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*Ethics, Histories and Redress: Ethical Orientations in
the Southern African Context*

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Ethics, Histories and Redress: Ethical Orientations in the Southern African Context¹

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Mid-March 2020. 'Social distancing' with my family in Cape Town, South Africa, as COVID19 moves around the world and settles in Southern Africa, I reached out again to graduate students in the field. Two weeks previously, shortly after the first cases were reported in South Africa, I had asked my students to suspend all face-to-face research. I urged them to stay safe, to understand that work might feel difficult, especially if they were in the midst of 'field' research, and noting that if they need work to hold anxiety at bay, as I so often do, there are many ways to pursue scholarly research without being in direct contact with people.

It was harder to advise students working abroad, where the pandemic had not yet settled firmly or where we were not sure of numbers and rates of spread, or where governments had not reacted to the virus. One student, a Dutch national, was in Rwanda, where the response to the spread of COVID-19 was solid, quick and directed. Initially, the student had desired to stay in Rwanda and work remotely, but as it became clearer that Rwanda would close its borders, she decided to return to Europe. The Foundation that funds her research had reassured grantees that well-being (their own and their interlocutors') outweighed research considerations, offered support with evacuation if necessary, and reassured them that grant timelines could be adjusted and additional support sourced.

By contrast, a student in Zimbabwe responded to a voice message I sent to say she was worried about COVID19's implications in a country whose medical infrastructure had collapsed. She was contemplating leaving but, despite our reassurances – mine and the university's – that research was not as important as individual and collective health, was concerned about what this would mean for her research. As I began this paper, shortly after our conversation, she was trying to make her way home. But where is home, really? A dual citizen, she lives between Cape Town and Johannesburg (South Africa) and Harare (Zimbabwe), moving fluidly between these countries and maintaining dense networks across both. Her nimble-footedness, as Francis Nyamnjoh (2015) would characterize it, is a tremendous asset in her scholarly work and social life, creating an individual at home in many spaces and across all kinds of differences. No outsider anthropologist, she is a southern African anthropologist.

This version of anthropology is not that imagined in many anthropological codes of ethics, which still tend to presume radical difference between researcher and research participants/subjects/interlocutors. Take for example, the American Anthropology Association's draft briefing paper for Consideration of the Ethical Implications of Sexual Relations between Anthropologists and Members of a Study Populations (Watkins n.d.). After a careful, nuanced discussion of the complexities of understanding intimacy and sexual behaviors, and recognizing the inherent power relations in research, the brief exhorts researchers to 'resist the urge to "go native" to the greatest extent possible so as to prevent the risk of improper relationships' (ibid.). A direct quote. When first I read this, I was horrified at the replication of colonial languages, hierarchies and assumptions in a contemporary code. It underscored precisely the history of the discipline that makes it so eschewed in Africa. I was also astounded at the assumption that researchers were inevitably different from their research populations, notwithstanding, in the US context, interventions by Lila Abu Lughod (1991), Kirin Narayan (1993) and Faye Harrison (1997; 2008) all of which sought to undo the binary of insider/outsider that underpins a certain version of anthropology. And finally, I was amused by the paternalism of the understanding of sex and its seclusion from research, as

though research were somehow exempt from the everyday to-and-fro, including sexual, of deeply immersed research (Gude and Manuel, 2007). Do not misunderstand me. I am not suggesting codes of conduct should not offer cautionaries, nor that researchers should think sexual engagements are unencumbered by their positioning as researchers. My point is that the paternalist and hierarchical model that underpins such warnings, and their expression in terms that directly link researchers to colonial authority's cautioning of young administrators, begs the question of who the codes are aimed at. Are they aimed solely at those, like my student in Rwanda, whose difference seems self-evident, based on race and nationality, or do they have wider ambit to the vast majority of those of us elsewhere who work 'at home', in diaspora, with people we are linked to by shared residence, language, affection, complex and sometimes fraught social and historical relations?

