

What's the big deal about land?



Justice Conference
Cape Town

17-18 March 2017



HSRC
Human Sciences
Research Council

Social science that makes a difference



Overview

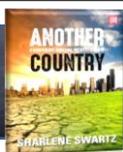
- **WARMING UP – GETTING HEATED ABOUT LAND [8 min]**
- **Some facts about land in South Africa – *Sharlene Swartz [10 min]***
- **Land - legal and social struggles - *Martha Sithole [7 min]***
- **A theology of land - *Graham Philpott [7 min]***
- **The church and landlessness - *Siyamboleka James [7 min]***
- **IDEAS AND OBSTACLES – PANEL/AUDIENCE DISCUSSION [40 min]**



HSRC
Human Sciences
Research Council

Social science that makes a difference





'The Stolen Bicycle'

Jabu and Johnny are two boys who live next door to each other. Both have bicycles. One day Johnny steals Jabu's bicycle. Jabu tries hard to get it back but can't. Of course, they stop being friends. A year passes and they do not talk or even look at each other. But Johnny misses his friend, goes over to Jabu's house one day, and says, 'Jabu lets be friends again'. Jabu agrees and so they shake hands and make up. A few days later Jabu says to Johnny, 'Johnny, what about my bicycle?' to which Johnny replies 'Look Jabu, this is about becoming friends again, not about bicycles'.



HSRC
Human Sciences
Research Council

Social science that makes a difference



'The Stolen Bicycle'

*Jabu lived in a place with plenty of bicycles. He could use them ever he wanted. The elders of the village made sure everyone had bicycles for transport, recreation and to make a living. One day Jonny arrives in Jabu's neighbourhood and takes Jabu's bicycle and all the other bicycles – first by asking if he could use it, then a little bribery, then at gunpoint [a hijacking really!], and finally through 17,000 pieces of legislation. Of course, they do not become friends - in fact they live as master and servant because Jonny now has the means of making a living, transport and even recreation. After many years Jonny and Jabu discuss the possibility of becoming friends. **What must Jonny do about the stolen bicycles** – many of which have been used to create wealth (businesses, houses and investments), whilst others have rusted beyond recognition? **What should Jabu ask for as fair compensation? What difference would it make if they were trying to follow biblical/Christian principles?***



HSRC
Human Sciences
Research Council

Social science that makes a difference





HAVE YOUR SAY [8 min]

In groups of two discuss...

1. Why is there no (or so little) land justice in South Africa?
2. What questions about land must be answered today?

(Write up a key ONE WORD answer on A4 sheet)



