

11 October

3<sup>rd</sup> Annual **International  
Conference on Social Justice**

2022

Conference Theme:  
**RESTITUTION**



12 October





4<sup>th</sup> Annual  
**Social Justice Summit**

 **Stellenbosch**  
UNIVERSITY  
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## RESTITUTION: FRAMING PAPER

### Annual Social Justice Summit and International Conference 2022

Stellenbosch University is among a few institutions, globally, that have adopted a restitutive statement for past institutional conduct and as part of its social justice commitment. The Law Trust Chair at Stellenbosch University has yielded research that centers on restitution as an integral part of advancing social justice where there is a history of legalised injustice. The importance of restitution as an integral part of advancing social justice has also been flagged in conversations that flow from the Musa Plan for Social Justice, which is a Marshal Plan-like civil society-led initiative that is aimed at catalyzing progress on ending poverty and breaking the back of structural inequality in line with the UN Sustainable Development Goals and related social justice and peace advancing initiatives.

The Collins dictionary defines restitution as “ the act of giving back to a person something that was lost or stolen, or of paying them money for the loss.” In practical terms, a restitutive act places a person who has unjustly suffered a loss as close as possible to where they would have been but for the improper conduct resulting in such injustice.

As a point of departure, it is essential to acknowledge that restitution is not limited to the effects of harm relating to violent atrocities. It also applies to the dispossession of land, other property, opportunities and social goods such as human dignity, religion, culture and identity-based stigmas such as the stigmatization of blackness, femaleness, disability and divergent gender identities. It is further worth bearing in mind that restitution is not a one-tier exercise but one that is multilayered and demands inclusive representation of the fullest diversity of affected voices.

The Summit and Conference seek to provide a platform for reflection on restitution as a concept and historical approaches to it as a basis for exploring options for leveraging restitution as a gateway for addressing the enduring legacy of historical social injustice while being mindful of not committing new injustices. A key dimension of the discourse will be appreciating the link between advancing equality, excellence, and shared prosperity and the legacy of past legalised injustices.

In this regard, the Social Justice Summit and Conference seek to foster an appreciation of the fact that despite efforts of transformation in many sectors, much work lies ahead to effect deep-rooted changes that transform power relations in societies with a history and legacy of legalised discrimination and dispossession.

Often opportunities for redress tend to be missed, particularly on matters such as psychological harm, social attitudes, broken families, spatial disparities, wealth and land disparities, The link between historical injustices and the default outlook of societal institutions such as education, epistemology, justice, and the implications of these for substantive equality, social cohesion, the rule of law and peace is an equally essential dimension of the restitution dialogue.

Previous human rights violations, including torture and disappearance of human rights activists, also often remain unaccounted for and not remedied thus undermining closure. For the South African context, the role of the Truth and Reconciliation Commission and its unfinished business will also feature. As observed by the Constitutional Court Justice, Edwin Cameron in *Daniels v Scribante*, without remedying the legacy of past injustices, justice in the present tends to be elusive. The same applies to social cohesion and peace.

The 3rd International Social Justice Conference and 4th Annual Social Justice Summit will bring together stakeholders such as academics, lawyers, legislators, and other policymakers, judicial officers, civil society activists, business, the faith community, international stakeholders and the media, to deliberate on restitution as a pressing social challenge in the context of advancing social justice, sustainable development and peace.

- The **International Social Justice Conference on 11 October 2022**, is an interdisciplinary event aiming to bring together international scholars and stakeholders from a wide range of academic fields to share research outputs and deliberate on the theoretical underpinnings of restitution in a social justice context, trends and practical solutions to this complex issue.
- The **Social Justice Summit on 12 October 2022**, aims to bring together South African stakeholders from academia, government, the judiciary, business, civil society, activists, the faith community, NGOs and international stakeholders, as well as the media to confer on various aspects of advancing restitution rooted in the principles of and the constitutional commitment regarding social justice.

## PLENARY SESSIONS:

### 11 OCTOBER – CONFERENCE

**11:00 – 12:30 Keynote Plenary 1:** The theory, discourses and models underpinning restitution in societies with a history of legalised injustice on various grounds such as race, gender, disability, ethnicity and space.

**12:30 – 13:45 Keynote Plenary 2:** The role of universities and civil society in leading and catalysing the advancement of social justice, including remedying the legacy of past injustices and resourcing through research, skills and innovation.

### 12 OCTOBER – SUMMIT

**10:00 – 11:00 Keynote Plenary 1:** The role of social justice principles in incentivizing restitution.

**12:30 – 13:45 Keynote plenary 2:** The restitutive challenges in the aftermath of colonialism, apartheid, patriarchy and other past forms of legalised injustice.