These are not new questions, of course, but the case of sexual relations invokes the question of intimacy, its limits and curtailments, and at the same time, the question of broader political and historical contexts within which research takes place. Our intellectual projects entangle with forms of power and domination in ways that are contested and fraught. In the context with which I am most familiar, southern Africa, these issues are powerfully politically charged, more so, it seems, than in other centres of anthropological training. In the British colonies, anthropology was an important measure of training for colonial authorities. While the arguments about this have been well-rehearsed (see for examples, Asad 1973, James 1973, Mafeje 1997 and 1998) they have not disappeared simply because practiced and integrated into curricula and ethics reviews. In South Africa, the discipline was diffracted and entangled with apartheid (Gordon and Speigel 1993; Vawda 1995; Spiegel and Becker 2015). Here, our disciplinary and personal histories freight our work. The ethical charge is – or ought to be – palpable. How these enter conversations with students and colleagues is a critical scholarly problem and the subject of considerable investment in teaching and research. In my institution, anthropology courses are framed in terms of knowledge practices and their relation to power formations. We offer a sideways approach to 'the canon' by using marginalized voices as core and asking what they were (made) marginal to and by. From there we embark on a serious engagement that reaches its apogee in an ethnography course that asks students to develop and inhabit the position of an anthropology otherwise, an anthropology that more accurately reflects their positioning as insiders of various kinds and that takes seriously the political and ethical entailments of working and living in the communities which are home, where 'interlocutors' are friends, relatives, neighbours and acquaintances in the ebb and flow of life. 'Ordinary ethics' (Lambek 2012) indeed.

Where they exist (and it is worth noting that many associations do not have codes of ethics), many northern codes of ethics for anthropologists still presume difference as their basis. They also tend to assume that ethics clearances required by their home institutions and governments are adequate to the context in which they will conduct research. Some recognize the problem of extractive research relations and try to intervene to secure more equal relations, but for the most part, the associations which have been most successful in this are those in the global south, where there have been strong critical engagements, especially by decolonial scholars (Tuhiwai Smith 1999; Holcombe 2020; London and Macdonald 2014).

Leslie London and Helen Macdonald have described the inequalities writ into research when northern scholars come south. One way to rectify these is by subjecting research proposals to clearance procedures in the places in which scholars from the north will do their research. This is not always common but is increasing, sometimes because it is a research visa requirement imposed by national governments, sometimes because local institutions will not recognize an external ethics validation, sometimes because local clearance is a legal requirement in the countries in which they work, and sometimes from individuals' senses of responsibility to local scholarly communities.

The terrain of such clearances is not always clear, and cases must be assessed individually. Let me give some examples. To obtain a research visa for her study of children born to women raped during the genocide, the student working in Rwanda had to obtain ethics clearance from

her home university and also from a recognized ethics committee in Rwanda. She had also to affiliate with a recognized institution in Rwanda. This is a governmental requirement to ensure protection of research participants, careful consideration of the genocide, and due attention to and respect for local laws and mores. Visa renewals require renewed clearances. By contrast, the student working in Zimbabwe required only ethics clearance from her home university's ethics committee, and due permissions from local leaders (both state and customary). In a third instance, a student coming from the US to South Africa to do her PhD on sexual violence required American IRB clearance to proceed and a research visa from the South Africa government. Unlike, Rwanda, the latter does not require additional ethics clearances. Despite this, she opted to subject her IRB-cleared research to local ethics procedures and to affiliate formally with our department to ensure that her work was bridge-building rather than extractive. A committee reviewed a project that was clearly informed by a desire to work responsibly and responsively with local stakeholders; to generate data and approaches of great value in the context; and to leave behind a legacy of strong links between gender activists, health practitioners and scholars. In a fourth example, colleagues in Europe requested additional ethics review for a multi-country project, one portion of which was to be located in Cape Town, over and above those mandated by the EU grant that funded the research. They requested that a member of University of Cape Town (UCT) Anthropology be on the international advisory board, and that the UCT committee provide additional ethics review. The project created an international ethics advisory board with local representation. The researchers provided extensive detail on their project, including the reports of two ethics reviews and responses to these, along with the official clearance by the EU ethics board. The local committee was surprised to find that almost all of the questions raised by the EU Board had to do with protection of personal information – clearly a response to the recently amended protection of personal information laws in the EU. No questions were raised about the absence of local scholarship on the issue under consideration nor about benefit to local communities – be they scholars, practitioners, communities or, as is common in our context, some or all of these altogether. When this was pointed out, the researchers responded with grace and acuity and quickly rectified the situation.

