

Ubuntu and Restorative Justice

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Addressing the Strife and Divisions of the Past
in Post-Apartheid South Africa

PhD Thesis
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The cover picture is from the township area near Cape Town International Airport where Gugulethu and Crossroads are located. In the thesis, some of my interviewees tell about human rights violations committed in Gugulethu and Crossroads. I took the picture on 25 October 2012.

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Working on this thesis has been an interesting and personally enriching experience for me, though at times it has also been a hard job. It has been an interesting experience because my understanding of *ubuntu* and restorative justice has developed while working on the thesis, and because the final product – the text you have before you – does not look anything like what I envisaged when I received my scholarship in September 2008.¹

It has been an enriching experience to work on the thesis because of the extensive contact I have enjoyed with others in connection with my research. I first and foremost want to thank my main supervisor, Steen Wackerhausen, who has supervised me since BA level. Steen has a wonderful ability to look constructively for the ‘path to improvement’, as well as a unique talent for making me feel encouraged after our meetings. I owe a special debt to Steen for this encouragement, as well as for his many thoughtful comments on my work. I am also indebted to Morten Raffnsøe-Møller and Aase Rieck Sørensen, who as fantastic co-supervisors gave so much time and energy to reading and discussing my work.

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¹ Since September 2008, I have been enrolled in the four-year PhD degree programme at Aarhus University. To be accepted at this programme, one must at least have completed four years of university studies but must not have begun the work on a Master’s thesis. The four-year PhD degree programme is divided into Part A, the first two years, and Part B, the last two years. During Part A, it is a formal requirement that one is simultaneously enrolled as a Master’s student and as a PhD student. Part A concludes when the Master’s thesis is passed. I passed my Master’s thesis, entitled *Ubuntu and the South African Truth and Reconciliation Process*, in August 2010 (grade A). During Part B, I have been on paternity leave for four months, and accordingly my scholarship has been extended from September 2012 to January 2013.

Since receiving my PhD scholarship, I have undertaken four research stays in Africa. During the first, from August to December 2008, when I was an intern at the Institute for Justice and Reconciliation (IJR) in Cape Town, I conducted interviews with apartheid victims from the Khulumani Support Group in Cape Town, and travelled around Western Cape, Eastern Cape, KwaZulu-Natal and Gauteng to speak with former commissioners and committee members of the South African Truth and Reconciliation Commission (Appendix 2 contains a list of my interviews conducted in South Africa). During my second research stay in South Africa, from November 2009 to January 2010, most of my time was spent in KwaZulu-Natal as a guest of Prince Shange and his family. Prince Shange kindly arranged for me to conduct interviews with traditional Zulu leaders and politicians. From November to December 2010 I was a fellow at the Institute of Peace and Strategic Studies (IPSS) at Gulu University, northern Uganda, where I worked on the first of the articles that form this thesis.² Finally, I was in South Africa in October/November 2012 to discuss all three articles of the thesis with various scholars, hoping for inspiration for the section of further reflections with which it closes. I want to thank all my interviewees, and everyone from South Africa and Uganda who commented on my research, especially my colleagues from the IJR and IPSS.

Blaise Pascal once wrote: ‘Certain authors, speaking of their works, say, *My book, my commentary, my history*, etc. They feel like citizens who have “a gable on the street”, and who have always the word *my house* in their mouth. They ought rather to say, *Our book, our commentary, our history*, etc., seeing that ordinarily there is more in it of the property of others than of their own’ (Pascal as quoted in Vinet 1859: 87). Pascal’s comment is appropriate in relation to this thesis. I really ought to say *our* thesis, for not much would remain if I extracted from it everything that is due to the contribution of others. For one thing, the data informing the thesis would have been much poorer if not for my interviewees’ very generous explanations and discussions on *ubuntu* and other topics. But that is not all. Many of the reflections I offer on my data are founded on the thoughts of others. Since receiving my scholarship, I have presented aspects of my research in 23 oral presentations at conferences, courses, etc., and the comments re-

² The kind of ‘narratives on return’ that I write about in the first article (see pages 23-25) might also be playing some role in post-civil war northern Uganda. I do not touch on this in the thesis, but expect to do research on this and related issues in 2013-15, when I will be a post-doc at a collaborative research project entitled ‘Governing Transition in Northern Uganda: Trust and Land’. The project, which is led by Lotte Meinert and Aloysius Malagala, includes researchers from Aarhus University, Copenhagen University and Gulu University, and is funded by the Consultative Research Committee under the Ministry of Foreign Affairs of Denmark.

ceived in this process have been essential to the thesis's development. In 2011 I also received inspiring comments on my research from many of the students participating in a cross-disciplinary Master's course on conflict resolution that I taught at Aarhus University. I have also received many valuable comments from members of the Danish/Nordic network on restorative justice, currently consisting of 144 conflict-resolution practitioners, policemen and academics from Denmark, Greenland, the Faroe Islands and Norway. The network, which I co-organize together with Aase Rieck Sørensen, was established after the conference 'Restorative Justice', held at Aarhus University from 12-13 May 2011, of which I was one of the organizers.

Working on the thesis has at times been very challenging. Doing research is tough on a personal level, because the research problems remain in the back of the mind almost 24/7. Therefore, I want to give the warmest thanks to my wife Helle and my son Aksel for continuously insisting – and demonstrating to me – that there is so much more to life than *ubuntu* and restorative justice. A final vote of thanks goes to Aarhus University, for entrusting me with a PhD scholarship, and to the PhD school at my faculty and Foundation Idella for granting me extra funding to make this research financially feasible.

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[Gade] What do you think *ubuntu* is?

[Ntsebeza] Well, it is a difficult concept, you know. It is more a philosophy than it is something you can translate as a word. *Ubuntu* is the belief among indigenous Africans that part of our history, and part of what we get from our history, is a sense that there would be much more harmony in the world if people regarded each other with humaneness. That is the first thing. So when we talk about *ubuntu*, we talk about humaneness. But we talk about more than that. You talk about interdependence, you talk about mutual respect, you talk about doing things to other people which you would like done to yourself, which is pretty much like what Christ said. He said: 'This is the law'. So you talk about a preparedness to forgive, which is something that is not exactly what retribution is all about. And when you talk about justice and notions of justice and you relate them to the concept of *ubuntu*, then you talk about justice in a way that goes beyond the notion of 'an eye for an eye'. If *ubuntu* says anything, [then it is that] you can't give up on human beings. And those who are religious, like the Archbishop [Desmond Tutu], will tell you that human beings are made in the image of God, and that therefore you can't give up on human beings. Particularly if those human beings are ready and able to admit and own up to their own indiscretion, whatever those indiscretions may have been. In the terms of *ubuntu*, people who have committed even the most heinous crimes should never be considered to be beyond the pale, and those who are victims of perpetrations are able to be reintegrated into society if a basis has been laid by the victims themselves becoming magnanimous and simply saying – 'in fact, more than we seek revenge, we seek to know firstly why you went as far as you did in doing the things that you did, and also how we can have you reintegrated into society' – because of this belief that no one is wholly bad, inasmuch as no one is wholly good.

Passage from interview with Dumisa Ntsebeza in Johannesburg on 24 November 2008. Dumisa Ntsebeza was a commissioner in the South African Truth and Reconciliation Commission (TRC) after apartheid. He was the leader of the commission's Investigation Unit and also the leader of the commission's Victim Protection Programme.

Introduction

The Epilogue of the South African Interim Constitution of 1993 states that in addressing the strife and divisions of the past in post-apartheid South Africa, 'there is a need for understanding but not for vengeance, a need for reparation but not for retaliation, a need for *ubuntu* but not for victimization' (*Constitution of the Republic of South Africa*, Act 200 of 1993: Epilogue after Section 251).³ The Interim Constitution does not explain what the Nguni term '*ubuntu*' refers to, but according to the South African Constitutional Court, which was established to adjudicate in constitutional mat-

³ '*Ubuntu*' is an Nguni term. The Nguni languages are spoken in the southern part of Africa. For further details on the Nguni languages, see note 26 on page 52.

ters, the spirit of *ubuntu* is something that is ‘part of the deep cultural heritage of the majority of the population’ (*Port Elizabeth Municipality v Various Occupiers*, 2005: § 37). The Court has also stated that: ‘[i]t was against the background of the loss of respect for human life and the inherent dignity which attaches to every person that a spontaneous call has arisen among sections of the community for a return to *ubuntu*’ (*S v Makwanyane and Another*, 1995: § 227).

Immediately after the quotation cited above, the Epilogue of the Interim Constitution continues that, in order to advance reconciliation and reconstruction in South Africa, ‘amnesty shall be granted in respect of acts, omissions and offences associated with political objectives and committed in the course of the conflicts of the past’. The Epilogue also adjudicates that parliament after the 1994 election should adopt a law ‘providing for the mechanisms, criteria and procedures, including tribunals, if any, through which such amnesty shall be dealt with at any time after the law has been passed’. The law was adopted in 1995 under the name of the Promotion of National Unity and Reconciliation Act (No. 34 of 1995). It was this law that established the South African TRC, and mandated it to grant amnesty to apartheid perpetrators if they met certain conditions (see page 75).

It has been a matter of considerable discussion whether the TRC sacrificed justice in the pursuit of national unity and reconciliation. The TRC clearly did not offer retributive justice, since it did not impose punishment on perpetrators. On the contrary, the TRC did, by means of amnesty, ensure that some perpetrators could not be punished for the human rights violations they had committed. In this connection it has frequently been argued that even though the TRC did not offer retributive justice, it attempted to promote another kind of justice, namely restorative justice, and that restorative justice has deep historical roots in African indigenous cultures by virtue of its congruence with *ubuntu* and African indigenous justice systems in South Africa (and other countries in sub-Saharan Africa).

Having explained the context of the thesis, I will now explain what my research goals are. I have two research goals in this thesis. *Firstly*, to offer new insights into the question of what *ubuntu* is. *Secondly*, to present new insights concerning the widely held idea that the TRC attempted to promote restorative justice, and also concerning the idea that restorative justice is congruent with *ubuntu* and African indigenous justice systems in South Africa.

The thesis’s structure and contents are as follows. A short section following this introduction is entitled ‘Philosophy on the Border’. This section contains some meta-reflections on the way I have been working as a philosopher. Following this section, my readers will find the core of the thesis:

three articles. The first two of these deal with the first goal, and the last with my second goal in this thesis. All three articles contain some information about the concrete methods that have informed them: additional information on these methods is to be found in Appendix 1.⁴ After the three articles, there follows a section with further reflections.

I will now turn to introduce the three articles. The first article, ‘The Historical Development of Written Discourses on *Ubuntu*’, was published in the *South African Journal of Philosophy (SAJP)* in September 2011 (Gade 2011). The second article, ‘What is *Ubuntu*? Different Interpretations among South Africans of African Descent’, appeared in *SAJP* in September 2012 (Gade 2012). The third article, entitled ‘Restorative Justice and the South African Truth and Reconciliation Process’, is presently under review. I have made a point of publishing my research in South Africa because I estimate that my research will matter most to people there. The *SAJP* was my first choice of publication, because I believe that this journal has previously published some of the very best articles on *ubuntu* (see page 51 for a list of articles from the *SAJP* containing the term ‘*ubuntu*’).

I have been surprised by how much attention my research has received in South Africa, both inside and outside academic circles. As an example, a 2011 decision by the South African Constitutional Court touching on the issue of *ubuntu* refers to ‘The Historical Development of the Written Discourses on *Ubuntu*’ as one of three academic articles that may be consulted in relation to *ubuntu* (*Everfresh Market Virginia (Pty) Ltd v Shoprite Checkers (Pty) Ltd*, 2011: § 71, note 44).⁵ Furthermore, from my university website alone, my two published articles on *ubuntu* have to date been downloaded more than 2,000 times. The abstracts of the three articles are given below. (It should be noted that in this thesis, my two published arti-

⁴ I have experienced some disagreement on where my reflections on methods ought to be placed. Some people prefer that I take all my reflections on methods, including the meta-reflections in the section ‘Philosophy on the Border’, and place them in an appendix. Others prefer a more traditional chapter on methods after the introduction, including my meta-reflections and also the information found in Appendix 1. I have ended up with a compromise. I think it will be helpful to readers to read my meta-reflections in the section ‘Philosophy on the Border’ before turning to the three articles. However, since my articles already contain some information on the concrete methods that have informed them, I have decided to place my additional information on these methods in an appendix. The structure of this thesis is the one that I personally prefer. However, if some of my readers want to get on with the articles as soon as possible, they should feel free to jump to the three articles after the introduction and then read the section ‘Philosophy on the Border’ afterwards. Similarly, readers should feel free to read Appendix 1 before turning to the three articles if they prefer.

⁵ The other two articles are Tom Bennett’s ‘*Ubuntu: An African Equity*’ (2011) and Yvonne Mokgoro’s ‘*Ubuntu and the Law in South Africa*’ (1998).

cles on *ubuntu* appear in slightly updated versions; i.e. versions where I have changed some imprecise formulations, etc.)

Article 1: 'The Historical Development of the Written Discourses on Ubuntu'

Abstract: In this article, I demonstrate that the term '*ubuntu*' has frequently appeared in writing since at least 1846. I also analyse changes in how *ubuntu* has been defined in written sources in the period 1846 to 2012. The analysis shows that in written sources published prior to 1950, it appears that *ubuntu* is always defined as a human quality. At different stages during the second half of the twentieth century, some authors began to define *ubuntu* more broadly: definitions included *ubuntu* as African humanism, a philosophy, an ethic, and as a worldview. Furthermore, my findings indicate that it was during the 1990s that the Nguni proverb '*umuntu ngumuntu ngabantu*' (often translated as 'a person is a person through other persons') was used for the first time to describe what *ubuntu* is. Many authors today refer to the proverb when describing *ubuntu*, irrespective of whether they consider *ubuntu* to be a human quality, African humanism, a philosophy, an ethic, or a worldview.

Article 2: 'What is Ubuntu? Different Interpretations among South Africans of African Descent'

Abstract: In this article, I describe and systematize the different answers to the question 'What is *ubuntu*?' that I have been able to identify among South Africans of African descent (SAADs). I show that it is possible to distinguish between two clusters of answers. The answers of the first cluster all define *ubuntu* as a moral quality of a person, while the answers of the second cluster all define *ubuntu* as a phenomenon (for instance a philosophy, an ethic, African humanism, or, a worldview) according to which persons are interconnected. The concept of a person is of central importance to all the answers of both clusters, which means that to understand these answers, it is decisive to raise the question of who counts as a person according to SAADs. I show that some SAADs define all *Homo sapiens* as persons, whereas others hold the view that only some *Homo sapiens* count as persons: only those who are black, only those who have been incorporated into personhood, or only those who behave in a morally acceptable manner.

Article 3: 'Restorative Justice and the South African Truth and Reconciliation Process'

Abstract: It has frequently been argued that the post-apartheid Truth and Reconciliation Commission (TRC) was committed to restorative justice (RJ), and that RJ has deep historical roots in African indigenous cultures by virtue of its congruence both with *ubuntu* and with African indigenous justice systems (AIJS). In this article, I look into the question of what RJ is. I also present the finding that the term 'restorative justice' appears only in transcripts of three public TRC hearings, and the hypothesis that the TRC first really began to take notice of the term 'restorative justice' after April 1997, when the South African Law Commission published an Issue Paper dealing with RJ. Furthermore, I show that neither the connection between RJ and *ubuntu* nor the connection between RJ and AIJS is as straightforward and unproblematic as often assumed.

I believe that my three articles make a worthwhile research contribution. They are innovative in the sense that they present a type of research that has not previously been undertaken in relation to *ubuntu* and RJ in post-apartheid South Africa. 'The Historical Development of Written Discourses on *Ubuntu*' was the first article to provide a historical examination of how *ubuntu* has been defined in written sources. One reason why other scholars have not undertaken similar examinations might be the widespread (but false) belief that the term '*ubuntu*' was not used in writing before the second half of the twentieth century (see page 25). 'What is *Ubuntu*? Different Interpretations among South Africans of African Descent' is, to my knowledge, the first article actually to embark on the project of 'mapping out' the landscape of *differing* ideas on the nature of *ubuntu* that are found among SAADs. The 'map' that I offer shows that people should be careful not to over-romanticize SAADs' understanding of *ubuntu*, since some ideas about the nature of *ubuntu* to be found among SAADs are based on exclusive views of who count as persons. Finally, 'Restorative Justice and the South African Truth and Reconciliation Process' is, so far as I am aware, the first article to examine the actual appearance of the term 'restorative justice' in the public TRC hearings, and presents the hypothesis that the TRC first really began to take notice of the term 'restorative justice' well into the TRC process. Furthermore, I believe that this article may succeed in showing that the connection between RJ and *ubuntu*, and also that between RJ and AIJS, is not as straightforward or unproblematic as often assumed.

Before I turn to the section 'Philosophy on the Border', I want to underscore that South Africa is by no means the only country which has had to face the problem of how to address human rights violations committed in

the past. Questions of how past human rights violations can and should be addressed at levels reaching from the local to the international have figured prominently in recent years and have given birth to rapid growth in the research discipline of ‘transitional justice’, which focuses on answering such questions. Transitional justice has developed into a research discipline of its own right since the end of the Cold War (see Teitel 2008), but, as explained by Jon Elster, questions of transitional justice have been debated during societal transitions at least since antiquity (Elster 2004). Transitional justice mechanisms include criminal prosecutions, reparation programmes, institutional reform, truth commissions and local, more or less traditional, practices.⁶ I am aware that the TRC, established after apartheid in South Africa, is only one among many examples of what a truth commission might look like (Hayner 2011); and also that truth commissions represent only one among a broad range of various kinds of transitional justice mechanisms. In this thesis, however, I will not look into the broader landscape of transitional justice. The task I have set myself is ‘simply’ to reach the two goals described earlier in this introduction. I write ‘simply’ inside quotation marks because this rather narrowly defined task proved in fact to be highly complex.

⁶ I myself have conducted a number of interviews with former child soldiers and traditional leaders in Northern Uganda on how local reconciliation ceremonies, such as Mato Oput, have been used to deal with the human rights violations committed during the recent civil war in northern Uganda.

Philosophy on the Border

The first time I came across the expression ‘philosophy on the border’ was when reading Thomas Brudholm’s *Resentment’s Virtue: Jean Améry and the Refusal to Forgive* (2008) just before I received my PhD scholarship. Brudholm includes a section entitled ‘philosophy on the border’ in this book, and he uses this expression to denote his own philosophical work. Brudholm is working on the border between philosophy and other academic disciplines, as illustrated by his drawing on sources from several different areas, including Holocaust and genocide studies, studies in international law and the ethics of criminal law, and psychological literature on trauma and recovery. In relation to his way of working as a philosopher, Brudholm notes that ‘although my own background is in philosophy and in ethics in particular, *Resentment’s Virtue* is not a philosophical study in any narrow sense. I have tried to write a book that is accessible to those who are interested in the given ethical issues and that cuts across what sometimes seems like gaps between empirical studies and philosophical reflection’ (Brudholm 2008: 13). This idea of cutting across what occasionally appears like gaps between empirical studies and philosophy appeals to me, and right from the moment when I received my PhD scholarship I have tried to conduct a research project that incorporates both empirical studies and philosophical reflection.

The second time I came across the expression ‘philosophy on the border’ was when reading an anthology with that very title edited by Robin May Schott and Kirsten Klercke (Schott & Klercke 2007). Schott develops the notion of ‘philosophy on the border’ in a foreword to that collection, one which also contains eight articles by contemporary scholars that serve as concrete examples of what philosophy on the border might look like (for instance Brudholm’s article ‘A Light in the Darkness? Philosophical Reflections on Historians’ Assessments of the Rescue of the Jews in Denmark in 1943’). In what follows, I will begin by summarizing the notion of ‘philosophy on the border’ as described by Schott, whereupon I will turn to frame my own work on *ubuntu* and restorative justice as another concrete example of ‘philosophy on the border’.

Schott on Philosophy on the Border

In the introduction to *Philosophy on the Border* (2007), Schott begins by emphasizing that '[p]hilosophy has become a hyper-specialized discipline, with focus on questions in philosophy of mind, philosophy of language, philosophy of science, or logic' (Schott 2007: 7). As she notes, the extreme specialization that is presently seen in some areas of philosophy is a child of the twentieth century: 'Prior to that, philosophers thought about big questions: What does it mean to be moral? What is the good? What is evil? What are the limits of knowledge and where does reason end and faith or hope begin? What is love? What is the meaning of life and death? The questions go on, and philosophy historically has interested both those who were professional philosophers and those who were not' (Schott 2007: 7).

In continuation, Schott argues that the hotly contested divide between continental and analytical philosophy can be understood in terms of divergent responses to big philosophical questions like the above-mentioned. She claims that the continental philosophers – which she defines as those who are inspired by the great European philosophers of the eighteenth and nineteenth century such as Kant, Hegel, Nietzsche and Kierkegaard – have inherited the big questions; while, by contrast, analytic philosophy has turned away from such big questions and has found refuge in areas of specialization where sure answers seem possible: 'This analytic turn [away from the big philosophical questions] seems motivated by the following sentiment: If one cannot know with certainty and finality any specific truths about the big questions, then let those questions remain the province of theologians, psychologists, and popular writers, but let them not be the serious stuff of professional philosophers' (Schott 2007: 8).

In Schott's view – which I share – the big questions ought still to matter to philosophers. She points to ethics as an area where many philosophers at present continue to engage themselves in big questions such as, for instance, 'How can what is right be made real?' and 'What are the conditions for individuals to act morally?' Furthermore, Schott emphasizes that when engaging in such big ethical questions, 'philosophers have always incorporated their knowledge of human psychology, anthropology, religion, economics, and politics into philosophical reflection' (Schott 2007: 8). According to Schott, this means that ethical thinking has transgressed the boundaries of philosophical thought so as to incorporate historical and empirical knowledge: 'This transgressive role of ethical thinking has sometimes been forgotten in the midst of philosophers' wars, but remains a dominant feature in contemporary continental philosophy. It is this transgressive role that is highlighted in our discussion of *philosophy on the border*. If thinking about the conditions for ethics is part of ethical reflection, then the role of *philosophy on the border* between philosophy and empiri-

cal existence and philosophy and other disciplines becomes evident' (Schott 2007: 8).

In Schott's description, philosophy on the border is a kind of philosophy that is done 'both *on the border* between thought and empirical existence, and between philosophy and other disciplines' (Schott 2007: 10). Furthermore, Schott emphasizes that philosophy on the border is a kind of philosophy that is not afraid to engage with big questions such as those mentioned earlier in this section (even though one cannot know with certainty any specific truths about these big questions). Schott points to Hannah Arendt's philosophy as a good example of philosophy on the border: 'Arendt's work typifies philosophy's role *on the border* in both aspects: in relation to empirical existence and in relation to other disciplines. Not only was she directly trying to understand the contemporary crisis of Nazism, totalitarianism and the death camps, but she also created a genre that did not fit into any mainstream academic disciplines – spanning work in philosophy, history, political science, and literature' (Schott 2007: 10). To further exemplify philosophy on the border, Schott refers to the thinking of Emmanuel Levinas, Simone de Beauvoir and Jacques Derrida: 'These thinkers also work *on the border* between philosophy and empirical crises, and between philosophy and other disciplines including theology, history, sociology, psychology, and literature' (Schott 2007: 11).

'Ubuntu and Restorative Justice' as Philosophy on the Border

I think that this thesis – '*Ubuntu and Restorative Justice*' – can be read as another concrete example of philosophy on the border. Before I develop this point, I want to emphasize that both *ubuntu* and restorative justice are notions which have interested many philosophers. Since 1993, when the Epilogue of the South African Interim Constitution stated that in addressing the strife and division of the past in post-apartheid South Africa, there is 'a need for *ubuntu*' (*Constitution of the Republic of South Africa*, Act 200 of 1993: Epilogue after Section 251), *ubuntu* has in fact been one of the most debated notions among philosophers interested in indigenous African philosophy and ethics in sub-Saharan Africa. During the 1960s and 1970s, it was primarily notions such as *ujamaa*, *consciencism*, *négritude* and *black consciousness* that were 'fashionable' to debate in relation to African philosophy and ethics in sub-Saharan Africa (see pages 23-25 & 91). While these ideas have fallen out of favour, it has become fashionable to debate the notion of *ubuntu*, not least because this notion has been popularized by figures such as Desmond Tutu, Nelson Mandela (and to an extent also Bill

Clinton).⁷ It has also become common for philosophers to debate the notion of restorative justice, which, just like the notion of ‘*ubuntu*’, has gained considerable popularity since the 1990s. As explained by Kathleen Daly: ‘During the 1990s, restorative justice became immensely popular, eclipsing and overtaking other justice ideas circulating during the 1970s and 1980s – a range of restitution, reparation, reconciliation, and informal justice projects’ (Daly 2012: 3). Even the UN has supported the use of restorative justice programmes. In 2002, the United Nations Economic and Social Council endorsed the United Nations Basic Principles on the Use of Restorative Justice in Criminal Matters. Here the UN states that: ‘Member States should consider the formulation of national strategies and policies aimed at the development of restorative justice and at the promotion of a culture favourable to the use of restorative justice among law enforcement, judicial and social authorities, as well as local communities’ (quoted in United Nations Office of Drugs and Crime 2006: 102). Even though the notions of *ubuntu* and restorative justice have been somewhat hyped in recent years, I think they are fully legitimate objects of philosophical investigation. Both notions relate to the kind of big philosophical questions that Schott is referring to in her account of philosophy on the border. The notion of *ubuntu* is, for example, related to the big philosophical questions of what it means to be a person, and how persons ought to act; and the notion of restorative justice is related to the big philosophical question of what justice is, and how people ought to react to wrongdoing.

Right from the beginning of this PhD project, I have been convinced that I would reach the most interesting research findings on *ubuntu* and restorative justice if I engaged in the kind of philosophy that Brudholm and Schott – among others – refer to as *philosophy on the border*. As I embarked on my research, I found that much historical and empirical research still remained to be done in relation to the notion of *ubuntu*. For one thing, no one had investigated whether there was a historical development in the definition of *ubuntu* in the written sources. I therefore decided to make such an investigation (Article 1), which required me to work on the border between philosophy and history. I also found that a number of scholars had described what public figures like Desmond Tutu claim *ubuntu* to be, but that no one had attempted to ‘map out’ the diversity of ideas about the nature of *ubuntu* that can be found among South Africans of African descent. Believing that such a ‘map’ would be of value to the research on *ubuntu*, I embarked on the project of developing one (Article 2). This required me to work mainly on the border between philosophy and anthropology. In rela-

⁷ I encourage readers to visit YouTube (www.youtube.com) where it is possible to find video clips where Tutu, Mandela and Clinton speak about *ubuntu* (simply search ‘*ubuntu* Tutu’, ‘*ubuntu* Mandela’ and ‘*ubuntu* Clinton’).

tion to the notion of restorative justice, I found that even though the South African TRC is commonly held up as a model institution committed to restorative justice (see e.g. Sullivan & Tifft 2006:1), no one had made a historical investigation of whether restorative justice was actually an issue that was raised and debated during the public TRC hearings. Once again, I decided to make such an investigation (Article 3), which, as with Article 1, required me to work on the border between philosophy and history (as already noted, my articles contain information on the concrete methods that have informed them, and additional information about these methods are found in Appendix 1).

When I myself and other philosophers do philosophy on the border, and engage with empirical studies and other academic disciplines, we do so each from our own particular philosophical horizon of understanding. This point might seem banal, but I think it is an important one for understanding the nature of the research produced by philosophers who work on the border between philosophical reflection and empirical studies, and between philosophy and other academic disciplines. When I, for instance, work on the border between philosophy and anthropology to produce a ‘map’ of how *ubuntu* is understood among South Africans of African descent, I bring along my own particular philosophical horizon of understanding (formed by the philosophical texts I have read and the particular sense of systematic thinking I have gained from a training in philosophy). Of course, that particular philosophical horizon of understanding influences the kind of research I produce. This means that an anthropologist embarking on such a project – exploring the differing ideas about the nature of *ubuntu* found among South Africans of African descent – might well have produced very different results from my second article in this thesis, simply because of our different horizons of understanding. Both ‘maps’ would probably have strengths and weaknesses: they might even supplement one another in productive ways.

Before I turn to the first article of the thesis, I want to recall that Hannah Arendt, according to Schott, ‘created a genre that did not fit into any mainstream academic discipline – spanning work in philosophy, history, political science, and literature’ (Schott 2007: 10). In this connection, Schott remarks that ‘although many philosophers in the 1950s refused to admit her into their club, more recent philosophers have called her text *Eichmann in Jerusalem* one of the most important philosophical texts of the twentieth century’ (Schott 2007: 11). I think it is a hallmark of philosophy on the border *in general* that it does not fit into any mainstream academic discipline, and I want to remark that philosophers who do this kind of philosophy on the border are still met with scepticism among colleagues from, primarily, the analytic tradition with regard to whether what we are

doing really deserves the label ‘philosophy’.⁸ I think that our work does deserve the label of philosophy. Furthermore, I think it has the potential to result in very interesting philosophical projects when philosophers *dare* to work on the borders (for this of course requires courage). An anonymous reviewer of my second article referred to the kind of work that I am doing – which lies on the borderland between philosophy, history and anthropology – as ‘original philosophical research’ in his or her review report. I hope that readers of this thesis will have the same experience.

⁸ I want to note that we have a pretty strong tradition of doing philosophy on the border at Aarhus University. Our Research Unit for Philosophy of Practice currently comprises fifteen philosophers who, in different ways and to different extents, all work on the border between philosophy and other academic disciplines. Some of the philosophers who are part of this research unit are deeply engaged in empirical studies by means of interviews, participant observation, etc.

The Historical Development of the Written Discourses on *Ubuntu*⁹

Abstract

In this article, I demonstrate that the term ‘*ubuntu*’ has frequently appeared in writing since at least 1846. I also analyse changes in how *ubuntu* has been defined in written sources in the period 1846 to 2012. The analysis shows that in written sources published prior to 1950, it appears that *ubuntu* is always defined as a human quality. At different stages during the second half of the twentieth century, some authors began to define *ubuntu* more broadly: definitions included *ubuntu* as African humanism, a philosophy, an ethic, and as a worldview. Furthermore, my findings indicate that it was during the 1990s that the Nguni proverb ‘*umuntu ngumuntu ngabantu*’ (often translated as ‘a person is a person through other persons’) was used for the first time to describe what *ubuntu* is. Many authors today refer to the proverb when describing *ubuntu*, irrespective of whether they consider *ubuntu* to be a human quality, African humanism, a philosophy, an ethic, or a worldview.

⁹ In September 2011, this article was published in the *South African Journal of Philosophy* (Vol. 30, Issue 3, pp. 303-329) in a different version. In the present version, I have changed a few formulations and have also made some updates and other improvements based on new data that has become available to me since 2011. Furthermore, I have removed the article’s bibliography and listed all the references in the comprised biography that is found towards the end of the thesis. On 24 November 2010, I presented the first draft version of this article as a working paper at a Colloquium of the Institute of Peace and Strategic Studies, Gulu University, Uganda. I want to thank those who were present for their comments. Furthermore, I want to direct special thanks to Steen Wackerhausen, Morten Raffnsøe-Møller, Aase Rieck Sørensen, Augustine Shutte, Mfuniselwa John Bhengu, Chris Vervliet, Daniel Komakech, Lioba Lenhart, Julia Vorhölter, Birgitte B.N. Gade, Lenore Messick, and an anonymous referee. I am particularly grateful for your guidance and comments.

Introduction

This article offers a historical analysis of the various ways that *ubuntu* has been defined in written sources. Such an analysis has not been conducted before. The analysis indicates that many of the present ideas about the nature of *ubuntu*, for instance, that *ubuntu* is African humanism, a philosophy, an ethic, or a worldview, first emerged in written sources during the second half of the twentieth century. Furthermore, the analysis shows that *ubuntu* became an object of particular interest and consideration during the political periods of transition from white minority rule to black majority rule in Zimbabwe and South Africa.

Chris Vervliet has written that ‘*ubuntu* is rooted in a search towards African dignity’ (Vervliet 2009: 20). Of course, the search for African dignity in postcolonial Africa did not begin with the literature on *ubuntu* which was published during the periods of transition to black majority rule in Zimbabwe and South Africa. Prior to these transition periods, the search for African dignity was, for instance, reflected in the political thinking of such postcolonial African leaders as Kwame Nkrumah, Léopold Senghor, Julius Nyerere, Obafemi Awolowo, Kenneth Kaunda, and Ahmed Sékou Touré; all of whom made a call for Africanization and attempted to formulate a foundation of politics that consists of traditional African humanist or socialist values.¹⁰ Some of the narratives that were told to restore African dignity in the former colonies, which gained their independence in the late 1950s and 1960s, can be characterized as *narratives of return*, since they contain the idea that a *return* to something African (for instance traditional African socialism or humanism) is necessary in order for society to prosper. I will argue that some of the narratives that have developed in relation to *ubuntu* are also narratives of return, and that they share a number of characteristics with the narratives of return told during the early years of decolonization.

¹⁰ In a paper about social philosophy in postcolonial Africa, Kwasi Wiredu explains that: ‘The leaders in question [Kwame Nkrumah, Léopold Senghor, Julius Nyerere, Obafemi Awolowo, Kenneth Kaunda, and Ahmed Sékou Touré] had an equally strong sense of the importance of cultural self-identity. Colonialism had in varying degrees scored African culture. Now after independence they needed to reassert their own culture, and not just cosmetically. National reconstruction is a cultural enterprise of the highest kind. At independence the easy option was to stick by the systems in which the colonial powers left us. These were copies, imperfect copies, to be sure, of what were in place in the colonialist countries. These leaders did not go for that easy option. They understood that the colonial systems needed to be reviewed from an African standpoint’ (Wiredu 2008: 332).

To contextualize the literature on *ubuntu*, I will begin with a section about narratives of return in postcolonial Africa. Afterwards, I will turn to explore the historical development of the written discourses on *ubuntu*, and reflect on the discursive shifts that I identify in the literature.

Narratives of Return in Postcolonial Africa

In this section, I will primarily use Julius Nyerere's ideas about *ujamaa* as an example of a narrative of return.¹¹ Before turning to *ujamaa*, I want to share two general observations about these narratives. The first observation is that narratives of return have often been told and discussed in the context of *social transformations* where political leaders, academics, and others have attempted to identify past values that they believed should inspire politics and life in general in the future society. The second observation is that African postcolonial narratives of return have typically contained the idea that in order to create a good future, society needs to *return to something African* which does not stem from the previous period of colonial oppression but which is rather rooted in pre-colonial times. Broadly speaking, the postcolonial African narratives of return thus tend to divide history into three phases: *first*, the pre-colonial phase which, often but not always, is perceived as a 'golden age' characterized by harmony; *second*, a period of decline, which is understood to have been brought about by intruders who attempted to deprive the Africans of their resources, dignity, and culture; and *third*, a phase of recovery, where Africans, after having gained sufficient political power, attempt to restore their dignity and culture by returning to (what are claimed to be) traditional, humanist, or socialist values. It should be noted that in recent years, the attempt to recover African dignity has often been connected with the idea of an African Renaissance (see for instance the African Renaissance Statement of Thabo Mbeki).¹²

Now I will turn to the example of *ujamaa*. Julius Nyerere was sworn in as the president of the newly independent Republic of Tanganyika in December 1962. In April 1964, he became president of the new United Republic of Tanganyika and Zanzibar, which was renamed the United Republic of Tanzania in October 1964. He continued as president until his retirement in 1985. In the introduction to *Freedom and Socialism* (1968),

¹¹ In *African Philosophy and the Quest for Autonomy: A Philosophical Investigation* (2000), Leonhard Praeg provides – among other things – a very interesting account of narratives of return, politics of return, and ethnophilosophy. My usage of the phrase 'narratives of return' is inspired by Praeg 2000, and I want to recommend this book to those who wish to consult a more detailed account of narratives of return than the one I offer in the present section.

¹² <http://www.dfa.gov.za/docs/speeches/1998/mbek0813.htm>. Unless otherwise indicated, all the websites to which I refer in this article were accessed on 16 December 2012.

he explained that throughout nearly the whole of Africa, ‘the first and most vocal demand of the people after independence was for Africanization’ (Nyerere 1968: 27). Julius Nyerere supported the call for Africanization and argued that in Tanganyika, and later also in Tanzania, Africanization should take the form of a *return* to *ujamaa*, which he described as a traditional African form of socialism. In the introduction to *Freedom and Unity* (1966), he explained why he thought that Africanization was necessary:

Years of Arab slave raiding, and later years of European domination, had caused our people to have grave doubt about their own abilities. This was no accident; any dominating group seeks to destroy the confidence of those they dominate because this helps them to maintain their position, and the oppressors in Tanganyika were no exception (Nyerere 1966: 3).

