation across generations

Central to an understanding of social restitution is that responsibility for injustices requires a moral response, one that includes intergenerational responsibility, and the notion of indirect benefit from past wrongs. Such responsibility could be taken at individual, communal, and institutional levels. Elazar Barkan describes a growing trend of voluntary (rather than legal) acts of restitution emerging in response to large-scale global injustices such as World War II and colonialism. He ascribes this trend to "a social moral theory that binds universal values to social realities" (Barkan 2000, 309). Here, putting forward restitution as a voluntary moral obligation allows people to tangibly embrace the idea of a common humanity in which an injury to one is an injury to all; and to deal with public senses of guilt and shame over atrocities committed by other human beings, including the benefit that may be derived from that act.

Several scholars (Booth 1999; Butt 2006, 2012; Hill 2002) focus on this continuity of obligation to act across generations and time. Political scientist James Booth declares that “we are our past as well as our future” (Booth 1999, 259). In doing so he is arguing, like many others, from a moral perspective that the political identity of communities is consistent across generations (Buckley-Zistel 2009; MacIntyre 1981) and so responsibility does not dissipate. Instead, we need to be “the bearer of responsibility for the past and a custodian for the future” (Booth 1999, 249). Alongside the attention paid to the continuity of political identities, contemporary literature also emphasises how individuals who *indirectly* perpetuate socioeconomic inequalities and the ill-treatment of others become responsible for making restitution to victims of injustice.

The most prominent arguments for restitution based on collective responsibility for benefiting at the expense of others emphasise the individual's role in supporting processes of structural injustice (Calder 2010; Young 2006). Both feminist political scientist Iris Marion Young's ‘social connection model’ and Canadian philosopher Todd Calder's notion of ‘shared responsibility’ for global injustices show how structural injustice becomes embedded in society because *we assent to it through accepting its benefit*. Even those who cannot avoid the benefits of structural injustice still have a moral responsibility to repay unjust gains. Calder (2010) uses the example of a Western, middle-class woman, who through lack of interest or ignorance in global affairs, persistently perpetrates acts of injustice through using goods made in sweatshops that exploit children. He argues that this woman “tacitly supports structural injustices suffered by sweatshop workers living in developing countries through her actions, omissions, and attitudes. For this reason, she shares responsibility for these injustices” (Calder 2010, 268). As she has not done anything unlawful, Calder notes that such a person would be responsible for moral, not legal restitution.

Young argues that since people frequently become overwhelmed by the sheer amount of injustice with which they are confronted and then do nothing, people need to share responsibility as a social group. So instead of isolating individual liability, she focuses on the responsibility of the individual to act *as part of a group* to rectify injustice. In the context of grand-scale, institutionalised injustice, Young contends that isolating individuals is impractical, if not impossible. She states that “under a social connection model, agents share responsibility with others who are differently situated, with whom they usually must cooperate in order to effect change” (Young 2006, 130). In sum, Calder and Young focus on individuals' often unwitting implication in global injustice to highlight how *individual* actions are inextricably linked to *structural* factors that underpin domestic and global injustice, and that responsibility is best shared if people are to be motivated to act.

Restitution as backward or forward-looking

Given these understandings of moral obligation, social solidarity, and connection, it is also important to state the desired purpose of restitution. Several scholars (Calder 2010; Wenar 2006; Young 2006) address the issue of whether restitution should punish the perpetrator, compensate the victim, or restore one or both parties. The liability and culpability approach resulting in punishment is primarily described as backward-looking since it focuses on responding to a specific harm. Compensation too is strictly based on tenets of legal justice and does not address larger issues of what it means to be restored after an injustice as occurred. In contrast, forward-looking restitution is Janus-faced in that it looks to the past to remedy injustice but primarily considers the future in formulating a response (Brooks 2008). This perspective tends to come to the fore in studies considering the nature of structural injustice namely, “an ongoing set of processes that ... is likely to continue producing harms unless there are interventions in it” (Young 2006, 122). In short, forward-looking restitution emphasises restoration for both victim and perpetrator, frequently through satisfaction for the victim (rather than only compensation) and rehabilitation for the perpetrator (rather than only punishment).