Social science that makes a difference



Some facts about land in South Africa

Sharlene Swartz: HSRC, UCT, Restitution Foundation

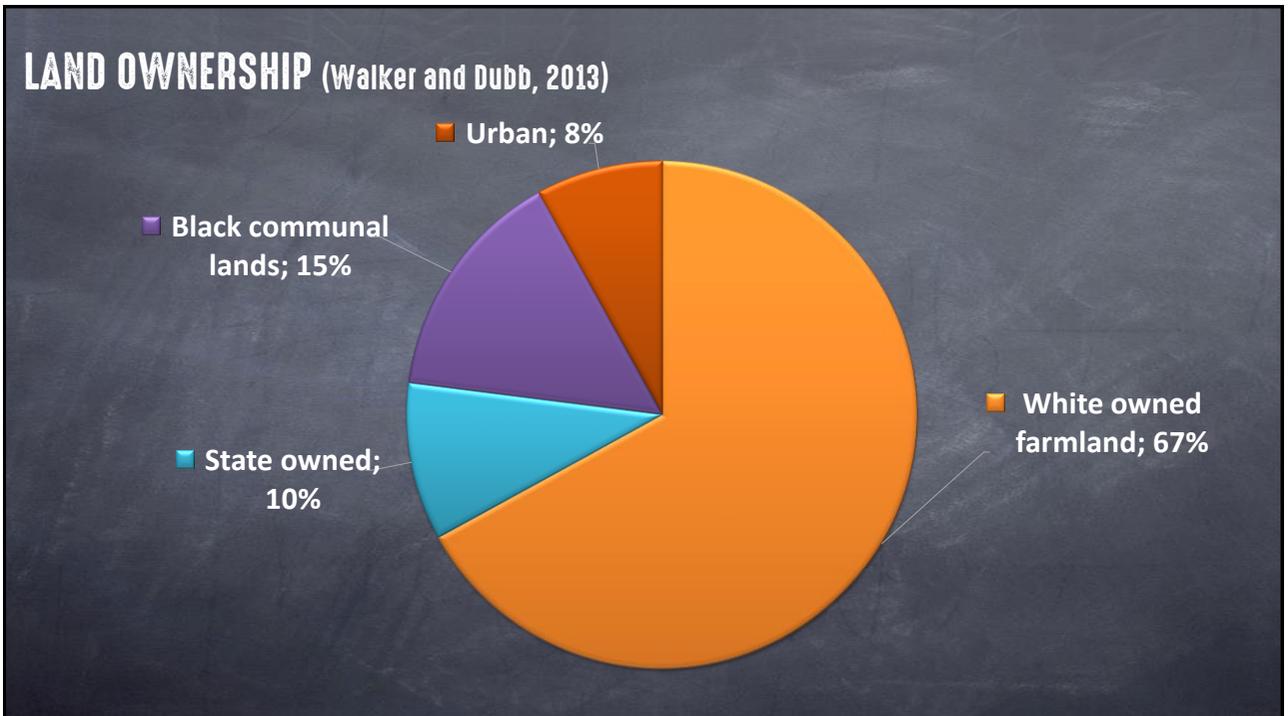
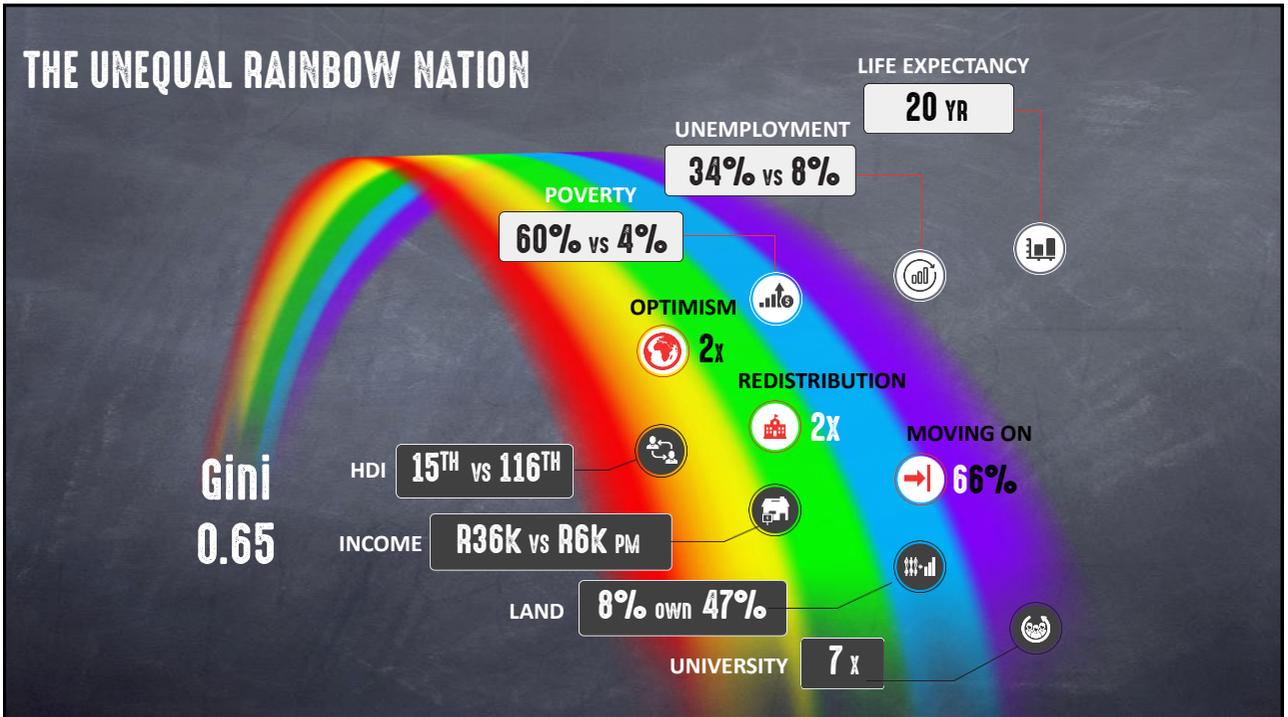
1. Initially the Khoe and San inhabited the land and used it respectfully to live and thrive
2. Bantu groups later also occupied the land through communal tenure, and sometimes fought each other for control of the land
3. The settlers 'traded' for land, asked permission to use land, then took land at the end of a gun (against spears) and finally through legislation
 - The Glen Grey Act 1894; The Native Land Act of 1913 and 1936; The Group Areas Act of 1950 (and 17,000 more!)

