

SOCIAL JUSTICE IN SOUTH AFRICA

Leveraging the Sustainable Development Goals and
the Global Human Rights Agenda to Advance Social
Justice



REPORT OF THE INAUGURAL SOCIAL JUSTICE
SUMMIT AND INTERNATIONAL CONFERENCE

Edited by
Professor Thuli Madonsela and Marna Lourens

**SOCIAL JUSTICE IN SOUTH AFRICA: LEVERAGING THE SUSTAINABLE
DEVELOPMENT GOALS AND THE GLOBAL HUMAN RIGHTS AGENDA TO
ADVANCE SOCIAL JUSTICE
REPORT OF THE INAUGURAL SOCIAL JUSTICE SUMMIT AND
INTERNATIONAL CONFERENCE¹**

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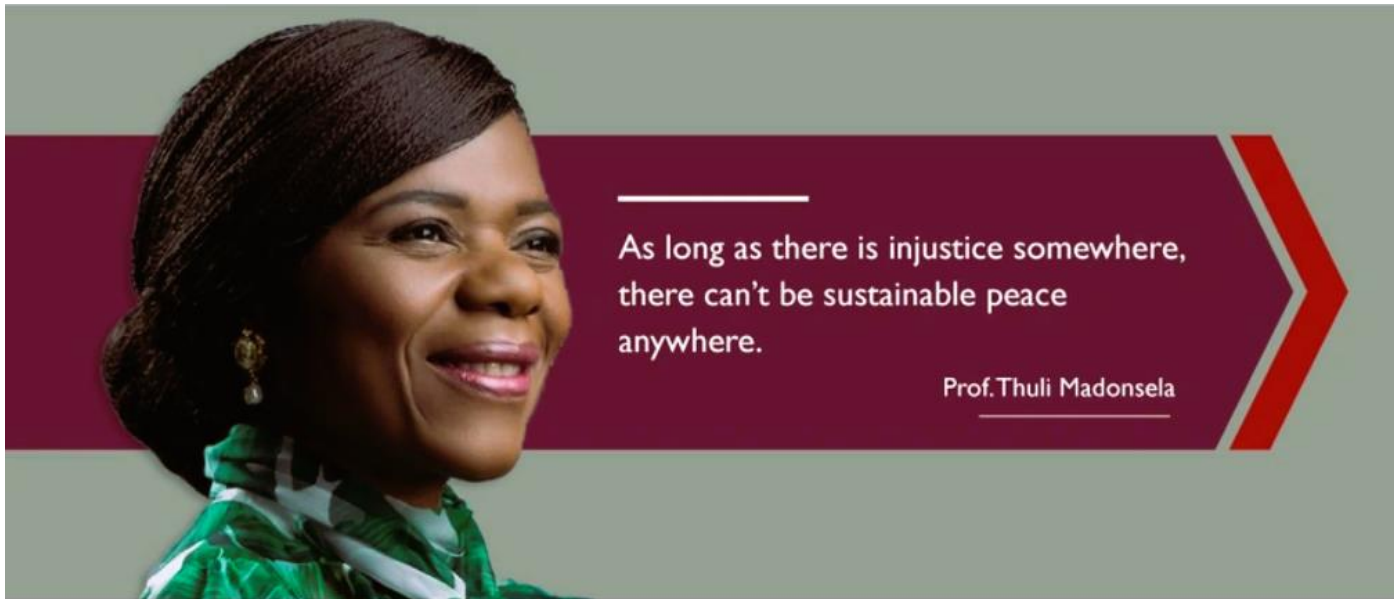
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TABLE OF ABBREVIATIONS AND ACRONYMS

AAAQ	Accessibility, Acceptability and Quality
AIMS	African Institute for Mathematical Sciences
ANC	African National Congress
APC	Article processing charges
ARV	Antiretrovirals
AU	African Union
BBBEE	Broad-Based Black Economic Empowerment
BLSA	Business Leadership South Africa
CESCR	Committee on Economic, Social and Cultural Rights
COGTA	Cooperative Governance and Traditional Affairs
DHET	Department of Higher Education and Training
DRG	Diagnostic-related groups
E&L	Exceptions and limitations
EFF	Economic Freedom Fighters
EPWP	Expanded Public Works Programme
GIAMA	Government Immovable Asset Management Act 19 of 2007
GIBS	Gordon Institute of Business Science
GSHS	Global School-Based Student Health Survey
HAPPY	Healthy and Active Parenting Programme for Early Years
HPE	Health Professions Education
ICESCR	International Covenant on Economic, Social and Cultural Rights
IFAA	Institute for African Alternatives
IFR	Institute for Futures Research
ILO	International Labour Organization
IMF	International Monetary Fund

IUDF	Integrated Urban Development Framework
JSE	Johannesburg Securities Exchange
MDG	Millennium Development Goals
MSTF	Medium-Term Strategic Framework
MTBPS	Medium-Term Budget Policy Statement
MTEF	Medium-Term Economic Framework
MTSF	Medium-Term Strategic Framework
NDP	National Development Plan
NHI	National Health Insurance
NIDS	National Income Dynamics Study
NRF	National Resource Foundation
OER	Open educational resources
OJS	Open Journal Systems
OMP	Open Monograph Press
OPERA	Outcomes, Policy Efforts, Resources and Assessment
PKP	Public Knowledge Project
PRASA	Passenger Rail Agency of South Africa
RBL	Resource-based learning
RHAP	Rural Health Advocacy Project
SAWID	South African Women in Dialogue
SDG	Sustainable Development Goals
SOE	State-owned enterprises
SONA	State of the Nation Address
SPLUMA	Spatial Planning and Land Use Management Act 16 of 2013
SSA	Sub-Saharan Africa
TRC	Truth and Reconciliation Commission

UDHR	Universal Declaration of Human Rights
UHC	Universal health coverage
UN	United Nations
UNGA	United Nations General Assembly
UNISA	University of South Africa
WHO	World Health Organization
YRBS	Youth Risk Behaviour Survey



3rd Annual Social Justice Summit and International Conference
11-12 October 2021



FOREWORD

In his book, *A Long Walk to Freedom*, mostly written while spending 27 years in prison, Nelson Mandela says:

“The truth is that we are not yet free; we have merely achieved the freedom to be free, the right not to be oppressed. We have not taken the final step of our journey, but the first step on a longer and even more difficult road. For to be free is not merely to cast off one’s chains, but to live in a way that respects and enhances the freedom of others. The true test of our devotion to freedom is just beginning ...

But I have discovered the secret that after climbing a great hill, one only finds that there are many more hills to climb. I have taken a moment here to rest, to steal a view of the glorious vista that surrounds me, to look back on the distance I have come. But I can rest only for a moment, for with freedom come responsibilities, and I dare not linger, for my long walk is not ended.”²

This wisdom regarding the character of South Africa’s incomplete transition from a racially oppressive, painful, and divisive coexistence among its inhabitants,

² Reproduced in N Mandela and M Langa *Dare Not Linger: The President Years* (2017); The Nelson Mandela Foundation “Dare Not Linger” (19-10-2017) *Nelson Mandela* <<https://www.nelsonmandela.org/publications/entry/dare-not-linger>> (accessed 02-06-2021).

compounded by the legacy of equally racist and racist colonial injustices, to the democratic, social justice, and human rights anchored society envisaged in the Constitution of the Republic of South Africa, 1996 (Constitution), informed the convening and spirit of the Inaugural Social Justice Summit and International Conference on 29-30 August 2019.

Stellenbosch University's Chair in Social Justice convened the Social Justice Summit and International Social Justice Conference. The delegates included government leaders, who included the Minister of Planning, Jackson Mthembu representing President Cyril Ramaphosa and Western Cape Premier, Helen Zile; political leaders, who included the late, former President, FW de Klerk and the late Ben Turok, academic leaders that included Stellenbosch University Vice-Chancellor, Professor Wim De Villiers, Witwatersrand University Vice-Chancellor, Professor Adam Habib, Fort Hare University Vice-Chancellor, Professor Sakhela Buhlungu, Free State Vice-Chancellor, Professor Francis Peterson and North-West Vice-Chancellor, Professor Dan Kgwadi; business and social leaders that included the Chief Executive Officers of Business Leadership South Africa and the Johannesburg Stock Exchange, Busi Mavuso and Nicky Newton-King, respectively.

The delegates were united in acknowledging the fact that the country had become the most unequal in the world with unconscionable levels of inequality, poverty, and unemployment, mostly along historical race and gender contours of past injustice. This resulted in a failure to deliver on the constitutional promise to establish a society based on social justice and fundamental human rights. The delegates further acknowledged that government's societal transformation responsibility to fulfil the constitutional commitment was a shared responsibility.

In recognition of the reality that "as long as there is injustice somewhere, there cannot be sustainable peace anywhere"³, delegates agreed to join hands in the pursuit of a Musa Plan for Social Justice (Social Justice M-Plan.) The Social Justice M-Plan seeks to leverage the United Nations Sustainable Development Goals to break the back of structural inequality and end poverty by 2030.

³ Helen Suzman Foundation "Helen Suzman Memorial Lecture" (21-11-2018) *Helen Suzman Foundation* <<https://hsf.org.za/news/events/advocate-thuli-madonsela-set-to-deliver-the-2018-helen-suzman-memorial-lecture>> (accessed 11-06-2021).

It is an honour to present the Social Justice Summit and International Conference Report and my sincere hope is that its contents will contribute to accelerated progress on social justice.

Thuli Madonsela

February 2022

INTRODUCTION

This report summarises the deliberations and outcomes of the Social Justice Summit and International Conference that took place from 29 – 31 August 2019 in Stellenbosch. Hosted by the Law Trust Chair in Social Justice, Stellenbosch University, the summit and conference brought together a strategic mix of national and international academics, policymakers and civil society voices who shared ideas on challenges and strategies for advancing social justice as a national and global imperative. Under the overarching theme, *Leveraging the Sustainable Development Goals (SDGs) and the Global Human Rights Agenda to Advance Social Justice*, the participants explored avenues available to address social injustices globally. The golden thread that runs through this report is the quest to coordinate and facilitate alliances for advancing social justice while leveraging opportunities presented by the SDGs, national constitutions and development plans in national and international contexts.

At the end of the conference, delegates adopted a declaration which included embracing the Social Justice M-Plan, a partnership for change, which was proposed by the Chair in Social Justice. The Social Justice M-Plan is a social justice accelerator project that seeks to catalyse the process of ending poverty and breaking the back of inequality by 2030 in pursuit of the global SDGs and the National Development Plan (NDP). Named after Palesa Musa, a former child activist who was detained at the age of 12 and placed in solitary confinement during the 1976 June 16 student uprising, the Social Justice M-Plan aims to catalyse the advancement of equality and ending poverty by 2030 in pursuit of SDGs and NDP objectives.

The key transformation strategy underpinning the Social Justice M-Plan involves leveraging disaggregated data for prospective social impact assessment of policies, laws and programmes, to ensure that policies advance equality or, at the very least, do not exacerbate existing inequality, in fidelity to the constitutional commitment and equality duty. The theory of change behind the Social Justice M-Plan is that a significant impact in advancing equality and ending poverty requires an impact-conscious systems approach anchored in leveraging data analytics using social impact foresight tools to prospectively assess the impact of planned policies, laws and programmes on different social groups, taking into account existing inequalities and differentiated socio-economic circumstances.

The Social Justice M-Plan is further informed by an acute awareness of the exponential nature of poverty and inequality, which, if not speedily arrested, tend to worsen. The Social Justice M-Plan is ultimately underpinned by an understanding that the continuities of apartheid and colonial and patriarchal injustices, among others, undermine the healing of the divisions of the past and the sustainability of democracy.

The M-Plan has four dimensions or key result areas. It aims to:

1. Enhance the state's capacity to pass and review laws to accelerate the reduction of poverty and inequality thus arresting the increasing racial polarisation due to persisting structural inequality, primarily on the grounds of race, gender and disability and other forms of human diversity.
2. Mobilise societal and corporate resources to contribute more meaningfully towards the accelerated reduction of poverty and inequality.
3. Foster social accountability by leveraging the people as the eyes and ears of government and employ more digital technology and data to advance accountability for the implementation of all government policies aimed at reducing poverty and inequality.
4. Leverage international relations to promote support for the M-Plan through measures that include repatriating illicitly siphoned public funds in offshore accounts.

The centrality of social justice is in line with the global quest for peace at the core of which is embracing the humanity and dignity of all, through just and fair treatment, as the basis for peace. From the very conceptualisation of the United Nations (UN), social justice was at its core as evident in the Charter of the United Nations (UN Charter). The Universal Declaration of Human Rights (UDHR) declares that "recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world ..."⁴

On its website, the UN states that "social justice is an underlying principle of peaceful and prosperous coexistence within and amongst nations" and that "if you

⁴ Preamble of the Universal Declaration of Human Rights (adopted 10 December 1948) UNGA Res 217 (III).

want peace and development, work for social justice.”⁵ Emphasis is also placed on the link between social injustice and the fragility of states.⁶ The earliest global embracing of the link between peace and social justice can be traced to the post-World War I Treaty of Versailles, which gave birth to the International Labour Organization (ILO) whose key mandate was to advance social justice.⁷ One of its outputs is a social justice declaration that primarily addresses the question of fair globalisation.⁸

Social justice means the just, fair, and equitable distribution of all opportunities, resources, benefits, privileges, and burdens in a society, group and between societies.⁹ This finds expression in the equal enjoyment of all rights and freedoms by all. At the core of social justice is embracing the humanity of every person so that nobody should find it harder than others to exist in society, and nobody should bear more burdens than others.¹⁰ It is social injustice when one group finds it unduly harder than others to access life opportunities such as justice services, education, and the acquisition or retention of assets such as land to establish, grow, and sustain a commercial or social enterprise. Social injustice is perpetrated when one-size-fits-all and impact-unconscious policies disadvantage those whose lives are divergent from the paradigm informing such policies. In this regard, persons with disabilities, women, older persons, children, young people, and rural communities tend to be disadvantaged.¹¹ In a country such as South Africa, it is social injustice when laws and policies disadvantage or advantage one racial or ethnic group over another thus

⁵ ILO “World Day of Social Justice” https://www.ilo.org/ankara/news/WCMS_672343/lang-en/index.htm.

⁶ “Social justice is an underlying principle for peaceful and prosperous coexistence within and among nations. The ILO estimates that currently about 2 billion people live in fragile and conflict-affected situations, of whom more than 400 million are aged 15 to 29” (UN 2019c).

⁷ Treaty of Versailles signed in Versailles France, 1919 at the end of World War I.

⁸ T Madonsela “Social Justice Transcending Inequalities” (2020) 26 *Global Governance* 1–20 6.

⁹ Ibid. Definition adapted from the UN and John Rawls “A Theory of Justice (1971), which implies social justice as being about equality and fairness to all.

¹⁰ The working definition underpinning the research of the Chair is influenced by both the UN definition (UN 2006) and the ILO definition. See also Law Trust Chair in Social Justice “Musa Plan for Social Justice (Social Justice M-Plan) Concept Paper.” Unpublished manuscript, 2018a.

¹¹ T Madonsela “Confronting Inequality: Thoughts on Public Accountability and Policy Resonance.” *New Agenda: South African Journal of Social and Economic Policy* (2018) 22–25; K Motlanthe “The Inequality Danger: The Imperative to Normalise Freedom.” In *Confronting Inequality: The South African Crisis*, ed. Michael Nassen Smith (Johannesburg: Fanele, 2018), 7–13; T Madonsela “Social Justice Transcending Inequalities” *Global Governance* 26 (2020) 1–20 (John W. Holmes Memorial Lecture presented by Professor Thulisile “Thuli” Madonsela at the ACUNS Annual Conference, Stellenbosch University, 20 June 2019.)

reinforcing inherited unequal socio-economic power relations and related opportunities.

Social justice includes remedial or restitutive measures such as policies and programmes undertaken to level the playing field.¹² Such measures seek to expand the frontiers of real freedom for all by ensuring that diversity is affirmed, and disadvantage mitigated to ensure that generational inequality does not pose artificial barriers to inclusion and social mobility. Social justice, inclusive of levelling the playing field, informs the thinking behind international instruments such as the Convention on the Elimination of All Forms of Discrimination Against Women.¹³ Likewise, the UDHR has advocated for social justice or fairness between social groups for as long as it has existed.

The South African Constitution commits all South Africans to use it as a foundation “to heal the divisions of the past and establish a society based on democratic values, social justice and human rights.”¹⁴ At its core is fairness between social groups.¹⁵ Accordingly, social justice is not only incorporated in the Preamble, but it also permeates the Bill of Rights (chapter 2) by virtue of these rights being promised to all. Section 7, in turn, reiterates that the promise is to all people in the country and that the state is required to respect, protect and fulfil the rights in the Bill of Rights. Social justice is incorporated in the founding provisions (chapter 1), as reflected in section 1(a) which relates to human dignity, the achievement of equality and the advancement of human rights and freedoms; and section 1(b) which relates to non-racialism and non-sexism. Social justice is further a specific human rights issue in section 9 of the Constitution.¹⁶

Part 1 of the report outlines the deliberations and outcomes of the Social Justice Summit, which took place on the first day and revolved around discussions for a desired future regarding social justice. The discussion focused on South Africa and

¹² National Planning Commission 2012; T Madonsela “Social Justice Transcending Inequalities” *Global Governance* 26 (2020) 6.

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

¹⁴ Preamble to the Constitution of South Africa, 1996.

¹⁵ National Planning Commission 2012, 465.

¹⁶ T Madonsela “Law and the Economy through a social justice lens” in R Parsons (ed) *Recession, Recovery and Reform: South Africa after Covid-19*; Department of Justice and Constitutional Development 2012.

sought to leverage the opportunities presented by the SDGs, the NDP and the Constitution to advance social justice focusing on addressing structural inequality and ending poverty by 2030. Diverse thematic areas were unpacked, including land, economic inclusion and well-being, education, data analytics and African futures, access to justice and the rule of law, peace and social cohesion, health, climate change and environmental sustainability, politics and democracy and gender and other intersectional exclusions. The Social Justice Summit concluded with a declaration committing government, business, civil society, academia, the judicial system, and the global community to specified action to accelerate the pace of progress on reversing inequality and ending poverty by 2030 in line with the SDGs.

In his opening address, Professor Wim de Villiers, Rector and Vice-Chancellor of Stellenbosch University, pledged full institutional support. He stressed the importance of the Social Justice M-Plan and said that it needed a strong coalition that sought to end poverty and drastically reduce structural inequality. On the role of higher education in advancing social justice, de Villiers reiterated Stellenbosch University's commitment to advance knowledge in service of society, aligned with the Association of African Universities' view that "development goals will only be achieved if we have a flourishing higher education sector." Minister in the Presidency, Jackson Mthembu, in his keynote address, pledged to work together with all involved in the Social Justice M-Plan: "We are a government not afraid of new ideas." He further commended Stellenbosch University for elevating this issue in our national discourse and called for a social compact on social justice.

The keynote plenary focused on advancing social justice as a national and global imperative. A wide range of interest groups was represented in this panel, from top academics to business and even a former President. Pali Lehohla (Former Statistician-General, and Research Resident Advisor, 22 ON SLOANE), Professor Jonathan Jansen (Distinguished Professor, Faculty of Education, Stellenbosch University), the late, former President FW de Klerk, the late Ben Turok (Director of the Institute for African Alternatives (IFAA) and Editor of New Agenda), Busisiwe Mavuso (CEO, Business Leadership South Africa) and Nicky Newton-King (Chief Executive Officer of the Johannesburg Stock Exchange). All supported the Social Justice M-Plan and came to a mutual understanding of the precariousness and complexity of inequalities in South Africa. All agreed with Professor Ben Turok's description of the country as being in a national stalemate or paralysis in many areas of public policy, particularly

regarding economic policy. The general sense was that many continuities from colonialism, apartheid, patriarchy and other historical injustices, had not been addressed and as such undergirded structural inequality and systemic inequality.

De Klerk apologised for apartheid and emphasised that being white was not a licence for preferential treatment. Jansen talked about the deficiencies in the education system, while Lehohla gave examples of failed social policy and highlighted the exclusion of any reference to poverty or inequality in the economic policy presented by Finance Minister Tito Mboweni. Lehohla opined that “unemployment and poor education contribute to 66% of poverty”. Both Newton-King and Mavuso were critical of the indecisiveness of the government in dealing with the problems in state-owned enterprises (SOEs) and the public service but emphasised their commitment to social transformation. All agreed that it was possible to come to a strong consensus on social justice imperatives and required action.

During an informal lunchtime conversation, ideas around advancing social justice as a national and global imperative were shared. Passionate discussions centred on the promises contained in our Constitution and how to realise them. This was followed by parallel roundtable discussions around the thematic areas and moderated by well-known media personalities and journalists such as Karyn Maughan, Siki Mgabadel, Solly Moeng and Ashraf Garda.

In the declaration adopted at the end of the first day’s summit, delegates expressed their concern about ongoing poverty in South Africa, the inequality still experienced by women, and a deterioration in social cohesion in our country. They called for accelerated change and a commitment to joining hands to reverse disparities in all sectors of society. Those attending the conference the following two days resolved to form a coalition of universities, researchers and civil society that would work in a coordinated way to advance social justice. Consensus was reached around a commitment to join hands in advancing the constitutional promise, human rights and SDGs in a manner that redresses imbalances of the past while ending poverty and ensuring no one is left behind regarding full participation in all aspects of the economy and social life; to reverse racialised, gendered and other inherited and emerging disparities in the economy, education, health, science, environment, technology, infrastructure, and all areas of life; and an endorsement of the proposed Social Justice M-Plan to accelerate change, focusing on policy reform through data analytics to ensure inclusive social impact; mobilising society towards social accountability and

social cohesion; everybody showing leadership and contributing to a capable state; and resource mobilisation from society and international friends to fund accelerated social change.

The proceedings of the two-day academic conference are codified in part 2. In this part, high-level academics from several national and international universities addressed the following question: To what extent can academia advance the Global Agenda for Social Justice? Current social justice research linked to the SDGs and the Global Human Rights Agenda was presented and discussed at parallel round table sessions over a period of two (2) days. These discussions aimed to identify and answer pressing questions around the nature of social justice; the desired future in terms of social justice efforts in light of current challenges for social justice in thematic areas; proposed calls for action; pathways available to address social injustices regionally and nationally; how to leverage the opportunities presented by the SDGs, national constitutions and development plans in a national context; and the useful ways in which information on social justice research that is being undertaken can be shared. Various papers that were delivered around these issues are included in part 2 and grouped around the following themes: Employment and Inclusive economic development; Food security and Health; Education for All; Social and Gender Justice; Safety, Security and Good Governance; Resources and Infrastructure and Environment and Sustainability.

In his keynote address, Professor Adam Habib (Vice-Chancellor of the University of the Witwatersrand), pointed to the key dilemmas faced by South Africans in achieving social justice, including the trust deficit between the 1% of the rich and the poor. In keeping with the theme of the conference, he touched on the various ways in which South African universities could be the driving force behind achieving both equality and sustainable growth. According to Professor Habib, the value of pragmatism should not be seen as the enemy of social justice: "We operate in a world that exists, not the world that we wish existed. We need to deal with the problems of the present while considering the potential of the future". He emphasised that the poor will not engage successfully until the elite put something concrete on the table.