Julius Nyerere was convinced that after independence a new historical phase of recovery had begun in Tanganyika. He described this phase of recovery as a revolution: ‘It is a revolution with a purpose, and that purpose is the extension to all African citizens of the requirements on human dignity’ (Nyerere 1966: 22). Furthermore, he argued that the revolution could fulfil its purpose if society *returned* to its traditional socialism. This traditional socialism was to be re-invented as *ujamaa* which, for Julius Nyerere, represented a unique African kind of socialism that differed significantly from the European version:

European socialism was born of the Agrarian Revolution and the Industrial Revolution which followed it. The former created the ‘landed’ and the ‘landless’ classes in society; the later produced the modern capitalist and the industrial proletariat. These two revolutions planted the seeds of conflict within society, and not only was European socialism born of that conflict, but its apostles sanctified the conflict itself into a philosophy. Civil war was no longer looked upon as something evil, or something unfortunate, but as something good and necessary. As prayer is to Christianity or to Islam, so civil war (which they called ‘class war’) is to the European version of socialism – a means inseparable from the end (Nyerere 1966: 169).

According to Julius Nyerere, the true African socialist does not consider one class of men as his brethren and another as his enemies. He or she does not form an alliance with the ‘brethren’ for the extermination of the ‘non-brethren’, but rather regards all human beings as members of an extended family. The African socialism of *ujamaa* is therefore not founded on class

struggle, but on the harmony of the extended family. He has explained that:

‘*Ujamaa*’, then, or ‘familyhood’, describes our socialism [*ujamaa* is a Swahili word meaning ‘familyhood’]. It is opposed to capitalism, which seeks to build a happy society on the basis of the exploitation of man by man; and it is equally opposed to doctrinaire socialism which seeks to build its happy society on a philosophy of inevitable conflict between man and man. We, in Africa, have no more need of being ‘converted’ to socialism than we have of being ‘taught’ democracy. Both are rooted in our own past – in the traditional society which produced us (Nyerere 1966: 170).

Narratives of return have also developed in other African countries which became independent in the late 1950s and 1960s. After independence in Ghana in 1957, President Kwame Nkrumah argued that politics should be inspired by the philosophy of *consciencism*, which he held to be in harmony with the original humanist principle of Africa (Nkrumah 1964: 70). He believed that the previous colonial administrators of Ghana, and their African employees who ‘became infected with European ideals’ (Nkrumah 1964: 69), had abandoned these humanist principles. Another example is postcolonial Senegal, where President Léopold Senghor argued that Senegalese socialism should be inspired by *négritude*, which he identified as the totality of traditional civilizing values of the Negro world (Senghor 1962: 20). There are therefore many variations on the narratives of return, but I will not include further examples here. My purpose has simply been to prepare the way for the argument that the present, primarily South African, call for a return to *ubuntu* displays some of the characteristics of earlier postcolonial narratives of return. I will come back to this argument later on. Presently, I will move on to explore the historical development of the written discourses on *ubuntu*.

Early Written Sources on *Ubuntu*

Gabriel Setiloane has stated that the term ‘*ubuntu*’ was first used in South African writing in an address to a conference, which was held in Durban in 1960 (see Bhengu 1996: 10), and Tom Lodge has explained that *ubuntu* was first given a systematic written exposition in the works of Jordan Kush Ngubane who, to my knowledge, did not use the term ‘*ubuntu*’ in writing before the 1960s (see Lodge 1999: 99). Furthermore, Wim van Binsbergen has explained that the first publication on *ubuntu* known to him is the Samkanges’ *Hunhuims or Ubuntuism: A Zimbabwe Indigenous Political Philosophy* (1980) (Van Binsbergen 2001: 82). Among the authors who

have been writing about *ubuntu* during the last twenty years, I have not been able to find anyone who has mentioned that the term ‘*ubuntu*’ appeared in writing prior to the second half of the twentieth century. Personally, I have discovered as many as 31 texts from before 1950, which contain the term ‘*ubuntu*’, the oldest of which is from 1846.¹³ I have located the texts with the help of Google Books, which allows one to search the entire contents of more than ten million texts.

My findings indicate that prior to 1980, *ubuntu* was most commonly described as (and here I list the oldest descriptions first):

- ‘*Human nature*’ (Appleyard 1850: 106; Perrin 1855: 120; Colenso 1855: 7; Colenso 1861: 354; Roberts 1880: 107; Grout 1893: 290; Roberts 1895: 133; McLaren 1955: 25; Bryant 1963: 232; Callaway 1969: 22).
- ‘*Humanity*’ (Callaway 1926: 395; Wilson 1936: 555; Doke 1945: 60; Walker 1948: 220; Van Sembeek 1955: 42; McLaren 1955: 25; Malcolm 1960: 163; Doke *et al.* 1967: 54; Rodegem 1967: 129; Callaway 1969: 22; Thompson 1969: 129; Epstein 1967: 379; Pauw 1973: 89; Thompson & Butler 1975: 158 & 160; Clarke & Ngobese 1975: 34; Livingston 1979: 128).
- ‘*Humanness*’ (Egenbrecht 1962: 22; De Vries 1966: 121; Thompson & Butler 1975: 158; Samkange 1975: 96; Lissner 1976: 92; Ziervogel *et al.* 1976: 58; Krige *et al.* 1978: 152; Du Plessis 1978: 48).

In some texts from before 1980, *ubuntu* is also described as:

- ‘*Manhood*’ (Colenso 1861: 354; Wilson 1936: 555; Callaway 1969: 22).
- ‘*Goodness of nature*’ (Colenso 1861: 354).
- ‘*Good moral disposition*’ (Colenso 1861: 354).
- ‘*Virtue*’ (McLaren 1918: 332).
- ‘*The sense of common humanity*’ (Barnes 1935: 46).

¹³ In chronological order, the aforementioned 31 texts are: Hare *et al.* 1846: Jude 7, 8 & 16; Appleyard 1850: 106; Perrin 1855: 120; Colenso 1855: 7; Grout 1859: 398; Colenso 1859: xli; Colenso 1861: 354; Blair *et al.* 1866: 190; Roberts 1880: 107; American Bible Society 1883: 190; Yamaculo 1885: 30; Riedel 1886: 236; Grout 1893: 290; Roberts 1895: 133; Dieckmann 1902: 42; Carus 1907: 121; McLaren 1918: 332; Callaway 1925: 232-241; Prideaux 1925: 269; Callaway 1926: 395; Kirk 1929: 148; Murray 1929: xvi; Callaway 1932: 48; Barnes 1935: 46; Wilson 1936: 555; Davis *et al.* 1936: 142; Doke 1938: 135; Callaway *et al.* 1945: 11, 29 & 270; Doke 1945: 36 & 60; Shepherd & Paver 1947: 41; Walker 1948: 220.

- ‘*True humanity*’ (Callaway *et al.* 1945: 11).
- ‘*True good fellowship and sympathy in joy and in sorrow*’ (Callaway *et al.* 1945: 11).
- ‘*Reverence for human nature*’ (Callaway *et al.* 1945: 29).
- ‘*Essential humanity*’ (Shepherd & Paver 1947: 41).
- ‘*The kindly simple feeling for persons as persons*’ (Brookes 1953: 20).
- ‘*Manliness*’ (Van Sembeek 1955: 42; Callaway 1969: 22).
- ‘*Liberality*’ (Kagame 1956: 53).
- ‘*A person’s own human nature*’ (Read 1959: 149; Read 1968: 80).
- ‘*Generosity*’ (Kimenyi 1979: 75).
- ‘*Human feeling*’ (Jabavu 1960: 4).
- ‘*Humaneness*’ (Prideaux 1925: 269; Vilakazi 1962: 60; Nyembezi 1963: 47; Nyembezi 1970: 16).
- ‘*Good disposition*’ (Nyembezi 1963: 47).
- ‘*Good moral nature*’ (Nyembezi 1963: 47).
- ‘*Personhood*’ (Reader 1966: 175).
- ‘*Politeness*’ (Rodegem 1967: 129).
- ‘*Kindness*’ (Rodegem 1967: 129; Callaway 1969: 22).
- ‘*Real humanity*’ (Sabra Study Group of Fort Hare 1971: 121).
- ‘*Humanity (benevolence)*’ (South African Department of Bantu Education 1972a: 129).
- ‘*Personality*’ (South African Department of Bantu Education 1972b: 153).
- ‘*Human kindness*’ (Jordan 1973: 228).
- ‘*The characteristic of being truly human*’ (Pauw 1975: 117).
- ‘*Greatness of soul*’ (Thompson & Butler 1975: 213).
- ‘*A feeling of human wellbeing*’ (Clarke & Ngobese 1975: 61).
- ‘*Capacity of social self-sacrifice on behalf of others*’ (Hetherington 1978: 68).

In a number of texts from before 1980, the term ‘quality’ appears in descriptions of *ubuntu*,¹⁴ and in many texts *ubuntu* is evidently considered to be a very positive quality. As shown above, *ubuntu* has, for example, been described as ‘goodness of nature’, ‘good moral disposition’, and as ‘greatness of soul’. Whilst some authors simply describe *ubuntu* as a ‘human quality’ (Doke 1945: 36; Calpin *et al.* 1953: 56), others emphasize that *ubuntu* is a quality connected to a specific group. More specifically, *ubuntu* is described as an ‘excellent African quality’ (Davis *et al.* 1936:

¹⁴ See for instance: Murray 1929: 105; Davis *et al.* 1936: 142; Doke 1945: 36; Smith 1950: 18; Southern Rhodesian Department of Native Affairs 1950: 34; Calpin *et al.* 1953: 56; Brookes 1953: 20; Van Sembeek 1955: 42; Groves 1958: 20; Jabavu 1960: 4; Callaway 1969: 22; Lissner 1976: 92; Krige *et al.* 1978: 152.

142), a quality among ‘the admirable qualities of the Bantu’ (Smith 1950: 18), and ‘an essentially Native quality’ (Southern Rhodesian Department of Native Affairs 1950: 34). My results also include authors who state that *ubuntu* is a quality that blacks possess and whites lack (Jabavu 1960: 4; Thompson & Butler 1975: 158), and an author who explains that: ‘Initiation is a ladder to humanity (*ubuntu*) and respect’ (Pauw 1973: 89).

Prior to 1980, the level of disagreement about the nature of *ubuntu* does not seem to have been as great as it is today: all of the descriptions cited above can be interpreted as descriptions of a human quality. Three things should be noted in this connection. Firstly, it should be noted that the descriptions which I have listed above are short, and that it is difficult to judge whether the authors identified *ubuntu* as a human quality, or as something else. A term such as ‘humanity’ is, for instance, ambiguous: it might refer to a human quality, but it can also refer to the members of the human race in total. Secondly, regardless whether all the authors identified *ubuntu* as a human quality, exactly how they understood the relation between being human and having the quality of *ubuntu* remains unclear. Did the different authors, for instance, believe that all humans possess the quality of *ubuntu*? And did they believe that human beings may possess the quality of *ubuntu* to different extents? Thirdly, should it be the case that the authors identify *ubuntu* as a human quality, it is unclear whether they understand the quality of *ubuntu* to be simple or complex. An author such as Godfrey Callaway, for example, provides a number of different descriptions of *ubuntu*. Does this indicate that he understood *ubuntu* to be a rather complex, multi-faceted quality?

I have located three texts from the 1970s in which *ubuntu* is identified as ‘African humanism’ (Africa Institute of South Africa 1975: 177; Breytenbach 1975: 177; Ngubane 1979: 261). The texts do not explain what African humanism is, so it is possible that their authors understood African humanism as something different from a human quality. Furthermore, at one point in *An African Explains Apartheid* (1963), Jordan Kush Ngubane writes that:

Supreme virtue lay in being humane, in accepting the human being as a part of yourself, with a right to be denied nothing that you possessed. It was inhuman to drive the hungry stranger from your door, for your neighbour’s sorrow was yours. This code constituted a philosophy of life, and the great Sutu-nguni family (Bantu has political connotations that the Africans resent) called it, significantly, *ubuntu* or *botho* – pronounced *butu* – the practice of being humane (Ngubane 1963: 76).

In *Conflicts of Minds* (1979), Jordan Kush Ngubane also defines *ubuntu* as ‘the philosophy which the African experience translates into action’ (Ngubane 1979: 113). In *African Religions: A Symposium* (1977), Newell Snow Booth explains: ‘The concept of *ubuntu*, the recognition of a person as a person, is basic to the ethics of all the southern Bantu’ (Booth 1977: 15). Furthermore, in *Black Villagers in an Industrial Society* (1980), Philip Mayer relates that: ‘the occurrence of the same ideas through the whole spectrum of Blacks from the least educated, leaves no doubt that the main source was in African philosophy, in the concept of *ubuntu* which is associated with kindness, gentleness, humility, respect and love’ (Mayer 1980: 70). The quotations above show that a few authors began using the terms ‘philosophy’ and ‘ethic’ to describe what *ubuntu* is towards the end of the period 1846 to 1980. Still, my findings indicate that after the term ‘*ubuntu*’ first appeared in writing in 1846, more than a century passed before the first authors began to associate *ubuntu* with a philosophy or an ethic.

Ubuntu and the Creation of Zimbabwe

The first book to be written specifically on *ubuntu* is, to my knowledge, *Hunhuism or Ubuntuism: A Zimbabwe Indigenous Political Philosophy* (Samkange & Samkange 1980). ‘*Hunhu*’ is a term from the Shona languages which, according to the Samkanges, has the same meaning as the term ‘*ubuntu*’ from the Nguni languages. The Samkanges explain that: ‘the attention one human being gives to another: the kindness, courtesy, consideration and friendliness in the relationship between people; a code of behaviour, an attitude to other people and to life, is embodied in *hunhu* or *ubuntu*’ (Samkange & Samkange 1980: 39). Furthermore, the Samkanges argued that *ubuntu* is something that is connected to a political philosophy or ideology, and they explicitly put this idea forward within the social context of the transition from white minority rule to black majority rule in the new Zimbabwe. They write:

This month (February 1980), Rhodesians are called upon to choose men and women of a political party that will lead them into a new era: the era of one man, one vote; black majority rule – and Zimbabwe. This is a great moment in the history of the country. The question is: What political philosophy or ideology should inspire the new Zimbabweans in this new era? Should the solution to the country’s problems be based on capitalist, socialist, fascist, communist – Marxist, Leninist or Maoist – thinking? Is there a philosophy or ideology indigenous to the country that can serve its people just as well, if not better than, foreign ideologies? (Samkange & Samkange 1980: page inside front page).

With regard to this question, they explain:

It is the thesis of this book that Zimbabwe has an indigenous political philosophy which can best guide and inspire thinking in this new era of Zimbabwe. This philosophy or ideology, the authors endeavour to show, exists and can best be described as Hunhuism or Ubuntuism (Samkange & Samkange 1980: page inside front page).

The Samkanges present the notion that there exists a philosophy or ideology indigenous to Zimbabwe as a *hypothesis*, implying that this is not self-evident to everyone. Samkange even related that:

during the abortive Geneva Constitutional Talks, I [Mr. Samkange] found myself one day talking to some very opinionated London-based perennial 'O' Level students (...) When I said I am a 'Hunhuist' the sneers and smiles of derision that carved their faces could have turned fresh milk sour. 'What is that?' they scornfully asked (...) 'Whose fault is it', I asked, 'if no one knows about the philosophy of your grandfather and mine? Is it not your fault and mine? We are the intellectuals of Zimbabwe. It is our business to distil this philosophy and set it out for the whole world to see' (Samkange & Samkange 1980: 9).

The Samkanges appear to identify Hunhuism or Ubuntuism as a philosophy or ideology about how the new Zimbabwe should be influenced by *ubuntu* (understood as a positive human quality). Furthermore, they first and foremost described Hunhuism or Ubuntuism as a *political* philosophy or ideology, which is reflected in the fact that 11 of the book's 17 chapters (chapters 6-16) are dedicated to a description of how policy should be formulated in the new Zimbabwe in order to be consistent with Hunhuism or Ubuntuism. I will summarize some of the political implications that the Samkanges extracted from Hunhuism or Ubuntuism:

- Hunhuism or Ubuntuism dictates that there should be a Government of National Unity in the new Zimbabwe (see page 45).
- According to Hunhuism or Ubuntuism, the new Zimbabweans ought to live amicably with their neighboring states (see page 50).
- To be consistent with Hunhuism or Ubuntuism, the new Zimbabwean government should use the inhabitants' fear of *ngozi* (aggrieved spirits) to prevent murder (see page 54).

- Hunhuism or Ubuntuism does not allow that the African idea of communal land ownership be eroded by Western ideas of private land ownership (see page 59).
- According to Hunhuism or Ubuntuism, there should be state, communal and individual property (see page 64).

By identifying *ubuntu* as something connected to the *political* philosophy of Hunhuism or Ubuntuism, the Samkanges attached political connotations to the term '*ubuntu*'. Despite this politicizing interpretation, however, Hunhuism or Ubuntuism did not have a marked influence on politics in the new Zimbabwe. For example, I have been unable to find any Zimbabwean legal documents that mention Hunhuism or Ubuntuism, and a search for this philosophy on the website of the Zimbabwean government failed to produce any references.¹⁵ It should be noted that some have celebrated Robert Mugabe for displaying *ubuntu* politically (Tutu 1999: 36; Bhengu 1996: 29), and that Robert Mugabe has used the term '*ubuntu*' himself. In a newspaper article entitled *Zimbabwe Celebrates Peace Days*, which was published in the *Zimbabwe Telegraph* on 24 June 2009, it was reported that:

Zimbabwean President Robert Mugabe has last week proclaimed Friday, Saturday and Sunday as peace days – during which Zimbabweans from different political persuasions are expected to encourage and promote national healing and reconciliation. Mugabe said the three days set aside for national healing offered Zimbabweans a choice to either consolidate their identity or expose themselves as a disintegrated nation. 'We should realize that the desire for peace, harmony and stability is a desire for progress, national identity, prosperity and *hunhu, ubuntu*', he said.¹⁶

Ubuntu and the South African Transition to Democracy

After growing internal and external pressure, and secret meetings between the apartheid government and Nelson Mandela (Mandela 1995: 611-665), President Frederik Willem de Klerk lifted the bans on the ANC and a number of other political organizations on 2 February 1990. He also de-

¹⁵ The website of the Zimbabwean government can be found on <http://www.gta.gov.zw/>. The Southern African Legal Information Institute (SAFLII) provides access to Zimbabwean legal documents (please see <http://www.saflii.org/>).

¹⁶ In June 2009, the article was available at <http://www.zimtelegraph.com/?p=1816>.

clared that Nelson Mandela would be released from prison. This happened on 11 February 1990. The following Multi-Party Negotiation Process led to the ratification of the Interim Constitution on 18 November 1993 and to South Africa's first democratic election on 27 April 1994.¹⁷ After the ANC won just under 63% of the votes, Nelson Mandela became president, with Frederik Willem de Klerk and Thabo Mbeki as deputies.

The Interim Constitution was intended to provide 'a historic bridge between the past of a deeply divided society characterised by strife, conflict, untold suffering and injustice, and a future founded on the recognition of human rights, democracy and peaceful co-existence and development opportunities for all South Africans, irrespective of colour, race, class, belief or sex' (*Constitution of the Republic of South Africa*, Act 200 of 1993: Epilogue after Section 251). The last quotation is from the Epilogue of the Interim Constitution, which defined the nature of the chosen 'bridge' away from apartheid by stating that in addressing the divisions and strife of the past, 'there is a need for understanding but not for vengeance, a need for reparation but not for retaliation, a need for *ubuntu* but not for victimization' (*Constitution of the Republic of South Africa*, Act 200 of 1993: Epilogue after Section 251).

According to the South African Constitutional Court, which was established in 1994 by the Interim Constitution to decide on constitutional matters, the appearance of the term '*ubuntu*' in the Epilogue was neither coincidental nor unimportant.¹⁸ This is very well illustrated by the follow-

¹⁷ The Interim Constitution was a transitional constitution: 'One of its principal purposes was to set out the procedures for the negotiation and drafting of a "final" Constitution. Once the final Constitution was adopted, the interim Constitution fell away. But in spite of its transitional status, the interim Constitution was binding, supreme and fully justiciable' (Van der Merwe & du Plessis 2004: 63). The final Constitution was adopted on 8 May 1996. In opposition to the Interim Constitution, the Constitution of 1996 does not contain the term '*ubuntu*' (see *Constitution of the Republic of South Africa*, Act 108 of 1996).

¹⁸ So far, there are references to *ubuntu* in 22 cases from the South African Constitutional Court. In chronological order, these cases are: *S v Makwanyane and Another*, 1995; *Azanian Peoples Organization (AZAPO) and Others v President of the Republic of South Africa and Others*, 1996; *Christian Education South Africa v Minister of Education*, 2000; *Hoffmann v South African Airways*, 2000; *Port Elizabeth Municipality v Various Occupiers*, 2004; *Bhe and Others v Khayelitsha Magistrate and Others*, 2004; *Shibi v Sithole and Others*, 2004; *Dikoko v Mokhatla*, 2006; *Union of Refugee Women and Others v Director, Private Security Industry Regulatory Authority and Others*, 2006; *Barkhuizen v Napier*, 2007; *S v M*, 2007; *Masetlha v President of the Republic of South Africa and Another*, 2007; *Gumede (born Shange) v President of the Republic of South Africa and Others*, 2008; *Bertie Van Zyl (Pty) Ltd and Another v Minister for Safety and Security and Others*, 2009; *Du Toit v Minister for Safety and Security and Another*, 2009; *Koyabe and Others v Minister for Home Affairs and Others*, 2009;

ing quotations from Constitutional Court cases: ‘Those who negotiated the [Interim] Constitution made a deliberate choice, preferring understanding over vengeance, reparation over retaliation, *ubuntu* over victimization’ (*Azanian Peoples Organization (AZAPO) and Others v President of the Republic of South Africa and Others*, 1996: § 19); ‘The concept “*ubuntu*” appears for the first time in the post-amble [another name for the Epilogue], but it is a concept that permeates the Constitution generally’ (*S v Makwanyane and Another*, 1995: § 237); ‘The spirit of *ubuntu*, part of a deep cultural heritage of the majority of the population, suffuses the whole constitutional order’ (*Port Elizabeth Municipality v Various Occupiers*, 2004: § 37); ‘Historically it [*ubuntu*] was foundational to the spirit of reconciliation and bridge-building that enabled our deeply traumatized society to overcome and transcend the divisions of the past’ (*Dikoko v Mokhatla*, 2006: § 113).

It is evident from these quotations that the Constitutional Court considers *ubuntu* to be something that is important to the South African constitutional order, and that the court does not consider it to be coincidental that the term ‘*ubuntu*’ appeared in the Epilogue. Despite this, the Constitutional Court has not explained in detail how the term came to be included in the Epilogue. As shown above, the court has stated that those who negotiated the Interim Constitution made a deliberate choice to prefer understanding, reparation and *ubuntu* over vengeance, retaliation, and victimization. But this is broad-brush information. It would be interesting to know the details about how the term ‘*ubuntu*’ came to be incorporated. Who suggested that the term should be included? Did the negotiators discuss whether the term should be included or not? And if so, exactly how did the discussion develop? I have been unable to find any texts that answer these questions. Mfuniselwa John Bhengu, who is a former Member of Parliament for Inkatha Freedom Party (IFP), and an acknowledged author on *ubuntu*, informed me that:

I really don’t know who came up with it [the term ‘*ubuntu*’ in the Epilogue]. All that I know is that during Codesa negotiations at Kempton Park in 1993, there were many African leaders who par-

Joseph and Others v City of Johannesburg and Others, 2009; *Van Vuren v Minister of Correctional Services and Others*, 2010; *Le Roux and Others v Dey*, 2011; *The Citizen 1978 (Pty) Ltd and Others v McBride*, 2011; *Everfresh Market Virginia (Pty) Ltd v Shoprite Checkers*, 2011; *City of Johannesburg Metropolitan Municipality v Blue Moonlight Properties 39 (Pty) Ltd and Another*, 2011. To date, *uBuntu and the Law: African Ideals and Postapartheid Jurisprudence*, edited by Drucilla Cornell and Nyoko Muvangua, might be the book which provides the most detailed account of the relationship between *ubuntu* and the law in South Africa (Cornell & Muvangua 2011).

anticipated, and it could be that *ubuntu* as a spark came up during the negotiations or among those who were writing the constitution. The IFP was one of the participants at Codesa, and I am sure that, even if it didn't come from it, they (IFP) supported such a move (Bhengu, e-mail of 20 December 2009).¹⁹

To support my research, Mfuniselwa John Bhengu have conducted inquiries among South African members of Parliament about who may be aware of how the term '*ubuntu*' came to be included in the Epilogue:

I have tried to ask some of them who were there [during the negotiations of the Interim Constitution] but they cannot remember how it came about (e-mail of 29 January 2010).

Considering that the Epilogue is a very important and sensitive text in the Interim Constitution, I find it surprising that no one appears to have a clear recollection of how the term '*ubuntu*' came to be included. The Epilogue contains the negotiated agreement about how the divisions and strife of the apartheid era should be dealt with in the new democratic South Africa. Immediately after the statement that 'there is a need for understanding but not for vengeance, a need for reparation but not for retaliation, a need for *ubuntu* but not for victimization', the Epilogue explains that: 'In order to advance such reconciliation and reconstruction, amnesty shall be granted in respect of acts, omissions and offences associated with political objectives and committed in the course of the conflicts of the past' (*Constitution of the Republic of South Africa*, Act 200 of 1993: Epilogue after Section 251). In the next sentence, the Epilogue decrees that Parliament should adopt a law to establish the mechanisms, criteria, and procedures by which amnesty should be dealt with. This was done in 1995 with the Promotion of National Unity and Reconciliation Act, which established the Truth and Reconciliation Commission led by Archbishop Desmond Tutu.

¹⁹ It should be noticed that according to the preamble of the *Constitution of Inkatha Freedom Party* ([1975] 2006), the IFP embraces the principles of *ubuntu*. Michael Onyebuchi Eze writes that: 'While *no love was lost* between the ANC government and Inkatha prior to the draft Constitution [the Interim Constitution], a possible hypothesis could be that the insertion of *ubuntu/botho* in the preamble to the draft Constitution was a possible influence or adaptation from Inkatha's Constitution. One would imagine if the eventual deletion of *ubuntu* from the final Constitution construes a further attempt by the ANC led government to distance itself from Inkatha. These are merely factious hypotheses and speculations considering the adaptation of *ubuntu* as a national discourse in the overall process of reconciliation and nation building in South Africa' (Eze 2010: 103).

In the wake of the Epilogue's claim that there is 'a need for *ubuntu*', a number of texts were published in South Africa, which sought to define what *ubuntu* is. The Interim Constitution does not define the term. My hypothesis is that it was in this context that it became common to define *ubuntu* as something connected to the proverb '*umuntu ngumuntu ngabantu*'. Prior to the publication of the Interim Constitution, I have found only one text connecting the term '*ubuntu*' to the proverb.²⁰ This text from 1992 explains that the humiliation of black people in South African taxis 'is one of those areas where one sees explicit manifestations of the breakdown of *ubuntu/botho*, which is based on the maxim that "*motho ke motho kabatho/umuntu ngumuntu ngabantu*" – a person is a person through other people' (Maake 1992: 595). After the publication of the Interim Constitution, it became common for authors to connect the term '*ubuntu*' to the proverb, and some authors even began to claim that the term '*ubuntu*' has something like the proverb as its meaning. In 1997, Hennie Lötter stated that: '*Ubuntu* means that a person becomes a person through other persons' (Lötter 1997: 46). Similar statements are found during the 2000s: '*Ubuntu* is the short-form of a widespread isiXhosa proverb in Southern Africa: *Umuntu ngumuntu ngabantu*, which means "A human being is a human being only through its relationships to other human beings"' (Marx 2002: 52); 'The last term, the African traditional notion of *ubuntu*, means roughly "a person is a person through other persons"' (Holkeboer, 2004: 155); '*Ubuntu* is an African word that, literally translated, means "people are people through other people"' (Ronaldson 2005: 153); '*Ubuntu* literally translated means "I am because we are; I can only be a person through others"' (Van den Heuvel *et al.* 2006: 45).

In the following paragraphs, I will argue that Augustine Shutte's book *Philosophy for Africa* might be an important part of the reason for why it became common to define *ubuntu* as something connected to the proverb '*umuntu ngumuntu ngabantu*'. To my knowledge, *Philosophy for Africa* was the first book in English to explore the identity belief embedded in the proverb '*umuntu ngumuntu ngabantu*'. Furthermore, the book has frequently been quoted in relation to the question of what *ubuntu* is. This is interesting because Augustine Shutte did not present *Philosophy for Africa* as a book on *ubuntu* when the first edition was published in 1993. The term '*ubuntu*' was not even mentioned in the book's index. In the 1993 edition, I have only found one sentence containing the term '*ubuntu*', and in this sentence *ubuntu* is not associated with the proverb. The sentence is: 'The traditional African idea of the extended family as some-

²⁰ Note that when this article was published in the *South African Journal of Philosophy* in September 2011, I was not aware of any texts from before 1993 connecting the term '*ubuntu*' to the proverb.

thing that includes far more than parents and children is perhaps the most common and most powerful protection of the value of *ubuntu*' (Shutte 1993: 157). What differentiates the South African edition (the edition from 1993) and the American edition (1995) of *Philosophy for Africa* is that the American edition contains a new foreword. In this foreword, Augustine Shutte suddenly presents *Philosophy for Africa* as a book on *ubuntu*:

South Africa is world-famous for apartheid – that unique racist philosophy and system constructed over the last fifty years. Because of apartheid (which means 'separateness') another feature of South African life has been hidden from the world for all that time. But now the apartheid era has ended and our recent treasure has been revealed to the world by our president, Nelson Mandela, by public figures like Bishop Tutu and by events like the recent elections, the inauguration of the president, and the World Cup of Rugby. It is called *ubuntu* (which means 'humanity'). We feel it is something of great value we can offer to the rest of the world. This is what this book is about (Shutte 1995: v).

In the foreword of the American edition, Augustine Shutte also explains why he thinks *ubuntu* is related to the proverb (and to my knowledge, this is the first time that an author goes into some detail about how *ubuntu* and the proverb are connected):

Central to my book is the conception of humanity embodied in the traditional African proverb *umuntu ngumuntu ngabantu* (a person is a person through persons). This understanding of human nature has its counterpart in the moral sphere in the idea of *ubuntu*. In English this is equivalent to humanity, understood as a moral notion referring to a general quality of character, or attitude or behaviour or way of life (Shutte 1995: vi).

According to the American foreword of *Philosophy for Africa*, *ubuntu* is therefore closely connected with the proverb: 'This emphasis on the interpersonal quality of humanity – embodied in the expression *umuntu ngumuntu ngabantu* – is at the heart of *ubuntu* and the source of many of its distinctive insights and values' (Shutte 1995: ix).

Convinced that *ubuntu* can contribute to the struggle for a new South Africa, Augustine Shutte goes on to introduce an idea for a new project, which he calls ‘the *ubuntu* project’²¹:

In particular there is a need for critical and creative contact between the African and European traditions of understanding humanity itself, both as a reality and as a value. This conviction, developed in conversation with kindred spirits, gave rise to the idea for a new project, which I call the *ubuntu* project (Shutte 1995: vi).

Augustine Shutte explains that:

The aim of the *ubuntu* project will be to investigate the different aspects of this conception of humanity, especially those concerning moral values, the virtues appropriate to different roles and positions in life, our social practices and political goals, the conception we have of human flourishing and fulfilment, and the meaning of human life and death (Shutte 1995: vi).

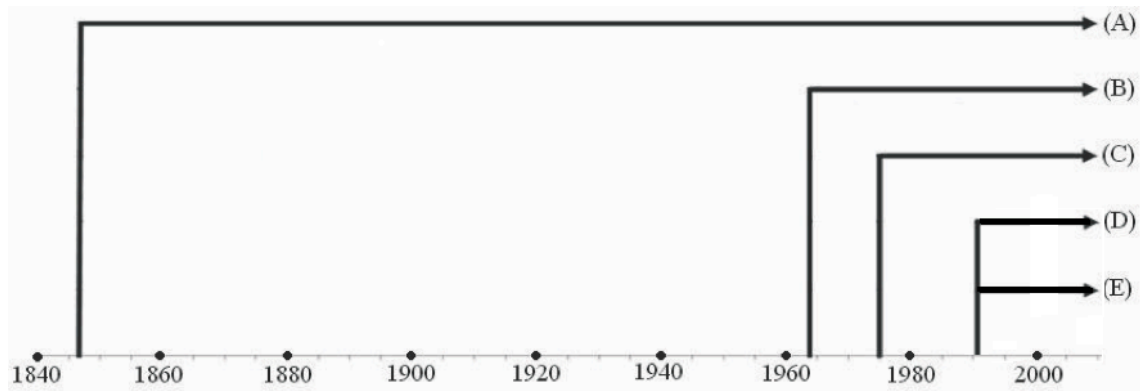
I will return to Augustine Shutte’s *ubuntu* project towards the end of this article. For the moment, I want to state that I find it reasonable to assume that the following occurred in the context of the transition to democracy in South Africa:

- In 1993, the Epilogue of the Interim Constitution was the cause of increasing discussion about the nature of *ubuntu* by stating that in addressing the divisions and strife of the past, there is ‘a need for *ubuntu*’.
- In 1993, Augustine Shutte increased the awareness of the proverb ‘*umuntu ngumuntu ngabantu*’ by publishing *Philosophy for Africa*. Subsequently, a number of authors began to take an interest in the proverb, and it became common to describe *ubuntu* as something closely connected to the proverb.

²¹ The relationship between Augustine Shutte’s call for an *ubuntu* project and the subsequent *ubuntu* project launched by Drucilla Cornell in 2003 has, as far as I am aware, not been investigated (see <http://theubuntuproject.org>).

The Historical Development

Diagram 1: An illustration of how *ubuntu* has been defined in written sources during different historical periods.



- (A) Period in which *ubuntu* was defined as a human quality.
- (B) Period in which *ubuntu* was defined as something either connected to, or identical to, a philosophy or an ethic.
- (C) Period in which *ubuntu* was defined as African humanism.
- (D) Period in which *ubuntu* was defined as a worldview.
- (E) Period in which *ubuntu* was defined as something connected to the proverb ‘*umuntu ngumuntu ngabantu*’.

Concerning (A)

In the section entitled ‘Early Written Sources on *Ubuntu*’, I have shown that the term ‘*ubuntu*’ appears to, almost exclusively, refer to a human quality in texts published prior to 1980. Up to the present day, a number of authors have continued to claim that *ubuntu* is a human quality, which can be illustrated with some quotes:

Mr. Nhlapo was held in very high respect by the black people of the district, and if he and his wife could go to the house of the white headmaster for dinner, then the white headmaster and his wife must be human beings, they must have the quality of *ubuntu*, which is the quality of humaneness, the quality of human beings when they are at their brightest and best (Paton 1983: 62).

Africans are a people whose identity is founded on *ubuntu*. Meaning ‘personhood’, *ubuntu* expresses a unique quality about a person which elevates him or her to a plane near to godliness (Suggit & Goedhals 1998: 112).

Ubuntu is an African word that speaks of humanity and its goodness. The word has the meaning of being human, of being generous and gracious. You still find this in African society, and this concept is shared with the West when people come to visit. It is the sense of human grace and honour that prevailed in Africa even prior to the arrival of the missionaries (Kolini & Holmes 2010: 70).

Concerning (B)

In the 1960s, a new idea began to emerge in writing, namely that *ubuntu* is connected to a philosophy or an ethic. Later, during the transformation of society in South Africa in the 1990s, this idea became widespread. In the context of the societal transition in South Africa, the terms ‘Hunhuism’ and ‘Ubuntuism’ were rarely used in writing, whereas expressions such as ‘*ubuntu* philosophy’ and ‘ethic of *ubuntu*’ became increasingly common. I will list some quotes from the 1990s exemplifying the use of these expressions:

In *ubuntu* philosophy a human being in the world of the living must be *umuntu* in order to give a response to the challenge of the fundamental instability of being (Ramose 1999: 64).

In another discussion, on Luke’s version of the Lord’s Prayer, the BCC noted that they might not have much in the way of money or food, but they were able to survive because they ‘had God’. In a bourgeois setting, one would expect this to mean something like a spiritual or personal sense of support or comfort, but here it meant that ‘Maybe God has already talked to a neighbour who will have a plate ready for me when I come’ (not an unusual occurrence in African society under the ethic of *ubuntu*) (Cochrane 1996: 87).

In the 2000s, a large number of authors have identified *ubuntu* as a philosophy or an ethic. Here I will only include a few illustrative quotes:

Ubuntu is a philosophy that promotes the common good of society and includes humanness as an essential element of human growth (Venter 2004: 149).