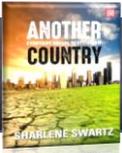


Social science that makes a difference

Restitution







Land - Section 25 of the Constitution

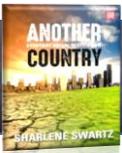
(5) The state must take reasonable legislative and other measures... to foster conditions, which enable citizens to **gain access to land** on an equitable basis. **REDISTRIBUTION**

(6) A person or community whose **tenure of land** is legally insecure as a result of past racially discriminatory laws or practices is entitled... to *tenure which is legally **secure*** or to comparable redress. **TENURE REFORM**

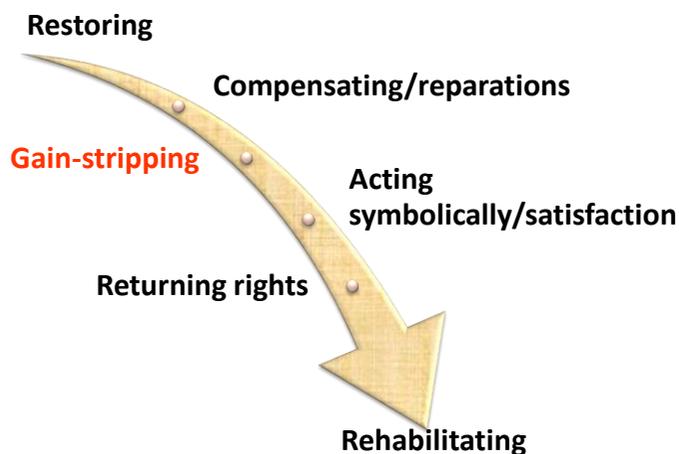
(7) A person or community dispossessed of property after 19 June 1913 ...is entitled... to **RESTITUTION** of that property or to equitable redress.



Social science that makes a difference



Legal and historical restitution



Social science that makes a difference



Franz Fanon (1925 – 1961)



*Black skins,
white masks*

*Wretched of
the Earth*

1. Revolution must aim for equality, dignity, and a 'redistribution of wealth'... a question to which "humanity must reply... or be shaken to pieces by it" **BUT**
2. 'Dignity before bread' – and land as key to dignity **BUT**
3. Restoring humanity and regaining personhood - not by aspiring to captors' ways of life, but in maintaining 'collective rhythms'



What does land mean? Where are we?

1. Land helps to make us fully human
 - Dignity and belonging
 - Opportunity (work, food, security – title deeds)
 - Memory (culture, heritage, place)
2. Land restitution
 - 8000 unsettled claims
 - Hampered by corruption; multiple relocations; family arguments; miniscule compensation; 1913 as arbitrary
 - Traditional/communal lands controversy



HALEY & THE GROUP AREAS ACT

WITHOUT APARTHEID

1976
Suburbs house R5,000

1997
Suburbs house R400,000
Savings R260,000
(no bond)

R660,000

2015
Suburbs' house R1,300,000
Savings R2,800,000

R4.100,000

WITH APARTHEID

1976
Cape flats house -R7,000
(R12,000)

1997
Cape flats house R90,000
New suburbs flat R150,000

-R60,000

2015
Suburbs flat R1,115,000
Savings R0

R1,150,000

HALEY & THE GROUP AREAS ACT

WITHOUT APARTHEID

1976
Suburbs house R5,000

1997
Suburbs house R400,000
Savings R260,000
(no bond)

R660,000

2015
Suburbs' house R1,300,000
Savings R2,800,000

R4.100,000

WITH APARTHEID

1976
Cape flats house -R7,000
(R12,000)

1997
Cape flats house R90,000
New suburbs flat R150,000

-R60,000

2015
Suburbs flat R1,115,000
Savings R0

R1,150,000

HALEY & THE LAND CLAIMS ACT

Landclaim 2003/2010

Farm 1 & 2 E Cape	R17,622
'Mistake' – refund	R 9,048

Total paid	<u>R 8,573</u>
------------	----------------

Haley's share	R 2,858
---------------	---------

The value of 2 farms in Eastern Cape in 2015 –
most conservative estimate: R4,000,000