The keynote plenary, moderated by Professor Sakhela Buhlungu (Vice-Chancellor of the University of Fort Hare), addressed diverse topics such as land reform; greater convergence of economic, social and cultural rights and the SDGs; universal health coverage (UHC) and National Health Insurance (NHI); freedom from violence and the

right to life; and reducing income inequality in South Africa. Acclaimed academics included: Professor Sandra Liebenberg (HF Oppenheimer Chair in Human Rights Law, Stellenbosch University); the late Professor Christof Heyns (Professor of Human Rights Law and Member of the UN Human Rights Committee); Professor Ingrid Woolard (Dean, Faculty of Economic and Management Sciences, Stellenbosch University); and Doctor Nomafrrench Mbombo (Western Cape MEC for Health).

The Social Justice Summit and Conference affirmed that nationally, continentally, and globally, we are faced with interwoven challenges of social justice, climate change and peace that impose a responsibility on all to step up and make a difference. Participants, were, nonetheless, emboldened by emerging national and global opportunities for a partnership for change in the pursuit of accelerated progress on social justice. At a continental level, Africa's development agenda outlined in the African Union's (AU) Agenda 2063, sets out a programme to create the "Africa we want", which includes silencing of guns. Globally, the SDGs seek to end poverty and reduce inequality while creating resilient communities and strong institutions in the pursuit of sustainable development, undergirded by the rule of law and peace, by 2030. The M-Plan presents an opportunity for local and international partnerships for change toward accelerating the achievement of the constitutional promise on social justice and related objectives at the continental and global levels.

PART 1: THE STATE OF SOCIAL JUSTICE IN SOUTH AFRICA

1 1 The purpose of the event

The aim of the summit was to unpack the nature of social justice in South Africa, its various dimensions, the pathways available to address social injustice and leverage the opportunities presented by the Sustainable Development Goals (SDGs), the National Development Plan (NDP) and the Constitution. The summit was, therefore, South Africa focused while the conference had a continental and global perspective.

The two-day conference sought to answer the following question: To what extent can academia advance the global Social Justice Agenda? It further sought to leverage social justice research, which participants are already engaged in, to catalyse progress on SDGs and the global Human Rights Agenda.

1 2 Words of welcome and introductions

Cathy Mohlahlana, an award-winning news reporter facilitated the proceedings. In her opening remarks she highlighted that South Africa is in a dire situation considering the rate of poverty, the levels of unemployment and the scale of inequality. She further observed that while there was disagreement and vast views on how the problems that the country face should be solved, it is a fact that the challenges we face are immense. Mohlahlana stated at the time:

This inaugural Social Justice Summit serves as a platform to try and find some solutions for the millions of South Africans who remain trapped by the shackles of poverty and are unable to access opportunity, which means that they are unable to provide better lives for themselves and for their families.

She further pointed out that the overarching question to be grappled with throughout the three-day summit is: “To what extent can academia advance the global social justice agenda”. She emphasised that it included exploring ways in which research, that many of the attendees have been involved in, could assist in achieving the SDGs and the global human rights agenda. This, she stated, means asking, “How can we leverage that work to provide solutions to South Africa’s problems?” She urged the

attendees to keep listening even when disagreeing, adding that this would enrich the deliberations and outcomes.



The Makupula Secondary School Choir graced the Summit and gave a powerful rendition of Nkosi Sikelel' iAfrika.

Nkosi sikelel' Afrika,
Maluphakanyisw' uphondo lwayo,
Yizwa imithandazo yethu,
Nkosi sikelela, thina lusapho lwayo.
Morena boloka setjhaba sa heso,
O fedise dintwa la matshwenyeho,
O se boloke, O se boloke setjhaba sa heso,
Setjhaba sa South Afrika, South Afrika.

Uit die blou van onse hemel,
Uit die diepte van ons see,
Oor ons ewige gebergtes,
Waar die kranse antwoord gee,
Sounds the call to come together,
And united we shall stand,
Let us live and strive for freedom,
In South Africa our land.

After thanking the Makupula Secondary School Choir for their beautiful rendition of the National Anthem, Professor Thuli Madonsela, incumbent of the Chair in Social Justice at Stellenbosch University and conference host welcomed and applauded the attendees for embracing this social justice acceleration initiative. She proceeded to acknowledge the Keynote Speaker, Minister Jackson Mthembu, the minister responsible for planning, monitoring and evaluation. She thanked President Ramaphosa in absentia, for this endorsement of the social justice initiative by delegating Minister Mthembu to give the keynote address on his behalf. Professor Madonsela then introduced the Vice-Chancellor of Stellenbosch University, Professor Wim de Villiers, who delivered the welcome address and recognised key dignitaries who included vice-chancellors of Wits, Fort hare, Free State, Judge Meer, the Premier of the Western Cape, political, traditional, business, social leaders and academics.

Professor Madonsela commenced the proceedings by posing the question: “Ubuntu has brought us here. Do you agree?” The response was an overwhelming “yes”. Professor Madonsela then shared the following anecdote:

When I was a trade unionist, one of our favourite slogans was an injury to one is an injury to all. During the struggle, we also had the same slogan, an injury to one is an injury to all. My work on social justice has made me reflect on this and I have concluded that it should be the slogan for humanity. An injury to one is an injury to all. This is the essence of Ubuntu: I am because we are. My humanity is intertwined with yours, which is the anchor of our mutual survival.

Elephants demonstrate a similar survival bond. Their actions suggest they believe that an injury to one is an injury to all. I recently came across a YouTube video that demonstrates how elephants honour this slogan. In the video, an elephant baby is stuck in a ditch. When its mother fails to rescue it, a matriarch from a different herd steps in to rescue the little one while her herd forms a barrier between the baby elephant and a pride of lions that are longingly eying the little one in anticipation of lunch.

But why do elephants do that? Because they understand that if the little one dies, they have one less power against the elements. It is the same thing when elephants die. Years after the death, elephants still come and grieve where one of them died. It is again that feeling of solidarity; that feeling that because one of us is gone, our strength has been diminished.

Professor Madonsela then expressed a belief that it was a sense of shared humanity and human solidarity that had brought the attendees to the Summit. She asserted that beyond human solidarity, social justice is also important because “as long as there is injustice somewhere there cannot be sustainable peace anywhere.”¹⁷ She stated that she believed that those at the summit were attending because they believe, as the UN does, that no one should be left behind as society and the world progress into the future since leaving behind others will be perilous for all.

She continued to state that the purpose of the gathering was to ascertain the state of progress on social justice in South Africa as far as social justice and jointly determine where to be by 2030 in terms of eradicating poverty and reducing structural inequality. She stressed the following two questions:

- What do we see 2030 looking like?
- What levers of change can we use in our Constitution, in Agenda 2063, in UN instruments on human rights and in UN Sustainable Development Goals to get there?

She noted with appreciation the positive social transformation work by individuals but emphasised the importance of collaboration, quoting an Ethiopian proverb that says: “When spiders unite, they can tie up a lion”. She further stated. “If we work together poverty is nothing against us. It will be history by 2030”. To underscore this point, she recalled the wise words of former President Nelson Mandela who said: “Like slavery and apartheid, poverty is not natural. It is man-made and it can be overcome and eradicated by the action of human beings”.¹⁸ She concluded by stating that it takes humans to build a society where there’s a place for everyone in all areas of life and all levels of society.”

¹⁷ Madonsela had used this quote in several speeches previously.

¹⁸ Nelson Mandela Address at Trafalgar Square in London, 2005.



1 3 Welcoming address by Stellenbosch University (Stellenbosch University) Rector and Vice-Chancellor Professor Wim de Villiers

Professor Wim de Villiers, Rector and Vice-Chancellor of Stellenbosch University delivered the welcoming address and introduction:

It is an honour for Stellenbosch University to be associated with this Inaugural Social Justice Summit and International Conference. As you know, it is the brainchild of Professor Thuli Madonsela, who holds the Law Trust Chair in Social Justice in our Faculty of Law. Congratulations, Professor Madonsela, on taking this step.

This event brings together an impressive audience of people and groupings interested in advancing social justice, a cause which is certainly most important.

It is also a cause that is close to Professor Madonsela's heart. She earned many accolades for promoting social justice during her tenure as South Africa's Public Protector, and we were very pleased that she decided to join Stellenbosch University when her term came to an end. Now, earlier this year, around the time of the elections, there were some calls for her to enter politics, but Thuli, I am glad you resisted and decided to stay in academia.

I want to focus on the role of higher education in advancing social justice.

We are at a crossroads in the history of South Africa. It has been 25 years since our political transition, and although there has been remarkable progress on many fronts, major challenges remain, such as unemployment, poverty, inequality, and corruption. These are what one could call our ‘four horsemen of the apocalypse’. Left unchecked, they will be our undoing.

Looking at the programme of this summit and conference, we find a more detailed list of challenges – from the land issue, and access to justice and economic inclusion, to education, health and food security, to highlight just a few.

These challenges are also outlined in South Africa’s National Development Plan (NDP), which I am very glad to see is currently being revived.

At the continental level, Africa’s development agenda is encapsulated in the African Union’s (AU) Agenda 2063, which set out a programme to create the “Africa we want”.

At the global level, the Sustainable Development Goals (SDGs) set by the United Nations provide a useful outline of societal challenges to focus on – with its global drive to “end poverty, protect the planet and ensure that all people enjoy peace and prosperity”.

Nationally, continentally and globally, there are agendas of interwoven challenges.

The American journalist and cultural critic HL Mencken said, “For every complex problem there is an answer that is clear and simple ... and wrong”!

That is because developmental challenges – including social justice – are what John Kao calls “wicked problems” – highly complex challenges comprising interwoven issues whose potential solutions require creative, interdisciplinary thinking.

Now, that is where universities come in. The Association of African Universities says “development goals will only be achieved if we have a flourishing higher education sector”.

A few words about Stellenbosch University and our commitment to social justice. Last year, when we turned a hundred, we not only looked back on our history but also ahead to the future we want. We said that against the backdrop of our country’s divided past, Stellenbosch University acknowledges its role in the injustices of the past, which we deeply regret. At the same time, the University committed itself, unconditionally, to the idea of an inclusive, world-class university in and for Africa.

We adopted a new vision and strategic plan, and I will highlight just two themes.

First, we say Stellenbosch University is committed to “advance knowledge in service of society”. We strive to be “relevant to the people of our country, continent and the rest of the world, making meaningful contributions that will take humanity forward”.

These are not just words on paper. The programme of this event contains many examples of meaningful contributions by our institution’s staff and structures.

Second, we are striving to become a “transformed and integrated academic community that celebrates critical thinking promotes debate and is committed to democracy, human rights and” – very importantly – social justice.

Again, these are not just words on paper. On Monday, we unveiled new symbols and artworks on campus for moving forward together. We want to heal and unite the University, and our relationship with the broader society.

We are committed to being a force for good in the transformation of South Africa into a place of opportunity for all, a place of shared prosperity and a place where there’s sustainable peaceful coexistence.

That is a clear break with our past and a commitment to help create a better future for all of us by tackling the grand challenges of society.

Now, the thing about societal challenges is that they cannot be solved in isolation. One of the SDGs – No. 17 – addresses that directly when it says, “[t]he SDGs can only be realized with strong global partnerships and cooperation”.

David Cooper uses the concept of a ‘quadruple helix’ to identify the partners that universities need to work with to address societal challenges, namely other civil society structures, and then government and industry. We all have to work together to find solutions to societal challenges.

We have representatives from all of these sectors here. We must all do our part – universities, the rest of civil society, the state, and also business.

The M-Plan for Social Justice needs a strong coalition that seeks to end poverty and drastically reduce structural inequality – in line with the SDGs and South Africa’s NDP. So, friends, the stage is set for meaningful engagement over the next few days. I wish you all fruitful discussions – and let’s go back to our own sectors and spread the word on the Social Justice M-Plan.



The next item on the agenda was the world-renowned Stellenbosch University Choir performing the decolonised Anthem of South Africa.

Xhosa Part:

Nkosi sikelel' iAfrika (God Bless Africa)

Maluphakanyisw' uphondo lwayo, (May her spirit rise high up)

Zulu Part:

Yizwa imithandazo yethu, (Hear thou our prayers)

Sibe moya munye (To be united in one spirit)

Noma sekunzima emhlabeni (Even through hard times in this world)

Sihlukunyezwa kabuhlungu (When we are painfully abused)

Nkosi siph' amandla okunqoba (Lord give us strength for victory)

Silwe nosathane. (To fight the devil) /react-text

Shona Part:

Ishe komborera iAfrica (God Bless Africa)

Ngaisimudzirwe zita rayo (May her name be exalted)

Inzwai miteuro yedu (Hear our prayers and petitions)

Ishe komborera, (God Bless)

Isu, mhuri yayo. (Us her offspring/children)

After performing the Anthem, a member of the Choir introduced a second song, in isiZulu called the Rainmaker. The conductor explained that the song describes a village where a mother and a father tell their son to bring dreams to this country. The song portrays a metaphorical drought, and the rainmaker traditionally brings the rain literally and metaphorically.

The outstanding performance was followed by a video on the Social Justice M-Plan introduced by Professor Madonsela with the following words:

Poverty erodes human dignity. It eventually erodes human compassion. When people are hungry, they end up angry. Sociologists have termed this hunger. There is an African saying that says "Hunger makes someone angry". In extreme inequality where 10% of the richest people in South Africa control 70% of the assets in this country, while the bottom 60% control about 7% of assets, which is a recipe for disaster.

Professor Madonsela explained that apartheid was a system of oppression that touched virtually all dimensions of society and life. It touched the economy, land, and spatial disparities through racially segregated group areas, education, health, and the national psyche. It was social, economic, political, and psychological in its dispossession and oppression. The Truth and Reconciliation Commission (TRC) only dealt with physical atrocities. She continued to state that there was a sense that the Constitution, which is a bridge to the future, was going the remedy things. What was missed by many, was that realising the promises in the Constitution needed a multi-pronged approach to change that would almost mimic the damage done by colonialism and apartheid, compounded by patriarchy and other forms of injustice?

She opined that the greatest failure of the last 25 years had been the failure to translate the constitutional promise into lived reality for the majority of the people. She asserted that part of the problem was expecting government to do everything by itself. She asked: "So what do we do now?" and continued to explain that all hands on deck to end poverty and reduce structural inequality, particularly to ensure that nobody is trapped in the circumstances of their birth, was the only real hope for social mobility for many regarding delivery on the constitutional promise to free the potential of everyone.

Professor Madonsela spoke of the time when Europe had to recover from World War II and America established the Marshall Plan, which was essentially the Europe recovery plan. She explained that the thinking behind the Marshall Plan was the need for a very deliberate integrated approach to recovery, and it had to be quick and impactful, otherwise, it would degenerate. She said at the core of it was dealing with poverty because it was understood that if poverty was not dealt with it was going to get worse and it would pose a threat to democracy, the rule of law and peace.

In briefly explaining the background to the Social Justice M-Plan, referred to as the Social Justice M-Plan, Madonsela reminded participants that this plan was named by the women of this South Africa as a commitment to highlight the plight of and lift those that are left behind. She said it was named after Palesa Musa, a student activist arrested as a 12-year-old child on 16 June 1976 and kept at the women's jail for six months. In the video that was played, Musa states: "My name is Palesa Musa. I was in this jail at the age of 12".

Professor Madonsela continued by explaining that when Palesa Musa told her story and people realised that even though she works hard she is still poor, there was an overwhelming feeling that instead of having this integrated plan of action called a Marshall Plan, it had to be named after a woman. The women agreed to put the face of somebody who reminds us about where we come from, where we, are and what we still need be done to honour the constitutional promise of social justice. "Palesa Musa reminds us of the fact that we still have unfinished business to ensure that everyone can enjoy the fruits of democracy", continued Madonsela.

What is the M-Plan?

The M-Plan is an integrated plan of action that has an all-hands-on-deck approach to end poverty by 2030 and reduce structural inequality within the same period. The first part of the M-Plan is a departure from a one-size-fits-all approach to policy and law because people do not come in one size.

Professor Madonsela pointed to the fact that the Minister of Finance recently introduced a policy on economic development that he is convinced will move us forward. The aim, Professor Madonsela explained, is once the initial part of the M-Plan has been completed, to put that plan into a data analytics process leveraging the

disaggregated data to present this to the Minister posing the following questions:

- How does this policy affect the poor?
- How will it affect people with disabilities?
- How will it affect women?
- How will it affect older persons?
- How will it affect rural communities and all these groups?
- Will it reduce poverty by 2030 or will it exacerbate poverty?

Continuing her explanation of the M-Plan, Professor Madonsela pointed out that the second part of the M-Plan involves civil society to advance equality and end poverty. She emphasised here the two areas of involvement namely, social accountability and social cohesion. Social accountability addresses concerns about corruption. Corruption undermines social justice, among its many evil implications. Social accountability can be described as “involving civil society and monitoring what government does with the resources in its control. The social cohesion part is about building bridges between communities. The Constitution promised to heal the divisions of the past, but it’s not a magic wand.”

The third part of the M-Plan, Professor Madonsela explained, is about resource mobilisation from civil society and from friends abroad to finance the change that needs to happen to end poverty by 2030 and reduce structural inequality in the same period.

She concluded her presentation on the M-Plan and call for action with the following parting thought:

To fellow South Africans, let us accept that poverty and inequality are real problems. Let us accept that the bulk of that is a legacy of the past. Let us also accept that we can all do something about it. Perhaps small things for many of us, but it is the drops of water that create the mighty ocean, they say. Do not think that your action will be too small. Anything that moves us forward is important.



1 4 Keynote address by Honourable Jackson Mthembu, Minister in the Presidency at the International Summit and Conference on Social Justice, Stellenbosch University

Vice-Chancellor of Stellenbosch University, Professor Wim de Villiers

Vice-Chancellors and University Principals

Former President FW de Klerk

Law Trust Chair in Social Justice, Stellenbosch University, Professor Thuli Madonsela

Chief Justice of South Africa, Chief Justice Mogoeng Mogoeng

Judge President of the Gauteng Division of the High Court of South Africa, Justice Dustan Mlambo

Members of the judiciary and legal fraternity

Leaders of Business and Industry

Deans

Academics

Facilitators

Ladies and gentlemen

Good morning.

Thank you for granting us the opportunity to address this inaugural Summit on Social Justice. As you may know, the President of the Republic of South Africa, His Excellency Cyril Ramaphosa was initially invited to grace this important Summit however, the President was not able to join colleagues here today as he is in Japan for the seventh Tokyo International Conference on African Development (TICAD VII) Summit which is expected to expand the partnership between Japan and African states.

We are humbled to join this highly decorated list of South Africans from various sectors and institutions in sharing ideas for advancing social justice as a national and global imperative, and we commend Stellenbosch University for elevating this issue in our national discourse.

We are particularly impressed with the depth and width of scholarship that converged here, especially the highest echelons of decision-making in our institutions, which elevated this conference to the imposing summit it is.

Our common understanding is that there are persistent challenges that demand our collective wisdom. This is therefore a reassuring starting point toward finding lasting solutions to deficiencies in social justice and strengthening our democracy.

As the Sixth Administration, we are a government that is not afraid of ideas, and the intellectual festivity should not be seasonal but perennial – therefore we need more.

This Summit and Conference is timely for us to have a microscopic look at justice in terms of the distribution of wealth, opportunities and privileges within our society. We can further argue that as we commemorate 25 years of our democratic dispensation, 23 years of the adoption of the Constitution and the 71st anniversary of the UDHR, it is also more compelling for us to examine how human rights are manifested in the everyday lives of people at every level of society.

We all know that apartheid amongst others, fragmented the public sector across 11 systems of government and administration, with deliberate unequal and under-resourced public services to Bantustans and townships which serviced the majority of the South African population. We cannot talk of social justice in our circumstances without social indicators such as inequality, poverty, and unemployment. Therefore, it is no accident of history these indicators remain stubborn scourges in South Africa.

Whatever efforts and pace that we make to address them seem glacial, especially viewed against the disconcerting levels of unemployment and low levels of economic growth in our country.

Wealth distribution is still very much racialised in this country, urban struggles are essentially the struggles of the poor who are mainly black and predominantly African. These struggles are for housing, land and basic services and amenities. The struggles are also for economic opportunities for their children and ultimately for human dignity, they are for social justice.

The urban poor still withstands the worst of natural and other disasters such as fire hazards owing to their housing vulnerabilities, particularly in areas such as the informal settlements of Cape Town.

Despite social justice being a topical issue and a focus by many political and social players, the achievements thereof remain far from ideal.

This does not however take away from the achievement of our democratic government, as vindicated in many reports, including our 25-Year Review Document which will be launched by President Ramaphosa in due course.

We have delivered services such as water, electricity, sanitation, and housing including the provision of social support to the indigent, encompassing a special municipal services dispensation, fee-free basic and higher education for the poor and free public health support, as well as social grants. Independent Statistics bear us out on these deliverables.

Our government has ensured that people have the right to live in urban areas removing in particular the compound-hostel status of our townships.

All the indices bear out our contention not only about the delivery of services but also about advancing the transformation of the state from insular apartheid machinery to broad-based democratic institutions for an even distribution of public goods and services.

We have recalibrated the structure of the economy to ensure a macro-economic framework that promotes growth and equal distribution of resources.

We crafted and delivered many programmes whose ultimate intent was to address social justice, and which were designed for various segments of our society.

Our intervallic reports vindicate our various claims from time to time that our democratic government has stayed true to its course and mandate of delivering services to all the people of our country.

It is therefore necessary to underscore the fact that life is better in South Africa now than it was 25 years ago, despite the lingering constraints.

Later this year, President Ramaphosa will lead a South African delegation to the United Nations General Assembly (UNGA) where we will deposit the country report on the implementation of the Sustainable Development Goals which we have since domesticated through the National Development Plan. The report will show that while we have done well in delivering social services, transforming the economy to be inclusive remains a challenging task.

But all these achievements would seem like just a fleeting reprieve if we do not make bold to strengthen the measures and tools that we have been harnessing towards social transformation in our country.

We have to reflect in a brutally frank manner and ask ourselves where the problems, and the clogs in the system lie, which obstruct social justice.

Perhaps the first starting point, as we stretch our intellectual horizons on this matter, among the fundamental issues that we should perhaps ponder is whether the privileged arrogate themselves the sole definitional power regarding social justice.

It may be helpful to reflect if the poor ever have a voice and if we do fully incorporate their views on the extent of the problems and in the various social justice dispensations that we imagine, or if we perhaps just hang them to dry in the margins and suppress their agency.

Ordinarily, our party manifestos which culminate into government policy would often purport to encapsulate voices from below, but it is important in our reimagined policy suggestions and interventions to elevate the voice of the poor from each specific constituency where there are certain social constraints and work in sync with them as we plot the way forward.

Second, one of the far-reaching flaws during the constitutional negotiations, former Deputy Chief Justice Dikgang Moseneke reflects, was that there was no pact on how to achieve the equality and social justice the Constitution promised, which left the state the sole responsibility to oversee this mammoth challenge.

A pact so envisaged would require trade-offs from all parties to ensure that social justice is advanced; it would require tangible investment in this project as a genuine gesture of sustainable redress and conciliation rather than just window-dressing and pontification.

The absence of this pact highlights a democratic deficit arising out of the scarcity of robust national dialogue about social justice in the country, as well as the reluctance of the privileged classes to pledge their own commitment and support toward social justice in our country.

The current public discourse around the National Health Insurance and the subsequent NHI Bill as introduced in Parliament bears testimony in this regard. Some privileged quarters have sought to paint the NHI as a government scheme which seeks to “suck the rich dry” instead of a necessity for universal health coverage for all as a means toward social solidarity.

