

Social Justice
and The Law Trainers'

Seminar

8-9 SEPTEMBER 2021



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INTRODUCTION

The Social Justice and the Law Course is a three-unit (module) short course that is designed to foster a common approach to social justice teaching and training through conceptual clarity and shared appreciation of constitutional and international obligations on social justice, pressing challenges regarding social justice in the twenty-first century and post-apartheid south Africa and effective pedagogical approaches for social justice teaching and learning mindful of adult learning imperatives.

The seminar styled course seeks to facilitate uniform engagement with courses on social justice jurisprudence and social justice and the law while extending the enhanced acuity to mainstreaming social justice in other teaching endeavours.

The seminar further seeks to achieve shared understanding among trainers regarding the meaning, significance, theories, constitutional obligations evolving jurisprudence and other dimensions combined with every day application of the concept of social justice. The purpose is to standardise conceptual knowledge, values, skills, and praxis that optimally positions them to deliver the most effective training and learning facilitation on social justice and related social transformation. The seminar aims to provide a platform for engaging with different conceptions and approaches to social justice thus enabling the trainers to meaningfully engage their trainees and others on any discourse regarding social justice and its various dimensions focussing on poverty and inequality.

Social justice education and training is increasingly demanded in all disciplines as the world awakens to the reality of poverty and inequality as collectively posing a significant threat to the rule of law, democracy and ultimately, peace, making social justice one of the twenty-first century's most pressing imperatives. At the core of the social justice demands in the contemporary operational and accountability ecosystem for public governance and business, is the demand for social and economic inclusion as many are increasingly left behind as noted by the United Nations (UN), which has responded with the global Sustainable Development Goals (SDGs). Embedded in that demand are state and business interventions that are alive to the need to be responsive to difference and disadvantage while eschewing the stigmatisation of certain groups while exalting others.

COST: R 1500 pp

Target Group

Trainers and transformation managers in academia, organs of state, the judiciary civil society and international agency employees. International participants are also welcome.

Participants should have a three-year tertiary qualification, at least three years' experience in teaching or training on some dimension of social justice or equality or human rights and a passion for the advancement of social justice.

Course Objectives

To equip course participants with enhanced competencies to:

1. **Appreciate and embrace** a common justice lens through a shared understanding of the concept of social justice, theories and evolution of jurisprudence on social justice and the relationship between social justice and related concepts such as equality, equity, anti-discrimination and related equality and socio-economic inclusion concepts as well as comparable analytical frameworks such as gender and feminist jurisprudence, critical race theory, Ubuntu and decolonisation.
2. **Command an expert knowledge** of the common thematic concerns regarding social justice such as unconscious bias, racism, sexism, xenophobia and disability inequality and the key sectoral concerns such as the economy and property rights, poverty, access to justice, administrative justice.
3. **Understand and utilise** a common pedagogical approach to social justice teaching and learning facilitation, incorporating the use of case studies, analytical frameworks and analytical tools, such as the Social Justice Impact Assessment Matrix (SIAM).

Course Outcomes

At the end of the course the participants should be able to:

1. Demonstrate **knowledge** of the concept of social justice, its relationship to concepts such as equality, equity, non-discrimination, socio-economic rights, redistributive justice and other jurisprudential dimensions of social justice.
2. Demonstrate ability to **apply social justice principles and jurisprudence** to analyse laws, policies, programmes in diverse circumstances, including circumstances where single dimensions of social justice such as gender, race, disability, migration, religion, age or the intersection are the focus in any sector be it work, the economy, property rights, disaster management, and so forth.
3. Demonstrate **skills** gained to conduct research, identify and apply relevant social justice research and analytical tools to everyday decision-making, conduct and related justice challenges.
4. Show ability to identify everyday social justice challenges in society and lead the solutions generation process in a manner that is congruent with constitutional social justice and related equality and human rights and socio-economic inclusion obligations.
5. Demonstrate professional **competence** in the use of social justice conceptual, theoretical and jurisprudential frameworks and techniques in teaching social justice or facilitating social justice transformation.

Course Structure and Key Contents

The course has three (3) units (modules) to be delivered as a blended online course combining contact and non-contact sessions executed in the following three phases:

1. Preparatory phase: Participants to be given a case study, to resolve before attending the course, based on their existing knowledge of the law and policy imperatives regarding social justice to assess current levels of knowledge and skills.
2. Contact Sessions: Contact sessions with course presenter(s) that include short individual and group exercises activities.
3. Summative Assessment: At the end of the course participants will submit an assignment that involves the application of social justice and the law learning outcomes.

Course Outline

Unit 1: Purpose and Conceptual Clarity:

Meaning and evolution of the concept of social justice, related jurisprudence, and theoretical frameworks; and relationship with concepts such as socialism, equality, equity, affirmative action, redistributive justice, discrimination; poverty, socio-economic rights, critical race theory, feminism and feminist legal theory, diversity management, gender mainstreaming, social context awareness, unconscious bias, decolonisation and Ubuntu.