Haley's loss	<u>R983,666 + R1,330,475 =</u> <u>R2,314,141</u>
--------------	---

HALEY AND A SOLDIER'S REWARD



BLACK



COLOURED AND
INDIAN/ASIAN

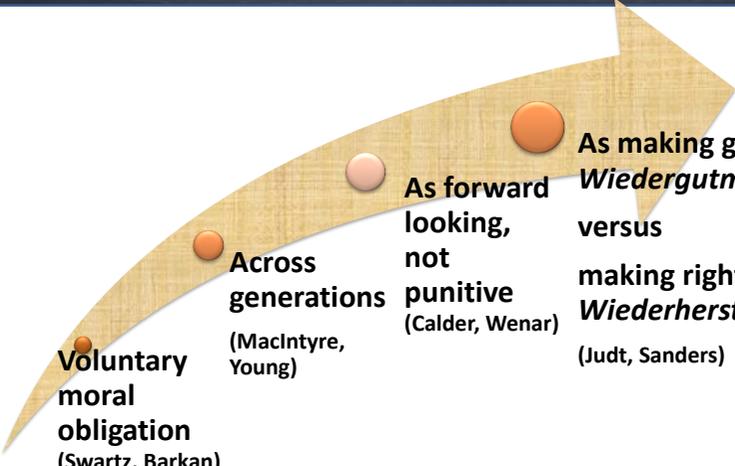


WHITE

WHERE HAVE HOLIDAY HOMES COME FROM?



Everyday SOCIAL restitution



Voluntary moral obligation
(Swartz, Barkan)

Across generations
(MacIntyre, Young)

As forward looking, not punitive
(Calder, Wenar)

As making good versus making right
Wiedergutmachung
Wiederherstellen
(Judt, Sanders)

 **HSRC**
Human Sciences Research Council

Social science that makes a difference



Ideas for land restitution

GOVERNMENT

1. LAND CLAIMS
2. LAND TENURE
3. LAND REDISTRIBUTION
4. SUBSIDIES
5. ERADICATE BUCKET TOILET
6. EQUITY SHARES FOR FARMWORKERS
7. BUILDING HOUSES
8. SUBURBAN UPKEEP & CROSS-SUBSIDING TOWNSHIPS
9. ...



OBSTACLE 3: LEAVING IT TO GOVERNMENT (AND CORRUPTION)

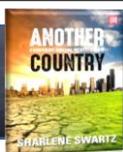
Ideas for land restitution

GOVERNMENT

1. LAND CLAIMS
2. LAND TENURE
3. LAND REDISTRIBUTION
4. SUBSIDIES
5. ERADICATE BUCKET TOILET
6. EQUITY SHARES FOR FARMWORKERS
7. BUILDING HOUSES
8. SUBURBAN UPKEEP & CROSS-SUBSIDING TOWNSHIPS
9. ...

CIVIL-SOCIETY INITIATIVES

1. TITLE DEEDS
2. SECOND HOMES
3. STUDENT HOUSING
4. MEANING OF LAND
5. LAND MENTORING/SKILLS DEVELOPMENT
6. SOCIAL (CLASS MIXED) HOUSING
7. ANTI-GENTRIFICATION???
8. SHARED INHERITANCES
9. ...



Land - legal and social struggles

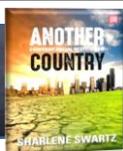
Martha Sithole: land researcher, Ndifuna Ukwazi, constitutional rights, social movements

1. What does the constitution say about land (and property)?
2. What are the failings of the current land restitution processes and legislation?
3. What can we learn from current social movements focussed on land?



Social science that makes a difference

Restitution



A theology of land

Graham Philpott, Church Land Programme, church and development

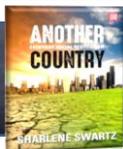
1. The work of the Church Land Commission (What we believe about land)
2. Current theological paradigms that need to be disrupted
3. Ideas for new theological views on land



Social science that makes a difference

Restitution





The church and landlessness

Siyamboleka James, Community leader Sweet Home Farm, Abahlali BaseMjondolo

1. What does landlessness mean to the landless?
2. What role should the church be playing in landlessness?



Social science that makes a difference

Restitution



Ideas and obstacles

In groups of three discuss...

1. Your best idea for what must be done about land (in)justice?
2. What obstacles might have to be pushed aside?

(Please write up on A4 sheets)



Social science that makes a difference

Restitution





PANEL DISCUSSION

1. How do we practice land justice, individually, in small groups, nationally?
2. How do we practically overcome the obstacles to land injustice?



Social science that makes a difference

Restitution