The discourse on the NHI is one example which has proven that at best most have been comfortable as arm-chair critics, and at worst some have even been spokes on the very wheel of transformation in this country – leaving government as the sole proprietor of the social justice project, which is also rather limiting.

Many of the organisations that are striving for social justice are usually unidirectional; they conceive of their role as to persistently press sectional claims against the government. For example, we have in the past seen a universal issue such as gender-based violence become sectoral instead of an all-encompassing approach to this issue which affects all in society.

Rarely do we merge and articulate a comprehensive and pluralistic social justice charter as a civil society, which seeks commitment and buy-in from a wide range of sources beyond government, to advance social justice.

Quite regrettably, bread and butter issues are the very ones still at the heart of our fickle social cohesion in this country.

In this context, issues of housing, land, affirmative procurement, inclusive economy, universal health coverage, as well as in some instances, the distribution of basic services, have driven huge wedges in the social fabric of our country. There is still no national consensus on these fundamental issues.

It should therefore be appreciated that policy coherence in an environment of divergent and fragile interests with regard to social justice could naturally be a challenge. A social compact on the issue of social justice, as in many areas that we advocate in the Sixth Administration, is, therefore, an absolute necessity as well.

The first critical question that therefore arises against this background relates to the measure of the tangible input of all parties into the social contract we have had as a nation since 1994.

We have to reflect on whether we made genuine commitments or just partisan and therefore fragmented contributions to this social contract.

We should also ask ourselves why the moral obligation to address issues of social justice is often conveniently aborted by certain classes.

This is a necessary starting point but should not cast aspersions on this particular seminal effort by this institution towards social justice, as well as other contributions that have already made a marked impact elsewhere in our society.

Third, ladies and gentlemen, the aspirations of this administration are that government should continue to provide more vibrant, responsive and effective machinery of change with regard to social justice.

We are aware that despite the significant achievements that we have made in the past 25 years, challenges still linger.

In its diagnostic review in 2011, the National Planning Commission noted that “in some areas, constitutional and legal provisions have not been implemented, while in others there has been a lack of sustained and effective focus.”

The report noted that historical disadvantage continues to adversely affect millions of citizens and highlighted the inability of the economy to create jobs at a required pace, as well as poor education outcomes as constraining issues among others.

It is for this reason that it is important to grow the economy and improve the distribution of social goods and services.

In this regard, we have taken a considered look at state capacity – we need a capable developmental state, which can make a pronounced impact on service delivery and social justice.

We are focusing on skills and capacity as one of our seven priorities for this administration so that resources are better managed, and delivery of services takes place much more efficiently.

We have reprioritised from the many targets we had in the previous Medium-Term Strategic Framework (MSTF) and now have a much more well-defined and narrowed focus.

The performance agreements that the ministers will be signing with the President in October will be unambiguous and will in the main address themselves to the National Development Plan (NDP) objectives, as condensed in the MTSF priorities.

Our service delivery models, such as the Integrated District Based Model as introduced by this Sixth Administration brings together all spheres of government from

national right down to local government in bringing services to our people in an integrated and coordinated manner. This model which dismantles historic practices of government working in silos will give the President a clear line of sight on the rate, impact and quality of services provided by government and therefore a significant advancement of social justice.

Fourth, a candid engagement about the market and the economy remains an absolute necessity. We have to address issues of economic privilege that only a few enjoy and have concessions from the elite.

The market, we learn, can only function when propped up by a supportive social structure. Therefore, a relentlessly transformative regime in the economy is necessary so that we can advance inclusion.

The progress we make in our local indicators will propel us towards achieving our Sustainable Development Goals by 2030 as envisaged in our NDP.

Fifth, while our Constitution clearly creates an enabling architecture for social justice, it also gives birth to the organs of state that are meant to support and enforce the attainment of social justice and cohesion. One of the key organs of state in this regard is our independent judiciary which has done phenomenal work in enforcing the injunction of our Constitution and our laws as it related to social justice as evidenced by the recent judgments on communal Land Tenure Rights.

In the words of Martin Luther King Jr, the poor cannot be left to their own devices; we cannot allow a situation where a riot becomes the language of the unheard.

Social justice is an important part of the social contract, and when this contract is met, the agency of even the poorest is redeemed, and their condition of marginality gives way to meaningful participation in their affairs. Their voices are heard, and their participation in a democracy is secured and affirmed.

The real test of politics is how we do reach the weakest in society; how do we distribute social goods and share burdens among all of us?

Democracy, in this sense, does not become just nominal, nor the war against poverty just phoney – it becomes a lived reality for all of us, a reality that presents equitable and equal opportunities for all of us, a competitive enterprise where all social parties jostle to outdo one another in delivering to the citizenry.

This is the real test of politics in a democracy, the politics of continually negotiating and redefining the bounds of social and economic inclusion and participation.

Lastly, incidences of fruitless, wasteful and unauthorised expenditure in the public service coupled with corruption that involved private sector participation, and brazen looting as evidenced by testimonies before the State Capture Commission rob the poor of much-needed redress and social justice. This Sixth Administration under the abled leadership of President Ramaphosa has the political will to confront these vices and ensure that there are consequences for wrongdoing and wrongdoers.

It is in this regard that we dare not fail the people, we dare not fail our country.

We take special interest in this workshop; we look forward to the declaration that will come with its conclusion. May it present real possibilities for making a marked impact on social justice in this country, and may you have fruitful deliberations.

I thank you!



15 Vote of thanks: Professor Nicola Smit (Dean of Law, Stellenbosch University)

Professor Smit explained that Professor Madonsela had tasked her with two duties which she was delighted to fulfil: The first is a vote of thanks and the second is a call for support.

She stated that it was a privilege and an honour to welcome everyone at this first summit and thanked everyone for their time, for attending in particular, she extended a heartfelt thank you to the speakers and of course the honourable Minister Jackson Mthembu for his thoughtful keynote speech. She also conveyed her gratitude to the two choirs and noted that they started this day off on a perfect harmonious note.

She impressed on those present the importance of achieving social justice; even more so today given the worrying and widening gaps of inequality and exclusion visible all around even in Stellenbosch. Professor Smit further expressed concern with the deep inequality that threatens social cohesion, economic growth and human progress and confirmed that we are facing higher unemployment in many parts of the world,

certainly in South Africa, and with globalisation, we have seen the delocalisation of workers and enterprises and resulting financial instability.

Being a labour lawyer, I go back to what the ILO says. Having been in place as a tripartite international body since 1919 and in this 100th year of their existence they ask the question, with climate change, demographic changes, technological developments and more generally globalisation, we are witnessing a world of work that is changing at an unprecedented pace and scale, how can these challenges be addressed to offer possibilities for the achievement of social justice in an ever more complex world?

Stellenbosch University adopts the viewpoint that these challenges can only be addressed in a comprehensive and collaborative fashion. We hold the firm belief that together we can indeed make a difference. We have come to understand that social justice should be embedded in everything that we do. We have also come to understand that we need a greater and deeper understanding of democracy, and the challenge lies particularly in identifying all our respective roles as government, business, academia, CBOs, NGOs and so we can continue. For that reason, the Stellenbosch Faculty of Law and in particular also our Chair in Social Justice aims to organise and drive focused collaborative and research-informed engagements, and importantly actions in pursuit of social justice.

Professor Smit reminded participants that the summit was the result of 18 months of groundwork that included many instances of stakeholder engagement. On behalf of the faculty and the Chair in Social Justice, she thanked everyone for being responsive by being here, for their attention to these pressing issues, and for present and future collaboration.

Professor Smit confirmed the faculty's support for Professor Madonsela's M-Plan and requested everyone's endorsement and collaboration to implement this plan for the betterment of the communities, the restoration of social cohesion in society and, quite frankly because no one can do this alone. Professor Smit expressed the hope that everyone in attendance will remain partners and travelling companions in this mutual journey.





1 6 Keynote plenary: “Advancing social justice as a national and global imperative”

Moderated by Cathy Mohlahlana, this keynote plenary comprised of keynote panellists including the late Ben Turok (Director of the Institute for African Alternatives (IFAA) and editor of *New Agenda*), former President FW de Klerk, Doctor Pali Lehohla (Former Statistician-General, and Resident Advisor, 22 ON SLOANE), Nicky Newton-King (Chief Executive Officer of the JSE), Busiswe Mavuso (CEO, Business Leadership South Africa) and Professor Jonathan Jansen (Distinguished Professor, Faculty of Education, Stellenbosch University). All panellists engaged in a question-and-answer session. Questions to panellists were provided beforehand, with each panellist allocated five minutes to answer. At the end of the session, the floor was opened for questions.

Professor Ben Turok: Outline the core challenges facing the economy. What are we doing right in solving it? What are we doing wrong?

Former President FW de Klerk: If you knew then what you know now, would you have pushed for a different pathway to handle the legacy of inequality and social injustice?

Doctor Pali Lehohla: Give us an overview of the distribution of opportunities, privileges, and resources in South Africa – a visual one-pager. Thus, where are we in terms of a fair distribution of opportunities, privileges and resources in South Africa today? Give indicators based on expert roundtable themes and please include access to justice.

Nicky Newton-King: What does business say about where we are, where we should be going and who should be doing what? What are the solutions? What is "Business" putting on the table as a way out of the quagmire?

Busiswe Mavuso: What does business say about where we are, where we should be going and who should be doing what? In other words, what are the solutions? What is "Business" putting on the table as a way out of the quagmire?

Professor Jansen: What role can Education play in moving South Africa faster and closer to the constitutional vision; and with less turbulence?

Professor Turok outlined the core challenges facing the economy. He emphasised the need for a great deal of thought, planning and commitment. He further expressed great discomfort over what he termed as a mood of stalemate in the economy, but also politically and maybe even socially. He also noted the alarming statistics of inequality, poverty, and related disparities. He opined that this should all be seen in the context of why the country is going through a stalemate at the moment and connected to this. He further opined that if the M-Plan was going to have any traction, a way to energise alternative ideas and new momentum, had to be found. "We need a new momentum in South Africa" Professor Turok, added.

Mohlahlana then asked Nicky Newton-King whether she, and by implication, her organisation, which in many ways facilitates economic activity, agree with what Professor Turok said regarding a stalemate being at the core of challenges that bedevilled inclusive economic progress.

Newton-King agreed and explained that the stalemate comes from a sense that there is no direction, no clarity in the direction of the country. "If you just take ourselves as individuals as an example, would we go and build a new house somewhere if we didn't know that the property was ours, that the investment we made we would be able to realise over a long period?" That lack of clarity of direction, of policy direction, she continued, really has an impact on investor confidence. If there is no investor confidence, there is no growth and without growth, the social justice issues that we

have been reflecting on today cannot be dealt with. Social justice simply cannot be addressed with a shrinking pie. We have to get growth going so that we get a better fiscus, that enables the state and the private sector, to respectively to deal with what needs to be dealt with.

She explained further that in the sense of a stalemate when talking to CEOs, it is a real challenge because you have people who are committed to the country, who want a country that is thriving. She emphasised that we all will do better if we can uplift ourselves together; we will all do better in a thriving country. She further said that the opportunity to do that is much easier, much better if we have a clear direction from government and a clear move away from long on policy and short on action. We are a country full of ideas, but we do not execute them in the way that we should. She concluded by pointing out that there was a need to recognise that a moment like this moment does not resolve itself. A resolution will come from people's passion to make the country better.

To former President FW de Klerk, Mohlalana asked: "If you knew then what you know now and in the context of this conversation on social justice, would you have pushed for a different pathway in terms of handling the legacy of inequality in this country?" He responded:

The short answer to that is I believe that the Constitution as it is does provide a pathway to social justice and to greater equality. It has laid the proper platform and created the necessary space for government and civil society and everybody to promote these two important goals.

One of the greatest disappointments of our new society has been our failure to promote equality. The achievement of equality, ladies and gentlemen, is one of the core foundational values of our Constitution and is inextricably linked with other core values, including human dignity and the advancement of human rights and freedoms. Yet 25 years later South Africa is a more unequal society than ever before, than it was in 1994, and it is more unequal than most unequal societies in the world.

This is despite section 9(2) of the Constitution which empowers the state to promote the achievement of equality by taking, and I quote, "legislative and other measures designed to protect or advance persons or categories of persons disadvantaged by unfair discrimination". The legislative and other measures that the state has taken to advance

equality have focused primarily on affirmative action and black economic empowerment.

These measures have indeed advanced the equality of the already most advantaged section of the middle class, but have done very little or nothing to advance the equality of the most disadvantaged 60% of our population. Although there is, ladies and gentlemen, a place for balanced affirmative action in any comprehensive equality programme, the government's AA and triple B, double E policies have demonstrably failed to advance equality throughout our society.

In my view, what we should have done differently to advance equality would have been to provide a decent education to all our children provide proper social services and healthcare, to provide adequate housing, to provide security and protection by improving the police and justice systems, and above all, to create full employment by assuring high levels of sustained economic growth.

The government has failed to provide proper education, healthcare and social services. It has done quite well without housing and for a few magical years between 2005 and 2007 under President Mbeki and Minister Trevor Manuel, achieved the 5% plus growth rates that we need to create employment and to advance equality. True equality can best be promoted by adopting the policies necessary to vastly improve the quality of education, healthcare, social services, security, and justice, and above all, to achieve high levels of economic growth. The single easiest way to advance equality almost overnight would be to issue proper title deeds to the 7½ million Black South Africans who own their homes and who own agricultural land. This could create and generate wealth overnight of R1½ trillion in the hands of more than half of our households.

If we want sustained economic growth that is so essential for the promotion of equality, we should abandon destructive ideologies and revert to the pragmatic macro-economic policies that were implemented by Trevor Manuel.

Mohlahlana thanked former President de Klerk for his insight and asked Pali Lehohla if he can provide an overview of the distribution of opportunities, its privileges and resources in South Africa. She asked if there was any prospect of fair distribution of these resources and opportunities and what would this mean for those at the bottom socio-economic rungs.

Lehohla proceeded to state that:

“In terms of wealth and income distribution, we have remained in a comatose position in terms of the Gini coefficient, which is about 0.69. Arguably, the NDP was very lacklustre in suggesting that it would reduce the Gini coefficient by about 2% by 2030. With that kind of low movement of the Gini, he argued, we are not going to achieve anything in terms of social justice in the country.

If we think about what was inaugurated by the president, the Indlulamithi Scenarios, one, *Gwara Gwara*, the other one *iSbhujwa*, and the other one *Nayi le Walk*. It was done last year. Increasingly we are in what is called the *iSbhujwa* scenario, which is the enclaves, and they are increasing. Those enclaves will soon be in the *Gwara Gwara* scenario where everything burns, and people claim their rights with rioting and burning. It is very difficult to envisage a ‘*Nayi le Walk*’ scenario in the future, short of really working as social partners in the country.”

Lehohla further opined that the crisis was deepening. He pointed out that the police budget, for example, was R97 billion while they are supposed to protect all while the private security budget was R60 billion, but the security challenge was not improving. He observed:

“Fences in Sandton are getting higher and higher. We can see that the *iSbhujwa* scenario¹⁹ is materialising. The enclaves are increasing at an alarming rate in what is undoubtedly a race to the bottom. Health expenditure is increasing, R160 billion for the private sector, R130 billion for the public sector and we are considering the National Health Insurance (NHI) and the debates on this are raging to no benefit in improvement of health while we are getting less healthy.”

He shared that in his submission to the commission on #FeesMustFall he had advised government to “pay for everybody, do not pay for the poor”. He clarified that if you consider the choir that has performed at the Summit, how would you distinguish between who is poor and who is rich? You could see that they have removed the enclaves, yet when they leave from that stage going back home, they are back in those

¹⁹ Lehohla was referring to one of the Indlulamithi Scenarios generated by the Maphungule institute in 2019.

enclaves.

He further stated that the choir's song was calling for a different South Africa, but if students were separated along the lines of rich and poor, they could not have a joint project on what the future of Africa should be. They could only do it in song and not in reality. The outcome of the #FeesMustFall student protest was government deciding the path for the poor. However, "when you start paying for the poor and not the rich, you create a schism for student issues and the student issues were about #FeesMustFall", Lehohla opined.

He further opined that the Auditor-General, appropriated for himself legislation to chase wrongdoers. It begs the question, what is the role of parliament and the executive? He noted disapprovingly that parliament had agreed and said, "Yes, go and chase them" His view was that the executive together with the civil service and parliament should be the ones holding wrongdoers to account.

This, according to Lehohla, means the country had created a two-headed monster; the one that deals with the good, which is the executive and the legislature, and the one that deals with the bad, which is the Auditor-General. "How do you run a government with that two-headed monster? You simply cannot", was his conclusion.

Lehohla noted that in his State of the Nation Address (SONA), the President had made a statement which was reiterated by Minister Mthembu, that government planned to create 200 000 jobs per year, which would amount to 1 million jobs in five years at the cost of R85 billion. The rationale is inexplicable. We have 10 million people unemployed which makes it very hard to see how 200 000 jobs a year can solve the problem of unemployment. He said that what it does show is that there is no inkling or any understanding of the magnitude of the problem that the country was facing.

He referred to a paper issued by the Minister of Finance, Tito Mboweni that did not mention poverty, inequality or employment, except regurgitating that, a million jobs will be created in ten years. He contended that this was absolutely disheartening and highlighted the utter lack of leadership to understand the depth and the magnitude of this problem. He opined that what was needed was new thinking and, in this regard, the M-Plan should incorporate measures to assist government and to lead better.

Business Leadership South Africa, CEO, Busiswe Mavuso commenced by stating that for business to be able to do what it needed to do, first and foremost it needed a conducive environment and that this was what Nicky [Newton-King] was talking to. She asserted that the current environment of uncertainty was very destabilising

because markets are premised on certainty and the lack thereof is problematic.

She pointed out that it was difficult to implement anything when you do not know what the future holds and pointed out she was mainly commenting from a policy perspective. She conceded that it was not necessary for business to like the policies of the country, but it was important to have certainty regarding what policy applied to what. Mavuso proceeded to say:

“The most frustrating thing is not knowing. Because once you know what you are dealing with, then you find ways of working with that to achieve what you want to achieve.

The second key issue that we currently have in the country is political turbulence. It does not augur well for us as a country, especially if we are trying to position ourselves as an investment destination. We are going to have to decide which is which, because we cannot talk left and walk right.

If we are saying we are trying to position ourselves as an investment destination then it means that we actually have to augur certain qualities and that means that there are some of the things that are actually going to have to be present for us to be seen as an investment destination. We are going to have to be careful because the window of opportunity for us as a country is actually closing.

The interest in South Africa is quickly diminishing. South Africa is no longer the only gateway into Africa. There are Kenya and Rwanda for example. This means companies and businesses have alternatives in terms of where they should enter the continent if they need to come to South Africa. The self-mutilation that is currently happening is not auguring well for business.”

She stressed the point that the country had been warned, stating that there was consensus amongst the credit rating agencies that South Africa was not in a position to effect the requisite policy reforms because of the factionalism within the governing party. She said the country needed guidance, direction and clarity, but most importantly, a capable state.

She observed that the country had learnt a lesson from the past ten years, regarding the pain of working with a dysfunctional government.

We need a capable state to be able to achieve what we need to achieve. There are currently a lot of expectations placed on businesses in terms of what business ought to do to change the economic strategy of this country. However, if you are going to be talking about prescribed assets and changing the mandate of the Reserve Bank, but you have not finalised what section 25 of the Constitution is going to look like once it is amended, you still have the situation with Eskom we have to realise now that we are going to unbundle. Nevertheless, the unions have come out and said that if you dare unbundle, that is going to be a declaration of war. This poses the question: are we unbundling or are we not unbundling, and to what extent is that plan moving along and when can we start seeing results?

We are worried that we are also not having the right conversations as a country at the moment. I do not want to belittle the issue of the public protector, but for me, in all honesty, which is just a side show. Whatever is happening in that office is derailing this country from the conversations that we ought to be having. Because when we are near a credit downgrade, when you have got Moody's in the country, when we have got the medium-term budget speech, that is actually going to be coming up, when you have the international community focusing itself or its eyes on South Africa to say what direction is the country going to move and you are having useless conversations that are not taking us anywhere as a country, it actually does not augur well.

Mavuso concluded by urging the country to start putting its best foot forward to salvage the R5 trillion economy that it has to ensure that the 57 million South Africans who have placed their hopes in the leadership of this country can achieve what they need to achieve.

Mohlahlana thanked Mavuso for her viewpoints and moved on to Professor Jonathan Jansen expressing the view that many of the speakers so far have spoken about the role of education and the need to better our education system, but how should this be done, especially in line with the Constitution, without causing too much turbulence and without having to go back to what was done in 2005 and overhaul the curriculum altogether?

Professor Jonathan Jansen stated that he agreed with many of the speakers but explained that having studied education all his life in different countries, he was uncertain just how to get out of a dilemma such as the one we are in economically, socially, and politically, without a really solid education.

Jansen observed:

You can try a tender, but then you will probably end up at the Zondo Commission. You can try different kinds of shortcuts to enrich yourself. The truth is, any country, any medium-level economy that has turned itself around has done that, not just in Southeast Asia, by the way, has done that based on investments in education. I think the average South African knows that. You do not need to have a degree to know that the way ahead is through education.

Professor Jansen continued to highlight two issues he regarded as fundamental to answering the question at hand:

For South Africa surprisingly the private rates of return from education are the highest in the world. In other words, if an individual, invests in a child's private education that person benefits enormously. The second thing is that our social rates of return are also amongst the highest in the world. In other words, society benefits when you invest in education.

He continued to explain that the problem is twofold – the first being inequality and the second shared humanity. He explained his view on inequality as follows:

We have just finished a book on probably the 30 most elite schools on the continent of Africa that lie along the southern suburb's corridor, from the City Bowl to Fish Hoek. I must tell you; I grew up on the Cape Flats, but I never knew what incredible wealth is located within those 30 schools. They are all 70%, 80%, 90% white. Black people who come in there are the president's children, and the former Minister of Education's children. They are at Roedean, St Stithians, Herschel and Bishops. That tells you a story as well.

Let me just add a footnote here, I do not think you must be in government if your kids are not in public schools. I do think, as a former Dean of Education, I made a point, that I cannot be a Dean of Education and prepare teachers when my kids are in private schools. So, my kids went to public schools. I am very proud of that.

But here is the problem. I do not know how South Africans sleep at night. I do not know how middle-class parents survive. Because there is something called a conscience. Now, how can you in each of the nine provinces, have a school that looks like the wealthiest schools in the world and ten kilometres from there, you do not even have sufficient facilities

or even toilets? I do not get that. There is something fundamentally wrong when you are not attuned to that incredible sense of inequality. That is something we really need to address.

Professor Jansen proceeded to address the shared humanity question. He explained that it runs much deeper than merely pointing out what government is not doing. It is also a matter of what we do to each other, he remarked. He mentioned an anecdote he referred to as a nightmare he had about the situation in Alice in the Eastern Cape where a bunch of students were protesting for allegedly not receiving financial aid payouts from NSFAS. He opined that such situations are always more complicated than anticipated. The story he shared was about a protest in the villages surrounding Alice where the protestors approached the villages and either killed or mutilated cows found in the area. He sketched a picture of a student hacking off a cow's leg and returning to her residence with the leg, leaving the animal alive and in misery. The situation became so volatile, he continued, that the police refused the King Williams Town SPCA entry to the villages to put the two cows out of their misery.