Restitution as ‘making good’ versus ‘making right’

Contemporary scholars also address the problematic aim of legal restitution as returning a situation to the way it was before the injustice occurred, and to the issue of the intergenerational transfer of benefit because of injustice. It does so by distinguishing between restoring to the way things were (or ‘making right’ as described thus far), to something more akin to repairing – or what could be called ‘making good’. It is almost always impossible to make things right after injustice. To appropriate a common metaphor, ‘levelling the playing field’ does not consider fatigue, injury, or a broken spirit that might have arisen from playing on an unlevel field.

Two German words (Judt 2005; Sanders 2007) translated as restitution help us here. In the case of legal restoration or compensation, the term *wiederherstellen* has been favoured – to restore to the original state and to pay back (‘making right’). However, the term *wiedergutmachung* which directly translated means, ‘making-good again’ is closer to the notion of social restitution described in this paper. Here the word ‘good again’ must not be confused with ‘how it was’. A construction analogy is perhaps useful in explaining.

Let’s say water damages the cupboards in your kitchen and your insurance agrees to replace the damaged cupboards. However once the cupboards are replaced there are unsightly gaps between the cupboard and the ceiling, and

between cupboards and appliances. It was impossible to get cupboards of the exact size and shape of those damaged. The carpenter then calls in a builder who bricks up some gaps, and replaces ceiling cornices and new skirting boards. The carpenter's invoice says "replace cupboards" but the builders invoice says "cupboard replacement – 'make good again'" (*wiedergutmachung*) – a common term in the construction industry. His job was not to return everything to its original state, nor was it to reinstall the cupboards. Rather it was to work with what had already been achieved, and to ensure that the resulting space was as good as it was before although not exactly the same – a more dynamic equivalence.

Using these contemporary understandings of restitution, it becomes a logical next step to begin to speak of social restitution – intentional but voluntary acts and attitudes towards making good what our past history of injustice has damaged. While restitution must always include formal, legal compensation towards individuals and group to restore what was lost and to ensure no-one benefits unjustly from the past, social restitution offers possibilities for a wider societal response to injustice. Furthermore, it offers a forward-looking rather than punitive approach and invites all parties to acknowledge the past, and to work together to repair it through symbolic and material, conceptual and emotional actions. The motive is to contribute to a restored sense of humanity or dignity, and to do so coerced not by law but by a moral vision of justice. This is what is termed *social* restitution. Its characteristics are described in Table 1 and compared with tenets of legal restitution.

Table 1: Comparing social and legal restitution

	LEGAL RESTITUTION	SOCIAL RESTITUTION
<i>Basis</i>	• Liability	• Responsibility
<i>Ultimate aim</i>	• Structural change and justice	• Structural change and justice
<i>Outcomes</i>	<ul style="list-style-type: none"> • Restoring to its original condition (<i>wiederherstellen</i> – 'making right') • Compensating or making reparations, satisfying the injured party – whether symbolically or materially • Stripping the perpetrator of unjust benefit • Returning civil, political and property rights • Rehabilitating offenders 	<ul style="list-style-type: none"> • <i>Wiedergutmachung</i> ('making good again') • Restoring personhood, dignity, opportunity, belonging and memory • Redistribution • Representation • Recognition of people and injustice

	LEGAL RESTITUTION	SOCIAL RESTITUTION
<i>Teleology</i>	• Backward-looking; sometimes forward looking	• Forward-looking
<i>Actors</i>	• Government/institutions and individuals	• Individual and communities
<i>Nature of action</i>	• Compulsory	• Voluntary
<i>Ideology</i>	• Legal obligation	• Moral obligation
<i>Temporality</i>	• Time bound, sometimes across generations	• Across generations
<i>Decided by</i>	• Court arbiter	• Those who have been wronged in dialogue with perpetrators and beneficiaries

How might social restitution happen?