Ubuntu is a philosophy that could assist in rebuilding within and amongst different communities (Motsei 2007: 10).

Ubuntu is an ethic that developed in a context of essential interdependence and severe need (Du Toit 2004: 33).

Ubuntu is an ethic, or ideology, based on an African worldview and an interdependent anthropology (Shore 2009: 135).

Concerning (C)

As I have shown in the section entitled ‘Early Witten Sources on *Ubuntu*’, some authors have defined *ubuntu* as ‘African humanism’ at least since 1975. I will list some examples:

As Buthelezi has noted: ‘There is a great deal in me which is formed by my deep affinity to African humanism – *Ubuntu/Botho* – and I find many aspects of Western industrialised societies offensive to my humanist tendencies’ (Berger & Godsell 1988: 176).

Ubuntu, which she [Chikanda] sees as African Humanism, involves aid-giving, sympathy, care, sensitivity to the needs of others, respect, consideration, patience, and kindness (Prinsloo 1998: 42).

Ubuntu, as this African humanism is termed in the South African context, is part of a spiritual reconstruction aimed at filling the void of meaning and value left by the dismantled apartheid regime (Lenta 2003: 156).

That healthy atmosphere also emanated from an authentic African humanism (*ubuntu*) that pervaded the college. Africans are religious and spiritual in their daily activities and in their collectivist relationships. They have always been like that even prior to 1652 when the Wreck of the Haadem dumped the Whites in South Africa (Buthelezi 2004: 129).

Concerning (D)

In the 1990s, some authors began to use the term ‘worldview’ to describe what *ubuntu* is. In his famous book, *No Future Without Forgiveness*, Desmond Tutu wrote that:

I want to conclude this chapter [entitled ‘Nuremberg or national Amnesia? A third way’] by pointing out that this third way of conditional amnesty was consistent with a central feature of the African *Weltanschauung* (or worldview) – what we know as *ubuntu* in the Nguni group of languages, or *botho* in the Sotho languages (Tutu 1999: 34).

Later, during the 2000s, it became quite common for authors to claim that *ubuntu* is a worldview. Again, I will include a few examples:

Confronting the past was very much about providing a new model, a new moral basis for individuals and institutions but especially for the *nation*. While the rhetoric of healing [within the South African Truth and Reconciliation Commission] implied restoration, this was not restoration of the old order, apartheid, but rather of humanity and human dignity. If any old order was being appealed to in the ceremony itself, it was a version of the African humanist philosophy or worldview of *ubuntu* (McEachern 2002: 31).

Johann B. writes of the importance of *ubuntu* as a tool to reduce racist attitudes: ‘If all people abide by and live out the worldview of *ubuntu* which is a reference to the basic values of humanness, love, intense caring and sharing, respect and compassion South Africa and the whole global world would be freed of all forms of racism’ (Ansell 2007: 318).

Concerning (E)

According to my findings, *ubuntu* was identified for the first time as something connected with the proverb ‘*umuntu ngumuntu ngabantu*’ in 1992. Since the transition to multi-racial democracy in South Africa, this proverb has developed as a very important reference for describing what *ubuntu* is. I will list some illustrative quotes:

As far as traditional African values are concerned, the fundamental importance of *ubuntu* must be highlighted. *Ubuntu*, generally translated as ‘humanness’, expresses itself metaphorically in ‘*umuntu ngumuntu ngabantu*’ – ‘people are people through people’ (*Truth and Reconciliation Commission of South Africa Report*, 1998: Vol. 1, §85).

Even though the term has become quite a fetish in post-apartheid South Africa, it is worth recalling that humanism also has distinct South African lineages, inasmuch as the Nguni term *ubuntu* refers to the fact that ‘people are people through other people’, (or in Zulu, *umuntu ngumuntu ngabantu*), a principle often invoked by African humanists in South Africa in some way or other (Bangstad 2007: 49).

Ubuntu is short for an isiXhosa proverb in Southern Africa. It comes from *Umuntu ngumuntu ngabantu*: a person is a person through their relationship to others (Swanson 2010: 147).

Towards the end of the 1990s and during the 2000s, some authors mentioned proverbs in relation to *ubuntu* that are slightly different. An example is:

Beyond starvation and the tribal atrocities you see in the news of Africa, South Africa's unique gift to the world may well be the spirit of *ubuntu*. In Nelson Mandela's tribal language (Xhosa), one of eleven official languages in South Africa, '*Ubuntu ngumntu ngabanye abantu*' is roughly translated as 'a person is (can only be) a person through other persons' (Albion 2008: 85).

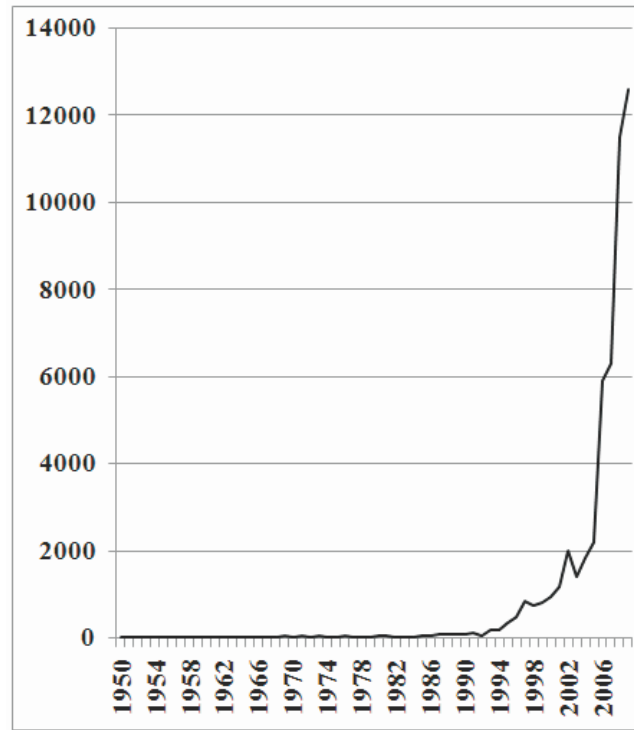
General Remarks

I consider Diagram 1 to be provisional in the sense that it might need to be adjusted in accordance with an increase in our knowledge about the ways that *ubuntu* has been defined in written sources. People may, for instance, discover written sources prior to 1846, which contain the term '*ubuntu*', or discover references that illustrate that the term '*ubuntu*' was connected with the proverb '*umuntu ngumuntu ngabantu*' prior to the 1990s. Furthermore, the illustration is not exhaustive because I only refer to the ideas about the nature of *ubuntu* which, to my knowledge, have been most common in written sources. Therefore, I do not mention that some authors have defined *ubuntu* in other ways; for example, as an ideology, or, as a way of life. Finally, it should be noted that some texts contain more than one idea about the nature of *ubuntu*. For example, the same author may describe *ubuntu* as a philosophy in some passages, and as a human quality in other passages.

Reflections on the Historical Development

I explained that, in 1993, the Epilogue of South Africa's Interim Constitution stated that in addressing the divisions and strife of the past there is 'a need for understanding but not for vengeance, a need for reparation but not for retaliation, a need for *ubuntu* but not for victimization' (*Constitution of the Republic of South Africa*, Act 200 of 1993: Epilogue after Section 251). After this constitutional reference to *ubuntu*, the term '*ubuntu*' began to appear more frequently in written sources. This is illustrated in Diagram 2.

Diagram 2. Number of times the term ‘*ubuntu*’ has occurred in written sources per year (according to Google Book search on 12 October 2010).²²



In the section on *ubuntu* and the creation of Zimbabwe, I stated that, based on my research, the Samkanges’ *Hunhuism or Ubuntuism: A Zimbabwe Indigenous Political Philosophy* was the first book to be written specifically on *ubuntu*. Presently, I want to underscore that the book by the Samkanges can be read as a postcolonial narrative of return. Similarly to the books of Julius Nyerere, Kwame Nkrumah, and Léopold Senghor, which I mentioned in the section on narratives of return in postcolonial Africa, Samkanges’ book was written in the context of *a social transformation* where people attempted to identify the values that they thought should inspire politics and life in general in future society. Furthermore, the Samkanges’ book also contains the idea that in order to create a good future, society needed to *return to something African* that did not stem from the previous period of colonial oppression but which, on the contrary, was

²² Diagram data: 1950: 6; 1951: 2; 1952: 4; 1953: 6; 1954: 7; 1955: 5; 1956: 7; 1957: 7; 1958: 7; 1959: 5; 1960: 10; 1961: 4; 1962: 8; 1963: 9; 1964: 19; 1965: 7; 1966: 15; 1967: 30; 1968: 9; 1969: 55; 1970: 10; 1971: 36; 1972: 6; 1973: 37; 1974: 9; 1975: 29; 1976: 39; 1977: 9; 1978: 21; 1979: 24; 1980: 57; 1981: 49; 1982: 21; 1983: 28; 1984: 22; 1985: 40; 1986: 58; 1987: 70; 1988: 69; 1989: 71; 1990: 96; 1991: 114; 1992: 57; 1993: 194; 1994: 167; 1995: 358; 1996: 487; 1997: 832; 1998: 746; 1999: 807; 2000: 947; 2001: 1170; 2002: 2010; 2003: 1420; 2004: 1840; 2005: 2190; 2006: 5920; 2007: 6300; 2008: 11500; 2009: 12600.

rooted in pre-colonial times. More specifically, the Samkanges argued that the new Zimbabwe should be influenced by Hunhuism or Ubuntuism, which they identified as a *traditional* philosophy or ideology indigenous to their country.

Narratives of return also developed in the context of the social transition in South Africa. It has frequently been argued that in addressing the divisions and strife of the apartheid era, society needs to *return* to the spirit of *ubuntu* which, according to the Constitutional Court, is ‘part of the deep cultural heritage of the majority of the population’ (*Port Elizabeth Municipality v Various Occupiers*, 2005: § 37). The Constitutional Court has explained that: ‘It was against the background of the loss of respect for human life and the inherent dignity which attaches to every person that a spontaneous call has arisen among sections of the community for a *return* [emphasis mine] to *ubuntu*’ (*S v Makwanyane and Another*, 1995: § 227). Furthermore, it has often been emphasized that *ubuntu* is rooted in pre-colonial times. Christopher Roederer and Darrel Moellendorf have, for instance, stated that: ‘The Nguni word *ubuntu* represents notions of universal human interdependence, solidarity and communalism which can be traced to small-scale communities in pre-colonial Africa, and which underlie virtually every indigenous African culture’ (Roederer & Moellendorf 2004: 441).

In light of narratives of return developing during social transition periods, it is hardly surprising that such narratives emerged in the context of the creation of Zimbabwe, and also in the context of the transition to majority rule in South Africa. What may be more surprising is that these transition periods seem to have been an arena for the development of new ideas about the nature of *ubuntu*. My findings indicate that it was in the context of the creation of Zimbabwe that the idea that *ubuntu* is something that is connected with a specific *political* philosophy first developed. In addition, it appears to have been in the context of the South African transition in the 1990s that *ubuntu* was identified as something that has a link to the proverb ‘*umuntu ngumuntu ngabantu*’ for the first in history.

Some may argue that *ubuntu* as a human quality implicitly contains a philosophy or an ethic which, in turn, can most succinctly be represented through the proverb ‘*umuntu ngumuntu ngabantu*’. Is this what has happened: that what was implicit has become explicit, and what became explicit needed to be captured quite succinctly in an intellectual bumper sticker of sorts? In response to such a question, I recall my earlier observation that during the second half of the twentieth century, some authors began to *identify ubuntu* as a philosophy or an ethic, which seems to mark a change from identifying *ubuntu* as a human quality, even if the human

quality somehow implicitly contains a philosophy or an ethic.²³ I also want to recall that though some authors may simply understand the proverb as a concise expression of a central idea of a specific philosophy or ethic, others have gone further to make claims like: ‘*Ubuntu* is an African word that, literally translated, means “people are people through other people”’ (Ronaldson 2005: 153). Claims such as this one appear to represent a new idea about the meaning of the word ‘*ubuntu*’, which did not exist before *ubuntu* was identified as something that has a connection with the proverb.

But, why did new ideas about the nature of *ubuntu* apparently develop in the context of the creation of Zimbabwe and in the context of the transition to majority rule in South Africa? Was the emergence of new ideas motivated by political reasons and strategic concerns? Prior to the publication of *Hunhuism or Ubuntuism: A Zimbabwe Indigenous Political Philosophy*, Mr. Samkange had been an influential nationalist politician in Southern Rhodesia (which became Zimbabwe in 1980), and it may be argued that he formulated the philosophy of Hunhuism or Ubuntuism to fit his own political agenda. Furthermore, as a former professor of African history, Mr. Samkange was probably well aware that the brand ‘traditional African’, which he used to ‘sell’ the philosophy of Hunhuism or Ubuntuism, had previously been popular in the context of decolonization. As explained by Julius Nyerere, throughout almost the whole of Africa ‘the first and most vocal demand of the people after independence was for Africanization’ (Nyerere 1968: 27). We should also ask why it was in the 1990s that *ubuntu* was most likely defined for the first time as something connected with the proverb ‘*umuntu ngsumuntu ngabantu*’. Was the connection between *ubuntu* and the proverb established and emphasized because the idea that *ubuntu* has to do with interconnectedness could be used by politicians and others as a rationale against the segregation ideas of the previous apartheid era in South Africa? By connecting *ubuntu* with specific ideas about interconnectedness, these ideas might certainly gain legitimacy (or further legitimacy) among blacks, who considered *ubuntu* to be something good and deeply rooted in their culture.

²³ Please assume that: A = *Ubuntu*; B = A specific human quality; C = A specific philosophy or ethic. Now, speaking logically: If B contains C, and if nothing can both contain and be numerically identical to the same thing, then it follows that if one identifies A as B (i.e. if one claims that A is numerically identical to B), then one would be contradicting oneself by also identifying A as C. So if B contains C, and if nothing can both contain and be numerically identical to the same thing, then identifying A as C would be something different from identifying A as B since identifying A as C would contradict identifying A as B.

I will not offer further speculations about what motives might have caused the discursive shifts in the *ubuntu* literature. Since we can never be completely sure what motives people have, we easily risk ascribing motives to people which might be foreign to them. Nevertheless, it is important to emphasise that it is a matter of fact that some South African politicians have taken an interest in *ubuntu*. Thabo Mbeki has, for instance, supported Augustine Shutte's *ubuntu* project. In an e-mail correspondence about an earlier version of the present article between Augustine Shutte and I, he stated that:

The section on my work was accurate and also interesting. But you don't mention that I then wrote a whole book about *ubuntu* and applied ethics [namely *Ubuntu: An Ethic for a New South Africa* (2001)]. The book itself was a result of the Ubuntu Project which I initiated with Mbeki's blessing after my meeting with him in Pretoria on the eve of the 1999 elections that made him president. Two members of the study group I formed were appointed by him, Melanie Verwoerd and Ebrahim Rasool. It was a very high-powered group indeed and did a lot to help me with the book. But I think I have told you all this. I am making this point because the second book became better known than the first because of the word *ubuntu*. But you are quite right: I did not use it [the word 'ubuntu'] in the first book [i.e. the South African edition of *Philosophy for Africa*]. I can't even remember where I first heard it! (e-mail of 21 November 2010).

Augustine Shutte had, as we have seen, already formulated the idea of the *ubuntu* project in the 1995 edition of *Philosophy for Africa*. After his meeting with Thabo Mbeki, he initiated the *ubuntu* project under the name 'The Common Good Project'. This name was inspired by a booklet that Augustine Shutte published concerning the 1999 General Election called 'South Africa's Common Good'. In the unpublished concept paper for The Common Good Project from 2000, Augustine Shutte explained that during his meeting with Thabo Mbeki on the eve of the 1999 General Election:

He [Thabo Mbeki] spoke to us of a 'moral vacuum' in South Africa that had the potential to make the country ungovernable. Crime and corruption were just the outward signs of a sickness of the soul that was a legacy of apartheid. The separateness and conflict inevitable in a multicultural society such as South Africa had been intensified by apartheid. It was however the struggle against apartheid that had brought different groups together on the basis of shared

values. Now that has gone and, in spite of a fine constitution and democratic elections, South Africa is threatened with disintegration. People have lost touch with the common humanity we share. A spirit of self-interest is growing. What South Africa needs more than anything is an RDP of the spirit. Mr Mbeki asked us for help in dealing with this state of affairs (Unpublished concept paper of The Common Good Project, received in an e-mail from Augustine Shutte on 13 December 2010).

Final Remarks

I believe that this article is a worthwhile contribution to the *ubuntu* literature, at least for the reason that the article – to my knowledge – is the first text that contains a historical analysis of the ways in which *ubuntu* has been defined in written sources. In other words, I am not aware that any of this article's historical findings about discursive shifts in the *ubuntu* literature have been presented in earlier research.

What is *Ubuntu*? Different Interpretations among South Africans of African Descent²⁴

Abstract

In this article, I describe and systematize the different answers to the question ‘What is *ubuntu*?’ that I have been able to identify among South Africans of African descent (SAADs). I show that it is possible to distinguish between two clusters of answers. The answers of the first cluster all define *ubuntu* as a moral quality of a person, while the answers of the second cluster all define *ubuntu* as a phenomenon (for instance a philosophy, an ethic, African humanism, or, a worldview) according to which persons are interconnected. The concept of a person is of central importance to all the answers of both clusters, which means that to understand these answers, it is decisive to raise the question of who *counts* as a person according to SAADs. I show that some SAADs define *all Homo sapiens* as persons, whereas others hold the view that only *some Homo sapiens* count as persons: only those who are black, only those who have been incorporated into personhood, or only those who behave in a morally acceptable manner.

Introduction

The negotiators of the South African Interim Constitution of 1993 agreed that in order to address the divisions and strife of the apartheid era in South

²⁴ In September 2012, this article was published in the *South African Journal of Philosophy* (Vol. 31, Issue 3, pp. 484-503) in a slightly different version. In the present version, I have made a few minor improvements. Furthermore, I have removed the article’s bibliography and listed all the references in the comprised biography that is found towards the end of the thesis. I want to thank all the people from South Africa who have informed me about their understanding of *ubuntu*. Furthermore, I want to direct special thanks to the Institute for Justice and Reconciliation in Cape Town, the Khulumani Support Group, Prince Velekhaya Shange of the Zulu Royal House, and Bodil Sandegaard for helping me to set up interviews. Thanks also to Steen Wackerhausen, Morten Raffnsøe-Møller, Aase Rieck Sørensen, Augustine Shutte, Birgitte B.N. Gade, Lenore Messick, and an anonymous referee. Your guidance and comments have been truly appreciated.

Africa, ‘there is a need for understanding but not for vengeance, a need for reparation but not for retaliation, a need for *ubuntu* but not for victimization’ (*Constitution of the Republic of South Africa*, Act 200 of 1993: Epilogue after Section 251). The Interim Constitution does not explain what *ubuntu* is, but according to the South African Constitutional Court, which was established to adjudicate in constitutional matters, the spirit of *ubuntu* is something that is ‘part of the deep cultural heritage of the majority of the population’ (*Port Elizabeth Municipality v Various Occupiers*, 2005: § 37). The Court also explains that ‘it was against the background of the loss of respect for human life and the inherent dignity which attaches to every person that a spontaneous call has arisen among section of the community for a return to *ubuntu*’ (*S v Makwanyane and Another*, 1995: § 227).

So what is the nature of this something called ‘*ubuntu*’ that, according to the quotations above, is needed to address the divisions and strife of the apartheid era, is somehow part of the cultural heritage of the majority of the population, and is called for among sections of the community? A number of scholars have explained what they personally, or, what different public figures such as Desmond Tutu, believe that *ubuntu* is. But to my knowledge, no one has yet embarked on the task of mapping out the entire landscape of different ideas about the nature of *ubuntu* that are found among South Africans of African descent (SAADs). The task of drawing such a map may, in *some* but not all dimensions, be compared to the task of an explorer who wants to make a map of a geographical area that is only familiar to other travelers in parts, and that has never been mapped out in its entirety before. The first map that is created of such an area might lack detail, and the map is likely to be improved by others later on. In this sense, it is unsatisfactory to be the first to draw a map of such an area. In another sense, it is quite satisfactory, since the first map may help other explorers to make better maps of the area in the future. The first map may also be of interest to travelers who have hitherto only taken an interest in some parts of the area, and who may be surprised to find that the landscape looks different in other parts.

In this article, I embark on the project of mapping out the landscape of different ideas about the nature of *ubuntu* that are found among SAADs. I hope that other scholars will later join in on the project to make the map more detailed. I will begin by offering some reflections on why I have chosen to focus on the SAADs group. Subsequently, I will explore what SAADs believe is the nature of *ubuntu*, and also how they understand the concept of a person, since this concept is of central importance to the understanding of *ubuntu*. During my exploration, I will include quotations from written sources and also from interviews that I conducted in South

Africa from 2008 to 2010. I will then present some reflections on the ethical legitimacy of the identified understandings of the nature of *ubuntu*, before I finally offer some reflections on data collection.

Why Focus on the SAADs Group?

My choice to focus on how SAADs understand *ubuntu* may call for an explanation. Why only include Africans in the investigation group, and why limit the investigation group even further to Africans from South Africa?

Why Only Include Africans in the Investigation Group?

Ubuntu is generally held to stem from, and to be deeply rooted in, African indigenous cultures. According to Christopher Roederer and Darren Moellendorf for example, '[t]he Nguni word *ubuntu* represents notions of universal human interdependence, solidarity and communalism which can be traced to small-scale communities in pre-colonial Africa, and which underlie virtually every indigenous African culture' (Roederer & Moellendorf 2004: 441). But though *ubuntu* is generally held to stem from African indigenous culture, the academic discussion on *ubuntu* has been deeply influenced by works by non-Africans; understood as people who are not of African descent. In fact, as I will explain later in this article, my research even indicates that before the 1950s, all written sources mentioning *ubuntu* were authored by people of European descent. Similarly, much of the recent literature on *ubuntu* has been authored by non-Africans. This is, for example, reflected in the publications of the *South African Journal of Philosophy*, which is a leading journal on *ubuntu*: to date 23 articles from this journal contain the term '*ubuntu*', but only four of these are authored by Africans.²⁵ The many texts in which *ubuntu* is described and interpreted by non-African scholars makes it important not to lose sight of how *ubuntu* is understood by the Africans themselves. In this sense, the extensive literature on *ubuntu* by non-African scholars is what motivates me to investigate exclusively how *ubuntu* is understood by Africans.

Why Limit the Investigation Group to Africans from South Africa?

It is a common claim in the literature that even though '*ubuntu*' is an Nguni term, terms with similar meanings are found in African languages

²⁵ In chronological order, the 23 articles are (note that the names of the African authors are italicized): Teffo 1996; Allen 2001; Graaff 2001; *Ramose* 2003; Du Toit 2003; Van den Berg 2003; *Bewaji & Ramose* 2003; Bamford 2007; Metz 2007a; Wood 2007; *Ramose* 2007; Farland 2007; Van Niekerk 2007; Metz 2007b; Janz 2008; Krog 2008; Praeg 2008; *Eze* 2008; Van Niekerk 2008; Du Toit 2008; Gade 2011; Praeg 2011; Gade 2012.

all over sub-Saharan Africa.²⁶ Nkonko Mudipanu Kamwangamalu lists the following terms as examples: ‘*umundu*’ (in Kikuyu, Kenya), ‘*umuntu*’ (in Kimeru, Kenya), ‘*bumuntu*’ (in kiSukuma and kiHaya, Tanzania), ‘*vumuntu*’ (in shiTsonga and shiTswa, Mozambique), ‘*bomoto*’ (in Bobangi, Democratic Republic of Congo), and ‘*gimuntu*’ (in kiKongo, the Democratic Republic of Congo, and in giKwese, Angola) (Kamwangamalu 1999: 25). If we accept the premise that these terms have the same meaning as ‘*ubuntu*’, then these examples serve to support the claim that the basic idea of *ubuntu* is shared by many indigenous peoples in sub-Saharan Africa under different names.

However, there are at least two problems connected with the idea that the aforementioned terms have the same meaning as ‘*ubuntu*’. *Firstly*, the precise meaning people *de facto* ascribe to the listed terms has not been sufficiently investigated. Do the people who speak Kikuyu, for instance, agree on what the term ‘*umundu*’ means? And have the meanings of the different terms developed in the course of history? Could some of these terms have taken on nuances of meaning that have not been taken on by the other terms? I think it would be wise to investigate what meaning people *de facto* ascribe to the listed terms more thoroughly before concluding that they all have the same meaning.

Secondly, there is no agreement on what ‘*ubuntu*’ itself means. Therefore, the meaning that some people ascribe to a term such as ‘*umundu*’ may be similar to the meaning that some people ascribe to ‘*ubuntu*’, and different from the meaning that others ascribe to this term. My previous research suggests that ‘*ubuntu*’ is a dynamic term that has taken on new meanings at different point in history, probably under the influence of changing social and political circumstances (see Article 1 in this thesis). It appears, for example, to have been in the context of the South African transition process in the 1990s that the term ‘*ubuntu*’ became connected to the Nguni proverb ‘*umuntu ngumuntu ngabatu*’ (often translated as ‘a person is a person through other persons’) for the first time in history. In the context of the South African transition process, people began to make claims such as: ‘*Ubuntu* means that a person becomes a person through

²⁶ The Nguni languages are spoken in the southern part of Africa. Lutz Marten explains: ‘The Nguni group (S40) is divided into Zunda varieties and Tekela varieties. Among the Zunda varieties are Xhosa, Zulu, and Zimbabwean Ndebele. Xhosa includes a number of different varieties. Zulu, with around 10.7 million speakers, and Xhosa, with around 7.2 million speakers, are official languages of South Africa. Zimbabwean Ndebele has official status in Zimbabwe. The Tekela varieties include Swati, South African Ndebele, and the smaller languages Phuthi and Lala (Lala-Bisa). Swati has around 1.6 million speakers and is an official language both in Swaziland and South Africa. The southern variety of South African Ndebele is an official language in South Africa, spoken by around 0.6 million speakers’ (Marten 2006: 596).

other persons' (Lötter 1997: 46). This particular new idea, that '*ubuntu*' means that people are interconnected, may have developed because it could be used as an argument against the segregation ideology of the previous apartheid regime (Article 1 in this thesis: 45).

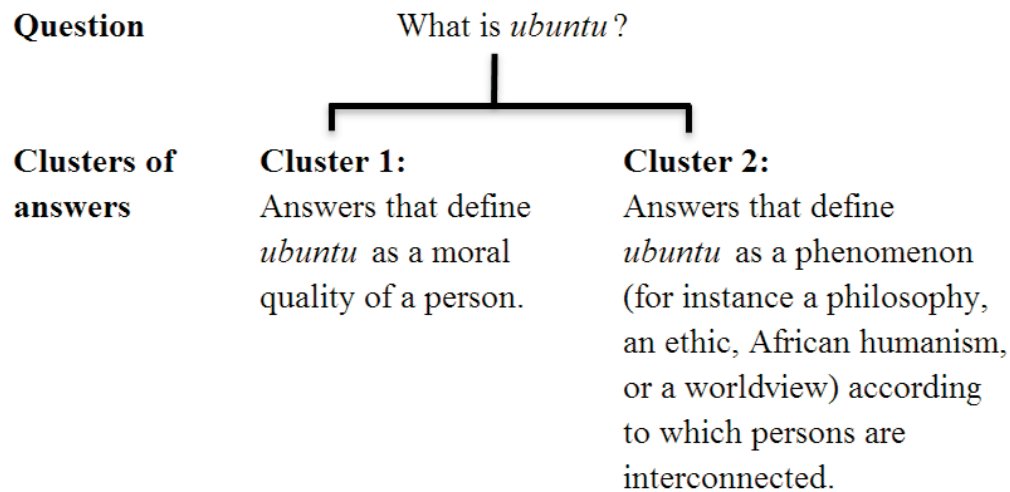
Whether or not the meaning that is ascribed to '*ubuntu*' in some parts of southern Africa is identical to the meaning of some of the terms listed by Nkonko Mudipanu Kamwangamalu is beyond the scope of this article. I will only investigate how *ubuntu* is understood by Africans from South Africa. My decision to focus on how *ubuntu* is understood by Africans from South Africa is motivated by the fact that South Africa is the only country in the world where the legal authorities claim that *ubuntu* is foundational to the constitutional order. The South African Constitutional Court explains, for instance, that '[t]he concept "*ubuntu*" appears for the first time in the post-amble [another name for the Epilogue], but it is a concept that permeates the Constitution generally' (*S v Makwanyane and Another*, 1995: § 237); 'The spirit of *ubuntu*, part of a deep cultural heritage of the majority of the population, suffuses the whole constitutional order' (*Port Elizabeth Municipality v Various Occupiers*, 2004: § 37).

Before I turn to explore how *ubuntu* is understood by SAADs, I want to underscore that the SAADs group is not an island unto itself. It is very likely that the way *ubuntu* is understood by members of the SAADs group is influenced both by the way *ubuntu* has been described by Africans from other African countries and by non-Africans. Augustine Shutte, a South African of British descent, is for instance sometimes quoted by SAADs in relation to the question of what *ubuntu* is (see e.g. Ngcoya 2009: 2).

What is *Ubuntu* According to SAADs?

I have found that amongst SAADs, it is possible to make an analytical distinction between two clusters of answers to the question 'What is *ubuntu*?'. Even though there are internal variations across the answers that are part of the same cluster, they have at least one feature in common: the answers of the first cluster all define *ubuntu* as a moral quality of a person, while the answers of the second cluster all define *ubuntu* as a phenomenon (for instance a philosophy, an ethic, African humanism, or a worldview) according to which persons are interconnected. It should be noted that the members of the SAADs group are not always consistent in the way they describe *ubuntu*; the same person might sometimes provide answers to the question 'What is *ubuntu*?' that fall within Cluster 1, and at other times provide answers to the question that fall within Cluster 2. The distinction between the two clusters of answers is illustrated in Diagram 1.

Diagram 1: Answers to the question ‘What is *ubuntu*?’ found among SAADs.



The Answers in Cluster 1

In the article, ‘The Historical Development of the Written Discourses on *Ubuntu*’ (Article 1 in this thesis), I offer a historical analysis of the various ways that *ubuntu* has been defined in written sources. The analysis shows that the term ‘*ubuntu*’ has been appearing in written sources since at least 1846, and that in written sources published prior to the 1960s, *ubuntu* always seems to be defined as a human quality (Article 1 in this thesis: 25-29). More specifically, all the descriptions of *ubuntu* that I have been able to find in texts from before the 1960s can be interpreted as descriptions of a *moral quality* of a human being/person.

Before the 1950s, all written sources mentioning *ubuntu* were, according to my research, authored by people of European descent. To my knowledge, Alexis Kagame, a Rwandese historian, philosopher, and Catholic priest from the Tutsi group, was the first African to publish a text containing the term ‘*ubuntu*’. In this text, entitled *La philosophie bantu-rwandaise de l’etre (The Bantu-Rwandan Philosophy of Being)*, ‘*ubuntu*’ is translated as ‘*libéralité*’ (liberality) (Kagame 1956: 53). Between 1957 and 1960, Archibald Campbell Jordan, a Xhosa novelist and teacher, wrote a series of articles under the rubric ‘Towards an African Literature’ for the magazine *Africa South*. A.C. Jordan’s articles were republished in the book *Towards an African Literature* (1973). His article entitled ‘Literary Stabilization’, originally from the October-December 1957 issue of *Africa South*, and Chapter 6 of *Towards an African Literature*, may be the first text authored by a *South African* of African descent that contains the term ‘*ubuntu*’. Referring to an 1864 essay of Tiyo Soga entitled ‘Ama-

khoiwa Namaqaba' (The Believers and the Pagans), A.C. Jordan explains that:

The essay on 'The Believers and the Pagans' also shows that the gulf is widening between the converted and the pagan. The converted has lost *ubuntu* (generosity, respect for man irrespective of position). The pagan can no longer expect hospitality amongst the Christians (Jordan 1973: 55).

Even though A.C. Jordan uses the term '*ubuntu*' in his interpretation of Tiyo Soga's essay, the term does not occur in 'Amakhoiwa Namaqaba' (1864). My research shows that our primary sources with respect to how SAADs understand *ubuntu* are limited to texts authored by SAADs from the period 1957-2012, in addition to recent oral testimonies (preserved in recordings, video clips, etc.) where SAADs explain what *ubuntu* is. Secondly, we have a number of texts from the period 1846-2012 where people who are not SAADs describe *ubuntu*. While these descriptions may be intended to reflect indigenous understandings of *ubuntu*, they remain secondary sources with respect to how *ubuntu* is understood by SAADs. All the quotes in the remainder of this article are, unless otherwise indicated, from members of the SAADs group.

My collection of written sources and oral testimonies shows that according to a number of SAADs, *ubuntu* is a moral quality of a person. To some SAADs, this moral quality is so positive that the very possession of it is praiseworthy. Desmond Tutu writes that: 'When we want to give high praise to someone we say, "*Yu, u nobuntu*"; "Hey, he or she has *ubuntu*"' (Tutu 1999: 34). Mfuniselwa John Bhengu, an acknowledged author on *ubuntu* and until recently a member of parliament from Inkatha Freedom Party, also describes *ubuntu* as a kind of 'soul force':

Ghandi gave India the spiritual concept of 'soul force' (*satyagraha*), a capacity to sustain and transcend physical discomfort in a triumph of concentration and restraint. Why should we Africans not give South Africa that 'soul force' (*ubuntu*) (Bhengu 1996: 19).

During an interview, Mfuniselwa John Bhengu also told me that *ubuntu* is a kind of divine element:

There is God in a human being. That is why even at your home when your parents are not around, and you try to steal, something says to you: 'Ah... don't, don't!' And then sometimes you say: 'Hey... I mustn't!' Nyerere [the first president of Tanzania] refers

to it as a spark saying ‘Please don’t do’. That is *ubuntu* (interview on 17 December 2009).

Some SAADs argue that empathy is an essential aspect of *ubuntu*. Pumla Gobodo-Madikizela, who was a member of the Human Rights Violations Committee of the South African Truth and Reconciliation Commission (TRC), explained that:

Its essence is about the capacity for empathy with another person. You see, that is the essence of *ubuntu*: that capacity which I think is something we ought to have as human beings, and which is present in all of us, that capacity to connect with another human being, to be touched, to be moved by another human being. That is *ubuntu*. If I walk down the street, and I see someone... I can see something in his face that says that this person is going through a difficult moment. I do not have time but I turn to him and say: ‘How are you today?’ That is *ubuntu* because I am connecting to how he seems to be feeling at the moment, and I am reaching out, and I am acknowledging that I see his pain and want to leave him with some kindness as I walk past him (interview on 27 August 2008).

Another example of how the moral quality of *ubuntu* can be expressed in behavior is provided by Cecil Mlanjeni, who was a victim of gross human rights violations during apartheid. He said:

What I can do to explain *ubuntu* to you is to give an example: I met you, I don’t know you. Maybe you are stuck. Sometimes you don’t even know the road. I have to show you the road or otherwise take you to where you want to go, and I have to take care of you in such a manner that you feel comfortable. Maybe you are lost in an area that you don’t know; for instance you are in our areas. You don’t know our areas but we come to you and assist you and secure you, so that you feel comfortable. If I don’t have transport to take you somewhere, then I have to ask somebody to take you. That is the soul of *ubuntu* in practice (interview on 5 November 2008).

Some SAADs depict *ubuntu* as a rather complex, multi-faceted quality. Desmond Tutu writes, for example, that if persons possess *ubuntu* it means that they are ‘generous, hospitable, friendly, caring and compassionate’ (Tutu 1999: 34).

One aspect of the moral quality of *ubuntu* is often said to be the capacity to forgive. Before quoting Cecilia Hlokofa on the subject of *ubuntu*

and forgiveness, I want to draw attention to the fact that Cecilia Hlokofa suffered greatly during apartheid, and that perhaps one might not expect that she would be open to the idea of forgiveness. Below Cecilia Hlokofa tells about her testimony to the TRC:

[Gade] Could you tell me a little about what human rights violations it was that formed the background for your statement to the TRC?

[Hlokofa] The statement was about the way my husband was killed and my arm was broken in Crossroads [township area near Cape Town International Airport]. It was early in the morning on a Sunday when the loud hailer said that all the men should attend a meeting. The people went there only to listen to what it was about. That was when they were attacked. They were beaten and shot at, so everybody was running around; it was a hell of a chaos. My husband was shot to death. Everyone was running around the area, and I was caught by these people. I was beaten, and they broke my arm. Most people died in that incident, and we don't know why people were called in (interview on 5 November 2008).

After telling about the incident, Cecilia Hlokofa said:

I can describe *ubuntu* in a manner of an example perhaps. If you did something wrong to me, let me not have a 'Drat on you!'. I must just give you an apology even though you do not come to me and give an apology. Even if you did a nasty thing, I have to be calm to you and be apologetic. So that is how I can explain *ubuntu*.

