
Professor Olaf Zenker is a leading social anthropologist, working at the Department of Social Sciences, University of Fribourg, Switzerland on a multi-disciplinary political and legal anthropological research study entitled ‘Land restitution and the moral modernity of the new South African state’. This project, funded by the Swiss National Science Foundation (SNF), through an Ambizione Fellowship, focuses on the complex, nuanced and often problematic issues associated with land restitution in modern post-Apartheid South Africa.

Apartheid rule was implemented shortly after the Second World War. This political project sought to further segregate South African communities based on race, ethnicity and culture, resulting in a marked difference compared to before its implementation. During this period (1948-1991), successive governments implemented laws which have predominantly benefitted white minorities, often at the direct expense of their black counterparts. In the 1980s, the political system began under significant pressure from members of the international community. Many world leaders, including Ronald Reagan (1981-1989) and Margaret Thatcher (1979-1990), publicly supported Apartheid rule despite different public opinion on the matter. The increasingly greater media presence of a wide variety of figures, from civil rights campaigners to social justice advocates, brought this system to the greater attention of the white minority. Following the end of Apartheid, the practice of nation-wide land dispossession and unequal redistribution, in which the colonial state seized lands owned by members of South Africa’s black community both before and during Apartheid, was addressed. Officials redistributed these properties, passing them into the ownership of the state’s white ruling class. Following the collapse of the regime in 1991 and the election of the African National Congress (ANC) three years later, successive new state governments have worked to redress these discriminatory policies. To this end, the government passed the Restitution of Land Rights Act (Act 22 of 1994). Following this legislative change, the Commission on Restitution of Land Rights with its hierarchy of Land Claims Commissioners was established. This law also set up of the Land Claims Court (LCC) to hear claims from those impacted by the land distribution policies and to make rulings based on merit.

CONTESTING JUSTICE: THE KAFFERSKRAAL LAND DISPUTE

Professor Zenker’s work draws attention to the practice of nation-wide land dispossession and unequal redistribution, in which the colonial state seized lands owned by members of South Africa’s black community both before and during Apartheid. Officials redistributed these properties, passing them into the ownership of the state’s white ruling class. Following the collapse of the regime in 1991 and the election of the African National Congress (ANC) three years later, successive new state governments have worked to redress these discriminatory policies. To this end, the government passed the Restitution of Land Rights Act (Act 22 of 1994). Following this legislative change, the Commission on Restitution of Land Rights with its hierarchy of Land Claims Commissioners was established. This law also set up of the Land Claims Court (LCC) to hear claims from those impacted by the land distribution policies and to make rulings based on merit.

In his research, Prof Zenker illustrates how the consolidation of former KwaNdebele. Such cases highlight the contested issue of whether or not white people should be entitled to lodge a restitution claim to undo the injustices of colonialism even though they categorically benefitted as members of the white race under colonialism. While the courts have clarified that these claims are legal and need to be solved on an individual basis, the moral legitimacy of such claims continues to be disputed by state bureaucrats, legal activists and other members of the public (Zenker, 2013).

JURIDIFICATION, POLITICS AND THE KALKFONTEIN LANDS

Prof Zenker’s work helps us to better understand the perspectives of both black and white South African land claimants and how these differing understandings create friction when dealing with restitution claims. When working with restitution agencies set up by the new state these underlying differences come to the fore, creating a problematic encounter which causes visible tension.

In his research, Prof Zenker illustrates how different sections of residents and claimants of Kalkfontein hold different understandings and attitudes towards land ownership and redistribution (Zenker, 2012). Such cases highlight that when traditional customary law comes into contact with state law logic, considerable strain and disquiet develops. Prof Zenker’s work thus gives us a better understanding of the underlying tensions, rather than merely the surface level issues that manifest in judicial decisions. In light of such tensions, any meaningful post-Apartheid attempt at reconciliation in relation to land becomes difficult and is often undermined at a very fundamental level.

PROTEST AND POLITICS

Prof Zenker’s research paints a large and complex picture where various stakeholders not only work to create new laws but also influence the judiciary process (Zenker, 2018). He illustrates a multi-faceted process where attitudes towards politics, land ownership and restitution are often contested and constructed in a myriad of different ways. In such processes, individuals often hold strong and conflicting attitudes on such matters, as well as on the correct place of law and politics in relation to land ownership.

Within the field of land restitution, essentially concerned with the making and unmaking of past injustices surrounding the former homelands, this leads to thorny questions: who is to qualify as a true victim of apartheid and thus is in need of current redress?
During your time in South Africa, what were the most common issues and/or injustices presented to you by the various black communities concerning Apartheid rule?