Social restitution may also be seen as bridging moral knowledge and moral action, between *seeing clearly* and *acting* against injustice. Social restitution depends on considering past injustice, taking time and effort to understand its effects, considering culpability, embracing moral responsibility and being motivated to act.

Though it is intuitive to expect some consistency between moral cognition and moral action, this is not always the case. As such, a key goal of social restitution is to bridge the gap between principle and implementation. For example, a few attitude surveys show that while South Africans generally acknowledge the reality of racial inequality and accept egalitarian ideals, some reject interventions designed to effect recognition and redistribution (Nyamnjoh, Swartz, Roberts, Gordon and Struwig 2020). Framing the stakes somewhat differently, these two scenarios: not knowing about injustice and so not acting, and knowing but failing to act, are the core points of intervention in a project of social restitution. The key animating force to linking recognition of injustice and moral action is a sense of moral responsibility and obligation consistent with contemporary approaches to restitution discussed earlier.

Furthermore, inter-group dialogue as the core mechanism of social restitution could play a dual role in social restitution. First, it is a way for participants to gain moral knowledge by meaningfully locating themselves in relation to the past and the influence it exerts on the present. Second, it addresses the concern that even though we might recognise injustice, even locate ourselves meaningfully in it,

yet remain unengaged, passive, overwhelmed, and immobilised. In this regard, dialogue generates everyday acts of social restitution that could be voluntarily undertaken by individuals and groups from a sense of moral obligation. Dialogue can also help individuals and groups to better locate themselves as actors in addressing injustice.

Seeing clearly: locating oneself in the conversation

The past can be a sensitive and difficult subject to discuss as it pertains to culpability and restitution. Many South Africans opt for amnesia, preferring to forget the past and move on (see Wale 2013 and Nyamnjoh, Swartz, Roberts, Gordon and Struwig 2020 for social attitudes towards the past). Many young people may be reluctant to examine the past because they feel it affected their parents and not them. Against such tendencies, social restitution contends that to address the past in meaningful ways, people need to intentionally locate themselves in relation to it and the influence it exerts over the present. Doing so offers an opportunity to reflect, not only on how the past has affected the present but on the extent of our voluntary moral obligation to mitigate its effects. This very specific sense of 'seeing clearly' is meant to instil a robust connection between moral cognition and moral action. As argued earlier, the notion of social restitution intervenes in the very visible gap between knowing and acting, between values and behaviour, between intention and agency. Here Augusto Blasi (1983) has helped, if not to solve the problem, at least to locate the timber with which the bridge across the divide can be built. Blasi argues that a sense of *personal responsibility* is the connecting line between moral cognition and action. Such responsibility is a recognition on the part of a moral agent of their involvement with both situation and action. Being able to relate the problem of past injustice to themselves, they proceed to judge moral action (restitution) as strictly necessary for them.

When speaking about histories of injustice and human rights violations in terms of locating actors, the victim-perpetrator-bystander triad theorised by Raul Hilberg (1992) and meticulously described in the context of the Holocaust is a helpful starting point. At the same time, the task of determining who was privileged and who oppressed is relatively easy amid, or soon after, a conflict or injustice has occurred, but more difficult as time passes. The Hilberg triangle tends to be inadequate for engaging people across many generations, including those who were not alive at the time of the injustice but who live with its positive benefits or negative repercussions. However his benchmark of categories is useful to question both the names he assigns to particular locations and what (or whom) he omits.

The idea of social restitution seeks to widen the definition of restitution and offers new language and more categories beyond the labels of 'victim', 'perpetrator' (and 'bystander') to talk about wider roles in the past. Two new categories – that of 'resister' and 'beneficiary' (see Boesak 2017 for a discussion of why this is important) – make a pentangle of locations, making further distinctions regarding the nature of the benefit and the magnitude of the role in resisting (see Figure 1).