He rhetorically asked raised was how did we get there? He explained:

It is an unfortunate reality that you can get the best matric results and still be a thug. You can get a degree from a university and still be a racist. What is important, however, is to ask the question, what did we lose in ourselves? You are not born with the capacity to hack a live animal to death. That is not what human beings do. That is not what we do as Africans. Which brings us back to the question: "How did we get here?"

Professor Jansen pointed out two things. First, he called a very narrow anaemic view of education, including claims by the Minister of Education that matric results have gone up. However, he continued, the real question is "what else has not gone up?" It begs the question of what government is doing and leaves the harsh reality that government does not care about the children of the poor. The next question is what does the president do? He engages in what some colleagues refer to as magical thinking. He appears in a 3D hologram in Gallagher Estate that then transmits this image of the president to Limpopo. He continued to explain:

You see, when you engage in magical thinking you do not deal with the problem. You talk about drone flights, that kids will learn the skills of machine learning and all of that. That is fine, but the only kids who will benefit from that are the middle-class kids. Poor kids will not benefit. You need to read and write. You need to calculate; you need to be able to figure out who you are and where you are going. That stuff with which we have not dealt. So you are not just in denial, you engage in magical thinking.

So how do we get out of here, briefly? As of this morning, there are 271 000 registered NPOs, non-profit organisations in South Africa. I can tell you now that if you took those organisations out of the system, this country would collapse. Make no mistake. You will fool yourself if you think your salvation lies in the State of the Nation Address. Those are performances, political performances.

People here like my friend Louise van Rhyn from Partners for Possibilities, plug the gap. I have never seen somebody more devoted to building partnerships between principals of poor schools and business leaders like Louise. She represents part of that 271 000.

He explained the school's problem as follows:

When you are dealing with 27 000 schools you do need a government, whether you like it or not, because no number of NPOs can handle that. I am afraid I do not believe that this government cares a damn. Accordingly, we are going to have to, as Ben was suggesting, have completely new thinking about how we get out of this rut.

Mohlahlana thanked Professor Jansen observing that the insights were interesting because one of the themes that were fast emerging was the vast inequalities and the excessive divide, whether we are talking about the economy or access to justice.”

She then posed the question: “How much work needs to be invested in bridging those divides and to enable us to get people from across the multiple sectors in one room? Should that be part of the investment that a project that embarks on social justice needs to do?”

Professor Ben Turok was asked to address this question.

At the outset, Professor Turok argued for the need to discuss the divide. He opined that the role of Stellenbosch University and others was to explain the nature of that divide and the reasons for its continuation. He stated:

What bothers me, going back to the idea of stalemate, is that there are continuities in our country which are often unmentioned or talked about, but which predetermine the present from the past and create divides. Looking at the divides, Stellenbosch University must produce a formula and say let us put business, labour, NEDLAC and other relevant role players in one room.

You need government too. There is no question in my mind. You can distrust government, you can be as sceptical as you like, and most of us are, but the reality is that we are governed by a government and if you ignore it, you ignore it at your peril. The approach that must be taken can be an aggressive approach to government. Let us call government to account aggressively. That needs to happen. If that involves distrust, that is fine. But the main thing is what is the basis, the foundation of our divisions?

Going back to 1994, I am privileged to sit next to former President De Klerk here, it seems to me that we did not do anything to resolve the divides of that time? Did we do anything really serious to ensure that South Africa did not remain as divided as it was then? Why is it that our inequalities are so high, our unemployment is so high, and our Gini coefficient is so impossible? It is not 0.64 if you take income inequality only or 0.94 when considering wealth inequality. That tells you a lot. We can discuss income, but we must also discuss wealth.

He explained further that there were divides in 1994 in South Africa which showed an inequality coefficient of 0.9 and we still have 0.9, which means we have not discussed and analysed the sources and the origin and the nature of the divides. This means that “we can talk about having social justice and moral society, but that is not going to happen by a magic wand. It requires thorough analysis; it requires a thorough understanding and then maybe we can come up with some facts and some knowledge”

Newton-King responded to Turok, agreeing that it would help to have different perspectives at the table to try and resolve differences and foster a shared vision of where we are going. However, she continued:

I come back to we are long on plans and short on action. One of the things that could make a really big difference is from a starting point that says in a flourishing country there is also

a space for a capable state, there is a space for responsible business and there's a space for an active citizenry.

This led to the question of what is considered a responsible business? In response, Newton-King offered the following view:

Maybe this is the time that we start to challenge whether capitalism is the right model to deliver equity to our people. I honestly do think that there is a place where we can act right now as individual businesses, not waiting for a big plan anywhere, to say, what about the fact that our social licence to operate is far more important than our legal licence to operate?

What does that mean? It means that we should challenge ourselves, how we hire, how well we pay, and how quickly we pay our suppliers. The equity that we can actually make happen through our commercial muscle today by changing our compass could make a really big difference. I, therefore, encourage people to throw small pebbles in. I was Professor Madonseal who said we can do little bits immediately while the grand plan is getting clear.

Building on Newton-King's insights, Lehohla added the following:

I work for Oxford Poverty and Human Development Initiative and in this space what we have seen in Costa Rica has been, what does capital do? It had to put a lens on how it understands poverty. This was inspired by the multidimensional poverty indicators that we generate, including those that we provide here in South Africa, and I will get to that later.

Using that lens, they realised that, yes, there are poor people in our community that work for us. The question then became what will we do about this knowledge? The entire business in Costa Rica is now focusing on that. The president has challenged employers to deal with the poverty that exists among their own employees. Now, if you imagine the intersection of looking at that and government looking at the same spaces, then we have a much more practical plan of dealing with poverty and spatial poverty, which generally manifests itself in terms of where business is and who the employees are.

The reality emerging from the data we provide to government or produce as Statistics South Africa is that unemployment now contributes 52% as a driver of poverty, unemployment. The data also shows that unemployment has grown from 32% in 2000. Associated with it,

is a lack of education which comes in at 14%. It has dropped a bit. So jointly, 66% of our poverty is driven by unemployment and education.

The rest that politicians like to canvass votes on, which are important, make no mistake, include housing, electricity and sanitation. All those contribute about 2% or 3% and the needle is not even moving, even with the investments that are made there. A clear indicator of what choices we have to make. But I tell you, these people have their elbows in their ears and their thumbs in their retinas. They do not want to see it.

It is not because they do not want to see it, it is because the interlocutors of good planning do not exist in government, in the state. The technocracy cannot plan. It is a compilation of lever arch files. We need a modern planning system and the intellectual processes that inform it, as Professor Ben Turok said. We need that and without a good education, we really cannot undo what apartheid did.

Looking back at history, in 1860 the first rail line was built in Natal. 1867, the discovery of diamonds. 1884, the discovery of diamonds again. 1887 discovery of gold. The rail line booms. The war made General Smuts the most important person in the world. That is how apartheid became a prominent driver of physical development in South Africa. We need that kind of infrastructure minus apartheid to get South Africa going. It was built on technocracy.

Mavuso continued to state that inequality is a very important issue and unless and until the country focused on it what needed to be achieved would not be achieved. She opined that inequality was the biggest ticking time bomb and that the longer it was ignored, it would soon bite all. She continued:

I watched with interest, it must have been two months back, Alexandra community crossed the M1 bridge into Sandton. I do not know what the demonstration was about, but in my view, I would like to believe that it had nothing to do with service delivery. Because if it had anything to do with service delivery, then they would have taken it anywhere else. They brought it to Sandton, the heart of the business.

Now, if we as a business did not sit up and pay attention when that happened, I do not know what is going to make us pay attention. You see, a business can only prosper in a prosperous society and business cannot continue to be an island of prosperity in a sea of

poverty. There's going to be a very deliberate intervention that is going to have to be done to say how are we going to move the economy along. In our view as Business Leadership South Africa (BLSA), the reason why we have chosen our first strategic pillar as inclusive socio-economic growth and transformation is precisely because we understand this notion and are putting plans in place to implement it. The biggest lever that we realise we have is that of SMMEs.

She referred further to a study which considered SMMEs as well as small, micro, and medium enterprises and the result showed that the medium enterprises only constitute 3% of the SMME space and yet they are responsible for more than 35% of the employment. "On Nicky's point, can you imagine if we as a business, were to open our supply chain opportunities, were to give access to market to the SMMEs and maybe double the medium enterprises' number to just 6%. Can you imagine the dent that would have on unemployment in this country?", Mavuso continued.

She expressed concern over the fact that there is 39% unemployment in terms of the expanded definition, with more people unemployed than those that are employed in all the provinces except Gauteng and the Western Cape combined with 56% youth unemployment. She observed that if this was any other country, a state of emergency should be declared as the situation was unsustainable. She concluded with the following:

The focus ought to be on jobs. People need to have jobs so that they can get disposable income. Because you are sitting with a situation where you only have about 7 million people, if that number is not reduced, that earn enough to pay, Pay As You Earn and you have got about 17 million people that are dependent on social grants. I do not care which way you look at it, that is a recipe for disaster. We are never going to build a sustainable economy with that formula. It is just fundamentally flawed.

The solution as it has actually been proven the whole world around is the focus on SMMEs. That is where we actually need to go and that is where business is going in terms of making a dent in terms of inequality.

Professor Jansen signalled his agreement but warned that he believed that government was not ready to move on to the big questions. For example, he opined, that the capitalist system is not going to be overthrown anytime soon and there is not going to be a spark of conscience.

He suggested that civil society needed to decide on the change it had the power to effect on the education system and proceed to shift the needle concerning social justice. He continued:

It seems to me the one thing that government does do, is that when there is a concerted move against a particular policy position it does shift. It does not do that openly, it does not do that gladly and the curriculum revision is a very, very good thing. When a lot of us said this OBE thing is a bunch of nonsense, it took a while before people came around.

There's one thing that you can do that can fundamentally change the educational outcomes in this country and that is to shift both the political attention, but also the resource investment away from the upper ends of the system toward the foundations of the school system. If you invest heavily, the evidence for this is overwhelming around the world, if you invest heavily in early childhood education, if you really build capacity in the foundation phase of schooling, the longer-term outcomes are much more positive.

Do not forget that the PIRLS data showed that almost eight out of ten of our children in Grade 4 cannot read at the grade level. That tells you something went wrong. When the minister says to you the matric results comes up, what she has not told you have gone up, what she has not told you is that half a million of those kids dropped out or disappeared between Grades 1 and Grades 12.

It seems to me what we have got to say is, where can we move the system? There's too much, our politics are such, our political economy, this I learnt from Ben, you never talk about politics without talking about the economy at the same time, but our political economy is such that you are not going to see massive changes in the nature of government, in its social vision, etcetera, etcetera.

He concluded with the following words: "What you can do... is to begin to make massive investments in early childhood education. I tell you now that changes, for a lot of people, the outcomes we're looking for."

Former President De Klerk stated that he broadly agreed with everything that had been said and further made the following remarks:

From an education point of view, we are amongst the countries in the world which spend the highest percentage of our budget on education. It is not really a lack of money; it is a lack of quality and part of the problem is the hold that some unions have over government in that regard. How can you get a proper education if in some schools some teachers work only three and a half days a week? Something must be done about the quality of education and breaking the hold of trade unions over what should take place in our schools.

Second, it is not as if there are no good policies available. We have a National Development Plan which was developed by the National Planning Commission under the chairmanship of Trevor Manuel, under the vice chairmanship of Cyril Ramaphosa. But the implementation of that plan, which has formally been accepted by the government, is being sabotaged by elements in the ANC alliance group, in the ANC itself and amongst its allies, especially the trade unions. Somehow or another we need to revert to the National Development Plan and implement it with gusto and with enthusiasm.

At this point, Mohlahlana indicated that she was going to open the floor for a question-and-answer session. She requested the participants to attempt to not make more than two points if it is just commentary and not exceed two questions. She further stressed that, if possible, those posing questions should be clear about who they would prefer to answer their question and reminded the audience to keep it very brief.

1 7 Keynote plenary: Question-and-answer session

Question/Commentary 1:

During the conference, mention was made of life orientation and the possibility of studying social justice. First, the reality is that instead of focusing on that, discussion revolve around issues such as using condoms before marriage. That is the first point. The second point is, when setting up any form of education or studying of social justice, it must involve children, even if they are below 20, because it is their future. "We didn't inherit the earth from our parents, we borrowed it from our children. They are going to live in 50 years, we are not going to be there, most of us. If we intend to make any changes, as people mentioned, any good change happens with hardship. If it is a bad change, it changes overnight. However, for a good change, you must have a sustained period of hardship to change the country. Everybody must be prepared to sacrifice something to the benefit of the children and then we will have a country.

Furthermore, mention was made of student fees. I do not think you should pay poor or rich people's student fees; you pay deserving students' student fees. At the end of the day, if one needs to pay poor people more money, it must not be funded by anyone except the rich people. It is like washing your car on a Saturday. What is it worth to you to get that car washed? What is an hour worth to a Chief Executive Officer that earns R128 000 a month? Paying that and not what the table says you should pay a car washer. In conclusion, the future is in the children and we must incorporate God Almighty into the equation. Thank you.

Question/Commentary 2:

I am the counsel for Mauritius, Mukhtar G Joonas. I will limit myself to two points, but I want to be bold. This is wonderful, it is amazing to have such high calibre people coming here and contributing to making a difference. I always say this in this room, there are a lot of wonderful people. One person who is here making a difference and had the courage and the boldness to swift the wave of change is Thuli with her state capture report. Without this, we would not even be sitting here today looking at the future. Now, the situation is we are a bus, we need to drive.

The driver now is President Ramaphosa. According to Justice Malala, and everybody is saying it, is the ANC captured, is Ramaphosa able to roll out his things or is he operating with a gun to his head? He is not going to do anything, like Professor Jansen says, if he is unable to do so. So how do we tackle this reality?

We are sick and tired of sitting here and having resources taken down all this abuse, corruption, and money thrown out. What do we do now with the billions of rands coming in? Service that. Use it on the Eskom board. It is shameful, it is disgraceful, and it is horrible that people are sitting poor while money is wasted. The problem is crime pays. Whereas the people who steal, do all those things, just get away with anything.

We need to change, and the change is not a wave of change, we should all put our heads together, all our drops together and create a tsunami. This is an emergency. We sit here and put a plan to employ one million people. They will not even employ 200 000 because there are no skills, and the education sucks. So, you need to make those changes really and stop talking, talking and start acting.

In Mauritius, our resources, 7% of the economy, 93 is intellectual property. You have got mines, you have got land, you have got all of those goodies, make it happen. This is a rich country, there should be nobody living in squatter camps. 25 years, we know this country went back and now we are suffering from a broken bus with the driver unable to go forward.

The bottom line is we need action. To tie in with what Busiswe is saying, economic growth will not happen when Moodies says it is not. So you need to make bold changes and the wave of change has to be a tsunami and we need to support the people who can make the change. Let's support the people that say we are here, we know what is going on, we want to assist you, we need to rebuild these institutions, whether it is a DPP, PPP, ABB, or CDD. Whatever this is, it must happen now.

The session went into unscripted questions and comments with all delegates invited to participate. The following provides a summary of the open discussion:

Question/Commentary 3:

My name is Nkhanyiso Sibanda. I am from the University of the Western Cape. My comment or question or remark is maybe directed at Professor Jansen, although any of the panellists can respond if they feel so inclined. Professor Jansen, I have listened to you speak quite a few times, I have read some of your work and your passion for education is unquestionable.

In addition to everything else that has been said, my observation is rather that one of the problems with our education in South Africa is that it teaches people to be employees. Consequently, we have a lot of unemployable graduates. At the University of the Western Cape in the law faculty, on average we graduate maybe about 300 or so law students and around this time, my colleagues, and lecturers here can tell you that we are inundated with students who want reference letters because all of them are looking to be employees.

That does not help us deal with the issue of social justice because the problem of unemployment, of degraded people, will be with us for quite a while. So how can we have an education system that teaches people to innovate, to be critical thinkers, to create employment instead of looking to be employees? Because that to me is a major problem with our education.

Question/Commentary 4:

We are not going to make any difference until we have the facts. So, President de Klerk, I want to take issue with what you said about education. My organisation work in 1 100 under-resourced schools across South Africa. We walk into the schools; we are in the schools every day. It is not SADTU, that is not the issue. It is not the unions. It is the fact that we have hundreds of thousands of people in our schools who have not been trained, equipped, and supported to do their jobs.

I think saying things like it is the unions is just an easy excuse, because then we do not have to do anything because then we can just blame the unions. It is a very practical human capital issue and until we actually get off our chairs and go and deal with that human capital issue, we will be in the same situation that we are.

It is time for us to stop talking and doing, is let us go into these schools, let us go and support the educators. The difference between those 30 well-run fabulous,

wonderful schools is they have 30 fabulous principals, strong school management teams, strong school governing bodies and teachers who have been well-trained. It is not difficult. We could do this in the next five years if we decided we cared deep

Response(s) by Pannelists:

Professor Jansen: It is correct that we should start with the facts. The facts about unemployed graduates are this. The data is very clear that you are much more likely to get a job and a good job if you have a degree. There's no question about that. So, this is an argument for continuing to study, getting more education, etcetera, etcetera. You get a second degree, you have even a greater chance of getting a good job, etcetera. In South Africa, it works precisely because these investments in human capital privilege the few.

It does matter, however, which university you went to. Let me just be blunt. You would get a job much more easily if you went to the University of Cape Town than if you went to the University of Venda. It saddens me, but that is the truth. It does matter what you bring to the table besides the degree. There is an entire range of skills that employers look for, things like signs of life, the ability to communicate, the quality of the CV and how well you passed. If you passed with 50%, I am not going to give you a job, I tell you right now, I want to see 70% and 80%. The point is not just about getting the degree, even though the degree is good, yes.

Having said all of that, you are right, I do not think we teach young people at school and university the broader set of skills that enables you to take initiative on your own rather than wanting to work for a government department or a private sector firm. That also is true. But I want to emphasise the singular importance of moving beyond matric and moving beyond the first degree.

I do think it is the unions. I must agree here with former President De Klerk. If you read John Volmink's report, which unfortunately the minister will not release fully, in places like KwaZulu-Natal, make no mistake, the unions rule the roost in terms of teacher appointments, principal appointments, and some of that causes huge damage. You will not see that in the 30 schools I talked about. So, we need to face up to that.

Having said all of that, there is something we get wrong I think in education and that is the notion that I am in a disadvantaged school, therefore I am going to get

poor outcomes. I do not know, I blame my mother for this, but she taught me if they give you a cheque you bloody well show up.

Now I am in school every day. Yesterday I was in a school in Idas Valley. Throughout the period that I was there, half the school kids were outside. That is not a human capital problem. That is, are you as committed to the education of the children of the poor as to your own children? Because unless you get that right, unless you understand that nobody is safe until everybody's child is safe until that value shift takes place in your head, I do not care how much money government puts into education, but if you do not show up.

Let me tell you, there are some of the poorest schools in this country historically and now, are some of the best-run schools, the most efficient schools. It is not dependent on the resources, it is dependent on what you value.

Let me just tell you this. Every month, I have done this for years now, I give half of my salary for the education of children who cannot afford to go to school or students who cannot. I do not do this because I need anybody's acclaim. I do this because I know I would not be here with you today if somebody did not make that sacrifice for me to go to school and beyond school. There is a value shift that has to take place, not just a policy shift at the top, a value shift in which you regard other people's children as worthy of support as your own children.

De Klerk: Can I just say in reply to the lady who says she differs with me. The unions are a problem. They are a problem. There's no question in my mind about that. But I did not try to say it is the only problem. I fully agree with her that the quality of principals, for instance, decides what happens in a school. A good principal in a squatter town can have good results and provide good education. But a bad principal allows the teachers not to work properly, etcetera, etcetera. So, I agree with what she added, but I disagree if she says the unions are not a problem.

Lehohla: As far as the question of fees is concerned, there will have to come to a point in time where we get to solutions. My argument is that the university students said #FeesMustFall and we should have used that power of 1976 when the students in 1976 rebelled against Afrikaans. We did not enhance that power. The #FeesMustFall movement, is a feature of the same thing. We need to enhance the power of the students as a student body and we must tax the parents and use that

tax to pay for everybody so that they can focus on what it is, that is students. The problem is in the future the poorer students are likely to strike and the rich students will migrate from the University of Cape Town to other universities and reducing the quality of what happens in those institutions. We really need to integrate the student body because that is what we need, we need South Africa to be integrated. That space is the only space in South Africa where people have a number of years, sitting side by side in significant numbers, who could see the number of whites who were here against Black people. That is the critical mass that we need, that is the critical mass that can drive this country forward.

On education, Mbilwi in Venda yields the same results as the IBE. Mbilwi in one year you would pay R700 school fees, in IBEs you pay R130 000. Where do you scale up? You can scale up to Mbilwi in the Venda, in the mangoes, it yields the same results if not better if you were to standardise that on the ratio of what gets paid for what result, Mbilwi actually excels.

Question/Commentary 5:

This relates to SMMEs. The government has piles and piles of institutions that attempt or claim to be supporting SMMEs and not to any avail. The SMMEs do not even know them. So, the kinds of things that we do as government need to change and that change must be driven by society. I think this is where the M-Plan gives us pathways to what is the line of sight of society in terms of the resources and our taxes that we put in place to change ourselves as a society. I thank you.

Response(s):

Mavuso: The gentleman in front raises very key issues around some of the issues that we should be tackling head-on as a country, and I absolutely agree with everything that you have raised. Let me raise this contentious issue or let me answer it directly, about whether Cyril is captured or not by business. CR is not captured by business. We need to be very clear and direct about what it is that we are dealing with in this country. We know that the capture of CR by businesses around the CR17 funding campaign has got absolutely nothing to do with that. It has got everything to do with the fight-back campaign that is currently happening in

this country.

You see, we are on record as saying that if there is anything illegal about having funded the CR17 campaign, then let that be argued in the courts. The reason why business wants the PP to step down from her office is that she is incompetent, not because we say so, but because the courts say so. Her decisions have been found to be nonsensical. She has been found to have misdirected the facts. She has conflated legal principles. Her decisions are amounting to bad faith. I can go on and on and on. The reason why she has to step down, she is using her office for political shenanigans.

Remember, we have implemented reforms in this country, reforms that are meant to take this country forward. You are talking about Eskom and actually the entire of the SOEs, the reason why the PG has been dragged to the courts has nothing to do with SARS or whatever the issues are around pensions or whatever the case might be. It is precisely because whatever is coming out of the Zondo Commission has to go to the NPA and people are going to have to be prosecuted. Obviously, these are the last kicks of a dying horse. People are fighting for their survival because they know what is going to happen.

You know, Eskom, as an example, is a crime scene because there was a deliberate attempt over the past ten years, actually, it was not an attempt, they succeeded because the SOEs have been hollowed out, the biggest albatross that we have as a country is the 670 billion guarantees that we have given the SOEs. SAA is being bailed out day in, day out. But what I do agree with you however is that there is going to have to be some decisive action that is going to have to be taken.

Around the SOEs, for instance, let us agree we are not going to be able to save all of them. Maybe we do not need to save all of them because some of them are strategic, and some of them are not. We have no business whatsoever as government running more than 700 SOEs. We need to decide which ones are key for government to run and which ones are not, and those that are not key for government to run, I think let us release them either to the private sector or to other international players.

