



**REFERENCES TO THE WORDS:
Restorative Justice and Ubuntu**

**Report of the Truth & Reconciliation Commission,
South Africa**

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August 2021

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This document is a research project prepared for the Centre for Human Rights and Restorative Justice. It can be downloaded from the research project's web page:

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How to cite in APA 7th edition:

Yilmaz, M. (2021). References to the Words: Restorative Justice and Ubuntu, Report of the Truth & Reconciliation Commission of South Africa. *Centre for Human Rights and Restorative Justice (CHRRJ) at McMaster University*. <https://truthcommissions.humanities.mcmaster.ca/>

Note on Word Frequency Query:

Minimum 4 letter words were chosen (rather than 3 letter word length)

4 letter words were preferred so that years (such as 2020, 2021, and so on) can also be found.

Note on software:

The word references analysis was done by NVivo software.

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Researcher Notes on the Truth and Reconciliation Commission Report Details:

- Pdf consists of 7 Volumes.
- Volume I, II, III, IV and V are published in 1998.
- Volume Six is published in 2003.
- Volume Seven is published in 2002.
- Volume One is pages between 1 and 512.
- Volume Two is pages between 513 and 1225.
- Volume Three is pages between 1226 and 1973.
- Volume Four is pages between 1974 and 2294.
- Volume Five is pages between 2295 and 2757.
- Volume Six is pages between 2758 and 3580.
- Volume Seven is pages between 3581 and 4554.
- Volume Seven is about the victims of Apartheid. The Commission dedicates this volume of the report to the victims of Apartheid.
- “The Truth and Reconciliation Commission Functional Structure” is found at Volume One Chapter 9.
- Foreword by Archbishop Desmond Tutu is in Volume One and Volume Six.