The move from a triangle to a pentangle as an instrument of self-location in dialogues about past injustice and its effects has several advantages. They produce more nuanced discussions, helping us understand how roles become complicated over time while nonetheless showing that all have a part to play in a conversation about restitution. This makes the project of social restitution more inclusive. It secures greater recognition and less opting out. In the study *Another Country* (Swartz 2016), it was found that people were able to locate themselves more easily than if this labelling activity was limited to only three categories compared to five. Moreover, offering people the opportunity to add their own nuanced descriptions to each of the five labels increased this participation even further. Another kind of inclusivity is generated through the pentangle's effect of making categories fluid and de-racialised. There may be those who experience dishonour as recipients of unwarranted benefits, such as a white South African's wealth and privilege on account of job reservation, or the leader of a former Bantustan who received some privilege in return for compliance and silence. So even perpetrators may be victims and can be dishonoured (although arguably to incomparable extents), and victims can be perpetrators. Resisters can become perpetrators as they design strategies to stop injustice that can be judged to be human rights violations.

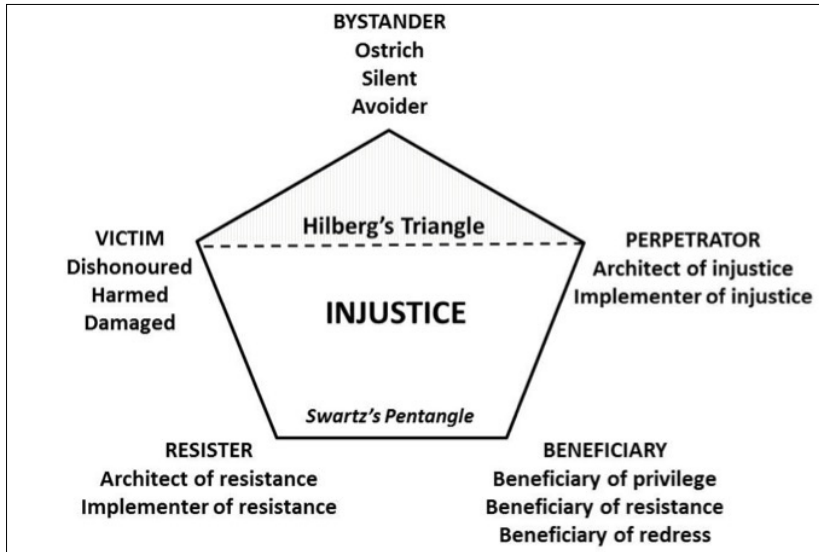


Figure 1: A pentangle of actors in restitution (Source: Swartz 2016)

The TRC indeed judged some actions of Umkhonto we Sizwe cadres as human rights violations in the struggle against apartheid but noted the difference between those who perpetrated human rights violations in pursuit of a just objective and those who perpetrated human rights violations in pursuit of an unjust and inhumane cause. These complex relationships and multiple locations made possible by the pentangle overcome simple binaries of blame and benefit based only on race which can polarise debates and prevent dialogue by hardening conflict lines. As such, the pentangle foregrounds a more social understanding of responsibility that invites everyone to the conversation as part of making things good again. Finally, the most gratifying part of this exercise in the study was the observation of participants coming to see and gaining new insight about the intergenerational transmission of injustice and privilege, and its implications for restoring human dignity after injustice.

Rehumanising and restoring personhood and dignity

The next step, to intentionally pursue a project of social restitution, is to understand what it means to be human, and what acts and attitudes can contribute to restoring our humanity. Once immersed in a dialogue about the past, where we stood and where we stand now, it becomes possible to see how injustice affects our sense of humanity or personhood.