Unit 2: Common Social Justice Themes

Analysis of poverty and inequality implications of law and policy reform in education; the economy, including employment and property rights; health; the Fourth Industrial Revolution; language; anti-discrimination and equality advancing laws and sustainable development interventions, analysis of race, gender, nationality, age, disability, intersectional identities and related barriers to access to justice focussing on women's rights under customary law; Race and gender disparities in the criminal justice system.

Unit 3: Training Approaches and Course Design Methodologies

Analysis of different teaching methods; reflection on various pedagogical approaches, focussing on approaches that are resonant with transformative constitutionalism aimed at egalitarian social relations while being attuned to adult learning. Participants will reflect on the Authority Style, the Delegator Style, the Facilitator Style, the Demonstrator Style and the Hybrid Style and the different factors to consider when determining the best teaching method. Participants to conclude with a practical group exercise offering a praxis opportunity for social justice attuned learning facilitation.

Prescribed Reading

Universal Declaration on Human Rights (adopted 10 December 1948) UNGA Res 217 (III).

Convention on All Forms of Discrimination Against Women adopted 18 December 1979, entered into force 3 September 1981) 1249 UNTS 13.

Convention on All Forms of Racial Discrimination (adopted 21 December 1965, entered into force 4 January 1969) 660 UNTS 195.

African Charter on Human and People's Rights (adopted 27 June 1981 entered into force 21 October 1986) 1520 UNTS 217.

Constitution of the Republic of South Africa, 1996.

J Fedler and I Olckers *Ideological virgins & other myths: six principles for legal revisioning* (2001).

S Gutto *Equality and non-discrimination in South Africa* (2001).

C Heyns et al (eds) *Discrimination and the law in South Africa* (1994).

T Madonsela "Law and the economy through a social justice lens" in R Parsons (ed) *Recession, Recovery and Reform* (2020).

MJ Maluleke and T Madonsela *Women and the law in South Africa* (2004).

T Madonsela "Wendel Holmes Memorial Lecture: Social Justice Transcending Inequalities" (2020) 26 *Global Governance* 1-20.

T Madonsela et al (eds) "Law, social justice perspectives and SDGs: Report of The Social Justice Summit and International Conference (2020).

J Klaaren "Human rights & South African constitutionalism: An Interdisciplinary Perspective on debates over the past twenty years" (2014) 38 *Journal Ufahamu: A Journal of African Studies* 137-153.

FG "Integrating Teaching Styles and Learning Styles with Instructional Technology" (2000) 48 *College Teaching* 2.

M Minow In *Brown's Wake: Legacies of America's Landmark* (2010).

D Rhode, *Justice and Gender* (1989).

Minister of Finance and Others v Van Heerden (CCT 63/03) [2004] ZACC 3; 2004 (6) SA 121 (CC).

Bato Star Fishing (Pty) Ltd v Minister of Environmental Affairs and Tourism and Others (CCT 27/03) [2004] ZACC 15; 2004 (4) SA 490 (CC).

Investigating Directorate: Serious Economic Offences and Others v Hyundai Motor Distributors (Pty) Ltd and Others In re: Hyundai Motor Distributors (Pty) Ltd and Others v Smit NO and Others (CCT1/00) [2000] ZACC 12; 2000 (10) BCLR 1079; 2001 (1) SA 545 (CC) (25 August 2000).

Harksen v Lane NO and Others (CCT9/97) [1997] ZACC 12; 1997 (11) BCLR 1489; 1998 (1) SA 300 (7 October 1997).

Griggs v Duke Power Co. 401 US 424 (1971).

S v Makwanyane and Another (CCT3/94) [1995] ZACC 3; 1995 (6) BCLR 665; 1995 (3) SA 391 (CC).

Daniels v Scribante and Another (CCT50/16) [2017] ZACC 13; 2017 (4) SA 341 (CC).

Assessment

1. Pre-course Attendance Assignment (Writing 20%, Presentation 20%)
2. Daily Individual and Group Tasks for formative assessment and ensure group members are collaborating (Individual 15%, Group 15%)
3. Final Assessment presented on Last day of Course as a group (Presentation 30%)

PRESENTERS



Prof Thuli Madonsela

is the former Public Protector of South Africa, former full-time law commissioner and the current Chair of Social Justice and founder of the Thuma Foundation for Democracy Leadership and Literacy. She has an extensive background in applied administrative-law principles mainly based on her public service years and investigating improper conduct in state affairs. She was one of the drafters of the Constitution and a key participant in the conceptualisation and drafting of several laws, including the Promotion of Administrative Justice Act. She also helped draft a number of international human rights instruments and country reports. Prof Madonsela currently teaches constitutional law, administrative law, social justice law and democracy and has written and published extensively on these matters.

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