A person from the Khulumani Support Group translated what Cecilia Hlokofa said in isiXhosa into English, and just after the statement above, the translator attempted to elaborate on what Cecilia Hlokofa meant: 'You have to forgive! Whatever you did to me, let me forgive you – that would be *ubuntu*'. Cecilia Hlokofa confirmed this interpretation. Speaking about Nelson Mandela, Khoza Mgojo, a former TRC commissioner who has also served as President of the South African Council of Churches, said that:

[Mgojo] In most places, you can't have a person who suffered like that, like Mandela, doing that thing [forgiving former enemies]. But the *ubuntu* was pushing him. If you have this [*ubuntu*], then you

must forgive, but not forget. You must forgive, but not forget because if you forget, you will repeat the same thing. You see?

[Gade] Just for me to understand it... It is a very interesting link you make between *ubuntu* and forgiveness. So you think that if people have *ubuntu*, then they are likely...

[Mgojo] They *must* forgive, especially when people are religious people. How many times does God forgive us? In fact we should be punished every time by God, but God forgives us because of this godliness which has to boost what we call '*ubuntu*' (interview on 17 November 2008).

Dumisa Ntsebeza, the TRC commissioner who led the Investigative Unit that sought to uncover the truth about gross human rights violations during apartheid, connected *ubuntu* and forgiveness by means of another example:

[Ntsebeza] So we investigated [the killing of the Gugulethu Seven] and everything that I just told you: the planning, the heading from Pretoria, the Vlakplass involvement, Eugene de Kock's involvement; all of that came out in an investigation, a special investigation that was conducted by the Western Cape branch of the Investigative Unit. So what had been perpetuated from 1986 in the media and South African history as having been a terrorist attack which was foiled by the police was shown in fact for what it really was. And it brought a lot of trauma to the victims, to those mothers, because for all those years until 1997-1998 when we exposed the evil of what had happened, how their children had been lured into a death trap... [Sentence not finished].

When we revealed all of that, the mothers started to be more traumatized, but in some very strange way they were able to relate to the revelation of the truth. They had this catharsis that was brought about by the knowledge that their sons were actually murdered, rather than they were killed as they were attempting... [to conduct a terrorist attack]. So there was a shift of the morality of the kill, of the event.

Now, when one of the killers applied for amnesty, we made an arrangement after he had testified for him to meet a group of the mothers. We arranged a private session. It was remarkable what happened there! This guy was open, he did not pretend to justify,

he was asking for them to find it in their hearts to forgive him if they could ever do that. And one of the mothers was very remarkable in the way that she dealt with this. She said: ‘Look, there is nothing we can do now about the people who died. But one thing that causes us to feel released and liberated is the fact that you are sitting here. You are somebody and some other woman’s child. You are sitting here, and you are telling how you slaughtered our children, and the mere fact that you have now found the courage to come and talk to us... Whatever happens to your amnesty application, we have forgiven you’. This is a very dramatic example.

[Gade] So you think that the mother who was able to forgive had *ubuntu*?

[Ntsebeza] Yes! (interview on 24 November 2008).

The Answers in Cluster 2

My analysis of the historical development of the written discourses on *ubuntu* (Article 1 in this thesis) suggests that after the term ‘*ubuntu*’ appeared in writing in 1846, more than a century passed before the first authors began to define *ubuntu* more broadly than simply as a human quality. If I am correct, then it was not until the second half of the twentieth century that *ubuntu* began to be defined as a philosophy, an ethic, African humanism, and as a worldview in written sources. Furthermore, my historical findings indicate that it was in the 1990s that the Nguni proverb ‘*umuntu ngumuntu ngabantu*’ was used for the first time to describe what *ubuntu* is.

In recent years some SAADs have used the proverb to explain what *ubuntu* is (e.g. Bhengu 1996: 6; Tshoose 2009: 14). Furthermore, there are also members of the SAADs group who define *ubuntu* as a philosophy, an ethic, African humanism, or as a worldview. This can be illustrated with some quotes:

Ubuntu is a philosophy that could assist in rebuilding within and amongst different communities (Motsei 2007: 10).

It [*ubuntu*] is a social ethic, a unifying vision enshrined in the Zulu maxim ‘*umuntu ngumuntu ngabanye*’ (‘one is a person through others’) (Makgoba 1999: 153).

That healthy atmosphere also emanated from the authentic African humanism (*ubuntu*) that pervaded the college (Buthelezi 2004: 129).

Ubuntu stresses the importance of community, solidarity, caring, and sharing. This worldview [*ubuntu*] advocates a profound sense of interdependence and emphasizes that our true human potential can only be realized in partnership with others (Ngcoya 2009: 1).

SAADs do not always explain the nature of the philosophy, the ethic, the African humanism, or the worldview that they define as *ubuntu*. But when they do offer explanations, it usually becomes clear that *ubuntu* is understood as a phenomenon according to which persons are interconnected. For example, Mangosuthu Buthelezi, the leader of Inkatha Freedom Party, told me that he believes that ‘*ubuntu*’ can best be translated as ‘humanism’, and that *ubuntu* is related to interconnectedness:

Ubuntu is that I am what I am because of you. President Kaunda of Zambia wrote a book on [African] humanism. It is the nearest English equivalent to that. I think that ‘humanism’ is the nearest translation of what *ubuntu* is (interview on 16 December 2009).

Bongani Finca, a former TRC commissioner, elaborated the idea that *ubuntu* is about interconnectedness in greater detail. He simply defined *ubuntu* as the fact that persons are what they are because of other persons:

You are what you are because of other people. We don’t live in isolation, we live in a community. That sense of community is what makes you who you are, and if that community becomes broken, then you yourselves also become broken. And the restoration of that community, the healing of that community, cannot happen unless you contribute to the healing of it in a broader sense. Basically that is it. *Ubuntu* is that I am because of others, in relationships with others. I am not an island of myself, I am part of the community, I am part of the greater group (interview on 26 November 2008).

Khoza Mgojo also described *ubuntu* as something that has to do with interconnectedness, and he made a link between *ubuntu* and the idea of collective shame:

With us it is you, family, clan and nation. The tying factor is called *ubuntu*. What injures me is injuring you, what injures us is injuring our clan, what is injuring our clan is injuring the whole community and the nation. That is *ubuntu*. You cannot live as an individual. That is why, when you are doing a wrong thing, you are putting shame on the whole group (interview on 17 November 2008).

Likewise speaking in terms of interconnectedness, Desmond Tutu refers to *ubuntu* as a phenomenon that implies the humanity of the perpetrator of apartheid's atrocities was caught up in that of his victim:

Ubuntu means that in a real sense even the supporters of apartheid were victims of the vicious system which they implemented and which they supported so enthusiastically. Our humanity was intertwined. The humanity of the perpetrator of apartheid's atrocities was caught up and bound up in that of his victim whether he liked it or not. In the process of dehumanizing another, in inflicting untold harm and suffering, the perpetrator was inexorably being dehumanized as well (Tutu 1999: 35).

Furthermore, Bongani Finca explained that crime first and foremost is a bad thing because it has negative effects on the harmony of the community, and that according to *ubuntu* it is more important to restore communal harmony than to secure punishment:

Instead of pursuing punishment, you are more interested in restoring relationships. That is fundamental to *ubuntu* because *ubuntu* does not focus on what has been done to you, *ubuntu* focuses on how we can be restored together as a community, so that we can heal together. *Ubuntu* does not only concentrate on the pain that has been caused to me, but also recognizes the damage that has been done to you. In the course of what you are doing to me, you are also hurting yourself (interview on 26 November 2008).

Bongani Finca also explained that:

Ubuntu wants that in the process of me being restored, you must also be restored because we can only be fully human when we are human together. You must heal, and I must assist you to heal, as much as I must heal, and you must assist me to heal (interview on 26 November 2008).

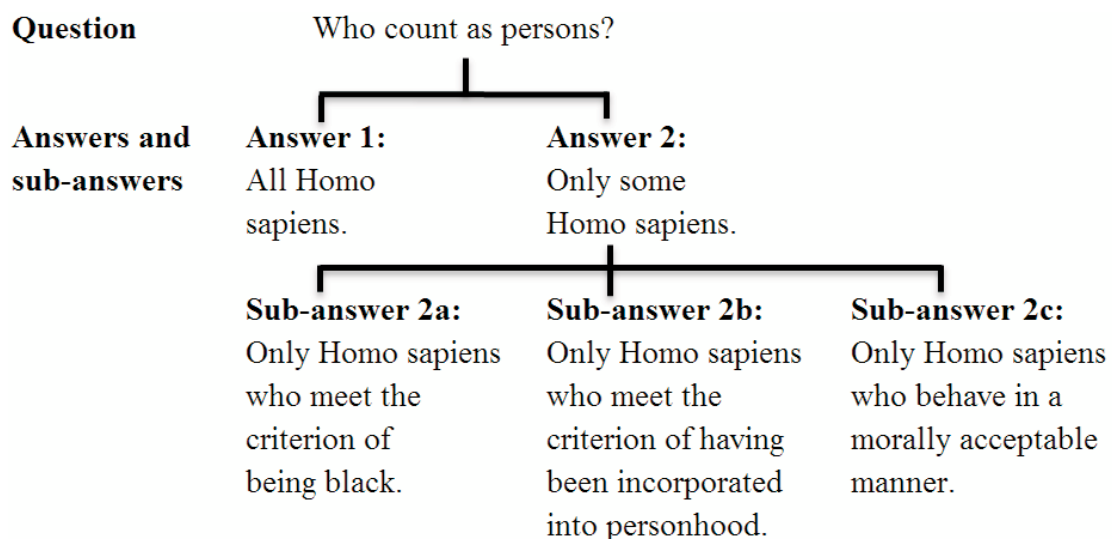
Who Count as Persons According to SAADs?

The concept of a person is of central importance in relation to how SAADs understand *ubuntu*. To be more explicit:

- In the answers in Cluster 1, *ubuntu* is defined as a moral quality *of a person*. The moral quality of a person is, logically speaking, something only a person can possess, so if you are not a person, then you are not a possible subject of this moral quality.
- In the answers in Cluster 2, *ubuntu* is defined as a phenomenon (for instance a philosophy, an ethic, African humanism, or a worldview) according to which *persons are interconnected*. If you are not a person, then you are not part of the interconnectedness between persons.

I will now turn to explore how SAADs answer the question ‘Who count as persons?’. My research shows that some SAADs believe that *all Homo sapiens* are persons, whereas others hold the view that only *some Homo sapiens* count as persons: only those who are black, only those who have been incorporated into personhood, or only those who behave in a morally acceptable manner. In other words, being black, having been incorporated into personhood, or behaving in a morally acceptable manner are seen as *necessary conditions* for being a person. The different answers to the question ‘Who counts as a person?’ are illustrated in Diagram 2. It should be noted that Answer 1 and 2 are logically incompatible, whereas Sub-answers 2a, 2b, and 2c may be combined without contradicting each other.

Diagram 2: Answers and sub-answers to the question ‘Who count as persons?’ found among SAADs.



Answer 1

In his book, *Ubuntu: The Essence of Democracy*, Mfuniselwa John Bhengu supports the idea that all *Homo sapiens* are persons. He writes that:

A primary characteristic of African ‘being’ is its inclusiveness. African theology declares that *umuntu* [the Nguni term ‘*umuntu*’ is commonly translated as ‘person’] is a dynamic concept: it means *all* humans not only African humans (Bhengu 1996: 50).

Bhekithemba Mchunu, a prince of the Zulu Royal House and an *induna* (advisor) of traditional leaders in KwaZulu-Natal, underscored that ‘we are all *abantu*’ [pl. of ‘*umuntu*’, meaning ‘persons’], and he even specified that ‘it [the term “*umuntu*”] does not only refer to somebody who is black, somebody who has undergone rituals’ (interview on 13 December 2009). Furthermore, Kgereshi Peter Mokwena from the Western Cape Department of Cultural Affairs & Sport writes that:

‘*Umuntu*’ (Nguni) refers to a human being no matter their color, linguistic affinity, political affiliation and even ethnic background. A white man or woman is as such *umuntu/motho* [‘*motho*’ is a term from the Sesotho language], hence we say ‘*Amuntu o mhlophe*’ in isiZulu which means ‘a white person’. We say it in this manner due to the fact that a white person or any human being for that matter is primarily *umuntu/motho* (human) by their nature, before being defined in racial or ethnic terms (e-mail of 2 September 2009).

Mumsy Ngcobo from the Gauteng Department of Sports, Arts, Culture & Recreation also explains that:

Umuntu is a person whether Mlungu, Indian or any living person. But *ubuntu* is something very much different. You can be *umuntu omhlophe* (white person) *umuntu omnyama* (black person) *ongenabantu* (a human being irrespective of colour without humanity). Therefore humanity is within an individual. Some human beings do have *ubuntu* some don’t. That’s why we talk of heartless, self-centered people, etc. (e-mail of 1 September 2009).

Answer 2

I will now examine the idea that only *Homo sapiens* who meet the criterion of being black, of having been incorporated into personhood, or of behaving in a morally acceptable manner count as persons.

Sub-answer 2a

To my knowledge, *Hunhuims or Ubuntuism: A Zimbabwe Indigenous Political Philosophy* (1980) was the first book to be written specifically on *ubuntu*. In this book, Mr. and Mrs. Samkange write that ‘[w]hen one sees two people, one white and the other black, coming along, we say: “*Hona munhu uyo ari kufamba murungu* [chiShona]”, or in isiNdebele [one of the Nguni languages], “*Nanguyana umuntu ohamba lo mlungu*”’. (Samkange & Samkange 1980: 38). This means ‘There is a *munhu/umuntu* [person] walking with a white man’. The Samkanges explain why people say so:

Now, is there a sense in which we can say that a white man lacks something which we always identify in an African? Yes, black Americans, for instance, identify something they call ‘soul’ as being almost exclusively among black folk. What is this thing they call soul? It is indefinable, yet identifiable among black people (Samkange & Samkange 1980: 38).

The Samkanges were Zimbabweans, but the idea that only blacks are persons can, apparently, also be found among SAADs. Aninka Claassens worked as a Trac fieldworker in South African rural areas, and in 1986 she published a short article in the journal *The Black Sash*. In this article, she explained how SAADs, in her experience, understood the concept of *abantu*:

‘*Abantu*’ sometimes has another meaning, which is ‘black people’, white people not being included. It is necessary to specify who is in the world before one can continue to call everyone there ‘*abantu*’. Otherwise when you mention that one of these *abantu* is called Oliver Twist people look skeptical – *abantu* don’t have names like that. It’s sad really to have to say ‘*abantu nabaMhlope*’, ‘people and whites’; particularly when the word ‘*abantu*’ is a personification of the quality *ubuntu* – meaning human behavior, compassion, humanity. It is however not all that surprising – whites have used the word ‘Bantu’ to mean ‘black people’ and there has been a terrible shortage of *ubuntu* in white people’s behavior towards black (Claassens 1986: 18).

The existence of the idea that only blacks are persons has been confirmed by some members of the SAADs group. In a speech about the proud legacy of Nelson Mandela held at a symposium organized by the Department of Education in Port Elizabeth, Fred Khumalo, an award-winning columnist and the Insight & Opinion Editor of the Sunday Times, said that:

Now, I was born and bred in KwaZulu Natal, grew up in a tiny township called Mpumalanga in the midlands area. Thanks to the tales of valor that we listened to from our grandmothers, all the heroes that we were told of were Zulu. My world view revolved around *abantu* (human beings, meaning black people) and *abelungu* (whites). There was no rancor in our attitude towards whites, but they were simply not *abantu*. My world view – and I suppose that I speak on behalf of many of my peers – was that narrow (Khumalo 2008: 1).

My informers have provided some interesting explanations for the development of the idea that only blacks are persons. According to Thabo Sebogodi from the Gauteng Department of Sports, Arts, Culture & Recreation, the reason some Africans have been saying that whites are not persons must be located in the history of racial oppression. He writes that:

The reason African were saying ‘*makgoa ga se batho*’ (‘whites are not human’) are recorded in our history of oppression as South Africans and Africans in general. We (as Africans) could not just believe that human beings were capable of treating others in the manner that Africans were treated (e-mail of 2 September 2009).

Mangosuthu Buthelezi provided another explanation:

You know what, that [idea] was caused by the apartheid regime. Because the apartheid regime – at one time they called us ‘Bantu’ as if it refers to black people only. The word ‘*abantu*’ in fact refers to people [all *Homo sapiens*]. It was an official designation of black people that one was *abantu* which is a plural of *umuntu*. It was awkward because if you were a black sergeant in the police, they would not say ‘sergeant so and so’, they would say ‘Bantu sergeant so and so’. That confusion was caused by that (interview on 16 December 2009).

Sub-answer 2b

In his acknowledged book, *African Philosophy through Ubuntu*, Magobe Ramose explains that in traditional African thought, a *Homo sapiens* is not a person by birth, but is incorporated into personhood:

In order to be a person the human individual must, according to traditional African thought, go through various community pre-

scribed stages, and be part of certain ceremonies and rituals. Only at the completion of all prescribed stages does the human individual acquire the status of a person. Prior to this the individual is regarded as 'it' to show that he or she is not yet incorporated into the body of persons. In traditional African thought personhood is, therefore, acquired and not merely established by virtue of the fact of being human (Ramose 1999: 81).

To support this interpretation, Magobe Ramose refers to the work of Ifeanyi Menkiti, an acknowledged Nigerian philosopher. In the famous article, 'Persons and Community in African Traditional Thought', Ifeanyi Menkiti explains that:

Without incorporation into this or that community, individuals are considered to be mere danglers to whom the description 'person' does not fully apply. For personhood is something which has to be achieved, and it is not given simply because one is born of human seed (Menkiti 1984: 172; quoted in Ramose 1999: 82).

In contemporary African philosophy, the conception of a person that is described by Magobe Ramose in his book on *ubuntu* is sometimes referred to as 'the normative conception of a person' (see Menkiti 2004). Kwasi Wiredu offers insight as to how this conception has developed in the literature:

A person is not just a certain biological entity with a certain psycho-physical endowment, but, rather, a being of this kind who has shown a basic willingness and ability to fulfill his or her obligations in the community. Personhood, on this showing, is something of an achievement. It is only comparatively recently that attention has been called, in contemporary African philosophy, to this normative character of the traditional African concept of a person. In anthropology, however, Meyer Fortes, in the 1940s, noted ([Fortes] 1987) the normative dimensions of the concept of a person among the Tallensi of Northern Ghana and other African peoples. In contemporary African philosophy the *locus classicus* of the normative conception of a person is Ifeanyi Menkiti's 'Persons and Community in African Traditional Thought' (1984) (Wiredu 2004: 17).

Sub-answer 2c

Some SAADs believe that *Homo sapiens* can demonstrate that they are *not* persons by the way they behave. This belief does, likewise, represent a normative conception of a person; a conception according to which the status of being a person depends on a normative evaluation of behavior. As Mangosuthu Buthelezi has said, ‘If a person behaves in a way which is not consonant with expected human behavior, then we say that he is no longer *umuntu* because he has not got *ubuntu*. So you sort of classify him as an animal’ (interview on 16 December 2009). In line with this statement, Mfuniselwa John Bhengu explained:

The moment you go outside the boundaries of *ubuntu*, you actually begin to be labeled as an animal [by the community] – *kintu* [animal] as opposed to *ubuntu*. Once you are at this level, even your community, they just reject and repel [you] (interview on 17 December 2009).

Bhekithemba Mchunu went into further detail talking about the area in KwaZulu Natal where he is an *induna*:

[Mchunu] He [the murderer or the rapist] is not considered to be a human being *at all* by the way that he is behaving towards other people.

[Gade] So that is actually an example where not everybody is considered to be *abantu*?

[Mchunu] Exactly, the community will say – they even say it: You are not a human being. You do not deserve to be with us. They would say that. Even today, such cases do happen. They [the community members] can go to the extent where they kill a person. We have had some cases where a person is stoned, where a person is killed.

[Gade] Even today?

[Mchunu] Even today, it does happen.

[Gade] Because they are not considered to be persons?

[Mchunu] In rape cases where a person is found raping somebody, or killing somebody... If you are not there as a traditional leader to

calm them down, people will take the law into their own hands. They would kill that person for the sake of protecting *ubuntu* because that person has lost humanity. He is no longer a person. He is regarded as an animal because what he is doing is not accepted (interview on 13 December 2009).

Some Reflections

In the preceding discussion, I have shown that among SAADs it is possible to find both an *inclusive* and different *exclusive* conceptions of a person. According to the inclusive conception, all *Homo sapiens* are persons, whereas according to the exclusive conceptions, only some *Homo sapiens* count as persons. I will use the different conceptions of a person as a background for distinguishing between inclusive and exclusive ideas about the nature of *ubuntu*:

- *Inclusive ideas about the nature of ubuntu*: Ideas according to which *ubuntu* is (a) a moral quality of a person that may potentially be possessed by *all Homo sapiens* since *all Homo sapiens* are persons, or (b) a phenomenon according to which persons, understood as *all Homo sapiens*, are interconnected.
- *Exclusive ideas about the nature of ubuntu*: Ideas according to which *ubuntu* is (a) a moral quality of a person that may only be possessed by *some Homo sapiens* since only *some Homo sapiens* are persons, or (b) a phenomenon according to which persons, understood as *some Homo sapiens*, are interconnected.

Based on my research, it is not possible to justify any quantitative claims about the extent of either inclusive or exclusive ideas about the nature of *ubuntu*. My point is simply that there are *some* SAADs who have inclusive ideas about the nature of *ubuntu*, and *some* SAADs who have exclusive ideas. When I first discovered exclusive ideas about the nature of *ubuntu* among members of the SAADs group, my immediate reaction was to consider these ideas as ethically illegitimate. But maybe this conclusion was too hasty. I will now present some possible positions on the ethical legitimacy of the different ideas about the nature of *ubuntu*.

Reflections on Ethical Legitimacy

Individuals with a deontological mindset may believe that people have an *ethical obligation* to consider and treat all *Homo sapiens* as persons, and that this obligation is valid under all social and political circumstances. From this point of view, the exclusive ideas about the nature of *ubuntu* will *always* be ethically illegitimate since they are based on the view that

only *some Homo sapiens* count as persons. It should also be noted that exclusive ideas about the nature of *ubuntu* underpin group segregation; more specifically, segregation between those who are part of the ‘community of *persons*’ and those who are not. This distinction devaluates those who are not part of the ‘community of *persons*’ since they are not considered to be possible subjects of the positive moral quality of *ubuntu*.

Individuals who tend to a consequentialist way of thinking may believe that the different idea about the nature of *ubuntu* are ethically legitimate in contexts where they have good consequences, and ethically illegitimate in contexts where they have bad consequences. What consequences do the different ideas about the nature of *ubuntu* have in post-apartheid South Africa? The *inclusive ideas* could be interpreted to mean that all South Africans, even the worst apartheid perpetrators, might potentially (in the future) be subjects of the moral quality of *ubuntu*, and that all South Africans, irrespective of what they have done in the past, are part and parcel of the interconnectedness between persons. It would, I think, be reasonable to argue that such views underpin the national reconciliation policy in South Africa. The *exclusive ideas* could, on the other hand, be interpreted to mean that there are groups in South Africa whose members will never be able to possess the positive moral quality of *ubuntu*, and whose members will never be part of the interconnectedness between persons, simply because they are not persons. Such views may become sources of renewed conflict and group segregation. Consequentialists who consider the ideological underpinning of the national reconciliation policy as a good consequence and renewed conflicts and group segregation as a bad consequence might therefore, on that basis, argue that in post-apartheid South Africa, the inclusive ideas about the nature of *ubuntu* are ethically legitimate in opposition to the exclusive ones.

Lovemore Mbigi states that ‘the heart and soul of *ubuntu* is the solidarity principle, group conformity and care in the face of survival challenges, based on unconditional group compassion, respect, dignity, trust, openness and cooperation’ (quoted in Swanepoel 2008: 360). Faced with severe survival challenges, exclusive ideas about the nature of *ubuntu* may increase the chance of group survival. If a group is severely threatened, the group is likely to stand stronger if its members have a strong sense of group identity and compassion. Group identity and compassion could be strengthened by exclusive ideas about the nature of *ubuntu* if such ideas are taken to imply that the members of the group have a *unique* bond of interconnectedness, or are bound together by the *exclusive* possession of the positive moral quality of *ubuntu*. From a consequentialist point of view, it may be argued that in a situation where a (morally good) group is threatened, exclusive ideas about the nature of *ubuntu* are legitimate if they

increase the chance of group survival. It may even be argued that in such a situation, inclusive ideas about the nature of *ubuntu* might be problematic to the extent that they might hinder group members from fighting back against those who threaten the group. The inclusive *ubuntu* idea that we are *all* ‘brothers’, even with those who threaten us, could have this pacifying effect.

As I have attempted to show, whether or not people believe that the ethical legitimacy of the different ideas about the nature of *ubuntu* is relative to social and political contexts may depend on their ethical orientation. Those who have a deontological mindset may believe that exclusive ideas about the nature of *ubuntu* are always ethically illegitimate, whereas those who tend towards a more consequentialist way of thinking may find that exclusive ideas about the nature of *ubuntu* could be legitimate in some contexts. Philosophers have been debating whether deontological ethical positions are preferable to consequentialist ones (and vice versa) for centuries. I will abstain from entering into that debate and only underscore that it would make good sense to argue that in post-apartheid South Africa, exclusive ideas about the nature of *ubuntu* are ethically illegitimate both from a deontological and a consequentialist point of view.

Reflections on Data Collection

The findings that have been presented in this article are informed by a research process through which I have actively tried to uncover different ideas about what *ubuntu* is instead of seeking consensus. To increase the possibility of discovering different ideas about the nature of *ubuntu*, I have attempted to draw on informants from the SAADs group with diverse backgrounds. The underlying rationale is simple: just as the fisherman who tries to catch different types of fish would probably increase his chances of doing so by throwing his net into different waters, the researcher who tries to find different ideas about the nature of *ubuntu* would probably increase the chance of doing so by getting informants with diverse backgrounds.

In addition to a number of authors of texts on *ubuntu*, my informants include more than fifty members of the SAADs group who have informed me about *ubuntu* in qualitative interviews, conversations and e-mail correspondence. My first research stay in South Africa was from August to December 2008 where I was affiliated with the Institute for Justice and Reconciliation (IJR) in Cape Town. Because of my affiliation with the IJR, I was afforded an opportunity to discuss *ubuntu* with members of the Khumani Support Group in Cape Town. Furthermore, I traveled around Western Cape, Eastern Cape, KwaZulu Natal, and Gauteng, to conduct interviews with former TRC commissioners and committee members. My

second research stay was from November 2009 to January 2010. During this stay I spend most of my time in KwaZulu Natal as a guest of Prince Velekhaya Shange from the Zulu Royal House. Prince Velekhaya Shange kindly introduced me to a number of people from the Royal House, and arranged for me to speak with traditional Zulu leaders and politicians. During the periods where I have been in Denmark (my country of origin), I have used e-mail correspondence as a mean to collect data on how SAADs understand *ubuntu*. My e-mail dialogues have primarily been with South African academics, and people who work in South African government departments.

When I began to research on *ubuntu*, I thought that *all* SAADs were of the opinion that *ubuntu* is an indigenous philosophy about how persons, understood as *all Homo sapiens*, are interconnected. However, as a consequence of my active search for different ideas about the nature of *ubuntu*, I *gradually* arrived at the findings that I have presented in this article. But even if I continued my search for different ideas about the nature of *ubuntu* for a lifetime, I would only get in contact with a small fraction of the SAADs group. There might *of course* be members of the SAADs group who have ideas about the nature of *ubuntu* that I have not been able to identify. If this is the case, it would mean that my map of how SAADs understand *ubuntu* lacks detail, but not that my findings are invalid. I have succeeded in identifying a number of different ideas about the nature of *ubuntu*, and these ideas do exist, irrespective of whether it would be possible to find additional ideas.

Final Remarks

As noted in the introduction, I am not aware that other scholars are engaged in the project of mapping out the entire landscape of different ideas about the nature of *ubuntu* that are found among members of the SAADs group. Accordingly, I hope that my map will be of interest to many people, and that it will be used as a background for developing more detailed maps. Some of the findings that I have presented may come as a surprise to people who have only taken an interest in some parts of the *ubuntu* landscape. Some may be surprised to find that that in addition to inclusive ideas about the nature of *ubuntu*, there are also exclusive ideas. The existence of exclusive ideas suggests that people should be careful not to overromanticize SAADs' understanding of *ubuntu*. Both from a deontological and a consequentiatist point of view it would, as I have emphasized, make good sense to argue that in post-apartheid South Africa SAADs' exclusive ideas about the nature of *ubuntu* are ethically illegitimate.

Restorative Justice and the South African Truth and Reconciliation Process²⁷

Abstract

It has frequently been argued that the post-apartheid Truth and Reconciliation Commission (TRC) was committed to restorative justice (RJ), and that RJ has deep historical roots in African indigenous cultures by virtue of its congruence both with *ubuntu* and with African indigenous justice systems (AIJS). In this article, I look into the question of what RJ is. I also present the finding that the term ‘restorative justice’ appears only in transcripts of three public TRC hearings, and the hypothesis that the TRC first really began to take notice of the term ‘restorative justice’ after April 1997, when the South African Law Commission published an Issue Paper dealing with RJ. Furthermore, I show that neither the connection between RJ and *ubuntu* nor the connection between RJ and AIJS is as straightforward and unproblematic as often assumed.

Introduction

In my research on *ubuntu* and the South African transition from apartheid to multi-racial democracy (see Article 1 & Article 2 in this thesis), I have frequently come across references to restorative justice (RJ). This is what has inspired me to look deeper into the issue of RJ and the South African truth and reconciliation process in this article.

I will begin by exemplifying the idea that whereas the post-apartheid Truth and Reconciliation Commission (TRC) did not offer retributive justice, it did promote another kind of justice, namely RJ. Afterwards, I want to look deeper into the question of what RJ is. It seems generally accepted in the present literature on RJ that the term ‘restorative justice’ was coined during the second half of the twentieth century. However, I will show that

²⁷ An anonymous version of this article is presently under review. A draft version of the article was presented at the conference ‘Conceptions of Justice’, Aarhus, 28 June 2012. I want to thank all those who were present for their comments. Furthermore, I want to direct special thanks to Steen Wackerhausen, Aase Rieck Sørensen and Birgitte B. N. Gade. I am particularly grateful for your guidance and comments.

the term has appeared in written sources since at least 1834. Furthermore, I will argue that it might be reasonable to consider the so-called RJ movement a post-1990 phenomenon, even though many of the ideas most central to this movement were already put on the criminal justice agenda by scholars such as Albert Eglash, Nils Christie, Randy Barnett and Howard Zehr during the period 1950-1990. I will also explain that today, the term 'restorative justice' is used by so many different people, in so many different contexts and for so many different purposes, that the meaning of the term has become quite vague. There is no agreement on what RJ is.

The next thing I will do is return to the issue of RJ and the South African truth and reconciliation process. Firstly, I will present the finding that the term 'restorative justice' appears only in the transcripts of three public TRC hearings (one victim hearing and two special hearings), whereupon I will explore the use of the term 'restorative justice' in the Truth and Reconciliation of South Africa Report (hereafter 'the TRC Report' or simply 'the Report'). The understanding of RJ in the TRC Report is inspired by the understanding of RJ in Issue Paper 7, published by the South African Law Commission in April 1997. It is my hypothesis that the TRC first really began to take notice of the term 'restorative justice' *after* the publication of this Issue Paper. If this is true, then it does, to a considerable extent, represent a *retrospective self-interpretation* when the Report describes the TRC as an institution committed to RJ.

In the last part of the article, I will show that in post-apartheid South Africa, a number of people have argued that RJ has deep historical roots in African indigenous cultures by being congruent with *ubuntu* and African indigenous justice systems (AIJS). This needs to be understood within the context of the call for an African renaissance in post-apartheid South Africa, and the call for Africanization in post-colonial Africa more generally. If it could be shown that RJ has deep historical roots in African cultures, then this would have legitimizing effects on RJ among people who are calling for Africanization. I will argue that both the connection between RJ and *ubuntu* and that between RJ and AIJS are less straightforward and unproblematic than often assumed. *Firstly*, the idea that RJ is congruent with *ubuntu* seems to have been formulated in writing for the first time in history in 1997, and there is no consensus on how the connection between RJ and *ubuntu* is constituted. This may not come as a surprise, for not only is there no consensus on what RJ is, there is also no consensus on the nature of *ubuntu* (see Article 1 & Article 2 in this thesis). *Secondly*, according to written sources from the nineteenth and the first half of the twentieth century, AIJS of former times were not as restorative as is often assumed at present, a finding that might suggest that the idea of harmony between RJ and AIJS

lacks nuances. According to some sources on AIJS, witchcraft, murder, theft and incest were sometimes punished by death.

After these words of introduction, I will now turn to exemplify the idea that whereas the post-apartheid TRC did not offer retributive justice, it did promote another kind of justice, namely RJ.

Dealing with the Past in Post-Apartheid South Africa: The Question of Justice

In the TRC process, apartheid perpetrators were offered *conditional amnesty*. They had to file an individual amnesty application and show that the gross violations of human rights for which they sought amnesty were politically motivated. Furthermore, they had to disclose the full truth about their violations, normally during public hearings (the conditions for amnesty are formulated in detail in Chapter 4 of the Promotion of National Unity and Reconciliation Act, No. 34 of 1995). The TRC received 7,112 amnesty applications and granted amnesty to 849 perpetrators.

Was justice sacrificed when the TRC offered conditional amnesty to perpetrators? According to Desmond Tutu, the chairman of the TRC, the correct answer to this question is in the negative. In the foreword of the TRC Report, he explains that:

Those who have cared about the future of our country have been worried that the amnesty provision might, amongst other things, encourage impunity because it seemed to sacrifice justice. We believe this view to be incorrect. The amnesty applicant has to admit responsibility for the act for which amnesty is being sought, thus dealing with the matter of impunity. Furthermore, apart from the most exceptional circumstances, the application is dealt with in a public hearing. The applicant must therefore make his admission in the full glare of publicity. Let us imagine what this means. Often this is the first time that an applicant's family and community learn that an apparently decent man was, for instance, a callous torturer or a member of a ruthless death squad that assassinated many opponents of the previous regime. There is, therefore, a price to be paid (TRC Report 1998, Vol. 1: 8).

Though it was not cost-free for perpetrators to take part in the amnesty process, the TRC clearly did not offer retributive justice since it did not impose punishment on perpetrators. On the contrary, the TRC did, by means of amnesty, ensure that some perpetrators could not be punished for the human rights violations they had committed. If the TRC offered justice,

then it must be another kind of justice which is not retributive in nature. Desmond Tutu explains that such a kind of justice exists, and that it is served when efforts are being made to work for healing, for forgiveness and for reconciliation (note the references to *ubuntu* and African jurisprudence below):

Retributive justice – in which an impersonal state hands down punishment with little consideration for victims and hardly any for perpetrators – is not the only form of justice. I contend that there is another kind of justice, restorative justice, which was characteristic of traditional African jurisprudence. Here the central concern is not retribution or punishment but, in the spirit of *ubuntu*, the healing of breaches, the redressing of imbalances, the restoration of broken relationships. This kind of justice seeks to rehabilitate both the victim and the perpetrator, who should be given the opportunity to be reintegrated into the community he or she has injured by his or her offence. This is a far more personal approach, which sees the offence as something that has happened to people and whose consequence is a rupture in relationships. Thus we should claim that justice, restorative justice, is being served when efforts are being made to work for healing, for forgiveness and for reconciliation (Tutu 1999: 51).

In the literature on the TRC, the work of the commission is commonly held to be congruent with RJ. Richard Bell explains that: ‘It is in the correlation between *ubuntu*, rooted in whatever forms of “communalism” may survive in South Africa (moderate or otherwise), and the kind of justice referred to as “restorative justice”, that we find the foundation stones for the Truth and Reconciliation Commission and a possibility for a moral and spiritual renaissance’ (Bell 2002: 90). Alex Boraine also writes that ‘[r]estorative justice has manifested itself in the concept of a truth commission and in the South African model in particular’ (Boraine 2000: 426). Furthermore, Ann Skelton and Cheryl Frank refer to the TRC as ‘South Africa’s most famous and engaging experience with restorative justice’ (Skelton and Frank 2001: 116). It has, however, also been argued that the mandate of the TRC was not fully in harmony with RJ. In the section of the TRC Report entitled ‘*Ubuntu: Promoting Restorative Justice*’ (TRC Report 1998, Vol. 1: 125-131), the commission describes itself as an institution that attempts to promote RJ, but it also notes that:

Restorative justice demands that the accountability of perpetrators be extended to making a contribution to the restoration of the well-

being of their victims. Although neither the interim Constitution nor the Act [the Promotion of National Unity and Reconciliation Act, No. 34 of 1995] provides for this, this important consideration was highlighted by the Commission. The fact that people are given their freedom without taking responsibility for some form of restitution remains a major problem with the amnesty process. Only if the emerging truth unleashes a social dynamic that includes redressing the suffering of victims will it meet the ideal of restorative justice (TRC Report 1998, Vol. 1: 131).