The focus ought to be, what are some of those things that we actually have to do to move the country forward? The biggest frustration, and I raised this earlier on, from political turbulence and maybe a lack of decisiveness. Professor Ben Turok

also raised this, that is, a lack of decisiveness. You know, if you are going to change things you are not going to please everyone and if you are pleasing everyone then you are not making enough progress. I think the lethargy that we see in terms of the actions that we need to have in this country is frustrating from that perspective.

I am all for collaborative leadership trying to bring everyone along with you, but at some point, you are going to have to draw the line in the sand and say is the energy, time and effort that I am putting in bringing my adversaries over to understand what my plan is, is it worth it or not? To the extent that it is not worth it, then you actually need to move on and implement some of the things that you actually need to implement. Because this economy is going to collapse on our watch.

Whether or not we want to make the tough decisions as a country or not, sooner or later those tough decisions are going to be made for us because the debt to GDP ratio in this country is quickly moving to 60%. Zambia's debt to GDP ratio is at 66% and the IMF is getting ready to intervene. The question we have to ask ourselves is how close we are as a country to that and what is it that we can do to ensure that we avoid that.

Professor Turok: Let me start by saying the last speech really inspired me. You see, I come from the liberation movement, and I spent many years in the ANC and that is my history. Here I sit with reservations about big business.

Frankly, we in the ANC had, and I am not very active anymore in the ANC, but I belong to that school, and we had reservations about big business based on the history, based on many factors, based on the monopolisation in our economy and so on. Now I hear somebody, a representative of big business, who is turning me on. That was an unfortunate term.

But I was going to say, what emerges out of this discussion? Because actually, we need to try and come to some view about what it all means. It seems to me that this panel has demonstrated something today which may be some of us have been sceptical about, namely, is it possible to come to a consensus? I find it quite extraordinary that we have actually got a very strong consensus on this platform. Yes, we can disagree here and there. I am not sure I am all that keen on Trevor Manuel coming back again. I spent 20 years in parliament with Trevor Manuel, so maybe I had enough.

For Professor Madonsela and the other organisers, it may be necessary that we stand back a little from all the discussion and say, was all this worthwhile and what does it all mean? Quite frankly, it means to me that maybe if people with a bit of wisdom come together, as we have here, a consensus is even possible in this very divided country. I very much welcome your comments and I would hope that your members support you. Nicky, and your members.

Because it is marvellous having these wonderful women here, these personalities. Are they speaking in terms of a mandate from their organisations? If they are, this is wonderful news. Even if they are not, a consensus has emerged and I think that all power to Thuli and her people because somehow maybe something has happened this morning which could be very worthwhile. That is all I wanted to say.

Newton-King: I do not think we should be surprised at all that there is a consensus emerging. Because the reality is we share a passion for this country, and we have a shared destination. We will go forward in this country together whether we like to be together or not. If we can find a consensus, a space where we can collaborate, that future will be far more positive than if we are in that space and at odds with each other. I am not surprised at all about a consensus.

To speak to mandates. Busi speaks completely on behalf of the membership. The passion with which she speaks is our strong position with regard to the things that need to be said about this country in order for us to confront fully the issues that we must address together. But I want to come back to the point that I was making, which is that we should not wait for the big plan, for the country to be resolved by someone else. We should take agency ourselves.

We can make a difference in our own spaces. Like the principals make a difference in their own schools, like business, makes a difference in its own space, like politicians make a difference in their own municipalities and heads of hospitals in their own hospitals. We do not need to wait for someone else to show us how to do something better in order to achieve social justice. We do not need to reconceive capitalism in a sense of the business schools starting to tell us what social capitalism looks like. But businesspeople can run their companies in a way that is far more conscious about their impact on stakeholders. I am urging that we do not wait for that moment to happen because this country cannot wait for social justice

to be real.

Question/Commentary 6:

Newton-King: How difficult is it for you, particularly given the position that you occupy as the Chief Executive Officer of the JSE, to have this message then filter down to all of those entities which you help oversee and is this a message that many of them would be open to or even receptive of?

Response(s):

Newton-King: It is a very interesting point, to be at the centre of capitalism and to argue for a social perspective on how you exercise your licence to operate. I would say internationally, my peers internationally think this is a completely crazy idea for stock exchanges to argue for a more social licence to operate.

But it took 40 000 people led by Mister Malema to walk on the JSE, to say we have no jobs, we have no voice in this economy, for us to realise as the stock exchange and then to start to lead the conversation with business about the fact that there is no sustainable future for this country unless there is proper inclusive growth and to do that you have to listen.

So, we have been rabbleroising in this regard ever since. I would say that most CEOs, and that is why Busi can speak with the passion that she does, get the concept that there is a new way that we need to look at how we behave. But I would say that between the companies there would be differences as to what that really means.

But I will go so far as to say to some of them when I speak, when you look at how you distribute the profits of a company and you look at, for instance, bonuses, executive bonuses or executive remuneration, it might be nice to be at the top ten paid people in the country or give another R1 million to the CEO. What are you going to do with that R1 million? You are going to buy a painting or go shopping in Paris.

What happens if you actually said, well, hold on, that R1 million would make a difference, a real difference to people who take three taxis to get to work today? It is making it real, that it is about justice. There is a very great recognition that we

have to lead by example as business.

Question/Commentary 7:

My name is Jennifer Smout, and I am a commissioner at the Commission for Gender Equality, and it has been so startling to sit here this morning and listen to all of these amazing points, but to hear the absence of the word gender, the absence of the word woman. I think as Professor Jansen said, we are going to be engaging in magical thinking here if we do not engage in these discussions from a gendered perspective.

Someone else said let us start with the facts. We have the former statistician-general here and I love Stats SA, it is my favourite place to go to for information. So, let us talk about stats.

It is girls and LGBTIQ kids who are facing violence on the way to and from and at school. It is girls who drop out of school because of family responsibility. It is women who are most affected by climate change, environmental degradation and our Eskom crisis when it is not safe for them to walk home because the streetlights are out, they cannot do the laundry, which is still their job despite having a full-time job sometimes.

These are gendered crises. These are not something that has the same impacts. It is women who face uphill battles with traditional leaders to access land and with their partners. It is difficult for them to access land as individuals and not as wives or inheritors. 72% of the land in this country is owned by men as of the last land audit. It is predominantly women who are raising our children, who we have to take care of. 43.1% of children live with just their mother compared to 3% of kids who live with just a father.

It is women who make up most of the people employed in the social justice sector that is saving our lives and our moral cause every single day. They say speak even when your voice shakes and I have been sitting shaking for the last five minutes, so just bear with me. It is women who are affected by economic stagnation. 42.5% of women are unemployed in the expanded definition compared to 35% of men.

Addressing patriarchy has to be a central component of this project of social justice and economic growth can and has and continues to happen at the expense of exploiting women's labour, of ensuring that they get paid less than men for work

of equal value. We have a National Minimum Wage Act 9 of 2018 that excludes hundreds of thousands of domestic workers and farm workers from the benefits of that very small minimum wage.

Economic dependence and inequality have, the research has shown over and over again, a direct link to gender-based violence. I will never forget the time when I heard in parliament that 50% of women who drop their cases of domestic violence do so because they are economically dependent on the person who is abusing them.

So, if we continue to sit here and I do not hear the word woman for the rest of the day and the panel leaders do not ask that question, how does this affect women differently, then we are going to have failed and I hope that we do not.

Thank you.

Response(s):

Lehohla: On the question of gender. I happen not to have girls at home, it is all boys, but I think statistics have socialised me to appreciate gender, particularly here in South Africa. I have realised that our execution of decisions, it is actually not sensitive to this issue of gender.

By way of example: The law that enforced people to carry a certificate to cross borders for minors was very humiliating to women. Its reversal was not driven centrally by that humiliation to women, it was driven by something else which was tourism. I found that absolutely very insensitive.

The second is chasm caused by the #FeesMustFall which generally says if you earn so much you must afford, and it looks at the joint income of the spouses. In the process, women and children are actually humiliated in that space. Here is the source of this. 60% of fathers in South Africa say they are married against 30% of mothers.

Now, that statistic tells you about the fault lines in our system and unless every plan understands that statistic that there is schizophrenia amongst men that are married to these women who have actually said you are not and we have actually not taken account of the children, it is a serious problem that government does not seem to be understanding.

I try to emphasise it and explain it. Maybe I do not explain it that well. But that

law means that that man who has long abandoned that woman has rights over that child when the mother wants to travel and that is the time when he says, I will show you. The gender lines in this social justice programme are absolutely central and that statistic is too telling to ignore issues of gender.

Unfortunately, our policies and everything is so crude. There was a judgment that actually was passed when this lady took it to court. Because the school system was saying, no, your parents can afford, the mother and the father can afford, and it was only this woman who was carrying the burden for the child. The law, the judgment said, no, the child must go to school at the rate the mother earns, not at the joint income.

I am not suggesting that men should be left to their own devices, the law must chase them. But this is an ethic and a moral duty more than an economic issue and we need to understand it and our policies must be sensitive all the time when we try to implement the decisions that we have made.

Thank you.

Question/Commentary 8:

My name is Peter Mika. I value land for a living. I wanted to ask Busiswe Mavuso if her organisation is aware of two of the most successful countries in the world in terms of wealth per capita. They are Hong Kong and Singapore. The reason they are so wealthy is that they tend to tax people less but land more. In fact, in Hong Kong, nobody owns any land. It is all owned by the state. So, you pay rent. That is my question, can we do this here?

Thank you.

Response(s):

Busiswe Mavuso: The gentleman raised a question about whether as a business we are aware of what other business communities are doing in most successful countries and the answer is, yes, we are. But you see, for us as a country to compare ourselves to those successful economies you are probably going to have to say what are the conditions precedent, what environment do you need to have from a business perspective for you to be able to achieve what you want to achieve?

Allow me to just speak to the key five factors of production that you actually need as a business. The first one is land, as you spoke to it. In as far as land is concerned, I already said this earlier on, we do not want a policy that is probably going to be good for business necessarily. What we want around policy is certainty. Irrespective of what we do with the land in this country, but can we get some level of signalling as far as property rights are concerned. Because every investor would want to know that. We need to know which direction we are going in so that we know where we are going to take things as a business.

The second factor of production is labour. Now, in an environment where the economy has not grown by more than 2% since 2013, you cannot have a labour regime that still demands 12% increases. It just cannot be. There needs to be a conversation that is going to be held as far as that is concerned because unfortunately, it does add to the unattractiveness of South Africa as an investment destination.

If you talk about capital, you are probably going to have to look at our corporate taxes and maybe the fact that South Africa is one of the countries probably in the top ten that is paying the most or highest corporate taxes in the world. You look at the infrastructure that we have in the country. From a municipalities perspective, it is not sustainable to have load shedding, for instance, of about 12 to 18 hours a day.

If you agree that South Africa is an open economy and therefore we are not just competing with ourselves but with the rest of the world, tell me what your unit costs of production are going to look like if as a factory you have to stop production for about 12 to 18 hours because Eskom cannot provide electricity? From an energy security perspective, the electricity prices in this country have gone up by 523% in the last ten years. The environment of doing business in South Africa is not what it should be, and I think that is just a pure fact.

From an entrepreneurship perspective and I think a lot of people have spoken to it here, the education, you spoke about Hong Kong, Hong Kong and the rest of the Asian countries, their Grade 5 learners are being taught coding and programming. We have Grade 5 learners who cannot read for meaning. Now, that is the skillset that we have to get as a business.

If you want to change things, let's start at the bottom. Let us start from the foundation. Let us start by ensuring that we get the basics right. The unfortunate

thing is that these kids of underprivileged people are actually being made to lose the race before they have even begun running. Because that is precisely what it means. They are not going to just be competing with themselves; they are competing with the rest of the world. But they have lost this race completely because of the education system that we have. The culture of entrepreneurship in this country just does not exist.

When you talk about the factors of production, when you talk about the conducive environment that you need to have, when you talk about countries that are making it, well, those countries are allowing business to lead and government to follow. Those countries have the ease of doing business on their side. Those countries do not have prescribed assets.

You know, we talk about prescribed assets as if it is still going to come. The banking sector in this country, which is one of the critical sectors that still work, one of the critical sectors that are the anchor of this economy, the banking sector has had to lend about R1 trillion to the SOEs. Now that is coerced lending, which is prescribed assets by stealth and it cannot continue to happen.

The actions that we are taking as a country and this government continue to undermine our efforts in terms of stabilising this economy and unfortunately as long as the environment is not conducive for business to do what it needs to do, then unfortunately we are not going to achieve what we need to achieve.

Thank you.

Question/Commentary 9:

Hi, my name is Megan Naidoo I am an epidemiologist in global health and so I have a call to action for spaces like this to include community-based organisations and leaders. Although our speakers, our panellists and the participants of this conference are all leaders in this space and have a wealth of knowledge to share, the core tenant of social justice is the decentralisation of power and privilege and therefore I think we need to have more representation of our communities in this space. I am saying this now because everyone in this room will probably have a space where we can convene these moments and generate this discussion and just think about those communities in which we serve.

Thank you.

Question/Commentary 10:

Good afternoon, everybody. I am Edwin Cleophas, and I am representing the Social Justice Agency. My question is specifically to former President de Klerk and anybody on the panel that would like to respond. In all these critical issues mentioned today that we face in this country, economics, education, governance, etcetera, my question is how do we deal with the issue of white privilege and white supremacy and a lack of buy-in by the white people in the transformation project and can we do it without the buy-in from white people or are we looking at civil war to see change in this country?

Response(s):

De Klerk: Well, regarding the last question, I am not sure I got the question correctly. What I heard is what do we do about white privilege? Is that a good summing up of the question?

Reply: Yes. What white people contribute to the transformation project in South Africa.

De Klerk: We should stop in South Africa overemphasising race. We are back at the situation where race is becoming too defining regarding so many aspects of our daily lives. We got rid of apartheid. I have apologised for the pains that apartheid caused. I said it was wrong. But we must not fall back into a system where we have reverse discrimination.

Whites have a contribution to make. Whiteness should not be regarded as something bad. Blacks should have a contribution to make. Brown people should have a contribution to make. We are together, the South African nation. The Constitution provides for the recognition of our diversity on the one hand, and on the other hand for the need to build the nation, to take hands across divides and to unite as the South African nation and to work for the benefit of the whole of South Africa and all its people.

So white privilege, if it is maintained and nurtured is wrong. No privilege should

attach to anybody because of the colour of their skin. What we need is to really work together, to build bridges instead of creating new chasms between us, to through conferences like this also mobilise civil society. I am no longer a politician; I am in civil society now. The FW de Klerk Foundation has a centre for unity in diversity. Whiteness as driven by Malema is something which can lead to the civil war you are talking about.

We need to fight racism wherever it comes from, whether it comes from whites, whether it comes from blacks, whether it comes from political leaders or whether it comes from individuals. Racism is wrong. It is prohibited by our Constitution, and we must unite around the value of communality as South Africans in one country which we all love and which needs all its people and all the skills they have and all that they can bring to the table.

Question/Commentary 11:

Doctor Mamphela Ramphele: I just want to also join Professor Turok in being thrilled that the two women on the panel are raising very important issues around the economy and the role of business. But I want to challenge you further. Because whether you are looking at the issue of inequality as in income or you are looking at issues of gender, business has not come to the party. As Ntate Lehohla has said, you have so much power to change the face of social justice in this country.

I want to just remind all of us, that there is a gentleman there who was talking about putting God first. I want to point out that God is always there, we do not have to put him anywhere. It is what we do with the God in us that says that to heal the bridge between the rich and the poor requires a distinction between justice and charity.

Business fell into the charity business, that they give all these big bonuses to the top who are all mostly men, and unfortunately, Mister President, there's still a lot of colour coding even in that, and then they give their charity to CSI run by women. I think in terms of changing the face of this country and its social relationships, business has more power than it actually acknowledges.

The second point I want to make is we need to challenge the model that says to attract investments we need to create the climate for investment. What about business, what climate are you creating that will give confidence not just to outside

investors, but to the ordinary mamas from Mthatha that they matter? Because if we were to regenerate rural economies from where business has extracted male labour, we will have a vastly different social system. We need to remember that foreign investment will only make a difference when we, the internal people, invest in social justice itself as a stimulus for growing the economy.

Question/Commentary 12:

My name Ignatius Ferreira van Afrika. I have been involved in a quest for social justice since 1939. I have one quick question for Nicky. She mentioned the idea that do not come with ideas that you can change capitalism like that with wild ideas. I believe there is a way. I hope you will be here tomorrow, because tomorrow I am delivering a 20-year-old message from the people on the ground, from the real people on the ground, about what can be done, what change can be made to capitalism. Not wild ideas, a practical, down-to-earth idea that I wish to present tomorrow, I am having the opportunity. I hope you will be here. You do not have to answer now.

Question/Commentary 13:

Hi, I am Brian Ganson from the business school, so I am going to be following I think in the same vein. Nicky, your comments made me remember a critique of the Consultative Business Movement, which was an important player in the transition, but that business wants change, but that business does not want to change.

I would like to know how many members of the JSE continue to reward McKinsey and KPMG with business? How many members of the JSE are implicated in the end? How many run-around community consultations by engaging known corrupt actors in local government and traditional authorities in agriculture and mining? When is business going to model the behaviour that it says it wants from government so that business actually holds business to account? As you can tell, I am worried about Ben drinking the Kool-Aid.

Response(s):

Nicky Newton-King: There are several companies who still use KPMG, who still use McKinsey, and who still use Bain. But I can assure you, there are far more companies who are looking at whether they should in fact use those companies and how they are using them.

I would want to caution though to suggest that just because a company has in the past done something that is completely egregious and wrong, necessarily means that they can never rehabilitate. So, there are deep questions that we are raising with each of these companies as an example at BLSA where they are no longer members of BLSA until they have put their rehabilitation plans in place.

The point of the matter is that when these things happen, business is clearly saying, hold on, I do not need to be associated, I do not want to be associated with companies that have a role to play in the undermining of the fabric of our society. That is the answer in principle.

The answer statistically, and since I am sitting next to the statistician, well, the previous statistician-general, I cannot answer the statistical number, I just do not have them on the top of my head. But there will still certainly be some companies still using them, but only after deep interrogation about what those companies are doing about making sure that they have cleaned up the house. We can talk *ad nauseum* about what each of those is doing actually.

The point I am making about individual responsibility is not to deny the importance of institutionalised response on any one of these issues, but just to make the point that we have to also own our responsibility for our own action as business. In fact, this is what I understood Mam Ramphela to be saying actually, is that historically in the past business has approached to, it is a responsibility to society would have been the chairman's fund, it would have been philanthropic, it would have been with whatever bits and pieces at the end of business we felt we could share outside business. But in fact that is completely changed in a modern company.

A properly focused business will recognise that it is a more immediate presence to its people than the state. For most people business is a more immediate presence than the state, unless you are in jail, or you run into the police or whatever. The responsibility of how we do business is, therefore, felt deeply. You were really

echoing my core premise, which is that we should be flexing the way we do business in order to do that in a manner that actually advances social justice rather than in a manner that just advances the pure focus of the winner-takes-all capitalism.

Question/Commentary 14:

Thank you for this opportunity. It is a comment with a question. My concern about the invitation to individuals to operate, while I laud that and encourage that, is that we mustn't forget that the neoliberal tendency is to atomise society and to individualise responsibility in order to distract us from systemic injustice and thereby systemic justice that needs to follow. I am concerned that there were opening remarks made that left me with questions about whether business wanted structured justice to hold them to account, especially comments made about the assets and comments made about land. Often the favourite metaphor in encouraging individual action is the starfish on the beach being thrown back. But we need to centre rather the question as to why the starfish is on the beach in the first place to ensure that they are not just washed up on the beach again.

Question/Commentary 15:

Thanks for the opportunity. I am Mark Rountree. I am from Patricia de Lille's new party. I agree we are in a bit of a stalemate politically and definitely need some new directions. It is quite a brave statement in a room which is full of academics. I used to come from there, as a scientist, not a sort of social expert. But I do not think we need more facts to change, or we do not need more research. We have a lot of information available. The decisions that we are making with that information is unbelievably bad.

Just in C the City of Cape Town stopped MyCiti services to Khayelitsha and Mitchells Plain three or four months ago. Those people are paying four to six times more and queueing from 04:00 AM to get taxis now. It is not hard to see how this affects inequality.

Here we are with all the social justice people, but who has phoned their councillor or is business putting pressure on that new leadership? Unfortunately, the former president was dominated by former national party people, to reinstate those

services. We know the problems with the trains. That has been going on for years. In Cape Town, poor people are currently charged more per litre of water than rich people because of the way the tariffs are structured and there does not seem to be a big outcry about that.

We spoke a lot about how we are still sitting with, I am white, I know, but how we are sitting with so many still white wealthy people. If the municipalities keep giving development rights away to property owners, of course, most of those property owners are white and the biggest financial benefit is in the best-located parts of the city, which were of course exclusively white. It is not hard to see how that is going on.

We know all these things, what can civil society or business do to change the decisions that are being made at the moment?

Question/Commentary 16:

Hi. My name is Doctor Samantha Braid. I am also a scientist, and this is a very interesting arena to be participating in. It was very briefly raised by *uMama* from *uTata* there about climate change, and in particular to me what is of significance that has not been talked about is the issue of water. Our legislation and our Constitution recognise water as the right to life and life is where everybody starts, poverty or not.

The current situation of our water sector in the country is an absolute disgrace given that we have world-leading legislation and that that needs to be a topic that we talk about. How do we start with these basic resources that we need to bring people out of poverty and how do we build that social justice needing these resources, but our government's structures are, they have let us down?

Response(s):

Ntate Lehohla: Yes, I think I should repeat what I probably said, which is let us try and dip our bucket where we are. In many ways, I would say that I do not know what happened to the South Africa Black Taxi Association, SABTA, which was a sign of black economic empowerment in itself. How probably we should have helped it to deepen and diversify. We allowed it then to think about buying an

aeroplane in a tough airline market. We are ignoring some of the nuggets we have, and we do not nurture them.

Of course, that is why I do not think the government cares that much. I do not think it does not care because it does not want to care, but it does not care because of ignorance. In part, we need to get the information that already exists in a way that they can see. We must force their eyes to open. We have to force their ears and remove the wax from those who have this responsibility, the wax from their ears, from the responsibility, so that they can understand the responsibility and the futures they carry for this country.

Professor, I find it quite unacceptable that the chief executive of Standard Bank earned R50 million last year. I find it quite unacceptable that the head of Old Mutual got R50 million last year and wants more. He is not satisfied with R50 million. I think our friends here, who I have appreciated greatly today, I do have to say that there are problems, and the inequalities of South Africa are reflected in the way CEOs behave and I think we need to call them to account.

However, I want to address a comment to my friend, mister De Klerk, if you will allow me. I agree that we are raising the question of race in a rather dramatic and maybe sometimes even hysterical way. You are correct in saying that the whole emphasis on racial differences can be overstated, especially at the moment in our democracy.

But when I made my first intervention, I used a different word. I talked about continuities. You see, even though we do not like to keep talking about race and whites and blacks and all that, but we also have to recognise that there are continuities in our system that the M-Plan will have to address. Therefore, if those continuities reflect social factors and social dimensions, we have to accept it and not deny it.

So, I agree, let us not get hysterical about race and Malema and so on. It is extremely dangerous and there is no question that this is really poisoning our country. The way they keep fighting about race and whites and so forth is counterproductive to what we have been trying to do with our democracy and our Constitution. But let us not at the same time deny that there are very serious structural continuities in our system, in our daily lives that we as individuals and as groups and as the M-Plan must confront.