J: The injustices endured by black communities under Apartheid were numerous, as racial segregation and systematic discrimination permeated people's everyday life in all its facets. Given the focus of my research, however, the loss of home and lands that colonial dispossession and forced removals entailed featured prominently in people's narratives about their past experiences. Yet no matter how well-intended the restitution process has been, and is, no remedy of today can fully undo the multiple suffering that people had to endure under colonial rule, and that in so many ways, persists until today. Against this background, I have been impressed by the dignity that many claimants exhibit today and the persistence they show in fighting to get back what was theirs.

From your time in South Africa (2010-2016), did you note any changes in attitudes towards racial injustice from any segments of society?

J: Although the new constitutional order formally ended racial inequality and while the new government has introduced diverse measures improving the lives of the formally disadvantaged, multiple social injustices and burdens were passed on to the new state. The tenacity with which people over the past decades – something that has repeatedly led to misleading populist demands for expropriation – is truly impressive. It is a fascinating observation, particularly to me, that people's willingness to persist and resist and make the best out of their situation. I have been deeply impressed by the strong sense of dignity that many people have managed to maintain and to uphold as well as the willingness that can be encountered in all sections of society to reconcile and forgive, and to move forward.

Your published work details some fascinating observations, particularly in relation to the possibility (or lack) of reconciliation (e.g. Zenker, 2014). From a personal perspective, how do you see the future of South Africa after reparations developing? Can they move on from Apartheid?

J: South Africa today remains a deeply divided and enormously unequal society, with divisions that still strongly correlate with former racial categories. Although some attempts have been made in various fields of society to address this racial injustice – from land reform to Black Economic Empowerment to the Truth and Reconciliation Commission – much more is still needed to truly help South African society at large to move on from Apartheid. Apart from nasty-gritty details of how to better organise, for instance, the restitution process and besides the obvious need to overcome the current corruption and 'state capture', this surely also has to entail a much more substantial redistribution of economic opportunities and resources. This, and time, would give South African society a real chance to ameliorate its frictions and move on into a better future for all.

Where do you see the focus of your research within the next five years? Focusing on land restitution has allowed me to better understand the myriad ways in which different actors rationalise what I call 'the moral modernity' of the new South African state. Evidently, such remaking of post-Apartheid statehood currently takes place in multiple arenas and regarding numerous concerns. What makes land such a special object of enquiry is me to its protein nature, appearing as a place for being and living; as an economic resource; as a political territory; as a matter of rights, entitlements and jurisdiction; as a matter of identity, rootedness and belonging; as the spatial context of memories, good and bad, reaching back in time; and so on. Hence, I intend to continue researching the multiple, overlapping and contradictory ways, in which South Africans construct their connections with others and specific places – that is, their autochthonous politics of belonging – as well as their senses of entitlement to specific resources derived from these territorialised collective identities – that is, their politics of belongings – as both co-evasive and in beyond the land restitution process.

Can there be a white restitution claim that does not intrinsically violate the boundaries of an acceptable moral community in the new South Africa?


Zenker, Olaf [2014]: Bush-level bureaucrats – Max Planck Institute for Social Anthropology, Halle (Germany)

BIO

Prof Zenker received his PhD from the Martin Luther University and the Max Planck Institute for Social Anthropology, Halle/Saale, Germany, and obtained his habilitation from the University of Fribourg, Switzerland. He previously worked at the Free University of Berlin, and since February 2017, is a Professor of Social Anthropology at the University of Fribourg, Switzerland.

CONTACT

Prof Olaf Zenker
Department of Social Sciences
University of Fribourg
PER 21 - Office G340
Boulevard de Pérolles 90
1700 Fribourg
Switzerland

Email: olaf.zenker@unifr.ch
Tel: +41 (0)26 303 7841
Website: http://www3.unifr.ch/directory/en/peoples/2177649933

RESEARCH OBJECTIVES

Prof Zenker's project investigates the ongoing South African land restitution process, in which the new state compensates victims of former land dispossession that were based on laws discriminating because of race. Building on this research, the project addresses a central research gap by focusing on the renegotiations of modern statehood that are at the core of South African land restitution.

FUNDING

SWISS National Science Foundation (SNF)

COLLABORATORS

• Prof Dr John L. Comaroff – Department of African and African American Studies, Harvard University, Cambridge (USA)
• Prof Dr Harri Englund – Division of Social Anthropology, University of Cambridge (UK)
• Prof Dr Marie-Claire Foblets – Max Planck Institute for Social Anthropology, Halle (Germany)