REFLECTIONS ON JUDICIAL VIEWS OF *UBUNTU*

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SUMMARY

Since *S v Makwanyane*, *ubuntu* has become an integral part of the constitutional values and principles that inform interpretation of the Bill of Rights and other areas of law. In particular, a restorative justice theme has become evident in the jurisprudence that encompasses customary law, eviction, defamation, and criminal law matters. This contribution explores the scope and content of *ubuntu,* as pronounced on by the judiciary in various cases, and demonstrates that its fundamental elements of respect, communalism, conciliation and inclusiveness enhance the constitutional interpretation landscape. Two major epochs are highlighted in the development of *ubuntu,* marked by the constitutional decisions in *Makwanyane* and *PE Municipality* respectively. The former carved the central avenue of development for *ubuntu*, while the latter marked the start of the thematic development of the concept in the direction of restorative justice. Furthermore, the article engages critically with the use of *ubuntu*, with criticisms levelled against the conceptualisation of *ubuntu* as a legal notion, ranging from its ambiguity to its redundancy, to perceptions of dichotomies, and issues of exclusion. The paper also questions the manner in which the courts have applied the legal concept of *ubuntu* uncritically, without reference to African sources to illustrate its meaning in different contexts, and without questioning its compatibility with the Bill of Rights. Finally, it

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attempts to reveal the connections between *ubuntu* and the values underlying the Bill of Rights.

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