Thank you.

De Klerk: I have no problem with what you have just said. It cannot continue like it is. We cannot continue to have the percentages that we read recently in the press about in management, the percentage of whites and so on. It must change. But there is another side to continuity. If we analyse why has service delivery deteriorated so much because continuity was broken through unbalanced affirmative action. Where are the competent town clerks, town engineers, town treasurers used to keep the municipalities on the right road? There was a lack of continuity in that regard and that has led to bad service delivery.

[Professor Turok agreed with this]

Good, so that brings me to my closing remark. You spoke of your appreciation of the consensus which appeared from our participation here today. I agree with that.

The challenge for civil society, and civil society has a crucial role to play in keeping our country on the right road, in preventing our country from falling over the cliff, the challenge is to continue to build this consensus and at times to work together and take hands. Foundation A and Foundation B and Organisation C and Organisation E must sometimes say, let's form a team on this particular issue and work together to maximise the impact that our influence has with regard to making things better in South Africa.

Professor Jansen: I travel a lot these days speaking with communities and schools in the nine provinces and what gives me enormous hope is a very simple observation, and that is that the number of good people in this country far outweighs the criminals, far outweigh the crooks in parliament, far outweigh those who do damage to this country.

I am not surprised by this consensus at all. It is in fact what you would see in broader South Africa. Our problem is we place so much attention on the rabble-rousers, on the race-baiters, on the Malemas on the one side and the Kallie Kriels on the other side. That is not where most South Africans are. What is left for us is to find, not just keep the consensus.

Let me just say this, two race wars threatened this country's future in the past.

We tend to forget; we do not think as historians. The one was coming out of the South African War, the Boer War as we used to call it. People really thought it was over and then 1910 happened. Well, they forgot there were Black people in the country as well. But it was going south fast.

My generation did not think I would ever sit next to mister De Klerk. I used to hate him. I say that with embarrassment, but I used to hate him because he was in charge of higher education, national education and so forth. Here we are today, and we can talk as fellow citizens and figure out how we can build on each other's contributions to make this country really what the Constitution promises it can be. I am very proud to be here in that capacity.

I think we should not panic too much. We have been here before; we will get out of this. But my faith does not lie in parliament, my faith lies in the South African people who made it possible for us to get here and to get out of this mess that we are currently in. In that sense, I want to say to my colleague, Professor Madonsela, you have done a great job here, how do we leverage this consensus to build this country along the lines of the Constitution? Thank you.

Mohlahlana expressed her thanks to all of the panellists who have contributed so meaningfully this morning and adjourned the session for lunch.

1 8 Lunchtime keynote roundtable: Advancing social justice as a national and global imperative

An informal lunchtime conversation, moderated by Professor Thuli Madonsela, shared ideas around advancing social justice as a national and global imperative. This unusual panel included such diverse personalities as Doctor Mshai Mwangola (Chairperson, Board of Trustees, Uraia Trust, Member of the Board, The Elephant); Helen Zille (senior policy fellow, South African Institute of Race Relations and former Premier of the Western Cape); Professor Adam Habib (Vice-Chancellor, University of the Witwatersrand); Professor Pierre de Vos (Claude Leon Foundation Chair in Constitutional Governance, University of Cape Town); Ashraf Garda (Chief Driver of the Champion South Africa movement and media host); Doctor Wilhelm Verwoerd (South African political philosopher, Stellenbosch University and social activist), Siki Mgabadelo (financial journalist, media presenter and producer), Professor Nico Koopman (Vice-Rector: Social Impact, Transformation and Personnel) and Doctor Mampehla Ramphele (activist, medical doctor, academic, businesswoman and political thinker).

Professor Thuli Madonsela opened the discussion by asking the panellists to contemplate and comment on the following question:

Is the South Africa you want or the South Africa that we believe we have promised to ourselves through the Constitution, a South Africa where the environment is affirming for people to do these things that we say they must do?

As first panellist to engage in the conversation, Helen Zille stated that she had to agree with Professor De Vos, specifically concerning a society in which everybody has real agency. She went on to say:

There is a big gap in our society in people using their agency. When Doctor Lehohla spoke about 60% of men saying they are married and 30% of women saying they are married you can see the huge gap in a sense of personal responsibility and agency, and I do not think you can divide those two things. Because when people take agency for their lives it is first a reflection of personal responsibility. The agency that people who bring children into the world need to demonstrate *vis-à-vis* those children, and not always but especially men in

the society, is something that is constrained. Not only dignity, but also in relation to poverty. Because children born to teenagers or born to single mothers are often far more constrained in opportunities and choices. So, I really do believe that the culture of accountability is fundamental to agency and is also one of the factors that enable a society to succeed. It is not only the accountability of politicians, although I strongly agree with that, it is the accountability of every single individual for the personal decisions they take in their life and there is no more critical one than the decision to become a parent.

Professor Madonsela, however, doubted whether anybody would quarrel with that, especially with the idea that there must be agency, but that agency should be based on taking personal responsibility and not inflicting harm or burdens on society. She reiterated her initial question, namely “what is your vision of South Africa – The South Africa we want, the South Africa we had promised to ourselves in the Constitution, what does it look like? If you close your eyes a bit, what does it look and feel like?”

Zille explained that her vision for a future society is an inclusive society where everyone has an opportunity to opt into life, where they can be secure in the rule of law and due process and constitutionalism. She further stated that this vision includes that of a capable state reliably provides for the things that people cannot be expected to provide for themselves and they live in a context of freedom to become the best they can be. Professor Madonsela asked the members to consider what this vision looks like. To everybody’s great delight, Professor Adam Habib agreed with Helen Zille entirely and applauded the large degree of consensus that was reached in the morning panel.

He pointed out that the problem lies in the fact that we use the same words, but we mean different things and that is becoming exceedingly frightening to him. He further reminded us that in his vision, rather than using that terminology, he imagines Scandinavia, as more cosmopolitan, more diverse and with better weather. That to him are the possibilities and have been confirmed by the people who have already done this in different historical contexts.

Professor Madonsela confirmed the consensus amongst the participants that we should be more like Sweden, no extreme wealth disparities, and adequate diversity and noted that the weather in South Africa will be better than the Swedish weather. At this point, she handed the discussion over to Siki Mgabadeli.

Mgabadeli mentioned one of her favourite definitions of social justice which holds

that human rights are manifested in the everyday lives of people at every level of society.

She explained that the kind of South Africa she envisions is one where when she drives through a township or an informal settlement on a Tuesday morning at 10:00, she does not see young people who should be in employment, in training or at school loitering, because they do not have access to any of those things. She pointed out the reality that driving into any township or informal settlement in this country, you will find young people with nothing to do, not because they do not want to do it, but because society has not opened up those opportunities for them. She went on to explain that when these young people do go and try and do things, perhaps try and look for opportunities in areas in which they do not live, they are themselves then policed because they are seen as not belonging in those spaces. Here she mentioned a tweet from Doreen Morris of how she was harassed by a security company and a property owner on a public road, where she parked on the side of the road and they told her she does not belong on that public road, she cannot stop there.



So those young people that I am talking about, let them try to look for opportunities in areas that they do not live, and they themselves are then policed and seen as not belonging. She concluded by sharing the following vision:

There should not be, in my vision of a future South Africa, any part of this country that I am not allowed to go to and any other South African is not allowed to go to.

Professor Madonsela emphasised Mgabadeli's main thrust being that young people should not be forced to loiter. There should be employment opportunities for them and there should be other ways to engage them. To this Mgabadeli added that this could even be an inclusive society where people can be their absolute best selves should they choose to use the agency that we have spoken about.

Professor Madonsela pointed out that this is what the Constitution describes as the freed potential of every person. She asked whether this was the approach that Mgabadeli suggested and, in addition, whether she is saying that racial profiling should not take place; for example, when people find themselves in a suburb that is presumed to be white, they should not be harassed.

Next Professor Madonsela asked Ashraf Garda to share his vision for South Africa. What do you see us looking like in South Africa?

Garda started his contribution by stating that he will be making an emotional connection as he believes that this is what is needed as opposed to spending a lot of time on the detail. He went on to explain his vision as follows:

We spoke about what does the Constitution mean to me. I heard this a while back, that 27 April 1994 meant to me getting the first prize and getting a ticket for the lottery in a country of life. That is the first thing. The Constitution would have been the birth certificate for a new vision and a whole new way of living. Where are we now? I will speak from a champion South African perspective. We are a country that is a mid-table nation. In sporting terms, we mess up, we get relegated, we win, we could well win the lead. My vision is to win the lead and what I want, therefore, how would we know that? We would know that when the guests that I have interviewed and people like Siki interview on radio and TV, when you ask them to explain the product and they say, well, it works, and I say, well, how do you know and they say, well, it has been tested in the States and the UK. We have heard that a thousand times. I want them to say it works. How? Well, it is made in South Africa. That is the challenge.

He continued by pointing out a particularly important thing: The challenge for all of us as individuals is to move from it is made in South Africa, to we collectively can say we have made it in South Africa. As part of this vision of moving from mid-table to a champion nation that he referred to as champion South Africa, he emphasised that it starts with the people:

We need to move the people from a position of hopelessness to ignite in them or the champion within people so that the champion people galvanise the country to become the champion nation that I talk about.

Garda articulated his last thought by asking how, graphically, do we know that. He offered the bottom line to it:

Nothing illustrates it more graphically than this. Anywhere in South Africa historically, you travel, there is a clear distinction between a suburb and a township. I have got news for you. If you travel in South Africa 25 years into democracy, a township looks like a township and a suburb looks like a suburb. The big challenge for us is when will townships look like suburbs and suburbs look like townships, where they mirror each other. We would have known that. The last thought here is this. In #FeesMustFall parleys we talk about the missing middle. In addressing or in galvanising the champion people to become the champion nation we need to start paying attention to the missing majority.

Professor Madonsela thanked Ashraf for his vision of us becoming a champion nation and for providing a sense of what that is. It is a society where young people, in particular, are hopeful and who believe in themselves, that they see themselves as people.

Next Professor Madonsela asked Wilhelm Verwoerd about his vision.

Verwoerd commenced by saying that he finds himself a bit troubled by answering that question. He explained that he is struggling because he is attempting to answer the question from his positionality as a white middle-class, middle-aged Afrikaner Verwoerd. In this context, he is asking himself “how dare I answer that question on my own”. He explained that it is because it seems to him that he is exactly what Madonsela was referring to – part of a community, part of a family who thought they could answer this question on their own and then impose it on their country and communities.

So, for him, he explained, there is humility needed in terms of how he addresses this question. He explained:

I do a lot of facilitation work, spaces where people can tell their stories, where we can learn, and we can hear and then together we can find a way to craft this answer? Because in the process we are going to also get the answer on how to make it sustainable.

For me, it must be inclusive and it must be a space where we can also listen to people's pain and trauma from the past, where everybody's voice is heard, young and old, in all our diversity. Together we can cultivate a culture of cross-boundary compassion. Which for me is what drives me in terms of my work and the vision that, a place where people who have, people who are in suffering maybe can share and we can care and be involved in each other's suffering so that we can strip the suffering so that we can do it together.

Professor Madonsela stated that she can relate to that compassion from Wilhelm's book she recently read. She continued:

For those who do not know, I specifically invited Wilhelm to this panel because he has written this book in which he has a particular view on the past and its shadow. He also happens to be [apartheid architect Hendrik] Verwoerd's grandson. I am interested in your thinking because of the circumstances of your birth, you have no right to proffer an answer.

Madonsela pointed out that the disparities of the past are still mirrored in the present, but the difference now is that they are not enforced by law. She reminded participants that Professor Turok pointed out those as continuities. She asked the question: What does South Africa look like without continuities?

Verwoerd's response was:

"I still see something in our future where we actually care across the divisions and the differences between us in a way that really makes a difference to care, not paternalistic charity, not this kind of pitying, but some kind of real caring compassion across all of these differences and divisions".

He emphasised that for him it feels like "the kind of South Africa where we will be at home in the way that Thuli said, as a home for all our sons and daughters".

Professor Madonsela confirmed her interpretation of Verwoerd's vision as a society where we fully embrace the humanity of each other and we do not let colour or gender, religion or anything become a war between us. She proceeded to ask Verwoerd if he sees anything about wealth disparities being amended, being rectified in that.

For Verwoerd, this is where compassion comes in. In this regard he stated:

Because if you live in your luxury middle-class white world and you enter the world of people living in very different conditions and the kind of issues they have to deal with on a day-to-day basis, then you cannot sleep at night. You cannot live with yourself. You cannot look yourself in the mirror unless you think you share and become involved with humility, not patronising, not paternalistic, but become involved in the life of people and then in the process discover that you find your own humanity which is also being destroyed by the wealth and the walls around you.

Professor Madonsela thanked Verwoerd for his contribution and expressed how impressed she was that he scaled down. She pointed out that he deliberately scaled down to a smaller house as part of making sure that you live as part of a South Africa where there's shared prosperity.

She then addressed Mshai, asking:

You are from Kenya and you guys are also on a pathway to an inclusive society. Not necessarily based on race, but gender, ethnicity, etcetera. I cannot ask you to dream for us. Perhaps you could talk about, based on your own experience, what do you see as a gap between where you think we need to be and what we are and what can we learn from?

Mshai expressed that she felt privileged just to be here as a non-South African, to be part of this conversation. She continued:

We are 55 years into independence and I kept reflecting how much for me I am born in I guess what you would call the born-frees. We call ourselves the new generation. I was born after independence. I am 52 years old and we are ten years into a new Constitution.

First of all, just in terms of what you said when you asked about what is your vision, and for me that has been one of our new struggles: what does a new Constitution deliver that the independent one didn't? I am an academic, I am an artist, but in my bio, I focus on the things I am doing now, which is engaging with people and especially the next generation

to us. I am saying that because when I really think about what it is Constitution needs to deliver, maybe where we are and where another 25 years South Africa will be, it is to say that this generation is building up our nation for the next generation.

When we talk about Kenya Vision 2030, which is our national plan, our dream created for us, I guess by those slightly older than me, is that we would be a middle-income nation, industrialising and all that. Now, thinking about that, when Adam talked about Scandinavia, and my first instinct to that was actually, no, that is not what I dream. Because when I talk to young people none of them talks about Vision 2030 and all of them say we do not want to fit into somebody else's dream of what we need to be."

She continued by reminding us about what Frantz Fanon said:

Each generation must out of relative obscurity discover its mission, fulfil it, or betray it. In underdeveloped countries, the preceding generations have both resisted the work or erosion carried by colonialism and also helped in the maturing of the struggles of today.²⁰

She felt that what his generation is doing is creating, moving our Constitution, the new Constitution from the paper document that it was ten years ago to a lived experience so that the next generation can envision that work.

She explained further:

What I mean by that is that we are 50 years after independence still dealing with the historical legacy of structural injustice. My grandparents delivered independence, my parents tried to set up a nation based on that and I feel that is where, I will speak to everybody, that is where South Africa is.

So maybe this is what we vision, the inequalities, but my generation is finding that even though we were told people died so that we would inherit that Kenya, we are still living in the old Kenya. So, our generation is saying we must deal with those structural issues so that the new generation that comes can dream of the new Kenya. We cannot, we are not even there.

²⁰ F Fanon *The wretched of the earth* (1963) 203.

Mshai pointed out that so often when she works with young people, she finds that she has to work around the so-called black panther. She stated that we are dealing with Afrofuturism, and she wants to bring the space of the arts' activists. Because the arts help us imagine what we cannot see today. Therefore, "when we talk about black panther a lot of them start by saying what they do not like. Then I say, okay, fine, you do not like that. What would you dream? Then we have to chart how we get from here, where we are today in 2019 to that future."

What she feels is needed is for the Constitution, the new one, to be based very much on the South African one. She concluded, "all we'll be able to do, and I say my generation's mission is to deliver the world that is in that Constitution, is to make it a lived experience so that they can imagine the new world."

Professor Madonsela confirmed that what Mshai was saying about Kenya is what Siki in different words said about South Africa: "That the human rights promised in the Constitution become an everyday experience for everyone, and she gave an example of those young people." Madonsela further pointed to the gap mentioned by Mshai which highlighted that because of that gap between the constitutional promise there are structural imbalances or structural inequalities and you handled that.

Professor Madonsela then posed the following questions:

- How do we get there?
- Do you think the M-Plan offers a pathway for getting there together?
- What are you doing and what will you be doing to get us there?

Helen Zille started the discussion on the above questioning by referring to the fact that without economic growth we will have no progress. She continued:

Of course, economic growth on its own is not a cure, and as Paul Collier rightly described in his book *The Bottom Billion*, the absence of economic growth is a kill-all. Without economic growth, we are not going to have any of the things we have spoken about today.

In fact, we are going to go over the edge of a fiscal cliff to which we are very close. A fiscal cliff happens when the cost of state employees plus the cost of social grants plus the cost of repaying debt is more than all the tax revenue collected. We are very close to that point and there is not much room for movement in increasing the tax rate, especially in a shrinking or stagnant economy.

Without economic growth, it is going to be a kill-all and so I think the first thing we must look at is what are the barriers to economic growth.

She referred further to Mavuso's contribution earlier that morning where she spoke very passionately and very well about the barriers to economic growth. However, Zille pointed out that unless we get the values to economic growth and ensure from it follows sustainable growth, the M-Plan will be stillborn. She made the following point:

We cannot afford, as people said this morning, to have more than 17 million people on social grants and 6.5 million registered personal taxpayers. That has to be turned around. There should be 17 million registered personal taxpayers so that social grants can be meaningful and so that the intervention of the state can be sustainable.

Then obviously we need a capable state and that means we need to get rid of another point that people pointed to again and again, the patronage system that has resulted in a completely incapable state and also paralysed many, not only government authorities, but many other authorities as well.

She emphasised that those are the kinds of things we need. She further stated that a very good starting point would be Tito Mboweni's plan:

They are all entirely achievable objectives. For example, unbundling Eskom and bringing in competition. For example, making it far easier for small businesses to operate and exempt them from much of the labour regime that we have, those structural constraints to growth in small and medium sectors. For example, to fix transport. All incredibly practical, can happen right now and help start the economy and solve some of the problems that miss Mavuso was talking about.

What is important to her is to create the precondition of a capable state and the rule of law and a lack of corruption. This means that whatever structure is implemented, while there are the levels of corruption we are currently experiencing, progress and development and equity will not be possible. What is important and necessary is to get the precondition right of a capable state functioning according to the rule of law and ensuring that it was corruption-free in doing its job to the best of our ability in very tight constraints.

Professor Madonsela reminded us that everyone will have different strands on how we are going to get there, and we are going to tie them together. At the end of the day, these will all be put together.

In turn, Professor Pierre de Vos shared the following thoughts:

If you think through the lens of constitutionalism, you are going to say the process to get there is – the formal politics is going to produce this end result. But in South Africa, formal politics is completely broken. Politics must happen outside parliament, the executive and so on – that is where the real stuff happens.

He pointed out that what is very important to him is mobilising politically to achieve social justice; it is important to foster the idea of social solidarity. Because people tend to be in their silos and it just perpetuates the differences and the schisms that were produced by apartheid, by patriarchy and the rest.

He subsequently provided an example of this coming from a movie but based on a real scenario. The movie is called *Pride* and it is set in the early 1980s in England:

Margaret Thatcher is trying to break the unions and there is this small group of gay boys, and they decide we also hate Margaret Thatcher, the conservative race also hates us, so we are going to join the miners and we are going to fight with them in solidarity.

The whole movie is about that and of course, in the end, everybody cries because everyone gets together, and the miners lose and the boy who started this dies of aids. But the principle is that together, going across vast differences in social standing and race and class and so on, something magical happens in which you actually, in which you in a way practice the world that you want to see come.

Professor Madonsela confirmed the thrust of Professor De Vos's explanation as seeing collaboration and solidarity as a core of how we get there. She asked him if he thinks people should do more as part of that?

Professor De Vos confirmed and replied that "sometimes it can sound really wishy-washy because some of this happens on a personal level every day in whether you see other people who are not like you, how do you arrange your life, all those things." But he continued that as a lecturer at university "you try and make that stuff happen in the classroom, outside of the classroom with students because students are important

for the future.”

Professor Habib summarised his point of view as follows:

This morning I loved the panel because everybody agreed on one thing, we have to address inequality. You do not address inequality you cannot address the political and social polarisation of society. So what Helen said, and I agree with, is what you have got to have to do is you have to have growth and you have to have inclusion.

Now here is the big dilemma. You can get growth without inclusion. That is what has happened for the last 20 years, not only in South Africa but in many parts of the world. You can get inclusion without growth. That is what is happened in Venezuela or Cambodia. Basically, you made everybody poor as a result. We have got inclusion but in the kind of way that we did not anticipate. I guess that most people do not like that, that.

He asked us to consider what comes out of this all? He confirmed that to get both growth and inclusion we need policy certainty, and we need investment. That is agreed. However, he reminded us that to get the investment you need investment that leads to employment. He continued:

Now, you can get an investment that does not lead to employment, or it leads to particular sets of employment and not others. So, the question is, you need investment in particular areas. Do you need education? But we already have an education. We have a diverse disaggregated education system. That is what Pali spoke about: we need health so that everybody has the condition.

Now, frankly, to do all of these things you are going to need trade-offs. You are going to need people to postpone their long-term demands and say I do not want everything tomorrow, but I am prepared to accumulate these demands over a long period time and you need measured demands and you need trade-offs between social parties.

Now, if you can achieve that despite dilemmas that you have to address and we have dealt with that, which I want to come to, first, the real problem about achieving measured demands and trade-offs is poor people will tell you straight, we do not trust rich people. Because for the last 20 years you all told us something, you all benefited, and we are still in the same position. They are saying if you want us to put something on the table, rich people, you put something on the table.

Now, if you really do that it is going to be about remuneration, it is going to be about taxes, it is going to be about controls over shareholder wealth and I do not hear big business speaking about this. They were silent about this. But if you do not do that, I am telling you the unions are not talking and I am telling you the students are not talking, because that distrust is at the base of it.

Professor Habib then pointed to a second dilemma. He took the example of there being political actors in our society that have an alternative agenda. There is a group of racial and African entrepreneurs on both sides of the ideological demand that are going to be biased. He pointed out that a solution for that needs to be found; we are going to have to leave the political conversation and there have to be choices there.

He concluded: “So it seems to me that those two dilemmas, which have not been discussed, are part of the issues that need to be addressed.”

Professor Madonsela thanked Professor Habib and asked Siki: “How do we move forward in the pathways that have been suggested by the colleagues and make your own point?”

Siki Mgabadelo started by stating that she was going to just take up from what Professor Habib has said as she largely agrees with it, particularly his points on growth. She said:

We talk about growth as this panacea, and it is not. Because in the ten years before, the wasted nine years we had 5% growth, and guess what, unemployment stayed in double digits.

This morning minister Jackson Mthembu was talking about needing to grow the economy about 5.4% by 2030 and that we need to bring unemployment down to 6%. That is not going to happen. I can tell you that for free. The first thing we need to do is we need to diagnose our problems properly and then tell the truth no matter how uncomfortable it is.

Here, Ashraf Garda joined the conversation, linking specifically to Mgabadelo's last point: telling the truth no matter how uncomfortable it is. Garda is of the view that it is pretty obvious that there's a distrust of the president, there's a distrust of the Presidency, there's a distrust of government, parliament, all political parties and going all the way down. He continued:

Like we would said before as well, who runs the country? Because one of the points is, if it is the politicians that run the country, what is the state of the country as it stands? At what stage do we shift that focus from the politicians to the people? So that is the pretty obvious one. I will not go into detail, but it is been discussed.