## PARALLEL AFTERNOON SESSIONS:

*The Social Justice Summit and International Conference on Restitution will each have five (5) parallel sessions, in addition to the integrative plenary sessions. **On both 11 October and 12 October these sessions will run from 14:30 – 16:00:***

### 1. Wealth, income and economic justice

The Wealth, Income and Economic Justice session aims to address restitution relating equitable economic participation at all levels and incentives while exploring restitutive processes regarding wealth and income distribution. This session, which will also deal with historical roots of poverty, ultimately seeks to explore the impact of restitution on design economics and the significance of restitution on inclusive economic participation, excellence, competitiveness and growth. The dialogue will cover all aspects and levels of the economy including the formal and informal sectors while also touching on the complexities involved, including complexities relating to the feasibility of reparative measures for slavery, colonialism, apartheid and patriarchy.

### 2. Health and well-being, family and social life

The Health, Wellbeing, Family and Social Life session will explore restitution in the context of the impact of historical family and socio-psychological harm, including debasement and stigmatisation. This will be against the backdrop of systemic discrimination based on identities such as race, gender, sexual orientation, disability, religion, culture and the intersection of these and other identities. Historic bias in health systems and scientific research, which still impacts unfairly on certain groups, will also be part of this deep dive. The objective is to also analyse restitution where it relates to access to private and public health care and benefits, and access to equitable treatment such as in obstetric care. The potential positive impact of restitutive measures on social cohesion and psychological well-being, such as reconciliation in faith communities, will also be probed. Questions such as 'how do you retribute religions and belief systems, cultures, and languages that have been regarded as inferior?' will be answered. Participants will also consider restitution in the context of access to justice and parity of legal systems, within the context of decolonization of legal systems and making law truly common to prevailing paradigms in local communities.

### 3. Land, housing and spatial equality

The Land, Housing and Spatial Equality session aims to address land reform and restitution through a social justice lens. Participants are challenged to think about restitution in a broader sense that takes into account all of the systemic impacts of land dispossession, including the loss of commercial exponentiality as well as loss of community, culture, and social capital. The discussion will also deal with spatial disparities and their systemic impact on just, equitable and fair access to and distribution of all of life's opportunities, resources, benefits, privileges and burdens in modern societies and between societies that legally subscribe to the value and right to equality. How can restitution be instrumental in creating viable and sustainable environments that fulfill the constitutional obligation to institute reparations enshrined in South African law? Participants will examine the tension between restitution efforts and commercial interests (such as in the agriculture sector) and explore how current restitution paradigms relate to equal access to housing in a manner that transcends historical racial segregation in countries with a history of segregation. Participants will also address the role of private initiatives in land restitution and reform in addition to considering fault lines in historical land redistribution and restitution measures.

#### **4. Media, digitisation, innovation, education and epistemology**

This session will explore restitution dimensions relating to the media, literature, art, history, science, identity politics and epistemology. Censorship, propaganda and information control during the colonial era and times of conflict were ways in which information, news, literature, education, and science were controlled to disadvantage and stigmatize specific groups of people based on their identities, be it race, gender, class, or sexual orientation. This session seeks not only to examine the lasting impact of such narratives (and how it is sometimes still employed to subvert restitution efforts) but to also explore how technological and digital advances in information dissemination may be harnessed to promote restitution and social justice. Obstacles to restitution in the education system will be considered, specifically in terms of access to education and digital inclusion. This session will also explore fresh perspectives on restitution relating to colonial era plundering of cultural objects, human remains, art, and artifacts and look at global trends in transformative epistemology.

#### **5. Public governance, democratic leadership, and access to justice.**

The Public Governance, Democratic Leadership and Access to Justice session will reflect on historical harm through political domination and public governance while exploring restitution options and challenges in and through this sector. For any restitution process in any sphere to succeed, there is a need for good and accountable public governance and democratic leadership. The process of restitution requires close collaboration and trust between various stakeholders and entails complex administrative and legal processes. A legal system that allows for the effective exercise of the right and access to justice should facilitate trust in the administrative process. This parallel session seeks to explore restitution within a legal and public governance system, including historical and continuing disparities in access to justice while examining the intersection of democratic leadership and restitution. Participants will deliberate on how to bridge the access to justice gap in a context where the fragmentation and weakening of justice and state institutions often thwart the ideal of justice for all and where trust in government is low compounded by historical exclusion. The session will also explore concepts such as decolonization of public governance and access to justice to ensure democratic participation and inclusiveness to all. The link between social cohesion and democracy which works for all will be explored as will implications for an environment that is conducive to sustainable economic growth.

***Note: The above objectives are outlines to frame the discussion, not to limit the discussion within the parallel sessions.***