Each of these cases, involving scholars of varying degrees of distance from their proposed research sites and of scholarly seniority, is a far cry from Didier Fassin's (2006) description of the lack of research ethics procedures and protocols in the French/European context of the 1990s. New data laws after the Cambridge Analytica scandal, increased personal protections and renewed concern about ethics in research have generated significant debates about what research matters and when it may be conducted. It would be worth pushing these further in an anthropological context.

Part of what happens when northern scholars seek local affirmation of projects is an acknowledgement of scholars and others in the south as knowledge producers rather than as the empirical sites from which data can be extracted. At the same time, however, it places a considerable burden on southern scholars to educate northern ones about the specific and current constellation of research concerns *in situ*, and to provide free labour to northern colleagues and institutions. Southern Africa's institutional review processes differ widely, as they do within South Africa. In my institutional setting, ethics clearance is devolved to Department level. Our Anthropology committee consists of a *minimum* of three members of staff who assess the application, provide feedback and reassess the revised version before approval. Unlike peer review processes for publication, this is invisible work and a massive investment in scholarly projects. It is important to do but would be more mutually beneficial where research relations aim to build lasting arrangements and locally committed scholarship and outputs, including in local journals. Anthropologists could be encouraged to consult, reference and use codes of conduct produced in the sites in which they will do their research, and to grapple with the tensions and contradictions that might arise between different codes.

This is not to suggest that there is necessarily or inevitably a clear and unambiguous understanding of ethical responsibilities and conduct across disciplines and communities even

within a single country in the south. Deborah Posel and I (2014), for example, have described the complexity of working across disciplinary fields in the fraught terrains of South African society. We show that even where codes of conduct exist, considerable interpretation is still required. This is made more complex when differing disciplinary codes are brought to bear on a single issue, or where research is inter- or transdisciplinary. There is potential for tremendous uncertainty where the provisions of the law do not sit neatly with local contextual practices. It is to an example of the latter in South Africa that I now turn.

The Bill of Rights is foundational to South Africa's democracy and central in the Constitution. Sometimes the relation between law and research is complex and the trade-off between knowledge and rights is often knife-edged. Take for example the case of conducting research with children in South Africa. Identified as a vulnerable category, children (in statutory terms, people under 18) cannot give consent to research, merely assent. The Children's Act (2005) stipulates that research with children has to be justifiable; that is, that one may only work with children if the information cannot be obtained by any other means. This poses considerable challenges to anthropological research, where children may not be the focus of research but may nevertheless be present and actively contributing to the social issues we are investigating. In terms of the law, consent may only be granted by a caregiver/parent. However, this undermines children's autonomy (Bray and Gooskens 2006) and misrecognizes the roles and responsibilities young people take on in households.