Sometimes perpetrators did offer restitution after they had received amnesty. Khoza Mgojo, one of the former TRC commissioners, gave a good example during an interview I conducted with him in 2008. He told me about Brian Mitchell, who was granted amnesty for his role in killing 11 people in the 1988 Trust Feed Massacre. After amnesty had been granted, Khoza Mgojo led a group that set up a meeting in Trust Feed between Brian Mitchell and the people affected by the killings:

It was tense! The police had to be there because we did not know what was going to happen. We were just taking the chance. When Brian Mitchell told his story the people were fuming with anger, but at the end of it all the people thanked Brian Mitchell for his courage to come and face them. That is where the relationship started between Brian Mitchell and the community. Mitchell promised that he was going to help them by supporting the community, by raising funds somewhere so that maybe a centre for the community could be established. And then the friendship began [which has lasted] up to now. So that is why I say that if people who have done something, if they give back to the people they have injured [i.e. offer restitution], it helps – I saw it with Brian Mitchell (interview in Gamalakhe on 17 November 2008).

Restorative Justice

So far I have not gone into much detail with the nature of RJ. I intend to make up for this in the present section. I will begin by exploring the genealogy of the term ‘restorative justice’, before I look into the nature of the so-called RJ movement and the definition of RJ.

The Genealogy of the Term ‘Restorative Justice’

Christopher Marshall writes that the ‘term *restorative justice* was coined in the 1970s to describe a way to respond to crime that focuses primarily on repairing the damage caused by the criminal act and restoring, insofar as

possible, the dignity and wellbeing of all those involved’ (Marshall 2011: dictionary entry ‘Justice, Restorative’). In 1993, Daniel W. Van Ness was more concrete in terms of genealogy and stated that the term ‘restorative justice’ was probably coined by Albert Eglash in ‘Beyond Restitution: Creative Restitution’, published in 1977 (Van Ness 1993: 258). The idea that Albert Eglash coined the term ‘restorative justice’ has been widespread in the literature since it was introduced by Daniel W. Van Ness in 1993 (see e.g. Llewellyn and Howse 1999: 4; Ammar 2003: 149; Chatterjee and Elliott 2003: 348; Heath-Thornton 2009: 228; Van Ness and Strong 2010: 21; Daly 2012: 5).

It seems to be generally accepted that the term ‘restorative justice’ was coined during the second half of the twentieth century. Nevertheless, this idea does *not* reflect the truth. By means of the advanced search functions in Google Books, I have been able to locate the term in six texts from the pre-1950 period. These are:

- *The Christian Examiner and Church of Ireland Magazine* from 1834, where it is explained that a certain Title Composition Act was ‘deservedly hailed by all well-thinking men, as beneficial to the clergy, and to the people, as a great act of restorative justice’ (Members of the Church of Ireland 1834: 2).
- *The Signs of the Times* from 1848. In this book, Lebbeus Armstrong tells a story about two witnesses who had been unjustly imprisoned for committing perjury and states that ‘their release would be an act of restorative justice’ (Armstrong 1848: 275).
- John Stow’s *Thoughts on a Continuation of the Book of Common Prayer used in the Church of England* from 1856. As a comment to Luke 19:8, where Zacchaeus tells Jesus of Nazareth that he will give half of his possessions to the poor and pay back fourfold if he has cheated anyone of anything, John Show writes: ‘What a lesson of liberality and of restorative justice is here afforded to All, who profess faith in CHRIST and the adoption of the Tenets of His Gospel!’ (Stow 1856: 54).
- Burton Abbot’s *A Woman’s Story* from 1863. In this book, Cecil decides to give Salome a considerable amount of money which she, apparently, had been entitled to since childhood. It is explained that ‘Cecil represented the case merely as an act of restorative justice’ (Abbots 1863: 338).
- Floyd R. Mechem’s article ‘An Inquiry Concerning Justice’ from 1916. This text contains an explicit definition of ‘restorative justice’ as ‘justice administered by the judicial machinery which restores man to his proper rights’ (Mechem 1916: 361).

- A speech by Manuel Fourcade from 1924, in which he addresses the problems of peace after World War I. He claims that in biblical times, the enthusiasm of the Psalmist exalted itself in a vision of justice embracing peace and states that '[i]t is fitting to reaffirm our belief in these ideas of restorative justice' (Fourcade 1924: 768).

What is meant by 'restorative justice' in the texts from the pre-1950 period? In the four nineteenth-century texts, the term is used without its meaning being explained. Taking the contexts where the term appears into consideration, it is plausible that the authors of the four texts simply understood an act of RJ as an act that restores, or aim to restore, a state of justice. Nevertheless, other interpretations might be possible. There are also uncertainties with respect to the exact meaning of the term 'restorative justice' in the two texts that I have quoted from the twentieth century. Floyd R. Mechem does not explain what *rights* his definition of 'restorative justice' refers to, and it is unclear precisely what *ideas* Manuel Fourcade has in mind when referring to 'these ideas of restorative justice'.

Despite such uncertainties concerning the meaning of the term 'restorative justice' in the pre-1950 texts, I believe I am justified in claiming this much: the meanings that are ascribed to the term 'restorative justice' in the present, so-called RJ movement have been influenced by texts published since 1950, and nothing suggests that these meanings can be fully reduced to the meanings that were ascribed to the term in the pre-1950 period. But to what extent are there similarities between the meanings that are ascribed to the term 'restorative justice' in texts from before 1950 and the meanings ascribed to the term in the RJ movement at present? Have the former somehow influenced the latter? I will leave these questions for other scholars to investigate.

The Restorative Justice Movement: Some Core Ideas

To my knowledge, there were no written references to a 'restorative justice movement' prior to the 1990s. In recent years, however, a large number of authors have been writing about such a movement (to mention a few: Strickland 2004: 3; Johnstone 2008: 59; Leonhard and Kenny 2010: 99; Armour and Umbreit 2011: 392). It *might* be reasonable to consider the RJ movement as a post-1990 phenomenon, both because the idea of the existence of such a movement does not seem to have been articulated prior to the 1990s, and because the term 'restorative justice' did not gain widespread international popularity before the 1990s. However, many of the ideas that are most central to the RJ movement had already been put on the criminal justice agenda by scholars such as Albert Eglash, Nils Christie,

Randy Barnett and Howard Zehr during the period 1950-1990. Below I want to describe four of these ideas:

(I) *The idea that the perpetrator should offer restitution to the victim.* Albert Eglash was very influential in putting the issue of restitution on the criminal justice agenda during the second half of the twentieth century. His articles on restitution include 'Creative Restitution: A Broader Meaning for an Old Term' (Eglash 1957a), 'Creative Restitution: Some Suggestions for Prison Rehabilitation Programs' (Eglash 1957b), 'Creative Restitution: Its Roots in Psychiatry, Religion and Law' (Eglash 1959) and 'Beyond Restitution: Creative Restitution' (Eglash 1977). Albert Eglash claims that when he began to write on restitution in the 1950s, the term 'restitution' was only used to refer to money (Eglash 1957a: 619). The kind of creative restitution that he suggested should be part of the criminal justice process may consist in many different things. If a car thief, for instance, decides to wash his victim's car every Sunday for a month, doing so could be a form of restitution (Eglash 1957a: 620). Albert Eglash explains that '[i]n creative restitution, an offender, under appropriate supervision, is helped to find a way to make amends to those he has hurt, making good the damage or harm he has caused, and going a second mile whenever possible, e.g. by going beyond simple repair, by offering restitution despite punishment, or helping others like himself' (Eglash 1959: 117). Albert Eglash's thinking about restitution has influenced many contemporary RJ scholars. However, the term 'restorative justice' did not play any significant part in his early authorship. The first text where Albert Eglash makes a clear link between his own concept of creative restitution and RJ is 'Beyond Restitution: Creative Restitution' from 1977, where he explains that just as retributive justice has 'its technique of punishment for crime', RJ has 'its technique of restitution' (Eglash 1977: 91).

(II) *The idea that the criminal justice process should include the active participation of all affected parties.* Nils Christie highlighted this idea in his famous 1977 article, 'Conflict as Property'. According to Nils Christie's analysis, the present criminal justice systems in Western societies are problematic because they steal conflicts from their rightful owners: the neighbourhoods. Inspired by a community court case in the Arusha province of Tanzania, Nils Christie suggested that Western criminal courts should be replaced by victim-oriented courts that bring together the victim, the offender and the broader neighbourhood. The court should follow a four-stage process (Christie 1977: 10). In the first stage, it should be established whether it is true that a particular person has broken the law. In the second stage, it should be considered what could be done for the victim, particularly by the offender, but also by the local neighbourhood and the state. In the third phase, there should be a decision on punishment, under-

stood as that suffering which the court may find necessary to apply *in addition* to the (assumed) constructive suffering that the offender would go through in his restitutive actions towards the victim. Finally, the fourth phase should concern service to the offender who might be in need of various kinds of support. Nils Christie's call for inclusive criminal justice processes that involve direct encounters between victims and offenders has likewise inspired many contemporary RJ scholars. However, to my knowledge, it was not until the 2000s that the term 'restorative justice' began to play some part in his writings (see e.g. Christie 2005; Christie 2010).

(III) *The idea that the criminal justice paradigm of punishment/retribution is in crisis.* Randy Barnett highlighted this idea in 'Restitution: A New Paradigm of Criminal Justice' (1977) and suggested that *restitution* should be introduced as a new paradigm. However, the term 'restorative justice' did not appear in his article. In 1985, Howard Zehr published an article entitled 'Retributive Justice, Restorative Justice' which was explicitly inspired by Barnett 1977. In this article, Howard Zehr agrees with Randy Barnett that the existing criminal justice paradigm is in crisis, but he does not follow him in pointing to restitution as a new paradigm. Instead, he suggests that RJ should be a new paradigm of criminal justice. This suggestion was later unfolded and nuanced in *Changing Lenses: A New Focus for Crime and Justice* (Zehr 1990) and *The Little Book of Restorative Justice* (Zehr 2002). In 'Retributive Justice, Restorative Justice', Howard Zehr emphasizes that the paradigm of RJ is radically different from the paradigm of retributive justice. For one, the paradigm on retributive justice perceives crime as a conflict between individual and state, whereas the paradigm of RJ considers crime as a conflict between individuals. Howard Zehr explains that the paradigm of RJ supports dialogue and that '[i]t encourages victim and offender to see one another as persons, to establish or re-establish a relationship' (Zehr 1985: no page number).

(IV) *The idea that RJ has been the dominating form of criminal justice for most of human existence.* This idea was already formulated by Howard Zehr in 'Retributive Justice, Restorative Justice' in 1985. Here Howard Zehr emphasizes that retributive justice has only been the dominating criminal justice paradigm in recent centuries. He adds: 'It is difficult to realize sometimes that the paradigm which we consider so natural, so logical, has in fact governed our understanding of crime and justice only for a few centuries' (Zehr 1985: no page number). The idea that RJ has roots that extend far back in history has been repeated by many contemporary RJ scholars. John Braithwaite is, for instance, frequently quoted for the claim that '[r]estorative justice has been the dominant model of criminal justice throughout most of human history for all the world's people' (Braithwaite 1998: 323). Similarly, Elmar G. M. Weitekamp states that 'humans have

used forms of restorative justice for the larger part of their existence' (Weitekamp 1999: 97).

The Restorative Justice Movement: Popularity, Expansion and Vagueness

Kathleen Daly writes that '[d]uring the 1900s, restorative justice became immensely popular, eclipsing and overtaking other justice ideas circulating during the 1970s and 1980s – a range of restitution, reparation, reconciliation, and informal justice projects' (Daly 2012: 3). RJ has even been supported by the UN. In 2002, the United Nations Economic and Social Council endorsed the United Nations Basic Principles on the Use of Restorative Justice Programmes in Criminal Matter. The UN states that: 'Member States should consider the formulation of national strategies and policies aimed at the development of restorative justice and at the promotion of a culture favourable to the use of restorative justice among law enforcement, judicial and social authorities, as well as local communities' (quoted in United Nations Office of Drugs and Crime 2006: 102).

A still growing number of ideas have been connected to the term 'restorative justice', which is partly due to the fact that the term has been used in an increasing number of diverse contexts. When the term appeared in the writings of scholars such as Albert Eglash and Howard Zehr prior to the 1990s, it was explicitly within the context of criminal justice. In this context, RJ was presented as something that could provide a better alternative to existing, retributive criminal justice systems. Since the 1990s, the term 'restorative justice' has entered new arenas. The term has, for instance, been used in relation to many different sorts of behaviour that while meeting with disapproval do not constitute crimes: 'This "downward expansion" includes misconduct in schools and children's residential care, inappropriate behaviour in the workplace, elder abuse, child protection issues and neighbourhood disputes' (Groothues 2012: 22). Furthermore, the term has also entered contexts of mass violence and group conflicts: 'As well as shifting its focus "downwards" from crime, the campaign for restorative justice has also looked "upwards" from "ordinary" crime to problems involving genocide, gross violations of human rights and political oppression' (Groothues 2012: 23).

Today, the term 'restorative justice' is used by so many different people, in so many different contexts and for so many different purposes that the meaning of the term has become quite vague. The members of the so-called RJ movement are not bound together by a shared definition of 'restorative justice'. So what makes the RJ movement a *movement*? And exactly who are the people who constitute this movement? These questions are difficult to answer. It might be argued that the RJ movement consists of people who share ideas such as those four that I have listed above. But

what ideas, if any, does a person *necessarily* have to share to be part of the RJ movement? Is the sharing of specific ideas a *sufficient* condition for being part of this movement? Could it be that the term ‘movement’ suggests a unity that is non-existent? And do RJ practitioners in general consider themselves to be part of a movement? I do not think that such questions have been sufficiently dealt with in the current literature.

Common Ideas about the Nature of RJ

The literature contains a number of different ideas about what RJ is. It has, for instance, been argued that RJ is a way of thinking and behaving (Allena 2004: 57), and that it is a kind of talking therapy (Zedner 2006: 171). However, even though there is no universally shared definition of RJ, at least two ideas about its nature have been very common since the 1990s. The first of these ideas is that RJ is *a process*. I will quote a few texts where this idea occurs:

- ‘Restorative justice is a process whereby all the parties with a stake in a particular offence come together to resolve collectively how to deal with the aftermath of the offence and its implications for the future’ (Marshall 1996: 37; Marshall 1999: 5).
- ‘Restorative justice is a process to involve, to the extent possible, those who have a stake in a specific offense and to collectively identify and address harms, needs, and obligations, in order to heal and put things as right as possible’ (Zehr 2002: 37).
- ‘The most general meaning of restorative justice is a process where stakeholders affected by an injustice have an opportunity to communicate about the consequences of the injustice and what is to be done to right the wrong’ (Braithwaite and Strang 2002: 4).
- ‘Restorative justice is a process designed to bring out the best in the offender – instead of becoming isolated and embittered, being grateful for fair treatment – and in the victim – instead of seeking revenge, accepting the offender’s apology and/or restitution’ (Van Wormer 2003: 448).
- ‘Restorative justice is a process of bringing together all the stakeholders (offenders, victims, communities) in pursuit of a justice that heals the hurt of crime, instead of responding to the hurt of the crime by using punishment to hurt the offender’ (Dorpat 2007: 236).

It has also been a very common idea that RJ is *a theory*. Understood as a theory, RJ is not itself a process, but rather something that may inform or underpin processes, such as those described above. A few quotes for exemplification:

- ‘Restorative justice is a theory of justice that emphasizes repairing the harm caused or revealed by criminal behaviour. It is best accomplished through inclusive and cooperative processes’ (Van Ness 2005: 3).
- ‘Restorative justice is a theory of justice that emphasizes repairing the harm caused by criminal behaviour. Restoration means bringing back or reinstating a right, a practice, or a situation. It is best accomplished through cooperative processes that include all stakeholders’ (Burkhead 2009: 116).
- ‘[R]estorative justice is a theory that believes that instead of society punishing criminals by putting them in prison, they [the criminals] should be given the chance to correct the wrong they have done. Once criminals have done this, they can be brought back into society. The victim plays a large part in the process and may receive some type of restitution from the offender’ (Pressler, Saner, and Wasserfall 2009: 28).
- ‘Restorative justice is a theory of justice that engages those that are harmed and the wrongdoers (and the community, where applicable) “in search for solutions that promote repair, reconciliation, and the rebuilding of relationships”’ (Olson-Burchanan and Boswell 2009: 168).
- ‘Restorative justice is a theory of justice that is proactive rather than reactive. It tries to deconstruct the idea of retribution by recognising the need for community healing; so, it evaluates the hurts in terms of the values of the economic and social justice perspectives that community must adopt in order to obtain the best possibility of preventing future crime’ (Stamatakis and Vander Beken 2010: 289).

The Term ‘Restorative Justice’ in the Public TRC Hearings and the TRC Report

Having cast some light on the complexity of the issue of RJ, I will now return to the South African truth and reconciliation process. As shown above, the work of the TRC is commonly held to be congruent with RJ. Nevertheless, I have not been able to find any texts that explore the extent to which the term ‘restorative justice’ appeared during the public TRC hearings. In this section, I will embark on such an exploration, and I will also examine what the TRC Report has to say about RJ.

The Term ‘Restorative Justice’ in the Public TRC Hearings

The TRC held public victim hearings from April 1996 to June 1997. Approximately 10% of the approximately 22,000 victims who gave testimony

to the TRC got the chance to testify during these hearings (Harris 2006: 53). The remaining 90% only testified to the TRC statement-takers. Amnesty hearings were held from May 1996 to December 2000. Other than in exceptional circumstances, all perpetrators testified in public (see TRC Report 1998, Vol. 1: 8). Finally, the TRC also held special hearings from August 1996 to July 1998. During these hearings, the TRC looked into issues such as the armed forces, the business sector, the faith communities and the legal system.

I have only been able to find the term ‘restorative justice’ in three transcripts of public TRC hearings (one victim hearing and two special hearings).²⁸ The first transcript that contains the term ‘restorative justice’ is from Father Michael Lapsley’s testimony during the victim hearings in Kimberley on 10 June 1996. In April 1990, he received a letter bomb believed to have been sent by a government dead squat. During the hearing, he describes the explosion of the bomb:

[O]ne of the extraordinary things was that I, and the doctors don’t know why, I didn’t become unconscious – I didn’t go into shock. The ceiling of the rooms blew out and there was a hole in the floor and I can still remember what happened – the actual explosion is still – it’s still – it’s still something with me. I remember pain of a scale that I didn’t think a human being could ever experience. I remember going into darkness – being thrown backwards by the force of the bomb ... I thought maybe it would have been better to have died when I realised I had no hands (TRC victim hearing, Kimberley, 10 June 1996).

After telling his story, Michael Lapsley explained that for him forgiveness was not yet on the agenda. He underscored that the reason for this was not that he was filled with hatred, bitterness, self-pity or a desire for revenge. He said:

I think – I think what I believe in is not retribution, I believe in restorative justice – not retributive justice, restorative justice. And for example – if FW [Frederik Willem de Klerk] was to come to me or the person who made the bomb was to come to me and said I’m sorry for what I did. And I want your forgiveness and this is what

²⁸ The transcripts of the public TRC hearings are uploaded on the TRC website: <http://www.justice.gov.za/trc/search.html>. By means of the search function on this site, it is possible to search for specific terms within the content of all the documents that are uploaded on the site. If one searches for ‘restorative justice’, one gets a list of all the documents (including all the transcripts of public hearings) that contain the term.

I'm now doing in the way of reparation. Not to me personally but to our country and our people, these are the kinds of things I'm doing to heal our land then of course one would say of course here is forgiveness, there would be no problem about that. But I haven't heard from De Klerk one word of remorse (TRC victim hearing, Kimberley, 10 June 1996).

Alex Boraine, the vice chairman of the TRC, asked Michael Lapsley to imagine a situation where the people responsible for the bomb made full disclosure and received amnesty. He asked whether that situation 'would meet with *your* [emphasis mine] restorative justice' (TRC victim hearing, Kimberley, 10 June 1996). Michael Lapsley did not provide a clear answer but stated that:

Well, you see my view has always been that it would be – have been much more desirable for there to be trials and then amnesty ... I believe that we are sacrificing a degree of justice which I think extremely painful to the nation for the sake of the greater good ... if we hadn't had amnesty we were going to have civil war that was going to consume us all (TRC victim hearing, Kimberley, 10 June 1996).

The term 'restorative justice' also appeared during the Faith Community Hearings in East London on 17 November 1997, where the Reverend Wesley Mabuza, the general secretary of the Institute for Contextual Theology (ICT), gave a statement. He explained that, among ICT's members, 'Lack of a mechanism that makes the perpetrators take responsibility for their actions is causing some resentment to say the least' (TRC faith community hearing, East London, 17 November 1997). After the statement, Khoza Mgojo, whom I have already quoted in relation to the Trust Feed Massacre, said:

Would I be right to say that the concern of the Contextual Theology, mostly, related to what is happening now is that you think there is a lack of restorative justice? You have said that even perpetrators, they just go free, having not been asked to do anything. Is that your basis that it lacks, in fact in your very short submission, you have also quoted some of the flaws of the TRC and when a person reads around this, you find that things have been made easy for the perpetrators. Am I right? (TRC faith community hearing, East London, 17 November 1997).

A representative of the ICT, whose name is not recorded in the transcript, said:

What has been coming through is that there is some kind of resentment to the fact that people go away with impunity and people are not calling for the execution of others, they are not calling for the jailing of others, but they are saying some form of mechanism that will show that people are taking responsibility for what they have done would in fact be a step ahead (TRC faith community hearing, East London, 17 November 1997).

Finally, the term ‘restorative justice’ appears in the transcript of the Legal Hearings in Johannesburg on 27 October 1997. Here Dullah Omar, the Minister of Justice, gave a statement. He said:

[W]hat the Commission has done and the [Reparation and Rehabilitation] Committee has done is to say that we must begin to address issues which affect the fundamental basis of our criminal law from another dimension and that is from the basis of the principle of restorative justice and restitution. What can we do to ensure that victims are placed in a position as best as possible to that before the harm was committed? What steps can be taken to restore the dignity of victims? And so those are major questions. Not only for the Commission but for the future of our criminal law in the country (TRC legal hearing, Johannesburg, 27 October 1997).

In the statement, Dullah Omar also explained that he had asked the South African Law Commission ‘to review the whole question of victim empowerment’. At the time when Dullah Omar spoke to the TRC, the Law Commission had been working on the issue of victim empowerment for a while and had, already in April 1997, published its Issue Paper 7 entitled ‘Sentencing Restorative Justice (Compensation for Victims of Crime and Victim Empowerment)’, where RJ is debated.

The Term ‘Restorative Justice’ in the TRC Report

Volumes 1-5 of the TRC Report were published in October 1998. After the Amnesty Committee had finalized its work, two more volumes were added to the Report in March 2003. Altogether, the TRC Report consists of more than 4,500 pages. The Report contains a six-page section on RJ (Vol. 1: 125-131), and the term ‘restorative justice’ also appears in a few other pas-

sages (Vol. 1: 9 & 118; Vol. 5: 435 & 444; Vol. 6: 109). In the section on RJ, it is stated that RJ is a *process* that – and I quote:

- a. ‘seeks to redefine crime: it shifts the primary focus of crime from the breaking of laws or offences against a faceless state to a perception of crime as violations against a human being, as injury or wrong done to another person;
- b. is based on reparation: it aims at the healing and the restoration of all concerned – of victims in the first place, but also of offenders, their families and the larger community;
- c. encourages victims, offenders and the community to be directly involved in resolving conflict, with the state and legal professionals acting as facilitators;
- d. supports a criminal system that aims at offender accountability, full participation of both the victims and offenders and making good or putting right what is wrong’ (Vol. 1: 126).

The TRC Report refers to Issue Paper 7 from the South African Law Commission as the background to this understanding of RJ (see Vol. 1: 126, note 22).

In the TRC Report, it is stated that ‘[r]estorative justice challenges South Africans to build on the humanitarian and caring ethos of the South African Constitution and to emphasise the need for reparation rather than retaliation – despite growing anger and insecurity in the midst of high levels of crime in South Africa’ (Vol. 1: 127). The Report also explains that one of the unique features of the Promotion of National Unity and Reconciliation Act (No. 34 of 1995), which established the TRC, was that it provided guiding principles on how the TRC should deal with victims. The Report states that ‘[t]hese principles constituted the essence of the Commission’s commitment to restorative justice’ (Vol. 1: 128). In this connection, the Report highlights the principle that the Commission was required to help restore the human and civil dignity of victims ‘by granting them an opportunity to relate their own accounts of the violations of which they are the victim’ (Vol. 1: 128). Later in the Report, the TRC paints a rather rosy picture of the victim hearings:

The [TRC] process allowed victims to be reintegrated into society. In hearings, victims often approached the Commission almost in a foetal position as they came to take their seats and relate their stories. They told their stories as they saw them, as they experienced them, as they perceived what had happened to them. And as they left their seats, the image was wholly different. They walked tall.

They were reintegrated into their community. They could re-assume their roles in society; they could manage themselves and the world around them again. They were healthy cells of the national organism. This too is restorative justice. This too is the spirit of *ubuntu* (Vol. 5: 444).

In relation to the amnesty process, the Report explains that:

[W]e are faced with a paradox: The disclosure of sometimes horrendous deeds, crimes, gross violations of human rights, committed with political motive under an old order, to be followed by a joyous reintegration into society within a new order of the perpetrator of those self-same deeds. This is seeing both the deed and the doer and severing them from each other. This is part of restorative justice. This is part of the spirit of *ubuntu*. It is part of the restoration of the organism that is our nation South Africa (Vol. 5: 444).

In several passages, the Report touches on the question of whether the amnesty process was just. The TRC makes it clear that amnesty is unjust from a retributive point of view, but argues that the tendency to equate justice with retributive justice must be challenged and RJ considered as an alternative:

Certainly, amnesty cannot be viewed as justice if we think of justice only as retributive and punitive in nature. We believe, however, that there is another kind of justice – a restorative justice which is concerned not so much with punishment as with correcting imbalances, restoring broken relationships – with healing, harmony and reconciliation (Vol. 1: 9).

[T]he tendency to equate justice with retribution must be challenged and the concept of restorative justice considered as an alternative. This means that amnesty in return for public and full disclosure (as understood within the broader context of the Commission) suggests a restorative understanding of justice, focussing on the healing of victims and perpetrators and on communal restoration (Vol. 1: 118).

However, as noted earlier, the Report also states that '[r]estorative justice demands that the accountability of perpetrators be extended to making a contribution to the restoration of the well-being of their victims' (Vol. 1: 131). This suggests that the South African amnesty process was not an ide-

al example of RJ, since perpetrators were not required to do anything for their victims.

Some Reflections on the Appearance of the Term 'Restorative Justice' in the Public TRC Hearings and the TRC Report

RJ does *not* seem to have been an issue of much debate during the day-to-day proceedings of the TRC. As explained, my research shows that the term 'restorative justice' appeared *only* in three public TRC hearings, which is a tiny minority of the large number of hearings. It should also be noted that the term 'restorative justice' does not appear in the legal documents that form the background to the TRC. The Interim Constitution (Act 200 of 1993), which adjudicated that there should be amnesty after apartheid, does not contain the term 'restorative justice', and neither does the Promotion of National Unity and Reconciliation Act (No. 34 of 1995), which established the TRC and defined its mandate. Against this background, it may be surprising that the TRC Report depict the TRC as an institution that attempted to promote RJ.

I have found no evidence that the TRC considered itself as an institution committed to RJ when it began to conduct public hearings in April 1996. As pointed out above, my hypothesis is that the TRC first really began to take notice of the term 'restorative justice' *after* the South African Law Commission had published Issue Paper 7 in April 1997. This publication was important in bringing RJ onto the legal agenda in South Africa. In fact, the term 'restorative justice' did not appear in any South African legal documents before this publication. Since publication of the issue paper, however, the term has appeared in 4 acts, 27 judgements by High Courts, 15 judgements by the Constitutional Court, 8 judgements by the Supreme Court of Appeal, and one judgement each by the Equality Court and the Land Claims Court.²⁹ The TRC Report does, as I have noted, refer to Issue Paper 7 as the background to its understanding of RJ, and I find it likely that it was this issue paper (maybe in combination with Dullah Omar's reference to the Law Commission's work when he testified to the TRC on 27 October 1997) that made the TRC aware that the idea of RJ could be used to explain its work. If this is true, then the TRC Report's description of the TRC as an institution committed to RJ represents, to a considerable extent, a *retrospective self-interpretation*.

²⁹ My search for South African legal documents that contain the term 'restorative justice' was conducted on 31 August 2012. A list of the relevant documents can be generated in the following way: go to the website of Southern African Legal Information Institute (www.saflii.org); choose 'South Africa' under 'Browse by Country'; search for 'restorative justice'; choose to categorize the documents 'By Database'.

Africanizing Restorative Justice

Finally, I will investigate the argument that RJ has deep historical roots in African indigenous cultures through its close congruity with *ubuntu* and AIJS. If it could be shown that RJ has deep historical roots in African cultures this would have legitimizing effects on RJ among South Africans calling for Africanization. In this connection, it should be noted that there is a tendency for formerly suppressed African peoples to call for Africanization when they gain political power. This was already evident during the early years of decolonization. As explained by Julius Nyerere, throughout nearly the whole of Africa ‘the first and most vocal demand of the people after independence was for Africanization’ (Nyerere 1968: 27).

In South Africa, the call for Africanization was already evident during apartheid, for instance in the Black Consciousness movement. Steve Biko, who led the movement prior to his death at the hands of the apartheid regime, explained that ‘[s]ince that unfortunate date – 1652 – we have been experiencing a process of acculturation’ (Biko 1978: 40). Therefore, he states, ‘part of the approach envisaged in bringing about “black consciousness” has to be directed to the past, to seek to rewrite the history of the black man and to produce in it the heroes who form the core of the African background’ (Biko 1978: 29). It is, as he notes, ‘through the evolution of our genuine culture that our identity can be fully rediscovered’ (Biko 1978: 71).

After the transition to multi-racial democracy in South Africa, the idea of Africanization was emphasized in the call for an African Renaissance (i.e. ‘African re-birth’). The term ‘African Renaissance’ was popularized by Thabo Mbeki.³⁰ In his speech at the United Nations University on 9 April 1998, entitled ‘The African Renaissance, South Africa and the World’, Thabo Mbeki said that: ‘I would dare say that confidence [among Africans], in part, derives from a rediscovery of ourselves, from the fact

³⁰ It was not Thabo Mbeki who coined the term ‘African renaissance’. The oldest text, in which I have found the term, is Edwin William Smith’s *The Way of White Fields: A Survey of Christian Enterprise in Northern and Southern Rhodesia* from 1928. In this book, there is a section entitled ‘The Era of African Renaissance’, which primarily consists of a long quote from Reverend John White’s address at the Southern Rhodesia Missionary Conference in August 1926. Part of this quote reads: ‘Since I set foot in Africa over thirty years ago a profound change has taken place in the entire outlook of the native people of this sub-continent. Through the public press and by various other authorities we are being constantly reminded of what is called the dawning Bantu race-consciousness; of his restlessness, under white dominion; of his dissatisfaction with his social, industrial and political status. To those who look below the surface these things are the symptoms of a profound psychological revolution that is silently, slowly but surely, going on. In short we are witnessing a nation in its birth-throes’ (Smith 1928: 142).

that, perforce, as one would who is critical of oneself, we have had to undertake a voyage of discovery into our antecedents, our own past, as Africans'. In 'The African Renaissance Statement' of 13 August 1998, Thabo Mbeki also explained that: 'To perpetuate their imperial domination over the peoples of Africa, the colonisers sought to enslave the African mind and to destroy the African soul'. He added that therefore, '[t]he beginning of our rebirth as a Continent must be our own rediscovery of our soul'.

In the following, I will show that even though it has been common to argue that RJ has deep historical roots in African indigenous cultures through its congruence with *ubuntu* and AIJS, the connection between RJ and *ubuntu*, like that between RJ and AIJS, is less straightforward and unproblematic than often assumed.

RJ and Ubuntu

According to the South African Constitutional Court, the spirit of *ubuntu* is something that is 'part of the deep cultural heritage of the majority of the population' (*Port Elizabeth Municipality v Various Occupiers*, 2005: § 37). The Constitutional Court also explains that '[t]he spirit of *ubuntu*, part of the deep cultural heritage of the majority of the population, suffuses the whole constitutional order' (*Port Elizabeth Municipality v Various Occupiers*, 2004: § 37). The idea that *ubuntu* suffuses the constitutional order is founded on the statement in the Epilogue of the Interim Constitution that, in addressing the divisions and strife of the apartheid era, there is 'a need for *ubuntu*' (*Constitution of the Republic of South Africa*, Act 200 of 1993, Epilogue after Section 251).

In post-apartheid South Africa, it has been argued that RJ, in contrast to retributive justice, is congruent with *ubuntu*. This view has, for instance, been presented by the Constitutional Court, which has stated that '[r]estorative justice, in our jurisprudence, is linked to the foundational value or norm of *Ubuntu-Botho* [the Setswana term '*botho*' is often used synonymously with the Nguni term '*ubuntu*']' (*Van Vure v Minister of Correctional Services and Others*, 2010: § 51). In the Constitutional Court case *Dikoko v Mokhatla* of 2006, it is also explained that '*Ubuntu-botho* is highly consonant with rapidly evolving international notions of restorative justice' (§ 114) and that 'courts need to explore the wide and creative possibility afforded by restorative justice as contemplated by the indigenous values of *ubuntu* or *botho*' (§ 36).

My research suggests that the idea that there is a connection between RJ and *ubuntu* is of recent origin. In fact, I have not been able to find any texts that present this idea prior to 1997. To my knowledge, Eric K. Yamamoto, a professor of law and social justice at the University of Ha-

waii, may have been the first author to connect RJ and *ubuntu* when he wrote as follows in an article section on the South African TRC:

[R]estorative justice is reflective of the African notion of ‘*ubuntu*’, or interconnectedness. *Ubuntu* is the idea that no one can be healthy when the community is sick. ‘*Ubuntu* says I am human only because you are human. If I undermine your humanity, I dehumanise myself.’ It characterizes justice as community restoration – the rebuilding of the community to include those harmed or formerly excluded (Yamamoto 1997: 52).

Since 1997 it has become common for South African scholars to associate RJ and *ubuntu*. RJ and *ubuntu* have, for instance, been connected by Ann Skelton and Cheryl Frank in a passage where they argue that while the term ‘restorative justice’ may be relatively new to South Africans, the spirit of RJ is not:

At the outset, it is important to establish that while the term restorative justice may be relatively new to South Africans, the spirit of the concept is strongly embedded in the history of African society through the notion of *ubuntu*. Mokgoro (in Borraine 2000) describes *ubuntu* as an African worldview, which is both a guide for social conduct as well as a philosophy of life. Therefore, more than merely applicable to issues of justice, *ubuntu* describes the individual’s status in relation to others through the idea that a person is only a person because of other people. *Ubuntu* embodies ideas about the interconnectedness of people to each other, the importance of the family group over the individual, and the value of benevolence towards all others in the community (Skelton and Frank 2001: 104).

The idea that there is a congruence between RJ and *ubuntu* is also presented in the TRC Report in the section entitled ‘*Ubuntu: Promoting Restorative Justice*’ (TRC Report 1998, Vol. 1: 125-131). The TRC does not go into much detail on how RJ and *ubuntu* are connected, but the quotation below suggests that RJ and *ubuntu* are somehow bound together by the constitutional commitment to ‘a need for understanding but not for vengeance, a need for reparation but not for retaliation, a need for *ubuntu* but not for victimisation’ (*Constitution of the Republic of South Africa*, Act 200 of 1993: Epilogue after Section 251):

In the words of Constitutional Court Judge O’Regan: ‘Apartheid was a denial of a common humanity. Black people were refused re-

spect and dignity and thereby the dignity of all South Africans was diminished. The new Constitution rejects this past and affirms the equal worth of all South Africans. Thus recognition and protection of human dignity is the touchstone of the new political order and is fundamental to the new Constitution'. This was the background to the constitutional commitment to 'a need for understanding but not for vengeance, a need for reparation but not for retaliation, a need for *ubuntu* but not for victimisation'. It was a commitment that called for a respect for human life and dignity and for a revival of *ubuntu*; a commitment that included the strengthening of the restorative dimensions of justice (TRC Report 1998, Vol. 1: 126).