Word Frequency Query

Word Cloud

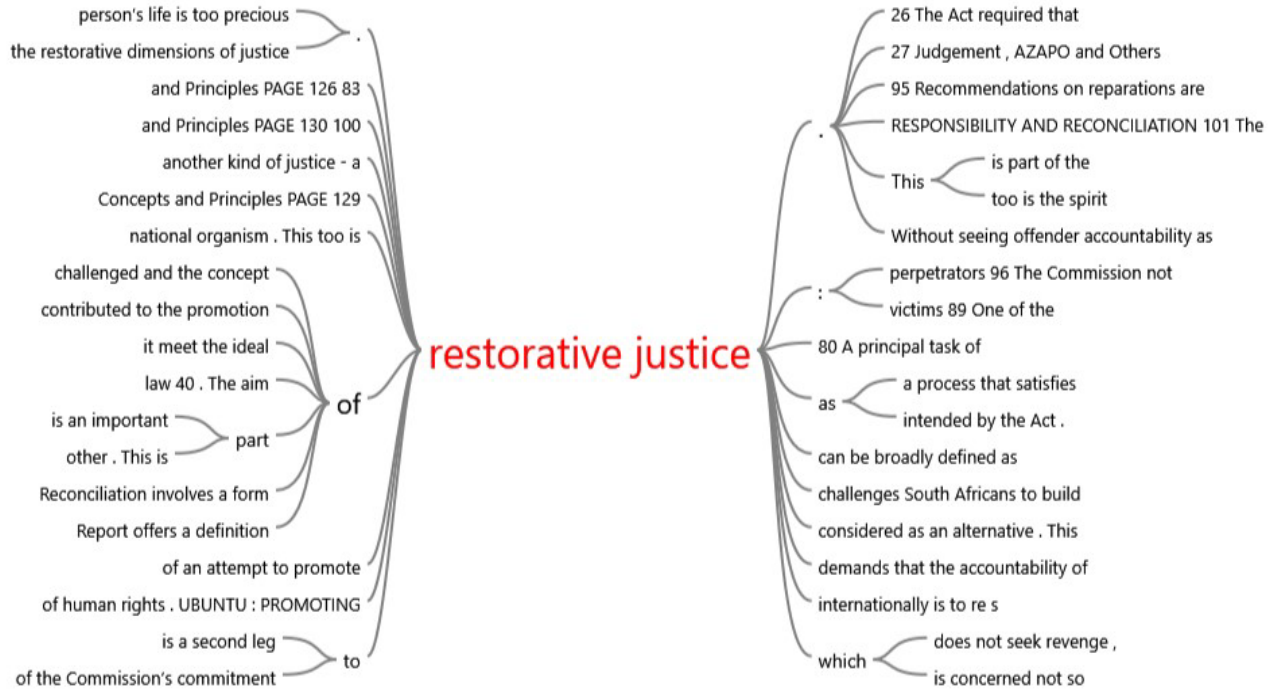


Tree Map

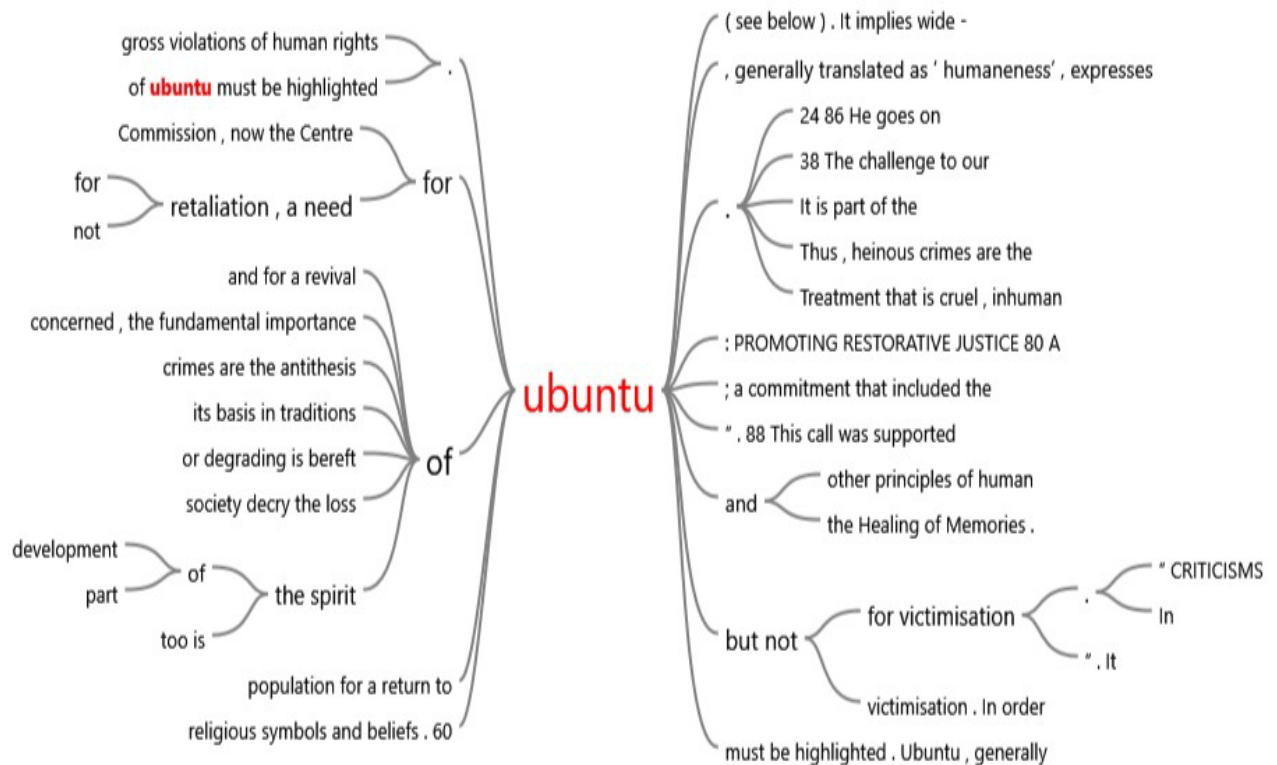
Word Frequency Query - South Africa Report

members	supporters	near	killed	natal	kwazulu	cape	inkatha	1986	allegedly	april	african	africa	beaten	time	area	commit
								volume	page	violation	branch	rters	several	many	killing	died
		political	people	injured	house	member	1992									
	police							state	operative	three	detaine	sadf	family	arson	unit	specialtown
shot					home	1993	also				septem	govern	made	octobe	1988	victimnumb
		conflict	attack	dead				death	june	1991						
					south	march	chapter				decembt	four	chief	hearip	perpetfebru	nation
support	commission							1994	human	1985					commu	1989group
		amnesty	security	durban							august	novem	forces	later		
					1990	granted	burnt	named	rights	july			stabbe	attackjanua	attacksport	peri
											violence	stabbe	attackjanua	findingsvictim		

References to Restorative Justice in South Africa Report - Results Preview



References to Ubuntu in South Africa Report - Results Preview



Name: References to Restorative Justice in South Africa Report

<Files\\SouthAfrica.TRC_Report> - § 16 references coded [0.03% Coverage]

Reference 1 - 0.01% Coverage

36 We have been concerned, too, that many consider only one aspect of justice. 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. Such justice focuses on the experience of victims; hence the importance of reparation.

Reference 2 - 0.01% Coverage

Nonetheless, the 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, focusing on the healing of victims and perpetrators and on communal restoration.