The concept of social restitution draws on notions of relational ontology that place relationships at the core of being human. For sociologist Christian Smith (2010), healthy people are formed through healthy relationships. He argues that personhood is 'emergent'; whole and integrated people come into existence as they relate, interact, and are connected within specific environmental conditions, as well as to systems and structures. For a person to be healthy – this connectedness requires an environment that is conducive to psychosocial, emotional, economic, and political connectedness. Seeing a person as emergent, connected and in a conducive environment, Smith captures the paradox between individual agency, group dependence and environmental influence, and how all operate together to allow us to be fully human. Where any of these three elements are damaged, personhood is damaged. Similarly, Ifeanyi Menkiti (1984) blurs individual-group distinctions by suggesting that individuals achieve self-fulfilment within a collective framework. Articulating what he considers a distinctly African conception of personhood, Menkiti stipulates that community defines the individual in the sense that personhood is both something that is acquired through moral socialisation into a community and something at which an individual can fail. Both Menkiti and Smith demonstrate very clearly the importance of social connectedness and relationships as constitutive of personhood, and argue that ruptured relationships, disconnectedness, and failure to treat people as spiritually and morally equal dehumanises individuals and groups of people.

In the South African context, apartheid's damage to individual and shared humanity has resulted in ongoing social ills such as violence, crime, addictions, joblessness, educational failure, poor physical and mental health, and senses of social inferiority. In the study, black South Africans recounted endless stories about what it is like to be black in South Africa. Stories were told of being humiliated, belittled and dishonoured by apartheid's injustices, in the past and currently:

Mayaya's father belittled by a young White policeman 'no older than a boy', struggling to get her children enrolled in a private school, and being taken for the administrator rather than the director she is at business meetings...

Welile being called 'a k----r' [racial slur] by a White Afrikaans-speaking man for not being able to locate goat's milk in an upscale supermarket where he worked...

Zethu's son being called a baboon at school and having to resort to physical violence to end this ridicule.

Haley speaking of Black people defaulting to inferiority, White people to superiority...

Sibu's accounts of being thought of as a thief, burglar or hijacker just because he is Black, and noting how Black people feel they have constantly to prove themselves through what they buy and wear, 'to show you are good enough'.

Sizwe, reflecting on 'how my mom reveres White people' which made him fear White people when he was a child, and then growing up to be incredibly angry at them, including at university: 'the way [White] lecturers speak to you and look at you, they think you are stupid because you don't look and speak like them'...

Luxolo revealing how being chronically unemployed has eroded her confidence, her sense of 'being someone', and how Apartheid has made Black people 'feel smaller than other people'.

(Swartz 2016, 180).

These experiences are surely evidence of how effective apartheid was in eroding dignity and humanity, in creating the conditions in which people could be dishonoured and belittled by other human beings.

In the study, many white South Africans recounted stories that illustrate how their own humanity also suffered harm. While it cannot be compared in scope and severity, aspects of these include undue privilege, indifference, the normalisation of inequality, blindness and numbing towards need, an innate superiority that made normal human relationships almost impossible, and lingering senses of shame and guilt:

Rose's shame at being assumed to be complicit when someone starts telling racist jokes, and at always being deferred to by older Black people (and younger ones too) as 'the White madam' even though she is only in her mid-thirties.

Thomas's guilt at being jarred by the sight of White beggars and White homeless people, having come to see Black begging and Black homelessness as 'normal'.

David, Angela and Heather's shame at always being deemed as 'valued', 'on top of the pile' and 'the masters'.

Noah's guilt 'for being White' and the fear that 'people resent me because of the colour of my skin and my wealth'...

Sandy's shame at 'White people for what they allowed'.

[Harry's] 'realisation that what we have so much of is not because we were so good, or so skilled, but because an entire system conspired on our behalf to give us 'the best jobs ... loans ... houses ... nice cars. And we weren't even clever' as Harry put it, succinctly defining unearned, undeserved privilege.

(Swartz 2016: 181).

These stories with research participants, about how the past affects their lives in the present, illustrates the pervasive damage to personhood wrought by apartheid.