The Children's Act authorizes designated professionals – such as, teachers, social workers, psychologists - to intervene if child abuse and neglect are suspected. Cases must be reported to the police or social workers. Researchers are not recognized as having similar responsibilities to those the Act designates as professionals, but the Criminal Procedures Act requires that citizens report crimes. We prepare students at the proposal stage for such situations by requiring them clearly to differentiate processes of assent for children and consent for their caregivers. They are required also to delineate procedures for reporting abuse and neglect; usually to a designated community leader or structure in the first instance to ensure that local procedures and institutions are not overlooked or undermined, and to their research supervisor. From there reporting would be to the police, department of social development, or other authority as required. The end result might be the removal of a child from their family. Andile Mayekiso (2017), who describes himself as a 'native' and 'citizen' anthropologist - a Xhosa man working with other men his age on their experiences of fatherhood – has described encountering a situation which had the potential for neglect to arise but was not yet 'reportable' in terms of the Act. As required in terms of our departmental protocol, he reported to a local community organization and his supervisor. The organization noted his concerns and asked him, as an initiated man and therefore elder in his community, to keep a check on the child. He did so in accord with the idiom 'It takes a village to raise a child'. His support ensured the child's well-being long after the research ended though his regular post-research engagements with the family. An 'insider-outsider', his status as a researcher 'outside' that specific social field and yet also an 'insider' deeply familiar with the rhythms and cultural responsibilities of adulthood came to bear in ways that directly benefitted the child and the family, granting them the dignity of the attentions of a concerned elder.

Through the above examples of recent engagements around ethics clearance processes and research conundrums, I hope to have shown some of the critical complexities of research in contexts where people are insiders and outsiders at different times and in different ways. In closing, I want to consider two different models of thinking through ethics in research in the South African context. Both the Anthropology Southern Africa code of conduct, revised in 2005, and the San code of research ethics developed as a guide to working with San communities in Southern Africa, attempt to grapple with the legacies of apartheid and colonialism and to orient ethical conduct. They intersect in different ways with other existing codes of ethics to which researchers may be required to adhere, such as those operationalized by universities or heritage organisations, or described in specific legislation. Values-driven rather than purely legally- or medically-derived approaches, both are envisaged as forward-

looking documents that have redressive capacity, though of course the extent to which this is true is as much a question of individual and collective politics and ethics as it is a question of the intention behind the codes.

The Anthropology Southern Africa Code of Ethics was initially promulgated in 1989 when two South African Anthropology associations joined, and a new organization came into being. Directly acknowledging anthropology's role in the design of separate development and apartheid thought, the Association sought to confront the discipline's various imbrications in systems of power head-on by providing a code modelled on those of the AAA and ASA. The Code was revised in 2005 and became Principles of Conduct for Anthropologists. It was launched in 2005 with an edited collection on ethics in the Association's journal (Ross 2005).

The new Principles sought to update the original code to take account of a broader associational context and changed political environs. Foregrounding 'dignity' as an underpinning value, the Principles mark a shift toward an ethic of care (Spiegel 2005). The accompanying notes suggest that *ubuntu* might animate the Principles. *Ubuntu* is a Nguni word frequently translated as 'humanity', but which anticipates a relational ontology – '*umntu ngumntu abantu*' – 'a person is a person because of people', or, 'I am because you are'. As an ethos, it has wide resonance in southern and Central Africa. Its inclusion is indicative of both the historical moment (*ubuntu* is a foundational premise of South Africa's transition to democracy in 1994) and of an attempt to ground the anthropological Principles in regionally meaningful values. Reference to it anticipates that anthropological principles might be ontologically rather than solely legally oriented. To date this proposal has not received much attention.

Restating commitments to justice and equity, the Principles seek simultaneously to be responsive to past abuses and also to be a living document, open to examination and contestation. They situate research participants' rights as paramount; describe productive relations with participants, students, colleagues and institutions; preclude covert research; regulate relations with states and employers; insist that scholars pay attention to the legal contexts in which they work; and demand that they protect the rights of interlocutors. The Principles and the notes accompanying their publication commit the Association to regular review on a five-yearly cycle as part of a way of keeping debates about ethics in postcolonial (and now, decolonial) contexts energized.