Reference 3 - 0.01% Coverage

■ UBUNTU: PROMOTING RESTORATIVE JUSTICE

Reference 4 - 0.01% Coverage

82 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. Restorative justice can be broadly defined as a process which:

Reference 5 - 0.01% Coverage

83 Restorative justice challenges South Africans to build on the humanitarian and caring ethos²³ 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.

Reference 6 - 0.01% Coverage

Restorative justice: victims

89 One of the unique features of the Act was that it provided guiding principles on how the Commission should deal with victims. These principles constituted the essence of the Commission’s commitment to

restorative justice.²⁶ The Act required that the Commission 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”. Through the public unburdening of their grief - which would have been impossible within the context of an adversarial search for objective and corroborative evidence - those who were violated received public recognition that they had been wronged.

Reference 7 - 0.01% Coverage

94 Beyond these considerations, it must also be acknowledged that many victims of gross human rights violations would never have had the opportunity to seek redress through civil trials, given evidentiary constraints, proscription of civil claims, lack of information about the identity of perpetrators and the costs involved in pursuing claims. Overall, victims will have received far greater benefit from the Commission’s processes than they would otherwise have done, although those few who had valid civil claims will have received less. In this sense, too, the Commission can be seen as having contributed to the promotion of restorative justice.

Reference 8 - 0.01% Coverage

Concepts and Principles PAGE 129

Restorative justice: perpetrators

Reference 9 - 0.01% Coverage

97 The Act required the Commission to “promote national unity and reconciliation in a spirit of understanding which transcends the conflicts and divisions of the past” by establishing, amongst other things, “the motives and perspectives of the persons responsible”. This obviously forms part of the search for as “complete a picture as possible”. This need for understanding must, however, be placed within the context of an attempt to promote restorative justice. Without seeing offender accountability as part of the quest for understanding, the uncovering of motives and perspectives can easily be misunderstood as excusing their violations.

Reference 10 - 0.01% Coverage

99 By concentrating only on individual, or on a limited number of prominent human rights violators, as was the case in the Nuremberg and Tokyo war tribunals, many perpetrators and co-conspirators remained in obscurity. The structures of society and its most formative institutions remained unchallenged. Recognising the need for social and institutional reparations is an important part of restorative justice.

Reference 11 - 0.01% Coverage

100 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 provide 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.

Reference 12 - 0.01% Coverage

146 Reconciliation involves a form of restorative justice which does not seek revenge, nor does it seek impunity. In restoring the perpetrator to society, a milieu needs to emerge within which he or she may contribute to the building of democracy, a culture of human rights and political stability.

Reference 13 - 0.01% Coverage

later permanent indemnity, sealing the negotiated settlement. They moved us away from strife and towards understanding, towards forgiveness (by the state) and away from vengeance. They endorsed our reconciliation and national unity after decades, centuries of strife. So we 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.

Reference 14 - 0.01% Coverage

36 There is a second leg to restorative justice as intended by the Act. This involves the state acknowledging violations committed against victims. The restoration of their dignity is to an extent an unhappy choice of words. It is a legal concept. Victims carried themselves with dignity, even when they broke down. In its deepest sense, human dignity cannot be bestowed on someone. The 'reforming' old order failed to understand that human dignity always exists. It cannot be bequeathed. It can only be acknowledged.

37 The 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.

Reference 15 - 0.01% Coverage

40. The aim of restorative justice internationally is to restore the balance in favour of the victim to whom wrong has been done. The intention is to provide compensation for loss, to make victims whole and to sanction perpetrators and ensure that they are deterred from engaging in future misconduct.^{3 2}

Reference 16 - 0.01% Coverage

Report offers a definition of restorative justice as a process that satisfies the following criteria:³³ a It 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 human beings, as injury or wrong done to another person.

Name: References to Ubuntu in South Africa Report

<Files\\SouthAfrica.TRC_Report> - § 13 references coded [0.03% Coverage]

Reference 1 - 0.01% Coverage

Gunn during his amnesty application.

32 Thus, we have trodden the path urged on our people by the preamble to our founding Act, which called on "the need for understanding but not for vengeance, a need for reparation but not retaliation, a need for ubuntu but not for victimisation."

Reference 2 - 0.01% Coverage

and the reconstruction of society.

The adoption of this Constitution lays the secure foundation for the people of South Africa to transcend the divisions and strife of the past which generated gross violations of human rights, the transgression of humanitarian principles in violent conflicts and the legacy of hatred, fear, guilt and revenge. These can now be addressed on the basis that there is a need for understanding but not vengeance, a need for reparation but not for retaliation, a need for ubuntu but not victimisation.