Senses of humanity or personhood, rooted in the African ethic of *ubuntu*, is an inherently social concept. Humanity is conferred in how people treat each other. Clearly, in South Africa's history, the way we have treated each other, and the way we resisted this treatment, has damaged our humanity. We live with the consequences in multiple ways. Social restitution has the potential to restore this humanity and is best practiced in solidarity to benefit all. 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 bring about material and psychological flourishing, including the ability to take advantage of opportunities for work and wealth creation or wealth redistribution. In fact, it has been shown that in societies where ideas of personhood are seen to be connected and collective, efforts at redistributing wealth is greater (Ferguson 2015; Merkel 2009). A key criterion for social restitution is therefore to ensure that contemplated actions address this collective understanding of what it means to be human, remembers how the past has impacted on the current state of our humanity, and contributes to rehumanising each other – through providing new opportunities for dignity, belonging and redistributing wealth.

Towards criteria for critical active social restitution

Thus far, social restitution has been discussed as a dialogic encounter through which it is argued, it becomes possible to see clearly the effects of the past, as well as the effects of the past in the present in terms of the damage done to

personhood. Key to this endeavour is the idea that locating oneself as an actor in relation to past injustices allows for an array of new actions that may be undertaken to address the injustice. Inspired by critical race scholar Philomena Essed (1991), who speaks of 'everyday' acts of antiracism in response to racism, social restitution is ultimately about everyday restitutionary action – action that does not rely on legal prescriptions in order to address injustice. It is about the everyday micro-practices of individuals and groups, rather than *only* the macro practices of institutional efforts at transformation – although these remain crucial. Social restitution is also not a panacea for addressing every challenge of poverty, inequality, and damaged humanity with which South Africa contends. But it has the potential to make a significant practical and symbolic contribution.

Those who participated in the *Another Country* study put forward a raft of ideas for what should and could be done as acts of social restitution. People have many ideas for how individuals and groups might engage in social restitution, either alongside government programmes of job creation, service delivery and wealth redistribution or as purely civil-society led initiatives. These ideas include small- and large-scale actions: mentoring, building friendships across racial divides, learning an indigenous language, sharing inheritances, challenging single stories of doom and gloom about South Africa, taking salary increase holidays, engaging in dialogue about the past, or starting a national programme of community service for school leavers across social boundaries.

Many in the study also noted key elements that need to be present for social restitution to have a chance of addressing injustice. These include understanding the difference between charity and restitution, being aware of the dangers of dialogue across power differentials and without action, and misrecognising either the effects of the past on the present or one's complicity in injustice.

The dangers of dialogue

Writing in the 70s, Steve Biko warns of the dark side of dialogue, how it can be used to make oneself feel better, instead of leading to action:

Black-White circles are almost always a creation of White liberals... they call a few 'intelligent and articulate' Blacks to 'come around for tea at home', where all present ask each other the same old hackneyed question 'how can we bring about change in South Africa?' The more such tea-parties one calls the more ... freer he shall feel from the guilt that harnesses and binds his conscience (Biko 1978: 22).

Endless dialogue with little or no action should be avoided, and might best be done through intentionally beginning dialogues with consultative action as an outcome. This criterion of dialogue-in-relationship (or 'no social restitution without consultation') is no easy task since South Africa remains socially divided even after 30 years of democracy and so finding a diverse community of practice will take serious intent. In addition, such a consultative approach could prove difficult since power dynamics between rich and poor, male and female, professional and worker remain entrenched. It will take much effort for white South Africans not to presume that they know best what black South Africans need in terms of restitution. These challenges are not insurmountable, but they take intentional effort.

Social restitution action understands the difference between charity and restitution

Related to the necessity for a dialogue about what action is restitutionary in nature is a further criterion regarding the difference between charity and restitution. Charity remains a noble action, and is necessary in South Africa. But charity is not a response to complicity in injustice which restitution is. Distinguishing social restitution as a voluntary moral obligation in the light of actions for which one is culpable – whether directly or indirectly through generational benefit and privilege is critical. It is also critical to realise that white domination persists when white people 'educate' black people about how they should resist 'white charity' and only accept white restitution. What is necessary, however, as a further criterion for social restitution, is that those on the receiving end of restitution understand the act for what it is – not charity that originates out of empathy and largesse, but the moral obligation of those who have perpetrated injustice or unduly benefited from injustice. At its starkest, social restitution rehabilitates the perpetrator and rehumanises both parties – something that charity never does. Restitution must aim to leave people's dignity intact; it must not change their character from active 'struggle hero' to 'subjugated' as Moletsi Mbeki (2009) accuses many actions of redress as doing. Social restitution must explicitly distinguish between what is an act of charity and what is an act of restitution.