However, considering it is so obvious, we can tabulate ten things from health to political leadership to education to the economy and we are losing, across the board we are all losing, is it now time once again to revisit the negotiated settlement we had in that period even after 1994 to say, what did we do there? We got a whole group of disparate people together and say let's think tank how we are going to build this new country. Is it time to do that versus a country we want people who argue in parliament to try and save us once every few months? I do not think it is worth it.

Garda pointed out that on a very personal level, and a level that is more long-term, it needs to be asked: "At what stage do school teachers put the question to their children, do adults put the questions to themselves, to families, do that when they look in the mirror, which is, what is your purpose? What is your life purpose and what is the country's purpose? At which stage does your life purpose and the country's purpose merge?"

He concluded that problems are to be expected if it does not merge. This means that in peacetime, which we have, we should ask ourselves "what is our national service?" He pointed out "if our national service is not a collective based on our purpose for self and country, we will have the same discussion in 20 years."

Professor Madonsela underscored the point that we need to renegotiate and get everyone committed to building the country. Shen then asked Wilhelm Verwoerd for his comments.

Verwoerd stated that he would like to add something to the civil society strand within the M-Plan. To him, it seemed that it had something to do with the issue of trust. He said:

If I am not mistaken, in some of the recent surveys, while you were still public protector basically the trust within broader society was the highest in two institutions. One was the public protector, the other was the faith communities.

I am now spending a lot of my time working with a diverse group of faith communities trying to find ways to turn congregations, communities, local communities into institutions for social justice, for real reconciliation. I am talking for example about the Dutch Reformed Church, which I speak from my positionality. This is the church that was responsible for the theological justification of apartheid. It is got about 800 congregations all over the country, about 800 000 people.

He continued by saying that if one considers white wealth, white privilege, and the resources available in those spaces, the question should be asked: “What can be done if more and more people within those congregations wake up to the reality of what it means to be a white South African in South Africa today?” He answers this as follows:

What it means, in this case, to be a Christian, to dare to call yourself a Christian. And use that energy to become part of ecumenical development, justice projects within local communities so the thing starts to percolate up from grassroots all across the country to places where we can actually reclaim that kind of vision of what it means to be human together.

Doctor Mshai Mwangola added to this point by stating that what is required is to nurture magical thinking. She continued:

I believe in nurturing magical thinking, and the M-Plan is already working on this, and here are the three things I would encourage doing more of. One is, if you read the SDGs, it uses the term we the people and we the people means asking who is not in the room? It means sincerely driving it from the place of the people.

One of the things that I am hearing a lot today, and we also often do this in Kenya, is we always put government at the centre, we always put civil society at the centre. I do a lot of work with civil society but nowadays I say civil society would not change the world, it would facilitate the changing of the world. We really must bring the people who are normally not in the room or at the peripheries, into the centre of these discussions.

The second thing Doctor Mwangola considered important is to dream a future. She explained that as the hand of the realities in Kenya where people spend so much time and effort on the grim realities of the present that they forgot how to dream a future.

She clarified that when she says “dream a future” it means 50 years into the future. This, she reminded us, is because “when you are talking five or ten years you are still very much in the present. The third thing you have to do is to map the actions. The M-Plan is doing that.”

Doctor Mwangola concluded by pointing to the different scenarios and specifically the Mont Fleur scenarios which came from South Africa and the fact that it is very much a foundation for that work. However, for her, it means saying that “if I was 50 years in the future what would it look like and then draw the roadmap rather than saying I am here and I am trying to get to that future. That is much more difficult to do.”

Professor Madonsela concluded by highlighting what Doctor Mshai Mwangola said: Dream up a future:

When we organise conferences, it is much easier to get stuck on the problem and on what government is doing wrong. What Mshai is encouraging us to do as we move forward is to dream freely about where are we going to be in 25 years, in 12 years, in 50 years and then work backwards to say how do we get there. Because that frees your energy to move towards the future.”

She continued by pointing to a project at the Thuma Foundation, called enterprising communities:

When they started, the community wants to talk about the problem. We want the community to first just dream about if wishes were horses, what would this community look like? Starting from there and then saying how do you leverage Sustainable Development Goals, how do you leverage the MVP and the Constitution to work as individuals, as the community with government, with business to arrive there?

Professor Madonsela expressed her gratitude to the panellists and their contributions. She indicated that the next part of the conference will entail providing the panellists with opportunities to share their views.

She confirmed, finally, that there is a consensus that we do need to treat social justice as an emergency. Second, we also need to find a way to have everyone do something about it. In civil society we need to look at what are we going to do basically, what are we going to sacrifice, including sacrifices by the industry.

1 9 Thematic social justice roundtables

Moderated by well-known media personalities and journalists, the ten afternoon parallel sessions aimed to unpack key issues within diverse thematic areas, identified by experts in the various fields. Key individuals acted as rapporteurs for each thematic area at the end of the day. All presented their findings in their own way and according to the methodology adopted in each group.

1 9 1 Land – Moderator: Karyn Maughan (Political journalist)

Panellists:

- Judge Shehnaz Meer (Acting Judge President, Land Claims Court) – “The Challenges of Land Reform: A perspective from the Land Claims Court”
- Doctor Nkanyiso Sibanda (Private Law, University of the Western Cape) – “The social-obligation norm of land ownership in South Africa”
- Annelize Crosby (Head: Land Affairs, Agri SA) – “Agri SA’s approach to land reform”
- Kobus Louwrens (Co-founder: Food for Mzansi) and Ivor Price (Co-founder: Food for Mzansi) – “Land reform can deliver social cohesion”
- Nokwanda Sihlali (Research Officer, Land and Accountability Research Centre (LARC)) – “The gendered nature of land dispossession in the former Bantustans as told through the lived experience of uGogo Mngadi”
- Chriscy Blouws (Attorney, Women’s Legal Centre) – “Land and Housing”

Rapporteur: Professor Juanita Pienaar (Private Law, Stellenbosch University)

Several themes, all related to land challenges in South Africa were discussed.

1. In the first of these themes – **Incapacity of government, government departments and organs of state**, Judge Meer spoke about the role of the Land Claims Court and the many difficulties experienced as a result of the incapacity of government and governmental institutions, relating to the failure to implement legislation and directives, which in turn leads to massive delays. Among others,

she referred to the District Six case scenario and labour tenant issues that led to the Constitutional Court confirming the appointment of a Special Master. Failure by government means that many claimants and occupants have to litigate from the Land Claims Court to the Supreme Court of Appeal and the Constitutional Court so that the Minister and relevant departments can be held accountable. Litigation is, however, expensive, time-consuming, and counterproductive. Strikingly, it was often because of the participation of competent lawyers. Government-appointed lawyers, remunerated by way of taxpayers' money, were often not efficient or competent, and instead led to delays.

2. Drs Nkanyiso Sibanda and Nokwanda Sihlali introduced the second theme – **Re-thinking or unpacking the concept of land ownership** –. Doctor Sibanda mentioned that at the time of the conference, the revision of section 25 of the Constitution, the property clause, is currently underway. He emphasised the social obligation inherent in land ownership and underlined that owning land is different from owning other property: land ownership has a social obligation, meaning that land owned should also be owned in the public interest, for the greater good. This would call for a re-conceptualisation of what land ownership entails. Sihlali mentioned further that gendered perspectives on land are critical for solutions. In this regard cultural structures and patriarchy are still prevalent in especially traditional and former Bantustan areas, impacting on all levels of land and utilisation thereof, also within households. The cultural dimension of land ownership in South Africa differs from other Western approaches or statutory constructs. In South Africa, it is an inherently nested concept, where families and members of families all have rights. Ownership entails consultation with all members, and negotiation as well. The concept of ownership is thus unique and context-sensitive and its relation to 'space' and 'place' is important.
3. The third theme concerned the **ongoing goodwill, energy and opportunity positive despite a lot of negativity and regression, highlighted the opportunities in agriculture that can play an integral role in transformation** – agriculture can be a very effective vehicle for change in the country as a whole. The face of agriculture has already changed dramatically, with lots of female and

non-white entrants into the sphere. Here the role of the media and social media was highlighted specifically.

4. This linked to the fourth theme – **Be constructive and suggest solutions**, in which it was acknowledged that, while the *impasse* in land reform cannot be denied, it is not constructive or productive to only complain. It is imperative that creative, positive thinking and solutions also enter into the picture. In this regard, Annelize Crosby highlighted the promotion of partnerships, including financial, and the promotion of best practices. These initiatives, however, require reliable facts, data and statistics. In this regard, the need for an all-encompassing land audit was highlighted specifically, a land audit that was reliable and correct.
5. The fifth theme focused on **gender** since it is impossible to approach land in a gender-neutral manner. It is integral in how land is perceived and dealt with. Chriscy Blouws specifically underlined that it can never be a mere ‘add-on’, the gender issue is embedded in the land debate.
6. The last theme, **Land is many things; and different things for different people** addressed the all-encompassing aspects of land – land is food security and survival, but it is also mining, industry and economic progress. It is identity and part of a culture, but also linked to reservation and preservation. Land is contentious – the history of dispossession in our country has highlighted that dimension in particular. Land is, finally, an emotional matter: something to be dealt with urgently and effectively, but also with caution and respect.

[46] All this shows is that the mythical spell must be broken. And the impasse must be resolved. And it can be done, with cooperation, goodwill, humility and respect – and without necessarily adversarial combat. The courts and government are not at odds about fulfilling the aspirations of the Constitution. Nor does the separation of powers imply a rigid or static conception of strictly demarcated functional roles. The different branches of constitutional power share a commitment to the Constitution’s vision of justice, dignity and equality. That is our common goal. The three branches of government are engaged in a shared enterprise of fulfilling practical constitutional promises to the country’s most vulnerable’, from the

judgment handed down by Justice Cameron in the *Mwelase v Director-General for the Department of Rural Development and Land Reform* 2019 6 SA 597 (CC) (a week before the Summit).

1 9 2 Economic inclusion and well-being – Moderator: Siki Mgabadeli (Financial journalist, television presenter and producer)

Panellists:

- The late Ben Turok (Director of the Institute for African Alternatives (IFAA) and editor of New Agenda)
- Busiswe Mavuso (Chief Executive Officer, Business Leadership South Africa)
- Doctor Nthabiseng Moleko (Commissioner, Commission for Gender Equality and Snr Lecturer, Economics and Statistics, US Business School)
- Nicky Newton-King (Chief Executive Officer of the JSE)
- Neil Coleman (Co-director, Institute for Economic Justice)
- Jahni de Villiers (Head: Labour and Development, AgriSA) “Labour policy and social developmental aspects as it relates to the agricultural sector”

Rapporteur: Professor Ronelle Burger (Department of Economics, Stellenbosch University)

1. It was pointed out that there have been important divides on how to move to action. One of the most important divides concerned the extent to which reliance should be placed on the state. The overarching question was: “To what extent will the state save us, and to what extent will we have to save ourselves?”
2. The group decided to not report on specific policy options that were highlighted, as some divides still required dialogue. Instead, the conversation centred on understanding the tragedy of our two economies. Reference was made to Ben Turok’s three areas representing potential conflicts of interest that were never resolved in 1994. It was discussed how these divides still persist today and how they manifest. The three divides are:
 - a. different interests of business and government
 - b. labour and capital

- c. rich and poor
3. In this dialogue and the presentations made to the group, an additional divide emerged quite strongly: the divide between local and international interests. The question that was asked in terms of an open economy was, to what extent does one need to protect one's own sectors and to what extent does one need to put policies in place to incentivise investment that leads to job creation and that is labour intensive?
 4. The group identified as a core concern the vulnerable, excluded and marginalised in society. As a result, the 10 million unemployed and the 25 million poor South Africans were repeatedly placed at the centre of discussions.
 5. Concerns were relayed in terms of the two parallel economies that exist and operate in South Africa.
 6. It was decided that there has not been sufficient change, there should be more diversification, creativity should be expressed in innovative ways and there needs to be a move to increased inclusion and solidarity.
 7. Two interesting case studies were used as examples:
 - a. AgriSA highlighted the first, namely, the importance of the youth for their vision of growth and direction. It was explained how they invested a huge amount into cleaning up SETA to ensure optimum functioning and to enable access to training.
 - b. The second concerned the JSE's commitment to presenting courses on financial literacy, to demystify financial products and to ensure that ordinary South Africans understand the benefits that diversification and a structured financial approach bring to participation opportunities.

1 9 3 Education – Moderator: Professor Jonathan Jansen (Distinguished Professor, Faculty of Education, Stellenbosch University)

Panellists:

- Professor Adam Habib (Vice-Chancellor, University of the Witwatersrand)
- Professor Arnold Schoonwinkel (DVC Learning and Teaching, Stellenbosch University) – “How the Teaching and Learning context of Stellenbosch University’s strategic framework advances the Social Justice agenda”
- Kabelo Mahlobogwane (Representative, ThuMa Foundation) “Twenty-five years later, the South African basic education system is still politically imprisoned: How the South African Basic Education System fails to acknowledge its responsibilities and the changes in society”

Rapporteur: Chrischar Rock (Social Impact, Stellenbosch University)

Reported under the framework of the responsibility: Has higher education met the obligation to advance social justice?

1. To even begin to understand the question, the following should be considered first:
 - a. Points of access and enabling access to higher education.
 - b. Is it an issue of policy?
 - c. Are we able to offer quality education in our higher education institutions?
2. This discussion cannot, however, take place without talking about quality basic education in our pre-school systems.
3. This discussion also cannot proceed in terms of higher education, without considering success. Success is inextricably linked to access and to wraparound support provided in terms of access to people in higher education institutions.
4. This, in turn, is linked to recruitment, which is linked to transparency in the application process, and to equitable placement of students, be it through the language policy, through opportunities in students’ university experience/integration. Examples that were used related to transport and geographic challenges.

5. When referring to quality, quality of the entire education system was emphasised, and it was highlighted that not all universities are regarded equal in our society, or by the market.
6. With regard to quality in our vocational colleges the question is: Do we think about tying our vocational colleges to business partnerships through consideration of our outputs and how to meet those targets together? This means acknowledging that there is a problem.
7. This however, leads to hard choices. The following possible solutions were proposed:
 - a. Consider university offerings: Should other world examples be considered where certain universities offer only undergraduate level courses, and where others offer only post-graduate courses?
 - b. Evaluating how that relates to what we are currently experiencing in our system? Historically black universities now have more funding than ever before through subsidies and through the NSFAS bursaries scheme. This requires a rethink about government funding within universities – how we use that to ensure that we do meet the targets and ensure that we actually acknowledge the issues.
 - c. Incorporating the real world in teaching, learning and research.
 - d. It is undeniable that we need public-private partnerships. Through that, we need to look at how corporate research organisations support corporate social responsibility money that is being spent, so that we move away from the spray and pray approach to look at how to use these resources more sustainably. In particular, we need to look at our internship opportunities.
 - e. In talking about social justice and education within the school system, we need to think about discipline in relation to our teachers, learners, and the place of parental responsibility within this framework.
 - f. Lastly, the location of local universities and how universities and communities engage with one another should be considered. We cannot continue without addressing the basic infrastructure priorities within schools – for example, toilets, windows, roofs, walls. The foundation needs to be laid correctly.

1 9 4 Data analytics and African futures – Moderator: Doctor Pali Lehohla (Former Statistician-General, and Resident Advisor, 22 ON SLOANE)

Panellists:

- Doctor Njeri Mwagiru (Institute for Futures Research)
- Professor Bruce Bassett (Senior Researcher, African Institute for Mathematical Sciences (AIMS) and Mathematics and Applied Mathematics, University of Cape Town)
- Ashraf Patel (Digital Economy Associate, IGD, University of South Africa (UNISA)) – “Need for an Inclusive and Participatory 4th Industrial Revolution in SA”

Rapporteur: Deborah Wilsenach (African Institute for Mathematical Sciences (AIMS))

1. The group felt that there were more questions than answers since data analytics were a relatively new field.
2. Discussions centred on the role of data analytics as integral to all of the thematic areas. It was decided that data is the new oil.
3. Questions that emerged during the discussion:
 - a. How do we use data for the benefit of society?
 - b. What is South Africa’s role in terms of data analytics, and not only in the country itself, but also across the continent and on the world stage. Especially since Europe was ahead in terms of the nature of data policies, the rules around new data, and responsibility for keeping data safe.
 - c. How does the fourth industrial revolution (4IR) affect the world and our country?
 - d. If we view this in terms of the full 4IR strategy, governance, public service, education and climate change, one has to question how do smaller countries do this? Again, reference was made to America and the EU, that they are so far ahead. As we still grapple with basic education and people having basic rights within our country. It was therefore concluded that 4IR

governance and ethics was still a work in progress in our country, with voices missing in especially the humanities and labour sectors.

- e. An important point was made in relation to work opportunities namely, there are more job losses than actual jobs. If, for example, we considered climate change and the next 20 years, we see further job losses. How are we going to recover? How are we going to make a change so that people will really look at AI and the future of AI? How is that going to change when people on the ground do not even have access to technology?
 - f. A further question emerged namely, who owns this data? Is all this information out on the web? Who manages it? What is the ethical role, who will be responsible, and who will be held accountable? A case in point, data being disseminated for political reasons – what body will oversee and be accountable for this data?
4. The following possible solutions were proposed:
- a. There has to be a legislative framework.
 - b. Public participation will be required.
 - c. It should be ensured that data is independent.
5. How would the M-plan then move to create an environment where data can be trusted and safely applied?
- a. In terms of leveraging data analytics: Data analytics is likely to impact mechanisms in place to apply in the virtual space. We will need assistance on how to assess policy impact through data analytics and in designing an instrument to predict and to identify constraints. A vexing question is, what happens to corrupted data?
 - b. How do we create a move from where we are now, by allowing young people to think about data science as a future course of training, and also learning?
 - c. In terms of simulations and data predictions, we need to augment our data, we need to find out from the think-tank on social justice, what do we need, what do we have and how do we move forward?
 - d. We are very pleased from our discussion today that we are to develop this social justice think-tank under the leadership of the Social Justice Chair,

supported by Doctor. Pali Lehohla and AIMS, in a multi-disciplinary manner and with representatives from civil society.

1 9 5 Access to justice and the rule of law – Moderator: Professor Geo Quinot (Director, The African Public Procurement Regulation Research Unit and Department of Public Law, Stellenbosch University)

Panellists:

- Professor Pierre De Vos (Constitutional law, University of Cape Town and Claude Leon Foundation Chair in Constitutional Governance)
- Christina Beninger (Canadian lawyer, researcher, and legal consultant) – “The Sustainable Development Goals and International Human Rights Law: Advancing Social Justice at the Intersection between Rule of Law and Access to Justice (SDG 16) and Gender Equality (SDG 5)”
- Paula Assubuji (Human Rights Programme Manager, Heinrich Boell Foundation)
- Maricia Froneman (Head of Access to Social Justice and Advocacy, ThuMa Foundation) – “Everyday justice confronting marginalised groups: the people left behind and legal literacy”

Rapporteur: Professor Sope Williams-Elegbe (Professor and Head, Department of Mercantile Law and Deputy Director, African Procurement Law Unit, Faculty of Law, Stellenbosch University)

1. Our initial starting point was what do we mean by access to justice? Of course, it has different dimensions. We talked about physical access to institutions, access to law, understanding what the law is, access to places and lawyers. We talked about the rule of law, but what does that mean? The legal system, who is this designed for? Whose interests does it protect and serve?
2. The legal system is very much a reflection of society and because of that it seems sometimes that you get what you pay for. Which means that obviously if you are educated and wealthy, if you are privileged then you will get a better outcome than someone who is not wealthy, not educated, not privileged. As a result, the

law can sometimes victimise your family, weaponised by the powerful against the poor.

3. We also discussed the gender dimension of justice, the fact that is not often considered, the fact that women face more obstacles in accessing justice and we discussed gender-based violence issues and how to redress the system.
4. In terms of our take-aways, we came up with a number of things that we think need to be addressed.
 - a. The first thing is this distinction between formal law and informal law. Often, when we think about law and people accessing justice, we think about the legal system, in particular about a formal legal system. But most people do not actually operate within formal contexts. I am a law professor; we do not talk about that in class. The legal system that most people are aware of is actually formal justice and then how do we actually marry that? How do we actually put an emphasis on what is more relevant to ordinary people's lives?
 - b. We talked about the fact that most people in terms of their actual communities, in terms of informal trading sectors, have a legal system that is totally divorced from the Eurocentric law that we know and we learn in the school system and that we need to find a way to actually give that legal system more prominence and understanding and knowing of how it works.
 - c. We talked about the language of law, particularly the fact that it is very obtuse and very complex, besides the fact that it is Latin. I do not think that we speak Latin here. How can we as lawyers, as legal fraternities, as people who work in law, ensure that language is not a barrier to accessing justice? Even if you are a lawyer, sometimes you read some documents and you are still confused after several times. What is the role of our education system, since the language is not in line with our current realities?
 - d. We talked about training and different facets of that. How can universities cooperate with communities and NGOs? How can we break down the complexity of the legal system?
 - e. We also discussed the fact that there are a lot of systemic issues around

dealing with government institutions that creates barriers to access. The fact that government is not aligned. For example, sometimes you need to get one document or one department to confer with another department and that in itself creates barriers to accessing services or accessing justice. We spoke about that sometimes the issue is not the law, the issue is the way government administration is carried out and how do we encourage government departments to be more coherent in the way that they work?

- f. We finally talked about technology. Particularly about the fourth industrial revolution and how to leverage technology so that formal law can be socialised – for example, Constitutional Court judgments which do not bear any actual effect on government bodies and bodies that carry out the decision making. How do we actually socialise the law so that everyone is aware of it? How can we bring these complex and detailed court judgments that are important to the people? How can we increase access to law in that way and also make use of social media while doing that?

1 9 6 Peace and Social Cohesion – Moderator: Advocate Xoli Maduna (Chairperson, ThuMa Foundation)

Panellists:

- Doctor Mamphela Ramphele (Freedom fighter, active citizen, academic, former Vice-Chancellor of University of Cape Town and former Managing Director of the World Bank. Currently Co-President of the Club of Rome and Co-founder of ReimagineSA)
- Doctor Mshai Mwangola (Chair, Board of Trustees, Uraia Trust, Member of the Board, The Elephant)
- Kevin Leathem (Vice-Principal, Jeppe Boys)
- Richard Mabaso (CEO, Imbumba Foundation)

Rapporteur: Doctor Wilhelm Verwoerd (South African political philosopher, Stellenbosch University and social activist)

The main points of the discussion on peace and social cohesion can be summarised in three key areas – our desired future, current challenges, and pathways to address social injustices:

1. Desired future

In the Preamble to our Constitution is a paragraph that can be read as a diagnostic window on the gap between the vision of the Constitution and present realities and a guiding framework for the future we desire:

We, the people of South Africa,
Recognise the injustices of our past;
Honour those who suffered for justice and freedom in our land;
Respect those who have worked to build and develop our country; and
Believe that South Africa belongs to all who live in it, united in our diversity.”