In order to advance such

Reference 3 - 0.01% Coverage

Concepts and Principles PAGE 109

daughters". This concept is implicit in the interim Constitution. Thus, not only must we lay the foundation for a society in which physical needs will be met; we must also create a home for all South Africans. The road to reconciliation, therefore, means both material reconstruction and the restoration of dignity. It involves the redress of gross inequalities and the nurturing of respect for our common humanity. It entails sustainable growth and development of the spirit of ubuntu (see below). It implies wide-ranging structural and institutional transformation and the healing of broken human relationships. It demands guarantees that the past will not be repeated. It requires restitution and the restoration of our humanity - as individuals, as communities and as a nation.

27 Given the magnitude of

Reference 4 - 0.01% Coverage

gross violations of human rights.

■ UBUNTU: PROMOTING RESTORATIVE JUSTICE

Reference 5 - 0.01% Coverage

to the new Constitution .21

82 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. Restorative justice can be broadly defined as a process which:
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Reference 6 - 0.01% Coverage

85 As far as traditional African values are concerned, the fundamental importance of ubuntu must be highlighted. Ubuntu, generally translated as 'humaneness', expresses itself metaphorically in umuntu ngumuntu ngabantu – 'people are people through other people'. In the words of Constitutional Court Justice Makgoro: "Its spirit emphasises respect for human dignity, marking a shift from confrontation to conciliation."²⁴ Constitutional Court Justice Langa has said:
During violent conflicts and times when violent crime is rife, distraught members of society decry the loss of ubuntu. Thus, heinous crimes are the antithesis of ubuntu. Treatment that is cruel, inhuman or degrading is bereft of ubuntu.²⁴

Reference 7 - 0.01% Coverage

Life became cheap, almost worthless.

87 It is against this background, vividly illustrated by the Commission process, that "a spontaneous call has arisen among sections of the population for a return to ubuntu".

Reference 8 - 0.01% Coverage

African religious symbols and beliefs.

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Reference 9 - 0.01% Coverage

Commissioner Wynand Malan PAGE 443

later permanent indemnity, sealing the negotiated settlement. They moved us away from strife and towards understanding, towards forgiveness (by the state) and away from vengeance. They endorsed our reconciliation and national unity after decades, centuries of strife. So we 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.

Reference 10 - 0.01% Coverage

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Reference 11 - 0.01% Coverage

AND RECONCILIATION :

This Constitution provides 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. The pursuit of national unity, the well-being of all South African citizens and peace require reconciliation between the people of South Africa and the reconstruction of society. The adoption of this Constitution lays the secure foundation for the people of South Africa to transcend the divisions and strife of the past, which generated gross violations of human rights, the transgression of humanitarian principles in violent conflicts and a legacy of hatred, fear, guilt and revenge. These can now be addressed on the basis 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 victimisation. 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. To this end, Parliament under this Constitution shall adopt a law determining a firm cut-off date, which shall be a date after 8 October 1990 and before 6 December 1993, and 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.

Reference 12 - 0.01% Coverage

Institute of Healing of Memories.

13. One of the main techniques used by the project is workshops. The workshops were developed by the Religious Response to the Commission, now the Centre for Ubuntu and the Healing of Memories.

14. Each workshop is an

Reference 13 - 0.01% Coverage

part of his statement follows:

We have the highest respect for your Truth and Reconciliation Commission and process. We recognise that, if this process had not been a pre-negotiated condition, your democratic free elections could not possibly have occurred. Therefore, and believing as Amy did in the absolute importance of those democratic elections occurring, we unabashedly support the process which we recognise to be unprecedented in contemporary human history. At the same time we say to you, it's your process, not ours. We cannot, therefore, oppose amnesty if it is granted on the merits. In the truest sense it is for the community of South Africa to forgive its own and this has its basis in traditions of ubuntu and other

principles of human dignity. Amnesty is not clearly for Linda and Peter Biehl to grant. You face a challenging and extraordinarily difficult decision. How do you value a committed life? What value do you place on Amy and her legacy in South Africa? How do you exercise responsibility to the community in granting forgiveness, in the granting of amnesty? How are we preparing prisoners, such as these young men before us, to re-enter the community as a benefit to the community, acknowledging that the vast majority of South Africa's prisoners are under 30 years of age – acknowledging as we do that there 's massive unemployment in the marginalised community; acknowledging that the recidivism rate is roughly 95 per cent? So how do we, as friends, link arms and do something? There are clear needs for prisoner rehabilitation in our country as well as here. There are clear needs for literacy training and education, and there are clear needs for the development of targeted job skill training. We, as the Amy Biehl Foundation, are willing to do our part as catalysts for social progress. All anyone need do is ask. Are you, the community of South Africa, prepared to do your part? (Cape Town hearing, 9 July 1997.)