There does not seem to be any consensus on how exactly the connection between RJ and *ubuntu* is constituted. This may not come as a surprise, for in the absence of any consensus on the nature of either RJ or *ubuntu*, it makes good sense that there is no consensus on the relation between the two. I have explored a number of different views on what *ubuntu* is in my two articles, 'The Historical Development of the Written Discourses on *Ubuntu*' (Article 1 in this thesis) and 'What is *Ubuntu*? Different Interpretations among South Africans of African Descent' (Article 2 in this thesis). In the first of these, I investigate how *ubuntu* has been defined in written sources since 1846 and show that new definitions have emerged at different points in history. In the second article, I describe and systematize the many different answers to the question 'What is *ubuntu*?' that I have been able to identify among South Africans of African descent.

RJ and African Indigenous Justice Systems (AIJS)

When the Europeans arrived in present-day South Africa, justice among the African peoples was administrated by AIJS. Later, the authority of AIJS was restricted by South Africans of European descent. Under the Native Administration Act (No. 38 of 1927) approved chiefs or headmen were allowed to decide in legal cases among 'blacks' according to custom, but all major offences, such as murder, had to be tried in the magistrates' courts or in the Supreme Court. In post-apartheid South Africa, traditional leadership was an issue in the Interim Constitution of 1993 (Chapter 11) and also in the final Constitution of 1996 (Chapter 12). Later, in 2003, matters concerning traditional leadership were subjected to the Traditional Leadership and Governance Framework Act (No. 41 of 2003). However, neither of the two post-apartheid constitutions, nor the Traditional Leadership and Governance Framework Act, touches on the subject of traditional courts. This subject is dealt with in the Traditional Courts Bill of 2008. Concerning the nature of traditional courts, the Bill explains that:

Traditional courts are distinct from courts referred to in section 166 of the Constitution [the Constitutional Court, the Supreme Court of Appeal, the High Courts and the magistrates' courts], and operate in accordance with a system of customary law and custom that seeks to – (a) prevent conflict; (b) maintain harmony; and (c) resolve disputes where they have occurred, in a manner that promotes *restorative justice* [emphasis mine] and reconciliation and in accordance with the norms and standards reflected in the Constitution (*Traditional Courts Bill*, 2008: § 7).

In post-apartheid South Africa, it has been argued that RJ is in harmony with AIJS, not only in their present forms, but also as they were constituted before their subjection to external regulations. As cited above, Desmond Tutu writes, for instance, that RJ was characteristic of traditional African jurisprudence (Tutu 1999: 51), and in an article on RJ, Ann Skelton and Cheryl Frank state that 'as far back as oral history can take us, African communities have seen justice through a restorative lens' (Skelton and Frank 2001: 104). The South African Constitutional Court also claims that '[t]hese concepts [of RJ] harmonise with processes well-known to traditional forms of dispute resolution in our country, processes that have long been, and continue to be, underpinned by the philosophy of *ubuntu-botho*' (*Dikoko v Mokhatla*, 2006: 114).

It is a common view in the literature that AIJS have always focussed on restoration rather than retribution. This view is, for instance, put forward in Timothy Murithi's article, 'Practical Peacemaking Wisdom from Africa: Reflections on *Ubuntu*' (2006). Here it is stated that '*Ubuntu* societies [it is not explained what this means] maintained conflict resolution and reconciliation mechanisms which also served as institutions for maintaining law and order within society' (Murithi 2006: 29). Timothy Murithi writes that in former times disputes would be resolved through an institution known as the *inkundla/legotla*, which served as a group mediation and reconciliation forum. He underscores that this forum was communal in character: the entire society was involved at various levels in trying to find a solution to the problem that was brought before the forum. Furthermore, he explains that after the perpetrator had paid an appropriate compensation for the wrong done, '[a]mnesty could thus be granted, but not with impunity' (Murithi 2006: 31). He also emphasizes that:

In the more difficult cases involving murder, *Ubuntu* societies sought to avoid the death penalty because, based on the society's view of itself – as people through other people – the death penalty

would only serve to cause injury to the society as a whole. Though it would be more difficult to move beyond such cases, the emphasis would still be on restoring the broken relationships caused by the death of a member of the community (Murithi 2006: 31).

In another article discussing the constitution of the *inkundla/lekgotla*, Nomonde Masina claims that the death penalty was rare in former times. Based on his article, it seems that the death penalty was not imposed in cases of murder, theft or incest (Masina 2000). Only witchcraft is mentioned as incurring the death penalty, and Nomonde Masina explains that ‘capital punishment was imposed in cases of witchcraft because a witch was feared to be a menace to society’ (Masina 2000: 175). The Constitutional Court Case *S v Makwanyane and Another* of 1995, which declared the death penalty unconstitutional and forbade the execution of the more than 300 people on the South African death row (see § 6 & § 151), also touches on the issue of AIJS. In the judgement, Justice Albie Sachs explains that:

[I]f these sources are reliable [see § 377], it would appear that the relatively well-developed judicial processes of indigenous societies did not in general encompass capital punishment for murder. Such executions as took place were the frenzied, extrajudicial killings of supposed witches, a spontaneous and irrational form of crowd behaviour that has unfortunately continued to this day in the form of necklacing and witch-burning. In addition, punishments by military leaders in terms of military discipline were frequently of the harshest kind and accounted for the lives of many persons. Yet, the sources referred to above indicate that, where judicial procedures were followed, capital punishment was in general not applied as a punishment for murder (*S v Makwanyane and Another*, 1995: § 381).

Is RJ really in harmony with AIJS? RJ may be in harmony with AIJS in their present South African forms, but it is questionable whether RJ can reasonably be said to be in harmony with AIJS of former times if these justice systems were putting assumed witches to death, as is stated in many sources (see e.g. Maclean 1858: 85 & 126; Commission on Laws and Customs of the Basutos 1873: 51; Junod 1913: 417; Strayt 1931: 223; Cook 1931: 153; Krige 1936: 219 & 225-227; Schapera 1938: 276). Furthermore, the harmony of former times between RJ and AIJS becomes even more dubious if not only assumed witches, but also perpetrators of other types of crimes, such as murder, theft and incest, sometimes received the death pen-

alty.³¹ Some nineteenth- and early twentieth-century texts claim that the death penalty was used in such cases, as will be shown below.

Example I (murder). On 4 December 1872, the Commission on Native Laws and Customs of the Basutos interviewed Sofonia Moshesh, who had been working in the court of the late Chief Moshesh. Asked about the Basutu law with regard to wilful murder, Sofonia Moshesh replied that there was no fixed law on the subject: ‘each chief decides the case brought before him as he thinks fit’; however: ‘[t]he usual punishment for killing another person is a fine of cattle’ (Commission on Laws and Customs of the Basutos 1873: 46 & 47). Sofonia Moshesh added that:

I have heard of some cases in which the murderer has been put to death, but [the late Chief] Moshesh did not approve of this punishment, because the person or persons who put the murderer to death became murderers themselves by doing so. I only know of my own knowledge of one case in which Moshesh had a murderer put to death (Commission on Laws and Customs of the Basutos 1873: 47).

Henri Junod explains that among the Thonga in former times ‘[i]f the murder is deliberate, it is punished by death’ (Junod 1913: 415). Similarly, it has been argued that among the Bapedi the punishment for murder was death (Harries 1929: 101) and among the Bavenda death or banishment (Strayt 1931: 223). P. A. W. Cook also explains that among the Bomvana, the *lex talionis* principle applied if a murderer was caught by the people just after the killing (Cook 1931: 152). C. L. Harries even claims that when Bapedi ‘native doctors’ had smelled out a murderer:

[T]he chief would summon his young warriors and charge them with the murderous duty of annihilating the whole family to which the alleged murderer belonged. The reason why such drastic penalties were meted out was that the murderer’s family must have known that one of its members was guilty (C. L. Harries 1929: 102).

Isaac Schapera writes as follows about the punishment for murder among the Tswana:

³¹ As explained by Kathleen Daly, the relationship of punishment to RJ is uneasy: ‘Many restorative justice promoters are ‘against punishment’, seeing little or no connection between it and restorative justice. Others see a complementary relationship in which restoration depends, in part, on punishment’ (Daly 2012: 1). Even though not all RJ promoters are against punishment, I think it would be rare to find RJ promoters who believe that RJ is compatible with the *death* penalty.

In the olden days all such cases [of homicide] could be tried by him [the chief], and not by any of the minor courts. Culpable homicide and murder were punished by death. The murderer was escorted to the top of a large rock outside the village, and there either stabbed with a spear or hit on the head with a club, according to the manner in which he had killed his victim (Schapera 1938: 261).

Example II (theft). On 3 December 1872, the Commission on Native Laws and Customs of the Basutos conducted an interview with George Tladi Moshesh, son of the late Chief Moshesh. Questioned about the punishment of theft, he answered that:

This crime is punished by fine; but in the case of notorious thieves, who are likely to involve the country in war by stealing from neighbouring nations, they are sometimes put to death. I knew of four notorious thieves who were put to death by order of my father Moshesh. If a thief is found at night in the act of breaking open or stealing out of the kraal, he can be shot or stabbed with an assegai, without the person killing or wounding him being subjected to any punishment or blame (Commission on Laws and Customs of the Basutos 1873: 44).

Sofinia Moshesh gave a similar answer when interviewed by the commission, and added that the Basutos have a proverb saying that 'A thief is a dog which must pay with its head' (Commission on Laws and Customs of the Basutos 1873). Isaac Schapera also explains that, among the Tswana,

Theft, particularly livestock, was formerly punished very severely. A thief found in the veld with stolen cattle in his possession was often killed on the spot, or very severely trashed, or tortured by having his hands burned. Nowadays he must be brought to the *kgotla* for trial; and it is still not unusual for him to be severely trashed by order of the Chief, particularly if he has no property of his own which can be taken from him. The general rule, however, in cases of theft is that the owner of the stolen property is entitled to receive twice the value of the article stolen (Schapera 1938: 271).

Example III (incest). Hugh A. Strayt claims that, among the Bavenda,

Incest is a serious crime; the offender is considered to be a dog and is the subject of horror and scorn. He is tried in the chief's court and

is punished by death or banishment. Perverse sexual aberrations are similarly punished (Strayt 1931: 224).

Eileen Jensen Krige explains that among the Zulus, the reaction of society to incest varies according to how closely the people concerned are related. If a man commits incest with his own sister, or with a young wife of his father,

The father himself, assisted by the kin of the village, would put 'the dog' to death for having thus shamed them. If, however, the relationship is less close and a relative such as the father's sister's child is married, people will be angry and the culprit might be forced to flee from public opinion, but he would not be put to death. It is believed, however, that the ancestral spirits themselves will inflict punishment, and that the offspring of an incestuous relationship will be a monster (Krige 1936: 224).

Final Remarks

In this article, I have attempted to open up new discussions of RJ and the TRC process by showing that the term 'restorative justice' appears *only* in transcripts of three public TRC hearings, and that the TRC might not have taken significant notice of the term before the publication of Issue Paper 7 by the South African Law Commission.

When the TRC wrote its Report, it was faced with the challenge of explaining why justice was not sacrificed when amnesty was offered to apartheid perpetrators. In this connection the term 'restorative justice' became useful, since it could be applied to argue that even though the TRC did not promote retributive justice, it did promote another kind of justice, namely RJ. I take no stance here on whether the TRC used the term 'restorative justice' for merely strategic reasons. It might be the case that when the Report was written, many people working on the TRC were of the view that the commission was committed to RJ. Furthermore, it might be the case that the work of the TRC was fully or partially congruent with RJ, even if the TRC had taken no significant notice of the term 'restorative justice' in the beginning of the TRC process.

Concerning the attempts to Africanize RJ, I want to mention that at least in some ways it would make sense to claim that RJ is something Western: as I have shown, the term 'restorative justice' first appeared in nineteenth-century works by Western authors, and Albert Eglash, Randy Barnett, Nils Christie and Howard Zehr, sometimes considered as founding fathers of RJ, all came from Europe or the US. To my knowledge, the term

‘restorative justice’ did not enter the writing of African scholars or the discussions of African politicians before the 1990s.

To rule out misunderstandings, I want to emphasize that I am not arguing that there is no congruence between RJ and *ubuntu*. My point is simply that the idea of such congruence was formulated in writing very recently, and also that there is no consensus on how the connection between RJ and *ubuntu* is constituted. Furthermore, I wish to underscore that I am not denying that the traditional courts of present-day South Africa might operate in conformity with RJ. I do, however, find it more dubious whether AIJS of former times were in harmony with RJ. Many present scholars seem to over-romanticize AIJS of former times. As some scholars have pointed out, there is often a tendency to over-romanticize the past and idealize traditional cultures (Keeley 1996; Sandall 2001). However, it should not be forgotten that the nineteenth- and early twentieth-century texts on AIJS were written in a colonial context, where there might have been a tendency to paint an over-negative picture of African culture. In this connection, I will give Steve Biko the last word:

[T]he colonialists were not satisfied merely with holding a people in their grip and emptying the Native’s brain of all form and content, they turned to the past of the oppressed people and distorted, disfigured and destroyed it. No longer was reference made to African culture, it became barbarism. Africa was the ‘dark continent’. Religious practices and customs were referred to as superstition. The history of African Society was reduced to tribal battles and internecine wars. There was no conscious migration by the people from one place of abode to another. No, it was always flight from one tyrant who wanted to defeat the tribe not for any positive reasons but merely to wipe them out of the face of the earth (Biko 1978: 29).

Further Reflections

The thoughts that I present in this chapter have taken shape during my work on the three articles, and they have been sharpened through debate with other scholars, for instance during my research stay in South Africa in September/October 2012. However, I wish to emphasize that what I present in this chapter is *unfinished* thoughts that are intended to open up some of the discussions and problems that my articles can be seen to raise. My hope is that the inclusion of this chapter will lead to their further, and more thorough, examination in future.

I have divided this chapter into two sections. In the first, I offer some thoughts on my finding that in the written sources, new definitions of *ubuntu* have emerged at different stages in history. In the second, I present some thoughts on the *use* of the term ‘*ubuntu*’, and especially on how the use of the term may lead to the development of new ideas about what *ubuntu* is (for instance the idea that *ubuntu* is something that is congruent with restorative justice).

Some Thoughts on My Finding that in Written Sources, New Definitions of *Ubuntu* have Emerged at Different Points in History

In the first article, I have emphasized that I consider my historical findings on how *ubuntu* has been defined in the written sources to be provisional (see page 42). As explained, it may be possible to find texts showing that some of the definitions of *ubuntu* that I have found only in the more recent written sources are in fact to be found in older texts. Therefore, readers of my research on the definition of *ubuntu* in written sources should be aware that my findings may need to be adjusted.

In the nineteenth century, the term ‘*ubuntu*’ appeared primarily in texts by Christian missionaries; for instance in dictionaries, grammars and Bible translations (see page 26, note 13). I can see no good reason why the term ‘*ubuntu*’ should appear in such texts if it was not already in use orally among at least some indigenous Africans. As I see it, oral usage must go further back in history than written usage. Nevertheless, some of the defini-

tions of *ubuntu* that are found at present may have been formulated in written sources before they appeared orally. But even if some definitions of *ubuntu* were ‘born’ in writing in this sense, it would be very difficult to *prove* that this was the case. Even if an author could be found who claimed that it was he or she who, in a specific text, had defined *ubuntu* for the first time as (for instance) a philosophy, it would not really prove that the definition of *ubuntu* as a philosophy was ‘born’ in the writing of that author. Such a proof would require demonstrating both that the author was attempting to tell the truth, and that his or her claim was not simply due to a lack of knowledge, and such a proof would be difficult, if not impossible, to achieve. It is of course also possible that some of the definitions of *ubuntu* that, according to my findings, did not emerge in written sources before the second half of the twentieth century had an oral existence long before that. But again: even if this were the case, it would remain difficult to *prove* that it was the case. It might be possible to find those who claim that they witnessed the definition of *ubuntu* as a philosophy, an ethic, African humanism, etc. prior to the second half of the twentieth century, where I have found these definitions emerging in the written sources for the first time. But even if such people can be found, one would still be faced with the challenge of proving that these people were attempting to tell the truth and also that their memory was not deceiving them.

My finding, that new definitions of *ubuntu* have emerged in written sources at different points in time, of course raises the question of how the new definitions are related to the previous ones. What is the relation, for instance, between *ubuntu* defined as humanness and *ubuntu* defined as a philosophy? The correct answer to this question depends on what is taken to be the nature of humanness and of the philosophy in question. Unfortunately, people often do not explain in detail what they mean when stating, for instance, that ‘*ubuntu* is humanness’ or that ‘*ubuntu* is a philosophy’, and this makes it difficult to answer that question. However, I want to note that even in a case where humanness and the philosophy in question are described in ways which make it evident that there is no identity relation between the two (i.e. where it is evident that humanness *is not* the philosophy in question, and also evident that the philosophy in question *is not* humanness), the two might still be related in other ways. It could, for instance, be the case that the philosophy in question is *about* humanness, in the sense that it provides a theory of how people might gain or lose humanness depending on how they relate to other people.

Some Thoughts on the Use of the Term 'Ubuntu' – Especially on how the Use of the Term may lead to the Development of New Definitions of *Ubuntu*.

Some people have suggested to me that the term '*ubuntu*' is a floating signifier, understood as a signifier with a vague meaning – a signifier which, because of its vague meaning, may be used by different people to signify differing phenomena, or even by the same person to signify different phenomena in differing situations.³² I think it would be wrong to make a generalized statement that '*ubuntu*' is a floating signifier in the sense of a signifier with a vague meaning. My experience suggests that at least in some contexts, for instance if one goes to rural black areas in South Africa, people have pretty firm ideas about what '*ubuntu*' means. In other contexts, for instance in white urban areas, it may be true that the term '*ubuntu*' has a vague meaning to most people. In other words, I believe that the term '*ubuntu*' has different degrees of firmness/vagueness in differing contexts, and I will suggest that '*ubuntu*' is a floating signifier in some social contexts and not in others. In contexts, where the term '*ubuntu*' has a vague meaning, people might easily begin to define it in ways which have not been seen before, without being aware that they are creating new definitions.

Tom Bennett has explained that 'we need to be aware that *ubuntu* is a loanword in English' (Bennett 2011: 31). To me, the fact that '*ubuntu*' is a loanword in English seems to be of some importance in understanding why there are many different definitions of *ubuntu*. In *The Secret Life of Words*, Henry Hitchings looks into the question of what happens when a word from one language enters another. He explains: 'When words are borrowed, they alter. This is true of their meanings as well as of their pronunciation. The degree to which this happens varies, but sometimes it is profound' (Hitchings 2008: 19). Furthermore, Hitchings specifies that 'the word acquired is highly susceptible to change, not only because it is novel, but also because it is isolated. Its links with the language from which it was borrowed are broken, and it has no semantic connotations with other words in the language into which it has been absorbed' (Hitchings 2008: 14). I find it plausible that one reason why there are so many different definitions

³² The notion of a 'floating' – or 'empty' – signifier has been used by a large number of authors who do not all agree on how the notion should be understood. Daniel Chandler has explained that: 'An "empty" or "floating signifier" is variously defined as a signifier with a vague, highly variable, unspecifiable or non-existent signified' (Chandler 2007: 78). Furthermore, after having provided a review of this variously defined notion, Chandler writes that: 'Readers may be tempted to conclude from this brief review of the notion of 'the empty (or free-floating) signifier' that it has become something of an academic 'soundbite' and that the term itself is ironically in danger of being an empty signifier' (Chandler 2007: 80).

of *ubuntu* is that the term ‘*ubuntu*’ has entered English (and also other Western languages), where it lacks connotations with other words. Therefore, to speakers of Western languages – who are not familiar with the Nguni languages where the term ‘*ubuntu*’ originates – it may seem vague how *ubuntu* should be defined, and those speakers of Western languages may easily begin to define *ubuntu* in ways that have not been seen before.

To explain what *ubuntu* is, a number of people – frequently, white academics – have compared *ubuntu* with something else. I think that this ‘strategy of comparison’ may lead people to ascribe new connotations to the term ‘*ubuntu*’. Frequently, *ubuntu* is compared with philosophies, etc., that have developed outside Africa. For example, in *The Human Person: African Ubuntu and the Dialogue of Civilisations*, Chris Vervliet compares *ubuntu* with what he calls ‘Christian-democracy personalism’ and also with *Shakçanyya*, which he explains is an Arab form of personalism. He summarizes: ‘Just like *ubuntu* and Christian-democracy personalism, *Shakçanyya* pays much attention to interpersonal relations and the complementarity of the individual and the community’ (Vervliet 2009: 53). Vervliet’s interpretations are founded on the assumption that *ubuntu* is a ‘human centred philosophy’ (Vervliet 2009: vii), and that this philosophy ‘is reflected in the proverb “*Umuntu ngumuntu ngabantu*”’ (Vervliet 2009: 21). Comparing *ubuntu* with something else may allow one to acquire a better understanding of what *ubuntu* is; however, there is also the possibility that the comparison begins to *colour* the understanding of *ubuntu* in ways that were not intended. If one, for instance, compares *ubuntu* with thoughts from the personalist tradition, as Vervliet does, then there is the possibility that one begins to ascribe personalist connotations to the term ‘*ubuntu*’ that were never previously ascribed to the term in any African community. Particularly in cases where the person making the comparison has only a vague idea about what ‘*ubuntu*’ means, it could become very difficult for him or her to differentiate *ubuntu* from personalism.

To explain what *ubuntu* is, many people have also used what I will call ‘the strategy of authority’. Using this strategy, a person refers to how *ubuntu* has been described by some perceived authority to explain what *ubuntu* is. It is, for instance, popular to refer to Desmond Tutu’s and Augustine Shutte’s descriptions of *ubuntu*. I find the use of the strategy of authority quite understandable, especially among people who have only a vague idea about what ‘*ubuntu*’ means. But it can be a dangerous strategy if one is looking for older understandings of what ‘*ubuntu*’ means. The descriptions of *ubuntu* by perceived authorities may, namely, sometimes represent very new interpretations of *ubuntu*. For example, Desmond Tutu’s ideas about *ubuntu* seem to me to be a mixture of Christian and more or less traditional African ideas. He has what Michael Battle calls an ‘*ubuntu*

theology' (Battle 1997). Tutu's understanding of *ubuntu* and his understanding of Christianity appear to be almost two sides of the same coin, and it is difficult to understand the one side of the coin without reference to the other. The Christian 'gloss' that Tutu gives *ubuntu* has, of course, not always been there. After all, Christianity entered Africa together with the European colonizers. Similarly, Augustine Shutte's interpretations of *ubuntu* are new and innovative. During an interview on 12 October 2012, Shutte told me that his descriptions of *ubuntu* are both coloured by his own Aristotelian/Thomist philosophical background and the post-apartheid context in which he made his descriptions. It is also worth noticing that many of the ideas about interconnectedness between persons that Shutte connected with the proverb '*umuntu ngumuntu ngabantu*' in the 1990s and 2000s had already been formulated long before he took an interest in the proverb and the notion of *ubuntu*. Many of the ideas that Shutte later came to connect with the proverb were, for instance, already formulated in his 1982 PhD thesis, 'Spirituality and Intersubjectivity: A Philosophical Understanding of the Relation between the Spiritual Nature of Persons and Basic Structures of Intersubjectivity'. During the interview on 12 October 2012 I asked Shutte whether he thought that his interpretation of *ubuntu* resembled how *ubuntu* was understood in earlier societies. He replied: 'I would say: on the face of it "no", although I think that there is a continuity. In other words: I am applying and developing the idea [of *ubuntu*] far beyond what it was originally intended to do. But again, this is a question for a scientist, and I am incompetent to answer whether it really is an authentic development of the original idea or not. That I cannot say. I have tried to write something [about how persons are interconnected, etc.] that is true and importantly true. If in fact it is something totally different from what was traditionally thought, well, it does not really matter as long as what I have written is true and importantly true.'

Finally, I will mention the possibility that some individuals have begun to ascribe new connotations to the term '*ubuntu*' because so doing might serve specific social or political purposes. My findings suggest, for instance, that in written sources, the idea of congruence between *ubuntu* and restorative justice (RJ) emerged in the middle of the TRC process in South Africa. This idea, together with the idea that RJ is in harmony with African indigenous justice systems, has been presented in support of the idea that RJ is a legitimate form of justice from an African point of view and – therefore – a form of justice which, from an African point of view, would be legitimate for the TRC to pursue. In this connection, I wish to call attention to the fact that some scholars have argued that the term '*ubuntu*' has been used rather strategically to make the truth and reconciliation policy easier to 'digest' among black South Africans. I think that the emer-

gence of the idea of congruence between *ubuntu* and RJ *might* be one concrete example of this. I will end this chapter with a quotation from Richard Wilson: ‘*Ubuntu* should be recognized for what it is: an ideological concept with multiple meanings which conjoins human rights, restorative justice, reconciliation and nation-building within the populist language of pan-Africanism. In post-apartheid South Africa, it became the Africanist wrapping used to sell a reconciliatory version of human rights talk to black South Africans’ (Wilson 2001: 13).

Appendix 1: Methods

The information on method that I provide in this appendix is somewhat more detailed than that which I have offered in the three articles. I believe therefore that this appendix may contribute to a deeper understanding of the three articles than one based on reading the articles alone. Below, I explain the methods I have used in my work with each article.

Methods in Relation to the Article 'The Historical Development of the Written Discourses on *Ubuntu*'

As mentioned in the article, Gabriel Setiloane has stated that the term '*ubuntu*' was first used in South African writing in an address to a conference held in Durban in 1960, and Wim van Binsbergen has explained that the first publication on *ubuntu* known to him is the Samkanges' *Hunhuism or Ubuntuism: A Zimbabwe Indigenous Political Philosophy* from 1980 (see page 25). Against the background of such claims, I was surprised to discover 31 texts from the nineteenth century and first half of the twentieth century containing the term '*ubuntu*', the oldest of which dated from 1846. I located the texts by means of the advanced search functions in Google Books, by searching for texts published before 1950 that contain the term '*ubuntu*'. After discovering the 31 texts, I investigated how *ubuntu* was defined in each of them. The oldest texts can be read in full in Google Books, but most texts I had to get via the State and University Library, Aarhus (some texts were part of the library's own collection, and others were obtained for me from libraries abroad).

When reading the 31 texts from the nineteenth and early twentieth century, I found that in all these texts, *ubuntu* seems to be defined as a human quality (see pages 25-29). However, I had also read a considerable number of texts from the post-1990 period, in which *ubuntu* was defined as something other than a human quality. In some of the recent texts *ubuntu* is, for example, defined as a philosophy, an ethic, African humanism or a worldview. Therefore, I decided to embark on the project of investigating when each of these definitions first appeared in written form. To investigate when *ubuntu* first began to be defined as, for example, a philosophy in

the written sources, I did the following: firstly, I used the advanced search function in Google Books to find the oldest texts in the Google Book database that contain both the term '*ubuntu*' and the term 'philosophy'; secondly, I got hold of the relevant texts to check exactly how the term 'philosophy' was used in relation to the term '*ubuntu*'. By doing so, I discovered that it might not have been before the 1960s that some authors began to define *ubuntu* as something either connected to, or identical to, a philosophy. I followed the same procedure to investigate when *ubuntu* began to be defined as, for instance, an ethic, African humanism and a worldview.

It should be noted that I have done a lot of double-checking on my findings by means of other databases such as Google Scholar, JStor and Philosopher's Index. However, as I underscore in the article, I consider Diagram 1 on page 38, which illustrates my historical findings, to be provisional, in the sense that it may need adjusting in accordance with an increase in our historical knowledge of how *ubuntu* is defined in the written sources. Written sources may yet be discovered containing the term '*ubuntu*' from before 1846, as may references showing that *ubuntu* was defined as something either connected to, or identical to, a philosophy before the 1960s. In this connection, it should be noted that as increasing numbers of texts are becoming available in electronic databases such as Google Books, texts that show that Diagram 1 needs to be adjusted are increasingly likely to come to light. I want to emphasize that I do not claim that the article provides a definitive answer to the question of what historical development there has been in the definition of *ubuntu* in written sources, but rather some provisional results that I hope other scholars will subject to future research.

Methods in Relation to the Article 'What is *Ubuntu*? Different Interpretations among South Africans of African Descent'

My informants in this article include a number of authors from the SAADs group who have written about *ubuntu*, and also more than fifty members of the SAADs group who have informed me about *ubuntu* in qualitative interviews, conversations and e-mail correspondence. The qualitative interviews that informed the article were conducted during my research stay in South Africa from August to December 2008, when I interviewed apartheid victims and former TRC commissioners and committee members, and also during my research stay in South Africa from November 2009 to January 2010, when I conducted interviews with traditional Zulu leaders and politicians (Appendix 2 contains a list of all interviews conducted in South Africa; the enclosed DVD contains sound files and interview guides). In addi-

tion to my formal interviews with SAADs, I have discussed *ubuntu* with members of the SAADs group in informal conversations whenever I have had the opportunity (on trips to townships, when visiting private homes, etc.). These informal conversations were an important tool for me to develop my understanding of *ubuntu*, but since they were not recorded, they are not quoted in the article. While in Denmark, I have used e-mail correspondence to collect data on how SAADs understand *ubuntu*. In August 2009, I did, for example, e-mail a number South African universities³³ with an invitation to interested scholars to join an e-mail discussion group on *ubuntu*. The invitation resulted in e-mail dialogues with South African academics, and also with members of South African government departments who joined in on the discussion. Against the background of this invitation, I received more than twenty e-mails from members of the SAADs group, for instance debating the question of what *ubuntu* is and the question of who count as persons in relation to the definition of *ubuntu*. Some of these e-mails are quoted in the article.

The findings that I present in the article were reached gradually, during a data collection process in which I actively tried to uncover differing ideas about what *ubuntu* is, rather than seeking consensus. When I received my PhD scholarship, my – quite immature – theory was that all SAADs understand *ubuntu* as an indigenous African philosophy about the interconnectedness of all *Homo sapiens*. When I collected data on how SAADs understand *ubuntu* from August to December 2008 (partly by reading texts on *ubuntu* authored by SAADs, partly by conducting interviews with members of the SAADs group), I attempted to find additional ideas about what *ubuntu* is. I succeeded in doing so, and developed a new theory about how *ubuntu* is understood among SAADs; a theory which was consistent with all the data I had collected at the time. This theory was that among members of the SAADs group, it is possible to distinguish between two clusters of answers to the question ‘What is *ubuntu*?’ The answers of the first cluster all define *ubuntu* as a moral quality of a *person*, while the answers of the second cluster all define *ubuntu* as a phenomenon (for instance a philosophy, an ethic, African humanism, or a worldview) according to which *persons* are interconnected. When back in Denmark between December 2008 and November 2009, I continued to collect data on how SAADs understand *ubuntu* (primarily by means of text reading) to see if I could develop my theory even further. At this stage I discovered that SAADs do not agree on who *count* as persons in connection with the definition of *ubuntu*.

³³ University of Cape Town, University of Fort Hare, University of the Free State, University of KwaZulu-Natal, University of Limpopo, North-West University, University of Pretoria, Rhodes University, University of Stellenbosch, University of the Western Cape and University of the Witwatersrand.

Previously, I had assumed that SAADs were always referring to *all* members of *Homo sapiens* when speaking or writing about ‘persons’ in relation to *ubuntu*, but I now became aware that that is not the case. When engaging in e-mail discussions on *ubuntu* after this discovery and also when conducting interviews with SAADs during my research stay in South Africa from November 2009 to January 2010, I therefore began to ask about *who count* as persons in relation to the definition of *ubuntu*. Against the background of the collected data, I reached the theory about how SAADs understand *ubuntu* that is found in the article. This theory specifies that some SAADs have inclusive ideas about the nature of *ubuntu*, but that others have exclusive ideas. The inclusive ideas about the nature of *ubuntu* are founded on the view that *all members of Homo sapiens* count as persons, whereas the exclusive ideas are founded on the view that it is only *some members of Homo sapiens* who count as persons: only those who are black, only those who have been incorporated into personhood, or only those who behave in a morally acceptable manner. It is very important to be aware that based on my research, it is *not* possible to justify any quantitative claims about the extent of either inclusive or exclusive ideas about the nature of *ubuntu*. My point is simply that there are *some* SAADs who have inclusive ideas about the nature of *ubuntu*, and *some* SAADs who have exclusive ideas.

During the research process that led to this article I have, as noted, actively tried to find differing ideas of what *ubuntu* is among members of the SAADs group. To increase the possibility of discovering differing ideas, I attempted to draw on informants from the SAADs group with diverse backgrounds. I will re-use my metaphor from the article to explain the rationale for this: just as the fisherman who wishes to catch different types of fish will probably increase his chances of doing so by casting his net in different waters, the researcher seeking for variety in ideas about the nature of *ubuntu* will probably increase his chances by turning to informants with diverse backgrounds. Be that as it may, only a small fraction of the SAADs group discussed *ubuntu* with me. As I underscore in the article, there may of course be ideas about the nature of *ubuntu* among members of the SAADs group of which I am not aware. In other words, it is possible that my ‘map’ of how SAADs understand *ubuntu* lacks detail.

Methods in Relation to the Article ‘Restorative Justice and the South African Truth and Reconciliation Process’

In the literature on restorative justice (RJ), it is a widespread and apparently unquestioned belief that the term ‘restorative justice’ was coined during the second half of the twentieth century (see page 77). In the first part of

the third article, I show that the term ‘restorative justice’ appears in at least six texts from the pre-1950 period, the oldest being from 1834. I used the advanced search function in Google Books to make this finding by simply searching for the term ‘restorative justice’ in texts published before 1950.

Both inside and outside South Africa, the South African TRC is commonly held up as a model institution committed to RJ. But to my knowledge, no scholar has examined the actual appearance of the term ‘restorative justice’ in the transcripts of public TRC hearings. In the research process that led to the third article, I examined the appearance of the term ‘restorative justice’ in the transcripts of the public TRC hearings by means of the search functions at the TRC website (<http://www.justice.gov.za/trc/-search.html>). Again, the procedure was simple. By searching for the term ‘restorative justice’ at the TRC website, I got a list of all documents (including all transcripts of public hearings) containing the term ‘restorative justice’. Afterwards, I accessed the relevant transcripts to examine how the term ‘restorative justice’ was used during each hearing.

In the research process that led to the third article, I also gathered a large number of texts from the nineteenth and first half of the twentieth century on African indigenous justice systems (AIJS). These texts were used in the last part of the article to discuss the common claim that RJ is deeply rooted in African indigenous cultures by virtue of its congruence with AIJS. Many authors who claim that RJ is in harmony with AIJS have a rather ‘romanticizing’ view of the nature of AIJS, referring only to recently published sources on AIJS (see e.g. Masina 2000; Murithi 2006). I show that according to some written sources on AIJS from the nineteenth and first half of the twentieth century, witchcraft, murder, theft and incest were sometimes punished by death.

Appendix 2: List of Interviews

Below may be found a list of the qualitative interviews I conducted in my work for this PhD thesis. Interview guides and sound files are found on the enclosed DVD.