It is worth remembering that the Association is not country-specific; it represents anthropologists in southern and even Central Africa, not South Africa *per se*. Thus, the Principles need to be adaptive to the contexts of ten or more countries (depending on individual membership in the Association at any given time) in which there is no smooth alignment of legal principles, and a wide range of political formations exists. They straddle a narrow and often uncomfortable line between what is required in law (e.g. in South Africa, the Children's Act, the National Health Act), what is suggested or required by various codes of ethics (national, institutional, associational – where these exist), and what is required of us as individual citizen-scholars (Becker et al. 2005). Despite the principle of repeated revisiting to keep the Principles energized, this unfortunately, has not been consistent. The Association is short-staffed; most of its membership is students who, while deeply committed to the discipline, tend to cycle through the Association. The Principles do not yet address issues relating to social media. There is an important debate yet to be had about the relation between rights-based imperatives and the contextual factors of living and working in Southern Africa. These debates are enhanced by a vibrant critique drawing on the thought of local and international decolonial scholars and activists, particularly in relation to questions of the proper 'object' of anthropology (Mafeje 1997; Nyamnjoh 2012); the ways race and inequality shape knowledge practices; the limitations of rights discourses in producing durable and habitable change; and the place and responsibility of academics and knowledge producers in generating change. In recent years these questions have been energized by a lively debate about the place of white scholarship in knowledge production on the Continent.

Questions of response-ability are core to the San code of research ethics produced by the South African San Institute in 2017. Unlike conventional disciplinary codes of ethics, it begins with a set of values, describing how they have arisen from specific historical experiences of autochthonous peoples in southern Africa, and ends by describing a process through which research with San peoples can be undertaken. The Code offers a full account of each value – respect, honesty, justice and fairness, and care. Each begins with a statement of requirement – “We require” – followed by an operational description of the value as it materializes in San relations. Each is followed by concrete examples of the abrogation of that value in research encounters. For example, the description of ‘care’ in the values is followed by an illustration; ‘We have encountered lack of care in many instances in the past. ...[We] were spoken down to, or confused with complicated scientific language, or treated as ignorant. Failing to ensure that something is left behind that improves the lives of the San also represents lack of care.’ The description of ‘respect’ asks researchers to adhere to the forms of respect customary in San communities, including respect for individuals, communities, culture, the environment and people’s knowledge. Failures in this respect include genomic research, inappropriate or insensitive representation, bribes, and also failures to provide feedback. The code affords San communities an opportunity to reject research, to blacklist scholars and to seek legal remedy. This weaving of experience with protocol has the effect of linking the code directly to historical wrongs and positioning it in terms of redress and futures. An important intervention, it nevertheless assumes that researchers are ‘outsiders’ to the communities it represents, and also assumes that the Institute speaks for all San peoples. Questions have been asked about whom it represents and with what authority. Nevertheless, for the purposes of my discussion here, the document is critical in directly asserting a set of values that derive from and attempt to move past historical experience as a condition for research.

Our imaginaries shape the stakes of debates about conduct and relations in particular times and places. My aim in this paper has been to ask what the disciplinary imaginary of ‘the anthropologist’ is and how that imaginary informs the guidelines offered to researchers. I hope to have demonstrated the importance of more equal north-south relations and simultaneously to show the burden these may generate for southern scholars. I have sought to understand and describe ethical forms as contested domains that trace complex and unfolding relations in sometimes rapidly changing contexts. COVID19’s effects on social relations illustrate this starkly, as existing faultlines are exacerbated, intensified or even new ethical concerns arise, including whether research of the kind we have taken for granted as ‘ethnographic’ is even viable. It is ever more imperative that we develop non-paternalist ethics of care that extend beyond the current fixation with individuals and human forms of sociality. The ethnographic record offers rich grounds for thinking such in reflexive and comparative ways. As Marilyn Strathern, drawing from Riles reminds us, a ‘question for the anthropologist is how to cultivate the means of taking care of one another’s capacities. This is a matter of the quality of engagement, not a matter of protection.’ (2004: 533). I hope to have demonstrated that a non-teleological approach to questions of ethics and conduct has political force, and that the politics of codes of conduct imbricate us in emergent forms that are not fully free of the histories of our relating to one another and the world we inhabit.

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