Personal complicity in past injustice and misrecognising its effects

In the *Another Country* study participants spoke of how South Africans remain divided about what should be done to address our past partly because they misrecognise their role in the past or believe current legislation and corrupt actions from state actors exonerate those who have benefited from apartheid in the past.

While there have been a raft of legal policies aimed at restitution discussions of the demeaning and dehumanising effects and experiences of racism are few. In the study black South Africans spoke at length of the realisation and consequences of having received an intentionally inferior education; the lurking sense of inferiority (and assumed superiority by white people); senses of alienation in the workplace; and the financial costs incurred through forced removals and subsequent low land values compared to white suburban properties (with implications for racialised inheritances). White South Africans spoke of the shame of having few friendships across racial divides, of guilt for ongoing privilege, and of fear and anger that the past evoked. These admissions are not widely made – by either white or black South Africans – but they exist. Instead of misrecognising the effects of the past in the present, or using contemporary policies or practices (such as corruption) to excuse further participation in the project of restitution, there remains a need for people to be able to locate themselves through a complex set of locations in injustice if misrecognition is to be avoided.

The five locations described earlier, with richer descriptions of each location, help to overcome simple binaries of blame and benefit based only on race. The labels proposed, expanding Hilberg's triangle of actors, of victim (dishonoured, harmed); perpetrator (architect, implementer); resister (architect, implementer); bystander (ostrich, silent, avoider); and beneficiary (of privilege, of redress, of resistance) allow for recognition, and contribute to social restitution. It fundamentally answers the question why 'forgetting the past and moving on' is inadvisable when so much remains to be done to address the past. Requiring that participants intent on social restitution locate themselves in the past – often straddling various locations – offers new possibilities for recognition of what their moral duty now is.

Conclusion

This paper has argued for an expanded definition of restitution as a conceptual and pragmatic intervention for social transformation in South Africa. Termed 'social restitution', it can be defined as actions and attitudes for individuals and groups to do and adopt as a voluntary moral obligation alongside or independent of government initiatives and in dialogue with those affected by injustice. The foregoing account of critical active social restitution centres four key claims. The first is that injustice – whether through slavery, inequality, colonialism, imperialism, apartheid – damages the humanity of both victim and perpetrator. The damage has enduring effects over time and must be understood before any of those involved can 'simply move on'.

The second idea is that a broader understanding of restitution – as social restitution that goes beyond its legal definitions, and beyond application only to land or gross acts of human rights violations (in South Africa) – is a helpful tool to bring about modest change. Along with widening the definition there is also a need for new language and more categories and locations to talk about people's roles in the past. The third idea is that restitution must aim at restoring people's humanity, or sense of personhood. Such rehumanising includes restoring dignity, opportunity, belonging and memory, and so include symbolic, practical and financial acts and attitudes in a quest for restitution.

The final idea, is that when it comes to social restitution is that there is a role for all: individuals and communities, governments and institutions. To avoid repeating past histories of one group dominating the other, when considering what actions should be taken, it is critical that this is done in dialogue with a diverse range of people. So, while government and legal programmes such as penalty payments, land redistribution, and affirmative action are important in bringing about social transformation after conflict and injustice, it is the participation of civil society, communities and individuals that is vital in fulfilling restitution's wider aims. While focusing on the South African context, social restitution and the constitutive ideas expressed herein have resonance in many other national, local, and global contexts. The key question that remains is whether role players can embrace such a pursuit, and to what extent such dialogical and voluntary action is useful on the long road to substantive transformation.

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