- *12 October 2012 and 27 December 2009: Interviews with Augustine Shutte.* The two interviews were conducted in Cape Town, South Africa. Before retirement, Augustine Shutte was professor of philosophy at the University of Cape Town. He has written two books on *ubuntu*, *Philosophy for Africa* (South African edition from 1993 and American edition from 1995) and *Ubuntu: An Ethic for a New South Africa* (2001).
- *17 January 2010: Interview with Retief Olivier.* The interview was conducted in Cape Town, South Africa. Retief Olivier was a member of the Western Cape Peace Committee during the South African peace process prior to the 1994 election.
- *17 December 2009: Interview with Mfuniselwa John Bhengu.* The interview was conducted in Durban, South Africa. Mfuniselwa John Bhengu has been a Member of Parliament for Inkatha Freedom Party. He has written three books on *ubuntu*. These are: *Ubuntu: The Essence of Democracy* (1996), *Ubuntu: The Global Philosophy for Humankind* (2006) and *African Economic Humanism: The Rise of an African Economic Philosophy* (2010).
- *16 December 2009: Interview with Mangosuthu Buthelezi.* The interview was conducted in Ulundi, South Africa. Prince Mangosuthu Buthelezi is a member of the Zulu royal house. He is the leader of the Inkatha Freedom Party, and also the chairman of the House of Traditional Leaders in KwaZulu Natal.
- *13 December 2009: Interview with Bhekithemba Mchunu.* The interview was conducted in a rural area near Ulundi, South Africa. Prince Bhekithemba Mchunu is a member of the Zulu royal house. He is an *induna* (advisor) of traditional leaders in the Ulundi area.
- *9 and 11 June 2009: Interviews with Velekhaya Shange.* The two interviews were conducted in Aarhus, Denmark. Prince Velekhaya Shange is a member of the Zulu royal house. He was involved in the

- anti-pass campaign in South Africa in 1960, and has lived in Denmark since the 1970s.
- *26 November 2008: Interview with Bongani Finca.* The interview was conducted in Durban, South Africa. Bongani Finca is a minister of the Presbyterian Church in South Africa. He served as a TRC commissioner. In the TRC, he was a committee member of the Human Rights Violations Committee.
 - *24 November 2008: Interview with Dumisa Ntsebeza.* The interview was conducted in Johannesburg, South Africa. Dumisa Ntsebeza is a human rights lawyer. He served as a TRC commissioner. In the TRC, he was a committee member of the Human Rights Violations Committee. He also led the TRC Investigative Unit and the Commission's Victim Protection Programme.
 - *23 November 2008: Interview with Fazel Randera.* The interview was conducted in Johannesburg, South Africa. Fazel Randera is a doctor (formerly the doctor of Nelson Mandela). He served as a TRC commissioner. In the TRC, he was a committee member of the Human Rights Violations Committee.
 - *20 November 2008: Interview with Hugh Lewin.* The interview was conducted in Johannesburg, South Africa. Hugh Lewin is a journalist. He spent seven years in prison after having been convicted for sabotage activities against the apartheid state. He served as a committee member of the TRC's Human Rights Violations Committee.
 - *17 November 2008: Interview with Khoza Mgojo.* The interview was conducted in Gamalakhe near Durban, South Africa. Khoza Mgojo has been the leader of the Methodist Church in Southern Africa. He also served as a TRC commissioner. In the TRC, he was a committee member of the Reparation and Rehabilitation Committee.
 - *5 November 2008: Interview with Cecilia Hlokofa.* The interview was conducted in Cape Town, South Africa. Cecilia Hlokofa is a member of the Khulumani Support Group. She made a statement to the TRC in which she described an incident in Crossroads, Cape Town, when her husband was killed and her arm was broken.
 - *5 November 2008: Interview with Thenjiwe Smayile.* The interview was conducted in Cape Town, South Africa. Thenjiwe Smayile is a member of the Khulumani Support Group. She made a statement to the TRC in which she described being a victim of arson.
 - *5 November 2008: Interview with Cecil Mlanjeni.* The interview was conducted in Cape Town, South Africa. Cecil Mlanjeni is a member of the Khulumani Support Group. He made a statement to the TRC in which he described the killing of his brother, who was shot to death by the apartheid police.

- *4 November 2008: Interview with Brian Mphahlele.* The interview was conducted in Cape Town, South Africa. Brian Mphahlele is a member of the Khulumani Support Group. He was active in the struggle against the apartheid regime and was captured by the police. He made a statement to the TRC in which he described police torture.
- *4 November 2008: Interview with Enoch Mjodo.* The interview was conducted in Cape Town, South Africa. Enoch Mjodo is a member of the Khulumani Support Group. In his statement to the TRC, he explained that the apartheid police forcibly removed him from his home.
- *4 November 2008: Interview with Nkuleleko Meyi.* The interview was conducted in Cape Town, South Africa. Nkuleleko Meyi is a member of the Khulumani Support Group. He made a statement to the TRC in which he explained how he was tortured in the Priska copper mine in the Northern Cape.
- *27 October 2008: Interview with Glenda Wildschut.* The interview was conducted in Cape Town, South Africa. Glenda Wildschut is a psychiatric nurse. She served as a TRC commissioner. In the TRC, she was a committee member of the Reparation and Rehabilitation Committee.
- *24 October 2008. Interview with Ilan Lax.* The interview was conducted in Cape Town, South Africa. Ilan Lax is a lawyer who has worked primarily with human rights issues. He served as a committee member of the Human Rights Violations Committee.
- *29 September 2008: Interview with Mary Burton.* The interview was conducted in Cape Town, South Africa. Mary Burton has been the chairperson of the Black Sash, which is a human rights organization. She served as a TRC commissioner. In the TRC, she was a member of the Human Rights Violations Committee.
- *27 August 2008: Interview with Pumla Gobodo-Madikizela.* The interview was conducted in Cape Town, South Africa. Pumla Gobodo Madikizela is a psychologist. She served as a committee member of the Human Rights Violations Committee.

Appendix 3: List of Additional Activities

This appendix contains a list of the various activities in which I have been involved during my study for my PhD (interviews are not included, since these are already listed in Appendix 2).

Research Stays Abroad during PhD Study Period

- *September to October 2012*: Research stay in Cape Town (to discuss my PhD research with different scholars prior to submission of the thesis).
- *November to December 2010*: Fellow at the Institute of Peace and Strategic Studies, Gulu University, Uganda.
- *December 2009 to January 2010*: Fieldwork in KwaZulu-Natal, South Africa.
- *September to December 2008*: Intern at the Institute for Justice and Reconciliation in Cape Town.

Course, Workshop, Conference and Networking Activities during PhD Study Period

- *Since enrolment in PhD degree programme*: Regular participation in the PhD workshop at my department while I have been in Denmark.
- *Since April 2010*: Occasional participation in the workshops of the 'Philanthropes', an interdisciplinary research group for philosophers and anthropologists at Aarhus University.
- *Since October 2010*: Occasional participation in the workshops of the Research Unit for Philosophy of Practice, Aarhus University.
- *Since May 2011*: Administrator of the Danish/Nordic Network for Restorative Justice, together with Aase Rieck Sørensen, Director of the Danish Centre for Conflict Resolution, Copenhagen, and also responsible for the network's website (www.genoprettende-ret.dk). The network currently consists of 144 conflict-resolution practitioners, policemen, academics, etc. from Denmark, Greenland, the Faroe Islands and Norway.

- *26-28 June 2012*: Participation in the PhD course ‘Conceptions of Justice’, held in Aarhus. The course was arranged by the Research Group for Analytical Philosophy, Aarhus University.
- *29-30 May 2012*: Participation in the PhD course ‘The Human Rights Judiciary: Status and Scenarios’, Norwegian Centre for Human Rights, Oslo.
- *28 April 2012*: Participation in PhD workshop on the writing of research proposals, held in Gulu, Uganda, and arranged by the Institute of Peace and Strategic Studies, Gulu University.
- *26-27 April 2012*: Participation in a conference on stability, democracy and rights at Gulu University, Uganda. The conference was arranged by the Platform for Stability, Democracy and Rights under the Building Stronger Universities in Developing Countries initiative (a collaborative initiative between Danish Universities and universities in Africa and Asia).
- *23 April 2012*: Co-organizer of meeting in the Danish/Nordic Network for Restorative Justice, with lecture by Dominic Barter, who had been working with restorative circles in *favelas* (shanty towns) in Rio de Janeiro, Brazil.
- *8 December 2011*: Co-organizer of meeting in the Danish/Nordic Network for Restorative Justice with lecture by Geir Dale, mediating between young people on the streets of Oslo, Norway.
- *12-13 May 2011*: Main organizer of the conference ‘Restorative Justice’, held at Aarhus University. The conference had more than 70 participants from Denmark, Greenland and Norway. Speakers included academics, the Youth Offending Team, Aarhus, the mayor of the municipal government of Sermersooq, Greenland, the director of the Secretariat for Conflict Councils in Norway, the Danish police, and mediators from the Danish Conflict Councils and the Danish Centre for Conflict Resolution.
- *12-13 May 2011*: Co-organizer and also participant in a PhD course on restorative justice, arranged in connection with the conference on restorative justice cited above. The PhD School in Philosophy and History of Ideas, Aarhus University, had overall responsibility for the course.
- *29-30 October 2010*: Participation in the conference ‘Role of Women in Global Security’, held in Copenhagen. The U.S. Embassy in Denmark and the Danish Ministry of Foreign Affairs arranged the conference.
- *2-6 December 2009*: Participation in the conference ‘Beyond Reconciliation: Dealing with the Aftermath of Mass Trauma and Political

- Violence’, held in Cape Town. Pumla Gobodo-Madikizela, Chris van der Merwe and Ahmed-Riaz Mohamed arranged the conference.
- *18 September 2009*: Participation in research seminar about dehumanization held at the Danish Institute for International Studies, Copenhagen.
 - *2 December 2008*: Participation in oral history workshop entitled ‘Making Apartheid History – My Contribution’, Cape Town, arranged by the Institute for Justice and Reconciliation.
 - *6 November 2008*: Participation in workshop on post-civil war Ugandan society, with presentations by Fabius Okumu-Alya (Institute of Peace and Strategic Studies, Gulu), Lino Owor Ogora (Justice and Reconciliation Project, Gulu), and Jackee Budesta (Refugee Law Project, Makerere University). The workshop was held at the Institute for Justice and Reconciliation, Cape Town.
 - *28-30 October 2008*: Participation in the conference ‘A National Priority? TRC Recommendations and the Need for Redress’. I was responsible for writing the summary of the TRC recommendations that formed part of the conference material, and also for making daily summaries of conference proceedings which were handed out to the conference participants. The conference was arranged by the Desmond Tutu Peace Centre, the Foundation for Human Rights, and the Institute for Justice and Reconciliation.
 - *23 October 2008*: Participation in workshop on the South African Truth and Reconciliation Commission (TRC), led by Mary Burton, a commissioner in the TRC. The workshop was held at the Institute for Justice and Reconciliation, Cape Town.
 - *13 October 2008*: Participation in workshop on ‘Challenges of Community Healing’ led by Valdi van Reenen-Le Roux and Kenneth Lukuko from the Institute for Justice and Reconciliation. The workshop was held at the Institute for Justice and Reconciliation, Cape Town.
 - *9 October 2008*: Participation in workshop on ‘Transitional Justice’ led by Professor André du Toit, University of Cape Town. The workshop was held at the Institute for Justice and Reconciliation, Cape Town.
 - *2 October 2008*: Participation in seminar on oral history at the Lwandle Migrant Labour Museum in Lwandle.
 - *17 September 2008*: Participation in the workshop ‘Transitional Justice and Development in Africa’, Cape Town. The workshop was arranged by the Japan International Cooperation Agency and the International Center for Transitional Justice.

Teaching at Aarhus University during PhD Study Period

- *Spring 2011*: Establishment and teaching of cross-disciplinary Master's course on conflict resolution in Africa. More than 20 students from disciplines including philosophy, history of ideas, anthropology, education, and law participated in the course, which was held at the Department of Philosophy and History of Ideas, Aarhus University.
- *Autumn 2009*: Instructor in History of Philosophy for all beginning BA students in Philosophy at Aarhus University in 2009.

Additional Oral Presentations during PhD Study Period

- *28 November 2012*: Presentation of PhD project during meeting of the Research Unit for Philosophy of Practice, Aarhus University.
- *7 September 2012*: Lecture in Danish entitled 'Genoprettende retfærdighed og Sydafrikas sandheds- og forsoningsproces' (Restorative Justice and South Africa's Truth and Reconciliation Process). The lecture was in Ungdomsbyen, Rødovre, for a group of people as part of their preparation for an educative trip to South Africa.
- *28 June 2012*: Lecture entitled 'Legitimizing Restorative Justice in Post-Apartheid South Africa: Reflections on *Ubuntu* and the Creative Use of History'. The lecture was held during the PhD course 'Conceptions of Justice' in Aarhus.
- *30 May 2012*: Lecture entitled 'Transitional Justice: What is Possible and what is Preferable?' The lecture was held at the PhD workshop 'The Human Rights Judiciary: Status and Scenarios' at the Norwegian Centre for Human Rights, Oslo.
- *27 April 2012*: Lecture entitled 'Transitional Justice: What is Possible and what is Preferable?' Lecture held at Gulu University, Uganda, at a conference organized by the Platform for Stability, Democracy and Rights under the Building Stronger Universities initiative (collaborative initiative between Danish universities and universities in Africa and Asia).
- *19 August 2011*: Guest lecture entitled 'Truth and Reconciliation in South Africa – Some Reflections'. The lecture was held at the summer school 'War, Torture and other Bedtime Stories – Course on Ethics of War' at Aarhus University.
- *12 May 2011*: Lecture in Danish entitled 'Sydafrikas sandheds- og forsoningsproces: en proces funderet på genoprettende retfærdighed og *ubuntu*?' (South Africa's Truth and Reconciliation Process: A Process Based on *Ubuntu* and Restorative Justice?). The lecture was held at the conference 'Restorative Justice: Danish and International Perspectives', Aarhus University.

- *21 January 2011*: Lecture in Danish entitled ‘Sandhed og forsoning i Sydafrika’ (Truth and Reconciliation in South Africa). Held at the Department of Philosophy and History of Ideas, Aarhus University.
- *12 October 2011*: Lecture in Danish entitled ‘*Ubuntu* og Sydafrikas sandheds- og forsoningsproces’ (*Ubuntu* and the South African Truth and Reconciliation Process). Held at the Department of Philosophy and History of Ideas, Aarhus University.
- *28 November 2010*: Lecture entitled ‘*Ubuntu* and the South African Truth and Reconciliation Process’. The lecture was held at the Institute of Peace and Strategic Studies, Gulu University, Uganda.
- *25 November 2010*: Lecture entitled ‘The Invention of Tradition in the Context of Social Transformations – The Case of *Ubuntu*’. Held at the Institute of Peace and Strategic Studies, Gulu University, Uganda.
- *25 August 2010*: Lecture entitled ‘*Ubuntu* and Conflict Resolution: A South African Story Re-Told’, held at the Department of Philosophy and History of Ideas, Aarhus University.
- *11 April 2010*: Lecture in Danish entitled ‘Genoprettende retfærdighed - Indsigter fra Sydafrika?’ (Restorative Justice – Lessons from South Africa?). The lecture was held at the annual general meeting of the Centre for Conflict Resolution, Copenhagen.
- *10 March 2010*: Lecture in Danish entitled ‘Sydafrikas sandheds- og forsoningskommission og *ubuntu* filosofien’ (South Africa’s Truth and Reconciliation Commission and the *Ubuntu* Philosophy). The lecture was arranged by the Centre for Conflict Resolution, Copenhagen.
- *12 February 2010*: Lecture in Danish entitled ‘Til Traditionelt Zulu-bryllup’ (Attending a Traditional Zulu Wedding) in Filosofisk Studenter Kollokvium (Philosophical Student Colloquium), Aarhus University.
- *3 December 2009*: Lecture entitled ‘*Ubuntu* Philosophy and the South African TRC’. The lecture was held at the conference ‘Beyond Reconciliation – Dealing with the Aftermath of Mass Trauma and Political Violence’, University of Cape Town, South Africa.
- *30 October 2009*: Lecture in Danish entitled ‘Hvad er filosofi?’ (What is Philosophy?). The lecture was held for high-school students visiting the Department of Philosophy and History of Ideas, Aarhus University.
- *24 October 2009*: Lecture in Danish entitled ‘*Ubuntu* og konfliktløsning i Sydafrika’ (*Ubuntu* and Conflict Resolution in South Africa). The lecture was held at the Department of Philosophy and History of Ideas, Aarhus University.
- *30 September 2009*: Lecture in Danish entitled ‘Konfliktløsning i Sydafrika og de bagvedliggende ideer’ (Conflict Resolution in South

- Africa and the Underpinning Ideas). The lecture was arranged by the Centre for Conflict Resolution, Copenhagen.
- *18 September 2009*: Lecture entitled ‘*Ubuntu* Philosophy - Some Ideas about Crime, Dehumanization and Healing’. The lecture was held during a research seminar about dehumanization, hosted by the Danish Institute for International Studies, Copenhagen.
 - *15 May 2009*: Lecture in Danish entitled ‘*Ubuntu* og konfliktløsning’ (*Ubuntu* and Conflict Resolution). The lecture was held in Filosofisk Studenter Kollokvium (Philosophical Student Colloquium), Aarhus University.
 - *16 April 2009*: Guest lecture entitled ‘*Ubuntu* – A Philosophical Underpinning of South Africa’s Post-Apartheid Truth and Reconciliation Commission’. The lecture was held in the Master’s course ‘Conflict, Value, Identity’, Department of Philosophy and History of Ideas, Aarhus University.
 - *29 January 2009*: Lecture in Danish entitled ‘Hvad er *ubuntu*-konfliktløsning? Et oplæg om filosofien *ubuntu* og dens tilstedeværelse i Sydafrikas sandheds- og forsoningskommission’ (What is *Ubuntu* Conflict Resolution? A Presentation on the *Ubuntu* Philosophy and Its Presence in South Africa’s Truth and Reconciliation Commission). Lecture arranged by the Danish Centre for Conflict Resolution, Copenhagen.

Other Outreach Activities during PhD Study Period

- *June 2010*: I was interviewed by Tina Lee, who wrote an article about my research entitled ‘Konfliktløsning på afrikansk’ (loosely translated as ‘Conflict Resolution, African Style’). The article was published in *Augustus* Vol. 2, 2010, pp. 13-15.
- *11 July 2010*: I gave a talk on *ubuntu* and the South African truth and reconciliation process in *Go’ Aften Østjylland* (Danish television).
- *18 July 2010*: I gave a talk on the life of Nelson Mandela in *TV2 News* (Danish television).

Bibliography

- Azanian Peoples Organization (AZAPO) and Others v President of the Republic of South Africa and Others* (CCT17/96) [1996] ZACC 16; 1996 (8) BCLR 1015; 1996 (4) SA 672 (25 July 1996).
- Abbots, B. 1863. *A Woman's Story*. Vol. 2. London: T. Cautley Newby.
- Africa Institute of South Africa 1975. *Communications of the Africa Institute*. Pretoria: Africa Institute of South Africa.
- Albion, M. 2008. *More Than Money: Questions Every MBA Needs to Answer*. San Francisco: Berrett-Koehler Publishers.
- Allen, J. 2001. 'Between Retribution and Restoration: Justice and the TRC', *South African Journal of Philosophy* 20(1), 22-41.
- Allena, T. 2004. 'Restorative Conferences: Developing Students Responsibility by Repairing the Harm to Victims and Restoring the University Community', in: Karp, D.R. & Allena, T. (eds.). *Restorative Justice on the College Campus: Promoting Student Growth and Responsibility, and Reawakening the Spirit of Campus Community*. Illinois: Charles C. Thomas.
- American Bible Society 1883. *IBaible eli ingcwele: Eli neTestamente elidala, nelitya, ku kitywa kuzo izilimi zokuqala, ku lotywa ngokwesi-Zulu*. New York: American Bible Society.
- Ammar, N.H. 2003. 'Exploring Elements of Restorative Justice in the Islamic Legal System', in: Safty, A. (ed.). *Value Leadership and Capacity Building*. Boca Raton: Universal Publishers.
- Ansell, A.E. 2007. 'Two Nations of Discourse: Mapping Racial Ideologies in Post-Apartheid South Africa', in: Coates, R.D. & Dennis, R.M. (eds.). *The New Black: Alternative Paradigms and Strategies for the 21st Century*. Oxford: Elsevier.
- Appleyard, J.W. 1850. *The Kafir Language*. Graham's Town: Wesleyan Mission Society.
- Armour, M.P. & Umbreit, M.S. 2011. 'Restorative Justice and Juvenile Offenders', in: Springer, D.W. & Roberts, A.R. (eds.). *Juvenile Justice and Delinquency*. Sudbury: Jones and Bartlett Publishers.
- Armstrong, L. 1848. *The Signs of the Times; Comprised in Ten Lectures, Designed to Show the Origin, Nature, Tendency, and Alliances of the*

- Present Popular Efforts for the Abolition of Capital Punishment*. New York: Robert Carter.
- Bamford, R. 2007. 'Nietzsche and *Ubuntu*', *South African Journal of Philosophy* 26(1), 85-97.
- Bangstad, S. 2007. *Global Flows, Local Appropriations: Facets of Secularisation and Re-Islamization Among Contemporary Cape Muslims*. Leiden: Amsterdam University Press.
- Barkhuizen v Napier* (CCT72/05) [2007] ZACC 5; 2007 (5) SA 323 (CC); 2007 (7) BCLR 691 (CC) (4 April 2007).
- Barnes, L. 1935. *Zulu Paraclete: A Sentimental Record*. London: P. Davies.
- Barnett, R.E. 1977. 'Restitution: A New Paradigm of Criminal Justice', *Ethics* 87(4), 279-301.
- Battle, M. 1997. *Reconciliation: The Ubuntu Theology of Desmond Tutu*. Cleveland, Ohio: The Pilgrim Press.
- Bell, R.H. 2002. *Understanding African Philosophy: A Cross-Cultural Approach to Classical and Contemporary Issues*. New York: Routledge.
- Bennett, C. 2006. 'Taking the Sincerity Out of Saying Sorry: Restorative Justice as Ritual', *Journal of Applied Philosophy* 23(2), 127-143.
- Bennett, T. 2011. 'Ubuntu: An African Equity', *Potchefstroom Electronic Law Journal* 14(4), 30-61.
- Berger, P.L. & Godsell, B. 1988. *A Future South Africa: Visions, Strategies, and Realities*. Cape Town: Human & Rousseau.
- Bertie Van Zyl (Pty) Ltd and Another v Minister for Safety and Security and Others* (CCT 77/08) [2009] ZACC 11; 2010 (2) SA 181 (CC); 2009 (10) BCLR 978 (CC) (7 May 2009).
- Bewaji, J.A.I. & Ramose, M.B. 2003. 'The Bewaji, Van Binsbergen and Ramose Debate on *Ubuntu*', *South African Journal of Philosophy* 22(4), 378-415.
- Bhe and Others v Khayelitsha Magistrate and Others* (CCT 49/03) [2004] ZACC 17; 2005 (1) SA 580 (CC); 2005 (1) BCLR 1 (CC) (15 October 2004).
- Bhengu, M.J. 1996. *Ubuntu: The Essence of Democracy*. Cape Town: Novalis Press.
- Bhengu, M.J. 2006. *Ubuntu: The Global Philosophy for Humankind*. Cape Town: Lotsha Publications.
- Bhengu, M.J. 2010. *African Economic Humanism: The Rise of an African Economic Philosophy*. Farnham: Ashgate.
- Biko, S. 1978. *I Write What I Like*. San Francisco: Harper & Row.
- Blair, J.A. et al. 1866. *The Collects, Epistles, and Gospels, from the Book of Common Prayer of the Church of England. Translated into Zulu*. Natal: Springvale Mission Station.

- Booth, N.S. 1977. *African Religions: A Symposium*. New York: NOK Publishers.
- Boraine, A. 2000. *A Country Unmasked*. Oxford: Oxford University Press.
- Braithwaite, J. & Strang, H. 2002. 'Restorative Justice and Family Violence', in: Strang, H. & Braithwaite, J. (eds). *Restorative Justice and Family Violence*. Cambridge: Cambridge University Press.
- Braithwaite, J. 1998. 'Restorative Justice', in: Tonry, M. (ed.). *The Handbook of Crime & Punishment*. Oxford: Oxford University Press.
- Breytenbach, W.J. 1975. *Tuislande: selfregering en politieke partye*. Pretoria: Africa Institute of South Africa.
- Brookes, E.H. 1953. *R. J.: In Appreciation of the Life of John David Rheinallt Jones and His Work for the Betterment of Race Relations in Southern Africa*. Johannesburg: Transvaal Printing and Photo-Lithographers.
- Brudholm, T. 2007. 'A Light in the Darkness? Philosophical Reflections on Historians' Assessments of the Rescue of the Jews in Denmark in 1943', in: Schott, R.M. & Klercke, K. (eds.). *Philosophy on the Border*. Copenhagen: Museum Tusulanum Press.
- Brudholm, T. 2008. *Resentment's Virtue: Jean Améry and the Refusal to Forgive*. Philadelphia: Temple University Press.
- Bryant, A.T. 1963. *Bantu Origins: The People & Their Language*. Cape Town: C. Struik.
- Burkhead, M.D. 2009. *A Life for a Life: The American Debate Over the Death Penalty*. North Carolina: McFarland & Company, Inc., Publishers.
- Buthelezi, M.S.T.M. 2004. *African Nurse Pioneers in KwaZulu/Natal – 1920-2000*. Victoria: Trafford.
- Callaway, G. 1925. 'Further Thoughts about Ubuntu', *The East & the West: A Quarterly Review for the Study of Missionary* 23, 232-241.
- Callaway, G. 1926. 'Manners and Race Relationships', *International Review of Missions* 15(57), 390-401.
- Callaway, G. 1932. *The Soul of an African Padre*. London: A. R. Mowbray.
- Callaway, G. 1969. *The Fellowship of the Veld: Sketches of Native Life in South Africa*. New York: Negro Universities Press.
- Callaway, G. et al. 1945. *Godfrey Callaway, Missionary in Kaffraria, 1892-1942: His Life and Writings*. London: Society for Promoting Christian Knowledge.
- Calpin, G.H. et al. 1953. *The South African Way of Life: Values and Ideals of a Multi-Racial Society*. New York: Columbia University Press.
- Carus, P. 1907. *The Story of Samson: And Its Place in the Religious Development of Mankind*. Chicago: Open Court Publishing Company.

- Chandler, D. 2007. *Semiotics: The Basics*. Second edition. New York: Routledge.
- Chatterjee, J. & Elliott, L. 2003. 'Restorative Policing in Canada: The Royal Canadian Mounted Police, Community Justice Forums, and the Youth Criminal Justice Act', *Police Practice and Research: An International Journal* 4(4), 347–359.
- Christian Education South Africa v Minister of Education* (CCT4/00) [2000] ZACC 11; 2000 (4) SA 757; 2000 (10) BCLR 1051 (18 August 2000).
- Christie, N. 1977. 'Conflicts as Property', *The British Journal of Criminology* 17(1), 1–15.
- Christie, N. 2005. 'Restorative and Retributive Justice in the Context of War and War Crimes', *Temida* 8(4), 27–32.
- Christie, N. 2010. 'Victim Movements at a Crossroad', *Punishment & Society* 12(2), 115–122.
- City of Johannesburg Metropolitan Municipality v Blue Moonlight Properties 39 (Pty) Ltd and Another* (CC) [2011] ZACC 33; 2012 (2) BCLR 150 (CC); 2012 (2) SA 104 (CC) (1 December 2011)
- Claassens, A. 1986. 'People and Whites', *The Black Sash* 28(4), 18.
- Clarke, L. & Ngobese, J. 1975. *Women without Men: A Study of 150 Families in the Nqutu District of Kwazulu*. Durban: Institute for Black Research.
- Cochrane, J.R. 1996. 'Salvation and the Reconstruction of Society', in: Brümer, V. & Sarot, M. (eds.). *Happiness, Well-Being and the Meaning of Life: A Dialogue of Social Science and Religion*. Kampen: Kok Pharos Publishing House.
- Colenso, J.W. 1855. *An Elementary Grammar of the Zulu-Kafir Language: Prepared for the Use of Missionaries, and Other Students*. London: Richard Clay.
- Colenso, J.W. 1859. *Inzindatyana zabantu kanye nezindaba zas'eNatal*. Pietermaritzburg: May & Davis.
- Colenso, J.W. 1861. *Zulu-English Dictionary*. Pietermaritzburg: P. Davis.
- Commission on Laws and Customs of the Basutos 1873. *Report and Evidence of Commission on Native Laws and Customs of the Basutos*. Cape Town: Saul Solomon & Co.
- Constitution of Inkatha Freedom Party*, [1975] 2006.
- Constitution of the Republic of South Africa*, Act 108 of 1996.
- Constitution of the Republic of South Africa*, Act 200 of 1993.
- Cook, P.A.W. 1931. *Social Organisation and Ceremonial Institutions of the Bomvana*. Cape Town: Juta & Co.

- Cornell, D. & Muvangua, N. 2011 (eds.). *uBuntu and the Law: African Ideals and Postapartheid Jurisprudence*. Oxford: Oxford University Press.
- Daly, K.. 2012. 'The Punishment Debate in Restorative Justice', in: Simon, J. & Sparks, R. (eds.). *The Handbook of Punishment and Society*. London: Sage Publication [Forthcoming in October 2012].
- Davis, T.L. et al. 1936. *Village Education in Africa: Report of the Inter-Territorial "Jeanes" Conference, Salisbury, S. Rhodesia, May 27th-June 6th, 1935*. Lovedale: Lovedale press.
- De Vries, E. 1966. *Man in Community: Christian Concern for the Human in Changing Society*. New York: Association Press.
- Dieckmann, C. 1902. *Das Gilgames-Epos: In seiner Bedeutung für Bibel und Babel*. Leipzig: Christoph Steffen.
- Dikoko v Mokhatla* (CCT62/05) [2006] ZACC 10; 2006 (6) SA 235 (CC); 2007 (1) BCLR 1 (CC) (3 August 2006).
- Doke, C.M. 1938. 'The Earliest Records of Bantu', *Bantu Studies* 12, 135-144.
- Doke, C.M. 1945. *Text Book of Zulu Grammar*. London: Longmans, Green & Co.
- Doke, C.M. et al. 1967. *The Southern Bantu Languages*. London: Dawsons of Pall Mall for the International African Institute.
- Dorpat, T.L. 2007. *Crimes of Punishment: America's Culture of Violence*. New York: Algora Publishing.
- Du Plessis, J.A. 1978. *IsiXhosa*. Parow: Oudiovista.
- Du Toit v Minister for Safety and Security and Another* (CCT91/08) [2009] ZACC 22; 2010 (1) SACR 1 (CC); 2009 (12) BCLR 1171 (CC); (2009) 30 ILJ 2601 (CC) (18 August 2009).
- Du Toit, C. 2003. 'Technology with a Human Face: African and Western Profiles', *South African Journal of Philosophy* 22(2), 173-183.
- Du Toit, C.W. 2004. 'The Integrity of the Human Person in an African Context. Perspectives from Science and Religion'. Proceedings of the eleventh seminar of the South African Science and Religion Forum (SASRF) of the Research Institute for Theology and Religion held at the University of South Africa, Pretoria on 28 & 29 August 2003.
- Du Toit, L. 2008. 'Old Wives' Tales and Philosophical Delusions: On 'the Problem of Women and African Philosophy'', *South African Journal of Philosophy* 27(4), 413-428.
- Egenbrecht, J.A. 1962. *Zoeloe-leerboek: Met oefeninge, leesstrukke, wordelys en 'n aantal raaisels en spreekwoorde*. Johannesburg: Voo-trekkerpers Beperk.

- Eglash, A. 1957a. 'Creative Restitution: A Broader Meaning for an Old Term', *Journal of Criminal Law, Criminology and Police Science* 48(6), 619–622.
- Eglash, A. 1957b. 'Creative Restitution: Some Suggestions for Prison Rehabilitation Programs', *American Journal of Corrections* 20, 20–34.
- Eglash, A. 1959. 'Creative Restitution: Its Roots in Psychiatry, Religion and Law', *British Journal of Delinquency* 10, 114–119.
- Eglash, A. 1977. 'Beyond Restitution: Creative Restitution', in: Hudson, J. & Galaway, B. (eds.). *Restitution in Criminal Justice: A Critical Assessment of Sanctions*. Lexington: Lexington Books.
- Elster, J. 2004. *Closing the Books: Transitional Justice in Historical Perspective*. Cambridge: Cambridge University Press.
- Epstein, A.L. 1967. 'Injury and Liability: Legal Ideas and Implicit Assumptions', *Mankind* 6(9), 376-383.
- Everfresh Market Virginia (Pty) Ltd v Shoprite Checkers (Pty) Ltd* (CCT 105/10) [2011] ZACC 30; 2012 (1) SA 256 (CC); 2012 (3) BCLR 219 (CC) (17 November 2011).
- Eze, M.O. 2008. 'What is African Communitarianism? Against Consensus as a Regulative Idea', *South African Journal of Philosophy* 27(4), 386-399.
- Eze, M.O. 2010. *Intellectual History in Contemporary South Africa*. New York: Palgrave Macmillan.
- Farland, D. 2007. "'African Intuitions' and Moral Theory", *South African Journal of Philosophy* 26(4), 356-363.
- Fortes, M. 1987. *Religion, Morality and the Person: Essays on Tallensi Religion*. New York: Cambridge University Press.
- Fourcade, M. 1924. 'Address of Mr. Manuel Fourcade, Bâtonnier of the Order of Advocates, Etc.', *American Bar Association Journal* 11, 768–769.
- Gade, C.B.N. 2010. *Ubuntu and the South African Truth and Reconciliation Process*. Unpublished Master's thesis. Department of Philosophy and History of Ideas, Aarhus University.
- Gade, C.B.N. 2011. 'The Historical Development of the Written Discourses on *Ubuntu*', *South African Journal of Philosophy* 30(3), 303-329.
- Gade, C.B.N. 2012. 'What is *Ubuntu*? Different Interpretations among South Africans of African Descent', *South African Journal of Philosophy* 31(3), 484-503.
- Graaff, J. 2001. 'South African Explanations of Political Violence 1980-1995', *South African Journal of Philosophy* 20(1), 103-123.
- Groothues, C. 2012. 'The Developing Character of Restorative Justice', *Resolution* 44, 22–23.

- Grout, L. 1859. *The Isizulu: A Grammar of the Zulu Language*. Pietermaritzburg: May & Davis.
- Grout, L. 1893. *The Isizulu: A Revised Edition of a Grammar of the Zulu Language; with an Introduction and Appendix*. London: J.F. Shaw.
- Groves, C.P. 1958. *The Planting of Christianity in Africa*. London: Lutterworth Press.
- Gumede (born Shange) v President of the Republic of South Africa and Others* (CCT 50/08) [2008] ZACC 23; 2009 (3) BCLR 243 (CC); 2009 (3) SA 152 (CC) (8 December 2008).
- Hare, H.H. *et al.* 1846. *I-Testamente entsha yenkosi yetu Ka-Yesu Kristu, Gokwamaxosa*. Ishicilelwe Kwisishicilelo Sabra-Wesli: E-Newton Dale.
- Harries, C.L. 1929. *The Laws and Customs of the Bapedi and Cognate Tribes of the Transvaal*. Johannesburg: Hortors Limited.
- Harris, V. 2006. 'The TRC's Unfinished Business: Archives', in: Villa-Vicencio, C. & Du Toit, F. (eds.). *Truth & Reconciliation in South Africa: 10 Years On*. Claremont: New Africa Books.
- Hayner, P.B. 2011. *Unspeakable Truths: Transitional Justice and the Challenge of Truth Commissions*. Second edition. New York: Routledge.
- Heath-Thornton, D. 2009. 'Restorative Justice', in: Wilson, J.K. (ed.). *The Praeger Handbook of Victimology*. Santa Barbara: ABC-CLIO.
- Hetherington, P. 1978. *British Paternalism and Africa, 1920-1940*. London: F. Cass.
- Hitchings, H. 2008. *The Secret Life of Words: How English became English*. New York: Farrar, Straus and Giroux.
- Hoffmann v South African Airways* (CCT17/00) [2000] ZACC 17; 2001 (1) SA 1; 2000 (11) BCLR 1235; [2000] 12 BLLR 1365 (CC) (28 September 2000).
- Holkeboer, M. 2004. 'Out of the Crooked Timber of Humanity: Humanising Rights in South Africa', in: Doxtader, E. & Villa-Vicencio, C. (eds.). *To Repair the Irreparable: Reparation and Reconstruction in South Africa*. Claremont: David Philip Publishers.
- Holtermann, J.v.H. 2009. 'Outlining the Shadow of the Axe – On Restorative Justice and the Use of Trial and Punishment', *Criminal Law and Philosophy: An International Journal for Philosophy of Crime, Criminal Law and Punishment* 3(2), 187-207.
- Jabavu, N. 1960. *Drawn in Colour: African Contrasts*. London: Murray.
- Janz, B.B. 2008. 'Reason and Rationality in Eze's On Reason', *South African Journal of Philosophy* 27(4), 296-309.
- Johnstone, J. 2008. 'The Agendas of the Restorative Justice Movement', in: Miller, H.V. (ed.). *Restorative Justice: From Theory to Practice*. Bringley: Emerald Group Publishing.

