

Cross Cultural Conversation IV

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Recognising the value of African indigenous knowledge systems: the case of Ubuntu and Restorative Justice

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Introduction

Overarching Theme: Ubuntu

- Ancient African philosophy and a belief system
- Value based system from which communities adhere to specific rules
- Nuances of “I am because you are and we are”: communalism, humanity, respect for human dignity, responsibility and accountability, forgiveness and peace, connection between human beings and their surroundings
- Connection: Ubuntu principles and restorative justice
- Ubuntu as an enabler for restorative justice for the purpose of creating social order

Sub-themes

- De-colonisation of knowledge
- Re-framing of African thought and practices during the time period of globalisation
- Re-thinking the context and the future: enabling environment and social dynamics

Approach

- Eke out epistemes used as a frame of reference for providing solutions
- Illustration of practical application of epistemological concepts within the context of law and policy
- Preposition for solution oriented application

Main Arguments and Issues explored

Arguments

- Relevance of Ancient cultural concepts in modern legal systems
- Symbiotic connection between Ubuntu and Restorative Justice
- Decolonisation of knowledge requires assessment of practicability of cultural concepts
- Solutions for complex human based issues

Issues

- Law and policy systems in non-western countries in the context of restorative justice
- Positive and negative outcomes of the application of non-western cultural concepts
- Context: Enablers to Ubuntu for purposes of restorative justice

Case studies

Ubuntu through the Truth and Reconciliation Commission in South Africa

- A tool for restorative justice in the Truth and Reconciliation Commission
- Expression in legal text: foregrounded in the terms of reference
- Building and maintenance of social order
- Expected outcome: Amnesty and reconciliation

Ubuntu nuances through the application of the Gacaca courts in Rwanda

- Resolution of structural problems within the administration of government
- Expectation: restore order and peace during the aftermath of a genocide
- Expected outcome: Amnesty and reconciliation

Shortcomings

- Partial disclosure in truth-telling during the TRC
- Limitations in relation to the scope of the TRC
- Partial redress in post apartheid South Africa
- The Gacaca courts were reportedly fraught with corruption
- Violations continued to occur during Gacaca court cases: key witnesses were killed during the period of court proceedings and those who survived or managed to give evidence in the courts were faced harassment and intimidation.
- Questions around the extent of a dialogue “gacaca courts have not led to the sort of “democratic dialogue” between the governed and the government that they might otherwise have fostered” (Le Mon, 2007:17).

Re-imagining proper context for the future of epistemological aspects of in restorative justice

- Re-defining the context: Cognitive and ontological models of reality specifying the nature, purposes, technology, sovereignty, and control of countries.
- Nation-state: nation state paradigms give a description of how movement occurs in a set of ancient structures from one point to the next.
- It is therefore argued that the successful transposition of thought to practice may be critical in any nation state, though it still remains important for the citizens of a country to be united in common thought in an effort to see transformation of thought into practice in real life.