- Jordan, A.C. 1973. *Tales from Southern Africa*. Berkeley: University of California Press.
- Jordan, A.C. 1973. *Towards an African Literature: The Emergence of Literary Form in Xhosa*. Berkeley: University of California Press.
- Joseph and Others v City of Johannesburg and Others* (CCT 43/09) [2009] ZACC 30; 2010 (3) BCLR 212 (CC); 2010 (4) SA 55 (CC) (9 October 2009).
- Junod, H.A. 1913. *The Life of a South African Tribe*. Vol. 1. London: Macmillan and Co.
- Kagame, A. 1956. *La philosophie bantu-rwandaise de l'être*. Bruxelles: Académie Royale des Sciences Coloniales.
- Kamwangamalu, N.M. 1999. 'Ubuntu in South Africa: A Sociolinguistic Perspective to a Pan-African Concept', *Critical Arts* 13(2), 24-41.
- Keeley, L.H. 1996. *War Before Civilization: The Myth of the Peaceful Savage*. Oxford: Oxford University Press.
- Khumalo, F. 2008. *Drawing Inspiration From The Proud Legacy of Nelson Mandela*. Speech delivered to a symposium organized by the Department of Education, Port Elizabeth, September 13, 2008.
- Kimenyi, A. 1979. *Studies in Kinyarwanda and Bantu Phonology*. Edmonton: Linguistic Research.
- Kirk, J. 1929. *The Economic Aspects of Native Segregation in South Africa*. London: P. S. King & Son.
- Kolini, E.M. & Holmes, P.R. 2010. *Rethinking Life: What the Church Can Learn from Africa*. Colorado Springs: Authentic Publishing.
- Koyabe and Others v Minister for Home Affairs and Others* (CCT 53/08) [2009] ZACC 23; 2009 (12) BCLR 1192 (CC); 2010 (4) SA 327 (CC) (25 August 2009).
- Krige, E.J. 1936. *The Social System of the Zulus*. London: Longmans, Green and Co.
- Krige, E.J. et al. 1978. *Social System and Tradition in Southern Africa: Essays in Honour of Eileen Krige*. Cape Town: Oxford University Press.
- Krog, A. 2008. "'This Thing called Reconciliation...': Forgiveness as Part of an Interconnectedness-Towards-Wholeness", *South African Journal of Philosophy* 27(4), 353-366.
- Le Roux and Others v Dey* (CCT 45/10) [2011] ZACC 4 (8 March 2011).
- Lenta, P. 2003. 'The Changing Face of the Law: Ubuntu, Religion and the Politics of Postcolonial Legality', in: Baker, D.-P. and Maxwell, P. (eds.). *Explorations in Contemporary Continental Philosophy of Religion*. Amsterdam: Editions Rodopi B.V.
- Leonhard, L. & Kenny, P. 2010. *Sustainable Justice and the Community*. Bingley: Emerald.

- Lissner, J. 1976. *Namibia 1975: Hope, Fear and Ambiguity*. Geneva: Lutheran World Federation.
- Livingston, W.S. 1979. *A Prospect of Liberal Democracy*. Austin: University of Texas Bicentennial Committee.
- Llewellyn, J.J. & Howse, R. 1999. *Restorative Justice - A Conceptual Framework*. Ottawa: Law Commission of Canada.
- Lodge, T. 1999. *South African Politics since 1994*. Cape Town: David Philip Publishers.
- Lötter, H. 1997. *Injustice, Violence and Crime: The Case of South Africa*. Amsterdam: Editions Rodopi B.V.
- Maclean, J. 1858. *A Compendium of Kafir Laws and Customs*. London: Frank Cass & Co.
- Makgoba, M.W. (ed.) 1999. *African Renaissance: The New Struggle*. Capetown: Tafelberg & Mafube.
- Malcolm, D.M. 1960. *A Zulu Manual for Beginners: With Exercises*. Cape Town: Longmans.
- Mandela, N. 1995. *Long Walk to Freedom*. London: Abacus.
- Marshall, C. 2011. 'Justice, Restorative', in: Green, J.B. (ed.). *Dictionary of Scripture and Ethics*. Grand Rapids: Baker Academics.
- Marshall, T.F. 1996. 'The Evolution of Restorative Justice in Britain', *European Journal of Criminal Policy and Research* 4(4), 21–43.
- Marshall, T.F. 1999. *Restorative Justice: An Overview*. London: Home Office Research Development and Statistics Directorate.
- Marten, L. 2006. 'Southern Bantu Languages', in: Brown, K. (ed.). *The Encyclopedia of Languages and Linguistics*, Vol. 11. Oxford: Elsevier.
- Marx, C. 2002. 'Ubu and Ubuntu: On the Dialectics of Apartheid and Nation Building', *Politikon* 29(1), 49-69.
- Masetlha v President of the Republic of South Africa and Another* (CCT 01/07) [2007] ZACC 20; 2008 (1) SA 566 (CC); 2008 (1) BCLR 1 (3 October 2007).
- Masina, N. 2000. 'Xhosa Practices of *Ubuntu* for South Africa', in: Zartman, I.W. (ed.). *Traditional Cures for Modern Conflicts: African Conflict "Medicine"*. London: Lynne Rienner Publishers.
- Mayer, P. 1980. *Black Villagers in an Industrial Society: Anthropological Perspectives on Labour Migration in South Africa*. Cape Town: Oxford University Press.
- Mbeki, T. 1998. 'The African Renaissance Statement'. Speech at the Galagher Estate on 13 August 1998.
- Mbeki, T. 1998. 'The African Renaissance, South Africa and the World'. Speech at the United Nations University on 9 April 1998.

- McEachern, C. 2002. *Narratives of Nation Media, Memory and Representation in the Making of the New South Africa*. New York: Nova Science Publishers.
- McLaren, J. 1918. 'The Wit and Wisdom of the Bantu as Illustrated in Their Proverbial Sayings', *Suid-Afrikaanse joernaal van wetenskap* 14, 330-344.
- McLaren, J. 1955. *A Xhosa Grammar*. Cape Town: Longmans.
- Mechem, F.R. 1916. 'An Inquiry Concerning Justice', *Michigan Law Review* 14(5), 361–382.
- Members of the Church of Ireland 1834. 'View of Public Affairs for the Year 1834', *Christian Examiner and Church of Ireland Magazine* 3(27), 1–11.
- Menkiti, I.A. 1984. 'Persons and Community in African Traditional Thought', in: Wright, R.A. (ed.). *African Philosophy*. New York: University Press of America.
- Menkiti, I.A. 2004. 'On the Normative Conception of a Person', in: Wiredu, K. (ed.). *A Companion to African Philosophy*. Malden: Blackwell.
- Metz, T. 2007a. 'The Motivation for "Toward an African Moral Theory"', *South African Journal of Philosophy* 26(4), 331-335.
- Metz, T. 2007b. 'Ubuntu as a Moral Theory: Reply to Four Critics', *South African Journal of Philosophy* 26(4), 369-387.
- Metz, T. 2007c. 'Towards and African Moral Theory', *The Journal of Political Philosophy* 15(3), 321-341.
- Mokgoro, Y. 1998. 'Ubuntu and the Law in South Africa', *Buffalo Human Rights Law Review* 4, 15-23.
- Motsei, M. 2007. *The Kanga and the Kangaroo Court: Reflections on the Rape Trial of Jacob Zuma*. Johannesburg: Jacana.
- Murithi, T. 2006. 'Practical Peacemaking Wisdom from Africa: Reflections on Ubuntu', *The Journal of Pan African Studies* 1(4), 25–34.
- Murray, A.V. 1929. *The School in the Bush: A Critical Study of the Theory and Practice of Native Education in Africa*. London: Longman.
- Native Administration Act, No. 38 of 1927*.
- Ngcoya, M. 2009. *Ubuntu: Globalization, Accommodation, and Contestation in South Africa*. PhD Thesis, Faculty of the School of International Service, Amsterdam University.
- Ngubane, J.K. 1935. 'The Role of Adam's College in the Life of the Bantu', *Iso Lomuzi* 4(2), 15.
- Ngubane, J.K. 1963. *An African Explains Apartheid*. London: Pall Mall Press.
- Ngubane, J.K. 1979. *Conflicts of Minds*. New York: Books in Focus.
- Nkrumah, K. 1964. *Consciencism*. London: Heinemann.

- Nyembezi, C.L.S. 1963. *Zulu Proverbs*. Johannesburg: Witwatersrand University Press.
- Nyembezi, C.L.S. 1970. *Learn more Zulu*. Pietermaritzburg: Shuter and Schooter.
- Nyerere, J.K. 1966. *Freedom and Unity*. Dar es Salaam: Oxford University Press.
- Nyerere, J.K. 1968. *Freedom and Socialism*. Dar es Salaam: Oxford University Press.
- Nyerere, J.K. 1968. *Freedom and Socialism*. Dar es Salaam: Oxford University Press.
- Olson-Burchanan, J.B. & Boswell, W.R. 2009. *Mistreat in the Workplace: Prevention and Resolution for Managers and Organizations*. Malden: Blackwell Publishers.
- Paton, A. 1983. *Ah, but Your Land is Beautiful*. New York: Scribner.
- Pauw, B.A. 1973. *The Second Generation: A Study of the Family among Urbanized Bantu in East London*. Cape Town: Oxford University Press.
- Pauw, B.A. 1975. *Christianity and Xhosa Tradition: Belief and Ritual among Xhosa-Speaking Christians*. Cape Town: Oxford University Press.
- Perrin, J. 1855. *An English-Kafir Dictionary of the Zulu-Kafir Language: As Spoken by the Tribes of the Colony of Natal*. Pietermaritzburg: May & Davis.
- Port Elizabeth Municipality v Various Occupiers* (CCT 53/03) [2004] ZACC 7; 2005 (1) SA 217 (CC); 2004 (12) BCLR 1268 (CC) (1 October 2004).
- Praeg, L. 2000. *African Philosophy and the Quest for Autonomy: A Philosophical Investigation*. Amsterdam: Editions Rodopi.
- Praeg, L. 2008. 'An Answer to the Question: What is [Ubuntu]?', *South African Journal of Philosophy* 27(4), 367-385.
- Praeg, L. 2011. 'Philosophy, and Teaching (as) Transformation', *South African Journal of Philosophy* 30(3), 343-359.
- Pressler, S., Saner, J.S. & Wasserfall, I. 2009. *Criminal Justice Structure and Mandates*. FET College Series, L3. Cape Town: Pearson Education South Africa.
- Prideaux, S.P.T. 1925. 'Notes on the Quarterlies', *The Church Missionary Review* 76(849), 269-271.
- Prinsloo, E.D. 1998. 'Ubuntu Culture and Participatory Management', in: Coetzee, P.H. & Roux, A.P.J. (eds.). *The African Philosophy Reader*. London: Routledge.
- Promotion of National Unity and Reconciliation Act*, Act 34 of 1995.

- Ramose, M.B. 1999. *African Philosophy through Ubuntu*. Harare: Mond Books.
- Ramose, M.B. 2003. 'I Doubt, therefore African Philosophy Exists', *South African Journal of Philosophy* 22(2), 113-127.
- Ramose, M.B. 2007. 'But Hans Kelsen was not Born in Africa: a Reply to Thaddeus Metz', *South African Journal of Philosophy* 26(4), 347-355.
- Read, M. 1959. *Children of their Fathers: Growing up among the Ngoni of Nyasaland*. London: Methuen.
- Read, M. 1968. *Children of their Fathers: Growing up among the Ngoni of Malawi*. New York: Holt, Rinehart and Winston.
- Reader, D.H. 1966. *Zulu Tribe in Transition: The Makhanya of Southern Natal*. Manchester: Manchester University Press.
- Riedel, J.G.F. 1886. *De sluik-en kroesharige rassen tusschen Selebes en Papua*. The Hague: M. Nijhoff.
- Roberts, C. 1880. *The Zulu-Kafir Language Simplified for Beginners*. London: Wesleyan Missionary Society.
- Roberts, C. 1895. *The Zulu-Kafir Language Simplified for Beginners*. London: K. Paul, Trench, Trübner and co.
- Rodegem, F. 1967. *Précis de grammaire rundi*. Bruxelles: Story-Scienta.
- Roederer, C. & Moellendorf, D. 2004. *Jurisprudence*. Lansdowne: Juta.
- Ronaldson, G.K. 2005. 'Diversity in the Rainbow Nation of South Africa', in: Hare, A.P., Sjøvold, E., Baker, H.G. & Powers, J. (eds.). *Analysis of Social Interaction Systems: SYMLOG Research and Applications*. Lanham: University Press of America.
- Ryberg, J. & Corlett, J.A. (eds.) 2010. *Punishment and Ethics: New Perspectives*. New York: Palgrave MacMillan.
- S v M* (CCT 53/06) [2007] ZACC 18; 2008 (3) SA 232 (CC) (26 September 2007).
- S v Makwanyane and Another* (CCT3/94) [1995] ZACC 3; 1995 (6) BCLR 665; 1995 (3) SA 391; [1996] 2 CHRLD 164; 1995 (2) SACR 1 (6 June 1995).
- Sabra Study Group of Fort Hare 1971. *The Ciskei - A Bantu Homeland: A General Survey*. Fort Hare: Fort Hare University Press.
- Samkange, S. & Samkange, T.M. 1980. *Hunhuism or Ubuntuism: A Zimbabwe Indigenous Political Philosophy*. Salisbury: Graham Publishing.
- Samkange, S. 1975. *The Mourned One*. London: Heinemann Educational.
- Sandall, R. 2001. *The Culture Cult*. Colorado: Westview Press.
- Schapera, I. 1938. *A Handbook of Tswana Law and Custom*. London: Oxford University Press.

- Schott, R.M. 2007. 'Introduction: Philosophy on the Border', in: Schott, R.M. & Klercke, K. 2007 (eds.). *Philosophy on the Border*. Copenhagen: Museum Tusulanum Press.
- Schott, R.M. & Klercke, K. (eds.) 2007. *Philosophy on the Border*. Copenhagen: Museum Tusulanum Press.
- Senghor, L. 1962. *Pierre Teilhard de Chardin et la politique africaine*. Paris: Editions du Seuil.
- Shepherd, R.H.W. & Paver, B.G. 1947. *Africa Contrast: The Story of a South African People*. Cape Town: Oxford University Press.
- Shibi v Sithole and Others* (CCT 50/03, CCT 69/03, CCT 49/03) [2004] ZACC 18; 2005 (1) SA 580 (CC); 2005 (1) BCLR 1 (CC) (15 October 2004).
- Shore, M. 2009. *Religion and Conflict Resolution: Christianity and South Africa's Truth and Reconciliation Commission*. Farnham: Ashgate.
- Shutte, A. 1993. *Philosophy for Africa*. South African edition. Cape Town: UCT Press.
- Shutte, A. 1995. *Philosophy for Africa*. American edition. Milwaukee: Marquette University Press.
- Shutte, A. 2000. Unpublished concept paper of The Common Good Project.
- Shutte, A. 2001. *Ubuntu: An Ethic for a New South Africa*. Pietermaritzburg: Cluster Publications.
- Skelton, A. & Frank, C. 2001. 'Conferencing in South Africa: Returning to Our Future', in: Morris, A. & Maxwell, G. (eds.). Oxford: Hart Publishing.
- Smith, E.W. 1928. *The Way of the White Fields in Rhodesia*. London: World Dominion Press.
- Smith, E.W. 1950. *The Blessed Missionaries*. Cape Town: Oxford University Press.
- South African Department of Bantu Education 1972a. *Xhosa: Terminologie en spelreëls*. Pretoria: Staatsdrukker.
- South African Department of Bantu Education 1972b. *Zoeloe terminologie en spelreëls*. Pretoria: Staatsdrukker.
- South African Law Commission 1997. *Sentencing Restorative Justice (Compensation for Victims of Crime and Victim Empowerment)*. Issue Paper 7, Project 82.
- Southern Rhodesian Department of Native Affairs 1950. *NADA: The Southern Rhodesia Native Affairs Department Annual*. Salisbury: Southern Rhodesian Department of Native Affairs.
- Stamatakis, N. & Beken, T.V. 2010. 'Myths and Reality in the History of Restorative Justice', in: Cools, M. et al. (eds.). *Safety, Societal Problems and Citizen's Perceptions*. Antwerpen: Maklu.

- Stow, J. 1856. *Thoughts on a Continuation of the Book of Common Prayer Used in the Church of England*. London: Printed at the School-Press.
- Strayt, H.A. 1931. *The Bavenda*. London: Oxford University Press.
- Strickland, R.A. 2004. *Restorative Justice*. New York: Peter Lang Publishing.
- Suggit, J. & Goedhals, M. 1998. *Change and Challenge: Essays Commemorating the 150th Anniversary of the Arrival of Robert Gray as First Bishop of Cape Town [20th February 1948]*. Marshalltown: Church of the Province of Southern Africa.
- Sullivan, D. & Tift, L. (eds.) 2006. *Handbook of Restorative Justice: A Global Perspective*. New York: Routledge.
- Swanepoel, B.J. (ed.). 2008. *South African Human Resource Management: Theory & Practice*. Cape Town: Juta.
- Swanson, D.M. 2010. 'Values in Shadows: A Critical Contribution to Values Education in Our Times', in: Lovat, T., Toomey, R. & Clement, N. (eds.). *International Research Handbook on Values, Education and Student Wellbeing*. Dordrecht: Springer.
- Teffo, L.J. 1996. 'The Other in African Experience', *South African Journal of Philosophy* 15(3), 101-104.
- Teitel, R.G. 2008. 'Editorial Note – Transitional Justice Globalized', *International Journal of Transitional Justice* 2(1), 1-4.
- The Citizen 1978 (Pty) Ltd and Others v McBride* (CCT 23/10) [2011] ZACC 11 (8 April 2011).
- Thompson, L. 1969. *The Oxford History of South Africa: South Africa to 1870*. Vol. 1. New York: Oxford University Press.
- Thompson, L.M. & Butler, J. 1975. *Change in Contemporary Africa*. Berkeley: University of California Press.
- Traditional Court Bill*, 2008.
- Traditional Leadership and Governance Framework Act*, No. 41 of 2003.
- Truth and Reconciliation Commission of South Africa 1998. *Truth and Reconciliation Commission of South Africa Report*. Vol. 1-5. Cape Town: Juta.
- Truth and Reconciliation Commission of South Africa 2003. *Truth and Reconciliation Commission of South Africa Report*. Vol. 6-7. Cape Town: Juta.
- Tshoose, C.I. 2009. 'The Emerging Role of the Constitutional Value of *Ubuntu* for Informal Social Security in South Africa', *African Journal of Legal Studies*, 3(1), 12-19.
- Tutu, D. 1999. *No Future Without Forgiveness*. London: Rider.
- Union of Refugee Women and Others v Director, Private Security Industry Regulatory Authority and Others* (CCT 39/06) [2006] ZACC 23; 2007 (4) BCLR 339 (CC); (2007) 28 ILJ 537 (CC) (12 December 2006).

- United Nations Office of Drugs and Crime. 2006. *Handbook on Restorative Justice Programmes*. New York: United Nations.
- Urban Walker, M. 2006. 'Restorative Justice and Reparations', *Journal of Social Philosophy* 37(3), 377-395.
- Van Binsbergen, W. 2001. 'Ubuntu and the Globalisation of Southern African Thought and Society', *Quest* 15(1-2), 53-89.
- Van den Berg, M.E.S. 2003. 'On Historicity, Context and the Existence of African Philosophy', *South African Journal of Philosophy* 22(3), 276-285.
- Van den Heuvel, H. et al. 2006. *Prophecies and Protests: Ubuntu in Global Management*. Amsterdam: Rozenberg Publishers.
- Van der Merwe, C.G. & Du Plessis, J.E. 2004. *Introduction to the Law of South Africa*. The Hague: Kluwer Law International.
- Van Ness, D.W. & Strong, K.H. 2010. *Restoring Justice: An Introduction to Restorative Justice*. 4th ed. New Jersey: LexisNexis.
- Van Ness, D.W. 1993. 'New Wine and Old Wineskins: Four Challenges of Restorative Justice', *Criminal Law Forum* 4(2), 251-276.
- Van Ness, D.W. 2005. 'An Overview of Restorative Justice Around the World'. Address delivered at the *Eleventh United Nations Congress on Crime Prevention and Criminal Justice* in Bangkok.
- Van Niekerk, J. 2007. 'In Defence of an Autocentric Account of Ubuntu', *South African Journal of Philosophy* 26(4), 364-368.
- Van Niekerk, J. 2008. 'The Virtue of Gossip', *South African Journal of Philosophy* 27(4), 400-412.
- Van Sembeek, J. 1955. *A Bemba Grammar*. London: Longmans, Green and Company.
- Van Stokkom, B. 2008. 'Forgiveness and Reconciliation in Restorative Justice Conferences', *Ethical Perspectives: Journal of the European Ethics Network* 15(3), 399-418.
- Van Vuren v Minister of Correctional Services and Others* (CCT 07/10) [2010] ZACC 17; 2010 (12) BCLR 1233 (CC); 2012 (1) SACR 103 (CC) (30 September 2010).
- Van Wormer, K. 2003. 'Restorative Justice: A Model for Social Work with Families', *Families in Societies: The Journal of Contemporary Human Services* 84(3), 441-448.
- Venter, E. 2004. 'The Notion of Ubuntu and Communalism in African Educational Discourse', *Studies in Philosophy and Education* 23(2-3), 149-160.
- Vervliet, C. 2009. *The Human Person, African Ubuntu and the Dialogue of Civilisations*. London: Adonis & Abbey Publishers Ltd.
- Vilakazi, A. 1962. *Zulu Transformations: A Study of the Dynamics of Social Change*. Pietermaritzburg: University of Natal Press.

- Vinet, A. 1859. *Studies on Pascal*. Edinburgh: T & T. Clark.
- Walker, O. 1948. *Kaffirs are Lively: Being some Backstage Impressions of the South African Democracy*. London: V. Gollancz.
- Weitekamp, E.G.M. 1999. 'The History of Restorative Justice', in: Balzmore, G. & Walgrave, L. (eds.). *Restorative Juvenile Justice: Repairing the Harm of Youth Crime*. New York: Criminal Justice Press.
- Wilson, M.H. 1936. *Reactions to Conquest: Effects of Contact with Europeans on the Pondo of South Africa*. London: Oxford University Press for the International Institute of African Language & Cultures.
- Wilson, R. 2001. *The Politics of Truth and Reconciliation in South Africa: Legitimizing the Post-Apartheid State*. Cambridge: Cambridge University Press.
- Wiredu, K. 2004. 'Introduction: African Philosophy in Our Time', in: Wiredu, K. (ed.). *A Companion to African Philosophy*. Malden: Blackwell.
- Wiredu, K. 2008. 'Social Philosophy in Postcolonial Africa: Some Preliminaries Concerning Communalism and Communitarianism', *South African Journal of Philosophy* 27(4), 332-339.
- Wood, A. 2007. 'Cross-Cultural Moral Philosophy: Reflections on Thaddeus Metz: 'Toward an African Moral Theory'', *South African Journal of Philosophy* 26(4), 336-346.
- Yamaculo, I. 1885. *Incwadi yamaculo ndawonye nezikungo nezimiselo zekerike yabazalwana, ebizwayo ngokutiwa yeyama-Moravia*. Herrnhut: Fr. Lindenbein.
- Yamamoto, E.K. 1997. 'Race Apologies', *Journal of Gender, Race and Justice* 1, 47-88.
- Zedner, L. 2006. 'Punishment and the Plurality of Privacy Interests', in: Claes, E., Duff, A. & Gutwirth, S. (eds.). *Privacy and the Criminal Law*. Antwerpen: Intersentia.
- Zehr, H. 1985. 'Retributive Justice, Restorative Justice', *New Perspectives on Crime and Justice* 4.
- Zehr, H. 1990. *Changing Lenses: A New Focus for Crime and Justice*. 3rd ed. Scottsdale, PA: Herald Press.
- Zehr, H. 2002. *The Little Book of Restorative Justice*. Intercourse, PA: Good Books.
- Ziervogel, D. et al. 1976. *A Handbook of the Zulu Language*. Pretoria: J.L. van Schaik.

Summary in English

Ubuntu and restorative justice have frequently been described as having an important role to play in addressing the strife and divisions of the past in post-apartheid South Africa. I have set myself two goals in this thesis. *Firstly*, to offer new insights into the question of what *ubuntu* is. *Secondly*, to present new insights concerning the widely held idea that the South African Truth and Reconciliation Commission (TRC) attempted to promote restorative justice, and also concerning the idea that restorative justice is congruent with *ubuntu* and African indigenous justice systems in South Africa. The core of the thesis consists of three articles. The first two articles deal with the former of the above-mentioned goals, while the third article deals with the latter goal. The first article, ‘The Historical Development of the Written Discourses on *Ubuntu*’, was published in the *South African Journal of Philosophy (SAJP)* in September 2011 (Vol. 30, No. 3, pp. 303-329), and the second article, entitled ‘What is *Ubuntu*? Different Interpretations among South Africans of African Descent’, appeared in the *SAJP* in September 2012 (Vol. 31, No. 3, pp. 484-503). The third article, ‘Restorative Justice and the South African Truth and Reconciliation Process’, is currently under review. In what follows, I will briefly summarize the content of each of the three articles. These articles are innovative, in that they present a type of research not previously undertaken in relation to *ubuntu* and restorative justice in post-apartheid South Africa.

‘The Historical Development of the Written Discourses on *Ubuntu*’ is the first article to provide a historical examination of the definition of *ubuntu* in written sources. One reason for the absence of such an examination previously might be the widespread (but false) belief that the term ‘*ubuntu*’ did not appear in writing until the second half of the twentieth century. I show that the term ‘*ubuntu*’ has frequently appeared in writing since at least 1846, and I analyse changes in its definition in written sources in the post-1846 period. My analysis suggests that in written sources published prior to 1950, *ubuntu* was always defined as a human quality. In some of the pre-1950 texts, it seems evident that the quality of *ubuntu* is considered to be a praiseworthy moral quality, whereas in other texts, it is less clear exactly how *ubuntu* is understood. What is evident, however, is that at different stages during the second half of the twentieth century, some authors

began to define *ubuntu* more broadly than simply as a human quality: definitions included *ubuntu* as African humanism, a philosophy, an ethic, and as a worldview. Furthermore, my findings suggest that it was during the 1990s that the Nguni proverb ‘*umuntu ngumuntu ngabantu*’ (often translated as ‘a person is a person through other persons’) was used for the first time to describe what *ubuntu* is. Many authors today refer to the proverb when describing *ubuntu*, irrespective of whether they consider *ubuntu* to be a human quality, African humanism, a philosophy, an ethic, or a worldview.

Many scholars have explained what they personally, or what particular public figures like Desmond Tutu, believe *ubuntu* is. But to my knowledge, ‘What is *Ubuntu*? Different Interpretations among South Africans of African Descent’ is the first article to have embarked upon the project of ‘mapping out’ the many *different* answers to the question ‘What is *ubuntu*?’ that can be found among South Africans of African descent (SAADs). My findings, based on both written sources and qualitative interviews conducted in South Africa, show that among SAADs, it is possible to distinguish between two clusters of answers to the question ‘What is *ubuntu*?’ The answers of the first cluster all define *ubuntu* as a moral quality of a person, while the answers of the second cluster all define *ubuntu* as a phenomenon (for instance a philosophy, an ethic, African humanism, or, a worldview) according to which persons are interconnected. The concept of a person is of central importance to all answers of both clusters, which means that to understand these answers, it is decisive to raise the question of who counts as a person according to SAADs. I show that some SAADs define all members of *Homo sapiens* as persons, whereas others hold the view that only some members of *Homo sapiens* count as persons: only those who are black, only those who have went through specific rituals of initiation, or only those who behave in a morally acceptable manner.

The third and final article of this thesis, ‘Restorative Justice and the South African Truth and Reconciliation Process’, looks into the idea that the post-apartheid Truth and Reconciliation Commission was committed to restorative justice (RJ), and that RJ has deep historical roots in African indigenous cultures by virtue of its congruence both with *ubuntu* and with African indigenous justice systems (AIJS) in South Africa. In the article, I explore different views on what RJ is, and in this connection present the finding that the term ‘restorative justice’ has appeared in written sources since at least 1834 (it is a widespread and apparently unquestioned belief in the contemporary literature on RJ that the term ‘restorative justice’ was coined during the second half of the twentieth century). In the article, I also present the finding that the term ‘restorative justice’ appears *only* in transcripts of three public TRC hearings, as well as the hypothesis that the TRC

first really began to take notice of the term ‘restorative justice’ after April 1997, when the South African Law Commission published an Issue Paper dealing with RJ. In this connection, it should be noted that even though the South African TRC is commonly held up as a model institution committed to RJ, I am apparently the first scholar to investigate whether RJ was actually an issue that was raised and discussed during the TRC hearings. In the last part of the article, I argue that even though it is common to claim that RJ is congruent with *ubuntu* and AIJS in South Africa (which is a claim that has helped to legitimize RJ among South Africans of African descent), neither the connection between RJ and *ubuntu* nor the connection between RJ and AIJS is as straightforward and unproblematic as often assumed.

It has come as a surprise to me how much attention my research has received in South Africa, both inside and outside academic circles. A decision by the South African Constitutional Court has, for example, referred to the first article of this thesis as one among three academic articles that may be consulted in relation to *ubuntu* (*Everfresh Market Virginia (Pty) Ltd v Shoprite Checkers (Pty) Ltd*, 2011: § 71, note 44). Furthermore, from my university website alone, my two published articles on *ubuntu* have to date been downloaded more than 2,000 times. In this connection, I want to note that this thesis represents an attempt to undertake a philosophical PhD project that could be of interest to those in other academic disciplines than philosophy, and also to those outside the field of academia. I refer to the kind of philosophy that I am doing here as ‘philosophy on the border’, because it lies on the border between empirical study and philosophical reflection, and also on the border between philosophy and other academic disciplines (primarily history and anthropology).

Summary in Danish

Både *ubuntu* og genoprettende retfærdighed er ofte blevet beskrevet som noget, der har været afgørende for håndteringen af fortidens strid og skel i Sydafrika efter apartheid. Jeg har sat mig selv to mål i nærværende afhandling: *for det første* at bidrage med nye indsigter i forhold til spørgsmålet om, hvad *ubuntu* er, og *for det andet* at præsentere nye indsigter i relation til den udbredte idé, at Sydafrikas Sandheds- og Forsoningskommission forsøgte at fremme genoprettende retfærdighed, og at genoprettende retfærdighed er i harmoni med *ubuntu* og traditionelle, afrikanske retssystemer i Sydafrika. Afhandlingens kerne består af tre artikler. De to første artikler er relateret til det første af ovennævnte mål, mens den tredje artikel er dedikeret det sidstnævnte mål. Den første artikel, 'The Historical Development of the Written Discourses on *Ubuntu*', blev udgivet i *South African Journal of Philosophy (SAJP)* i september 2011 (Bind 30, Nr. 3, ss. 303-329), og den anden artikel, 'What is *Ubuntu*? Different Interpretations among South Africans of African Descent', blev udgivet i *SAJP* i september 2012 (Bind 31, Nr. 3, ss. 484-503). Den tredje artikel, 'Restorative Justice and the South African Truth and Reconciliation Process', er under review. De tre artikler er alle innovative i den forstand, at de præsenterer typer af forskning, som ikke tidligere er set i relation til *ubuntu* og genoprettende retfærdighed i Sydafrika efter apartheid.

'The Historical Development of the Written Discourses on *Ubuntu*' er den første artikel, som indeholder en historisk undersøgelse af, hvordan *ubuntu* er blevet defineret i skriftlige kilder. Én årsag til, at der ikke tidligere er lavet lignende undersøgelser er muligvis den udbredte (men fejlagtige) overbevisning, at termen '*ubuntu*' ikke forekom på skrift før anden halvdel af det tyvende århundrede. Jeg viser, at termen ofte har figureret i skriftlige kilder siden 1846 og analyserer ændringer i dens definition i perioden fra 1846 til i dag. Min analyse tyder på, at *ubuntu* altid blev defineret som en menneskelig kvalitet i skriftlige kilder fra før 1950. I nogle tekster fra før 1950, er det tydeligt, at *ubuntu*-kvaliteten forstås som en prisværdig moralsk kvalitet, mens det i andre tekster er mindre evident, hvordan *ubuntu* nøjagtig forstås. Hvad, der imidlertid er klart, er, at nogle forfattere på forskellige tidspunkter i løbet af anden halvdel af det tyvende århundrede begyndte at definere *ubuntu* mere bredt end udelukkende som en men-

neskelig kvalitet: *ubuntu* begyndte at blive defineret som afrikansk humanisme, en filosofi, en etik og et verdenssyn. Endvidere peger min forskning på, at det var i 1990'erne, at Nguni-ordsproget '*umuntu ngumuntu ngabantu*' (ofte oversat som 'en person er en person gennem andre personer') for første gang blev brugt til at beskrive, hvad *ubuntu* er. I dag bruger mange forfattere dette ordsprog i deres beskrivelser af *ubuntu* uafhængigt af, hvorvidt de forstår *ubuntu* som en menneskelig kvalitet, afrikansk humanisme, en filosofi, en etik eller et verdenssyn.

Mange akademikere har gjort rede for, hvad de selv mener, at *ubuntu* er, eller hvordan bestemte offentlige personer, såsom Desmond Tutu, forstår *ubuntu*. Mig bekendt er 'What is *Ubuntu*? Different Interpretations among South Africans of African Descent' imidlertid den første artikel, som går i kast med at 'kortlægge' de mange forskellige svar på spørgsmålet 'Hvad er *ubuntu*?', der er at finde blandt sydafrikanere af afrikansk afstamning (SAA). Mine resultater, som både er baseret på skriftlige kilder og kvalitative interviews, viser, at det blandt SAA er muligt at skelne mellem to klynger af svar på spørgsmålet 'Hvad er *ubuntu*?' Svarene i den første klynge definerer alle *ubuntu* som en moralsk kvalitet ved en person, mens svarene i den anden klynge definerer *ubuntu* som et fænomen (for eksempel en filosofi, en etik, afrikansk humanisme eller et verdenssyn) ifølge hvilket personer er gensidigt forbundne. Begrebet 'person' er af central betydning i forhold til svarene i begge klynger, hvorfor det er afgørende at rejse spørgsmålet om, hvem der tæller som personer ifølge SAA. Jeg viser, at nogle SAA definerer alle *Homo sapiens* som personer, mens andre mener, at det kun er nogle *Homo sapiens*, der tæller som personer: kun dem, som er sorte, kun dem, som har gennemgået bestemte initiationsriter, eller kun dem, som handler på moralsk acceptabel vis.

Den tredje og sidste artikel i afhandlingen, 'Restorative Justice and the South African Truth and Reconciliation Process', ser nærmere på idéen om, at Sydafrikas Sandheds- og Forsoningskommission forsøgte at fremme genoprettende retfærdighed, og at genoprettende retfærdighed er i harmoni med *ubuntu* og afrikanske, traditionelle retssystemer i Sydafrika. I artiklen undersøger jeg forskellige idéer om, hvad genoprettende retfærdighed er, og jeg præsenterer min opdagelse af, at termen 'restorative justice' har forekommet på skrift siden i hvert fald 1834 (det er en udbredt og tilsyneladende ubestridt påstand i den omfattende litteratur om genoprettende retfærdighed, at termen 'restorative justice' blev dannet i anden halvdel af det tyvende århundrede). I artiklen præsenterer jeg også min opdagelse af, at termen 'restorative justice' kun forekommer tre gange i samtlige transskriptioner af Sandheds- og Forsoningskommissionens offentlige høringer, og jeg præsenterer det som en hypotese, at kommissionen først begyndte at tage notits af denne term efter april 1997, hvor 'South African Law Commis-

sion' publicerede en tekst om genoprettende retfærdighed. Jeg vil i den forbindelse nævne, at jeg tilsyneladende er den første, der undersøger, hvorvidt genoprettende retfærdighed var et emne, som blev rejst og diskuteret under kommissionens høringer. Dette er til trods for, at Sydafrikas Sandheds- og Forsoningskommission ofte fremhæves som et af de mest væsentlige internationale eksempler på en institution, der har opereret i overensstemmelse med genoprettende retfærdighed. I sidste del af artiklen diskuterer jeg endelig den udbredte påstand om, at genoprettende retfærdighed er i harmoni med både *ubuntu* og traditionelle, afrikanske retssystemer i Sydafrika (hvilket er en påstand, der er med til at legitimere genoprettende retfærdighed blandt SAA). Jeg argumenterer for, at hverken forbindelsen mellem genoprettende retfærdighed og *ubuntu* eller forbindelsen mellem genoprettende retfærdighed og traditionelle, afrikanske retssystemer i Sydafrika er så ligefrem og uproblematisk, som det ofte antages.

Det har overrasket mig, hvor meget opmærksomhed min forskning har fået i Sydafrika, både inden for og uden for akademiske kredse. En domsafsigelse fra landets Forfatningsdomstol refererer eksempelvis til den første artikel i denne afhandling som én blandt tre akademiske artikler, der kan konsulteres vedrørende *ubuntu* (*Everfresh Market Virginia (Pty) Ltd v Shoprite Checkers (Pty) Ltd*, 2011: § 71, note 44). Endvidere er mine to publicerede artikler om *ubuntu* allerede downloaded mere end 2000 gange alene fra min universitetshjemmeside. I den forbindelse vil jeg gøre opmærksom på, at nærværende afhandling repræsenterer et forsøg på at lave et filosofisk ph.d.-projekt, der kan have interesse for forskere fra andre discipliner end filosofi samt for personer uden for universitetsverdenen. Jeg refererer til min filosofiske forskning som 'filosofi på grænsen', fordi den befinder sig på grænsen mellem empiriske studier og filosofiske refleksioner samt på grænsen mellem filosofi og andre akademiske discipliner (primært historie og antropologi).