2. Current challenges

Here, the quote “charity without social justice is destroying the country” was unpacked. Over-reliance on, for example, government hand-outs, without accompanying empowerment, civic education and acceptance of responsibility; too much waiting – on government, till conditions are improved or for young people to become adults. It also includes generational dynamics – this refers to intergenerational transmission of trauma from the past that continue to haunt the present, as well as concern about the generational make up of those present at this Summit: not enough representatives of younger generations. Speakers from outside academia expressed frustration about a neglected layer of inequality between the formal and informal education sectors (for example, in the art industry plenty of social critique and future imagining has taken place, from before the #FeesMustFall student movement started). The disconnect between universities and schools was also highlighted.

3. Pathways to address social injustices

In this discussion it was stressed that all possible platforms including faith communities, schools and places of work, must be used, paying specific attention to the following pathways:

- a. Schools and civic education: “Don’t wait!” – encourage learners through the creative use of the current curriculum, teaching of critical thinking skills etc. to see themselves as citizens.
- b. Partnerships between disadvantaged schools and the business sector, including (mutual) mentoring of principals and business leaders.
- c. The potential of the arts to “amplify the lived experiences” of people, to make the Constitution more accessible and allow for engagement, to create spaces for conversations across social barriers, to encourage (“smart”, streetwise) social justice activism and advocacy.
- d. Long-term processes of dialogue, leading to shared responsibility of “wage peace” in contexts of extreme poverty and violence as demonstrated by SAWID (South African Women in Dialogue).
- e. “We need to tell each other our stories!” – the healing and humanising potential of (intergenerational) sharing of life experiences were stressed, with a recognition of the need to re-contextualise people and symbols where there is a lack of (self-critical) historical awareness and to give careful attention to process (including preparation, facilitation and follow-up).

1 9 7 Health – Moderator: Professor Usuf Chikte (Executive Head, Department of Global Health, Stellenbosch University)

Panellists:

- Professor Kathryn Chu (Global Surgery, Faculty of Medicine, Stellenbosch University and Doctors Without Borders (MSF) board member) – “Access to Essential Medications for Health is a Human Right”
- Professor Nicolette Roman (SARChI Chair: Human Capabilities, Social Cohesion and the Family, University of the Western Cape) – “The Effects of Social Inequalities on the Health of Children in Early Childhood Development: What about Social Justice?”

- Doctor Schalk V Burger (Online Medical Practitioner, HealthForce and Grace 8, Medical Discipline Leader) – “Unlocking the door to healing for all”

Rapporteur: Professor Jimmy Volmink (Dean, Faculty of Medicine) Speaking out for Social Justice

Social justice represents the well-being or health of a society and therefore there is inherently a bidirectional relationship between social justice, human rights and health. So how do we begin to undo the inequities using the field of health as our tool?

1. The first point was to emphasise the importance of the child and family. We need to value a life force approach to childhood development. The first days of a child’s life are paramount to future transformation. We want children to survive and thrive. We have the survive part down or we are trying to get the survive part down by reducing childhood mortality, but we have not emphasised them thriving, we have not emphasised their ability to be nurtured. By nurturing the child, we can ease the disparities that we see today from day one.
2. Our next point was that “prevention is better than cure”. It is something that we have all heard before, but it is something we really wanted to emphasise in our sessions. The health system should work with the Department of Health so that the school system can be strengthened to teach these core tenets of health. We want to have the health system work with community-based organisations to enhance community education around health. We want to use technology, tele-mentoring and task sharing to address the maldistribution of resources. Ultimately, prevention is about alliances. By working together, we want to involve more voices so we can circumvent errors that may be missed when we have a siloed traditional thinking.
3. The next point discussed was around the role of professionals as educators and assisting to address maldistribution. People trust their doctors. We often see ads ending with, “ask your doctor” or people will say, “well, my doctor told me”, “my doctor said”. There is a trust between a healthcare provider and patient that is precious, something that can be harnessed to improve health outcomes.

4. Fourth, we need to highlight patient advocacy and training of medical professionals in the field of social justice and specifically in social determinants of health. In the healthcare setting we inevitably see a power dynamic. This power dynamic is to the detriment of health outcomes. We need to enhance patient advocacy because a person-centred approach to health is needed. A person-centred approach is true justice. A dream provider-patient interaction would be where patients can ask questions and feel involved in their treatment and providers get used to asking, how are things at home? What can I help you with? There is no point in telling a patient that you need to eat better to control your insulin levels when they live in a food desert, when they are bedridden and do not have access to quality food. We need an awareness that health is holistic, we cannot separate the body from the community.

5. Finally, we discussed intersectionality and an interdisciplinarity approach. Coming full circle to what was said earlier, social justice and health both revolve around the well-being of a society. Health is impacted both by privileges and structural discrimination. It impacts our ability to seek, reach, receive and retain care. We need alliances, both intra- and inter-alliances in order to advance social justice. Social justice is about decentralising power and privileges. We therefore need to value the core tenet of “nothing about us without us” so that society, but specifically marginalised individuals are empowered to speak up and out to demand justice in health.

1 9 8 Climate change and environmental sustainability – Moderator: Solly Moeng (Reputation Management Advisor and Independent Media Professional)

Panellists:

- Doctor Tsakani Ngomane (Deputy Director-General, Climate Change, Air Quality and Sustainable Development, Department of Environmental Affairs, South Africa)
- Catherine Constantinides (South African environmentalist, entrepreneur, social activist, and businesswoman)

- Professor Oliver Ruppel (Director: The Development and Rule of Law Programme, Stellenbosch University and Non-resident Distinguished Fellow, Fraunhofer Centre for International Management and Knowledge Economy, Leipzig Germany) – “Climate Change and Social Justice: Legal Responses in the Age of the Anthropocene?”

Rapporteur: Doctor Mpho Tlale (Postdoctoral research fellow, South African Research Chair in Property Law, Stellenbosch University)

1. A recurring theme throughout the discussions was that climate, sustainable people, professionals in the environmental change and the environmental sustainability space, should not have divisions between them and us. These discussions about climate change should be had amongst the community members at the very core, with the professionals.
2. As a result, one of the issues that we identified was language barriers. By way of example, how do we tell a child in Khayelitsha about the quotas of water when there was a drought in the Western Cape? How do you tell a child that they are limited to 15 litres of water per day when they did not have water to begin with? We should make the climate change language accessible across communities, across generations to make sure that the message is translated effectively.
3. South Africa is experiencing direct impacts of climate change, because it warms faster and more intensely than it did before. We see this from the floods and the droughts. In South African cities, we see migration patterns changing rapidly which requires urgent action.
4. The main question is therefore, how does the future in climate change look? How does the future look in connecting social justice with climate change? The main responsibility lies with ensuring that people on the ground, as the ones who suffer, should be involved in conversations about climate change. An example was made of a boy, who asked if there was a name for climate change in the Xhosa language. Things like that seem very minor but if it is not relatable to a person like you and me, then how do we take climate change seriously?

5. We do not treat climate change as the emergency that it is and that there are conversations around changing climate change into phrases like climate emergency and climate crisis, because that is exactly what it is. At this point it feels like climate change is just a metaphor that is used when there is nothing else to be talked about in terms of environmental sustainability.
6. We cannot separate social justice values from the climate and because of climate change, some communities have been moved because of lack of water and for these reasons the agricultural patterns have also had to change.
7. There is a relationship between an ordinary citizen and water, ordinary citizens and waste. Waste is a big problem in this regard, as is the relationship between citizens and food security.
8. South Africa and Africa are not victims in this whole debate, but as African countries there should be a plan to make sure that environmentally sustainable decisions are made and taken to make sure that climate change is curbed, particularly as Western countries are responsible for most of the emissions.

1 9 9 Politics and democracy – Moderator: Ashraf Garda (Chief Driver of the Champion South Africa movement and Media Host)

Panellists:

- Helen Zille (Senior policy fellow, Institute of Race Relations and former Premier of the Western Cape)
- Cathy Mohlahlane (Political Journalist)
- Khaya Sithole (Chartered Accountant and Commentator)
- Wantu Madonsela (Managing Trustee, ThuMa Foundation) – “Enterprising Communities”

Rapporteur: The late Phephelaphi Dube (Independent legal consultant)

1. First of all, the discussions started around identifying the nature of social justice,

by looking through the political and democracy lens. We simply asked the question, what is the ideal democratic system which delivers on justice?

- a. It was noted that democracy without social justice is not true democracy and in that regard it was felt that democracy should be more representative. Remarks were made about the current electoral system and its inability to deliver effectively on the notion of representivity - and to that extent it affects the ability to which social justice can be achieved.
 - b. The following questions emerged: How exactly would a society arrange checks and balances of power? What can people reasonably expect from the state given the current tax base and what can the state deliver given the current context of a very small tax base?
 - c. Around the notion of political education, the point was made that there should be political education which exists outside of the party-political system. Linked to that, political education should answer the question, what does it mean to be a citizen? These questions represented the sum total of the discussions on the identity of the nature of social justice as could be delivered through a political and democracy lens.
2. Subsequently, the group considered the desired future in terms of social justice through a politics and democracy lens.
- a. Here, the aspect of freedom of movement was discussed - the ability to traverse the corners of the nation without any fear of being hindered. Also, the simple ability to be whatever one wants to be, inclusion and being seen. Children having equal opportunities regardless of when you are born and which schools they lived in and whatever access to resources they maybe have at that particular moment.
 - b. Essentially making the point that there should be a capable state that can effectively deliver services and that within that realm political parties should ideally be competing to be the best at service delivery rather than competing to simply retain power.
3. The development of policies that can transcend the politics of race was discussed. The impression created is that race is the de facto indicator of disadvantage and that perhaps there could be policies which could transcend the

politics of race. Another contribution were that there should be the creation of optimum conditions for economic growth.

4. The question, what pathways were available to address social justice in the areas of politics and democracy led to an emphasis on strengthening accountability mechanisms. Where there were accountability mechanisms the impression created in the group was that these accountability mechanisms were not enough and therefore there was the need to create different accountability mechanisms.
5. Another point that was raised was the need to disconnect government from political parties, ensuring that the lines between the state and the political parties would not be blurred.
6. In addition, the need to have values with which everybody identifies and the need for individuals to educate themselves about the governing system. An example was given about town hall meetings for communities where political parties could be held accountable.
7. Finally, on the biggest challenges within this theme:
 - a. First, there was the notion of poor accountability mechanisms, and the point was raised that poor accountability mechanisms were exacerbated by the poor functioning of some key institutions of state and a particular example was given of the public protector's office.
 - b. The lack of consensus over a common vision for South Africa, be it the Constitution, be it the nation of South Africa being a real inclusive state.
 - c. That there was a need for transparency to be emphasised across all sectors of society.

1910 Gender and other intersectional exclusions – Moderator: Professor Sonia Human (Private Law, Stellenbosch University)

Panellists:

- Professor Amanda Gouws (SARChi Chair: Gender Politics, Stellenbosch University) – “A gender analysis of the National Development Plan”

- Marthe Muller (COO, South African Women in Dialogue (SAWID))
- Jennifer Smout (Commissioner, CGE) – “LGBTI political participation and representation in South African politics”
- Philile Ntuli (PhD Candidate: University of Cape Town) – “The Inevitable Alienation at the Margin: Women, Accountability, and the Post-Apartheid Feminist Project”

Rapporteur: Doctor Charissa Fawole (Postdoctoral Researcher, Private Law, Stellenbosch University)

1. Summary of panellists’ presentations

- a. **Professor Gouws** spoke about a gender analysis of the National Development Plan and presented some of the findings of her gender analysis report of the NDP. The review used Bacchi’s approach (a feminist policy analyst) as a point of departure. The presentation outlined the findings of the review of Chapter three and Chapter 10 of the NDP, which addresses the economy and employment and health care respectively. The analysis of the economy and employment found the NDP did not recognise the following: the traditional marginalisation of women; the lack of representation of women and opportunities for women, especially at higher levels; women in part-time employment; women are more likely to be employed in the informal economy; unique opportunities and vulnerabilities of women; unpaid domestic work, childcare, care for the elderly and those with HIV/AIDs provided by women; women in low paid and vulnerable types of jobs; and not recognition of support for working parents/mothers/father. Regarding healthcare, the analysis found while maternal and infant mortality rates are mentioned it did not explain why, compared to less developed countries, South African has higher rates of these types of mortalities. It also did not mention the conditions of maternal health, explain why there were 4500 deaths of mothers during childbirth annually where 87% of births take place in hospitals, and it did not explain the increase in the ration to deaths and live births. When discussing diabetes and obesity, the analysis found that the NDP did not

discuss the different dietary requirements for men and women. The analysis found that the women did not feature in the report overall. Unfortunately, Gouws and others were not able to discuss their findings with the Planning Committee for the NDP. This demonstrated a lack of interests and political will around gender issues. Gouws explained that the solution is not adding women after the fact. She expressed that it is imperative to start from the perspective that there are gender relations. To improve the situation, the Planning Commission must understand how “gender blind” the report is and the negative consequences of the exclusion of women.

- b. **Marthe Muller’s** presentation outlined that the unpaid work performed by women is key in sustaining the family. She provided examples of a tool used in Chile and Tunisia where young social auxiliary workers were trained and sent to meet with families in poor areas to measure family well-being. In Chile, 53 indicators are measured. She also explained a tool call *Poverty Stop Light* used in Paraguay to measure family well-being. This tool uses 15 indicators and the results were placed on a geo map according to the stoplight colours (red, yellow, green). These are examples of tools that can be implemented in South Africa. She highlighted that unfortunately there is no link between the solutions developed by African women and budgets.
- c. **Jennifer Smout** presented on the “LGBTIQ political participation and representation in South African politics” and expressed the need to discuss gender in diversity targets. She mentioned that even the Sustainable Development Goals can be blind to gender diversity. To provide context to the presentation, she outlined the legislation that **impacts** gender diversity, including the Constitution and international legal instruments. She also highlighted the *Stonewall International study*, which outlines the way LGBTIQ needs are not included. She highlighted the study’s finding concerning poverty, which includes that exclusion makes it more difficult for persons from the LGBTIQ community to earn money; norms make people more comfortable to discriminate (and this

can negatively impact on persons from this group to access finance); and, persons from the LGBTIQ community who contribute to their household are more likely to be accepted so their lack of access to the economy negatively impacts social cohesion. The main portion of Smout's presentation focused on the findings of a study on the participation of the LGBTIQ community in South African politics. A survey of 800 persons from the LGBTQI community found that voting was a key aspect of political participation; many did not vote, are not registered to vote, are not interested in voting or are disillusioned; there is a need for LGBTIQ representation in politics; and, no political party has a standalone LGBTIQ policy. Smout concluded her presentation by explaining that LGBTIQ participation in South African politics is important for the following reasons: (1) to ensure that there are no unintended and harmful consequences; (2) we cannot be what we cannot see; (3) to keep issue on the agenda; (4) provide legitimacy of these issues in politics; (5) IT is necessary to comply with the Constitution and meet SDG targets; and so members of this community do not know how to participate.

- d. **Philile Ntuli** spoke on "The Inevitable Alienation at the Margin: Women, Accountability, and the Post-Apartheid Feminist Project" with a focus on why women continue to be marginalised and by extension powerless, and that the attainment of power requires a united women's organisation. She stated clearly that until political, economic and social power is attained by those on the margins, the status quo will remain the same. Ntuli traced the women's movement in South Africa from the 1954 Federation of South African Women to the 1990 National Liberation, to the 2019 President of the ANC Women's League. The historical examples provided by Ntuli effectively underscore three main points. First, internal issues within women's movements have prevented progress. There have been divisions along race, class and language that have fostered mistrust and tensions within women's groups throughout history. Second, state-sponsored feminism does not recognise power. Third, the alienation of co-opted women (women in positions of power in the mainstream) makes it difficult for those in the mainstream to represent those on the margin.

2. Key issues that identified from these presentations:

- a. **Unlearning and understanding:** The main point is to seek to understand, to include. There is a need to unlearn stereotypes. The definition of a family is one that was highlighted by the participants.
- b. **Definitions:** The issue of defining groups. It is important to think thoroughly about our definitions. For example, gender in and of itself is an intersectional identity. It is important to ask the groups that are often excluded, how they would like to be defined. There is a need to share power and show proper respect to groups that are often excluded.
- c. **Power: Intersectional** identities that are often excluded have in common a lack of access to power.
- d. **Inclusion:** For all recommendations, there should be a duty to ask how different groups of people are affected and included in these groups, in formulating recommendations / solutions.
- e. **Practical response and accountability:** Gender exclusion from policies has detrimental **effects**. This point applies to other categories of intersectional identities. A way forward is to be practical. One way is to ensure that the voices of excluded groups are not only heard but are translated to a line on the budget. Also, there is an overall need for accountability for any way forward to be meaningful to excluded groups.

3. Responses to guiding questions

- a. Identify the nature of social justice
The presentations highlighted that intersectional identities, including gender, are excluded from the economy and political participation. Furthermore, Gouw's presentation demonstrated that intersectional identities are not adequately considered in development plans such as the NDP. This exclusion leads to detrimental consequences and social injustice.

- b. What is the desired future in terms of social justice efforts in your thematic area?

The desired future in this thematic area is recognition, genuine inclusion, understanding and redistribution of power to groups that have been traditionally excluded from power. Also, there is a unity among traditionally excluded groups as highlighted by Ntuli's presentation.

- c. What are the current challenges for social justice in your thematic area?

Some of the challenges in this thematic area mirror the desired future outcomes, namely, lack of recognition / consideration, exclusion, and powerlessness. There is also a lack of unity within the larger groups that comprise this thematic area as demonstrated by Ntuli's description of the women's movement in South Africa.

- d. How should our call for action look in relation to this thematic area?

The call for action concerning this thematic area should be wide and inclusive to ensure that various groups are represented in many ways. For example, it should include women, men and children with various racial, ethnic, socio-economic, linguistic, gender and geographic identities.

- e. What pathways are available to address social injustices in this area of expertise regionally and nationally?

Muller's presentation highlights that the members of the groups themselves may have some expertise to address the social injustices. Look for local tools or a tool that can be adapted to the local setting.

- f. How do we leverage the opportunities presented by the SDG's, national constitutions and development plans in a national context?

At all levels, the various intersectional identities must be recognised, represented and genuinely included for all issues. Inclusivity must be intentional.

- g. How can we better share information on social justice research that is being undertaken?

One method to improve information sharing is to determine what groups are not engaged in the process. Smout's presentation provides an example from the LGBTIQ community whereby members of this community did not know how to participate in politics or were disillusioned. Improved information will require a wider relationship building, which will take a concerted effort over time. Also, Muller's presentation highlights that social workers can assist with information gathering. It is possible to engage them to share information and they have the skills to engage with persons from traditionally excluded groups.

- h. What alliances can be formed that works in a coordinated way to advance social justice?

There should be alliances formed and unity fostered within and amongst the various groups.

1 10 Inaugural Social Justice Summit Declaration

29 August 2019

Hazendal

- We the participants at the Inaugural Social Justice Summit gathered here at Hazendal Wine Estate, among us stakeholders from government, business, the community, legal profession, academia and the media.
- Reaffirm our commitment to the Constitution and the vision it has for South Africa to emerge from the ashes of colonialism, apartheid, patriarchy, xenophobia and related injustices of the past.
- Believe that South Africa belongs to all its people and that the country has enough room and resources for all to rise to the level of great potential of all persons and improved quality of life in a society based on human dignity, the achievement of equality and expanded frontiers of freedom for all without discrimination on any of the grounds in the Constitution, the African Charter on Human and People's Rights and the Universal Declaration on Human Rights, among others.
- Note with deep concern chronic levels of poverty and inequality marked by patterns of socio-economic exclusion for many and extreme racial, gender and age disparities in socio- economic opportunities in South Africa, primarily along the contours of the unjust laws and policies that sought to create a system of white privilege and black disadvantage under colonialism and apartheid
- Further note the persistent gap regarding equal enjoyment of all rights and freedoms by women, compounded by the intersection of gender and factors such as disability, age, urban rural divide, township-suburb divide, nationality, sexual orientation and other forms of human diversity that have been historically leveraged to oppress and exclude on the basis of difference;

- Further note the escalation of fractured relationships and deterioration in social cohesion, particularly on grounds of race and class as well as ceaseless patterns of violence, particularly against women, children and older persons mostly in isolated rural residences such as villages and farms;
- Further note that the TRC did great work in exposing physical and psychological abuses in the security sector but did not deal with social, economic and psychological impact of apartheid and that other efforts since then have not adequately addressed the systemic impact of past injustices;
- Believe that as long as there is injustice somewhere there cannot be sustainable peace anywhere;
- Further believe that the Constitution offers a transformative framework for healing the divisions of the past by redressing power and resource imbalances in society and promoting social cohesion;
- Further believe that there is a need for a more accelerated pace in advancing social justice leveraging opportunities created by the Fourth Industrial Revolution, focusing on poverty and inequality and that this requires a social compact on social justice with all hands on deck between government, business, society and the international community;
- Are convinced that an integrated action plan that seeks to provide a systems approach to change, focusing on policy reform, public participation in strengthening democracy, including eradicating corruption, sharing resources and promoting social cohesion and resources mobilization, is needed.

We, thus hereby

- commit ourselves to join hands in advancing the constitutional promise, human rights and Sustainable Development Goals in a manner that redressed

imbalances of the past while ending poverty and ensuring no one is left behind concerning full participation in all aspects of the economy and social life.

- commit to reverse racialised, gendered and other inherited and emerging disparities in the economy, education, health, science, environment, technology, infrastructure and all areas of life.

- agree to the proposed Musa Plan to accelerate change focusing on
 - Policy reform through data analytics to ensure inclusive social impact;
 - Mobilizing society towards social accountability and social cohesion;
 - Everybody showing leadership and contributing to a capable state; and
 - Resource mobilization from society and international friends to fund accelerated social change.

1 11 Poetry/Prose presentation and closing

The day concluded with a reading by Doctor Azille Coetzee, a postdoctoral researcher at the SARChI Chair, Gender Politics at Stellenbosch University:

“I wrote a book in Afrikaans. It is called *In My Vel* and it is about going away from South Africa and coming back. It is a memoir, but I ask questions about reality, about white privilege and in the centre of the book is the question, how can I as white Afrikaner live ethically in South Africa today?

I do feel uncomfortable to end this day talking about whiteness after all the conversations. So, if you are tired of listening to white people speaking about themselves, it is fine, I will not feel bad if you go or you can catch up on Instagram.

To contextualise, in the book I go away to the Netherlands and planned to stay there permanently, but then I decide to come back. This reading is close to the end of the book where I am navigating the complexities of South African life.

It is winter winter and therefore time for one of the most popular beer festivals in Cape Town. This year it will take place at the Castle of Good Hope. During that same week, coincidentally, a video is released in the internet in which Lady Skollie, the South African

artist Laura Windvogel, explains in an interview how her school used to take its learners who were mostly white on yearly outings to the castle. The tour guide would then cheerfully show them around and scare them jokingly with stories about the torture that used to happen in the dungeons.

Laura Windvogel says in the video that she only realised recently that it was her coloured or brown ancestors that were tortured in those dungeons and that the castle, which is a source of so much entertainment year after year for learners who are mostly white and middle class, is a place of terrible trauma and death for so many Black and brown people in our history.

I know this school outing that she is referring to. In my school we had it too. This is where we learnt of the exciting adventures of Jan van Riebeeck which were never depicted in the context of the bloody and racist colonial history of which it formed a crucial part.

After I watched this interview with Lady Skollie I start looking at the castle differently. When I drive past it, what I see is not the festive symbol of Afrikaner heritage and the romantic first years of the Cape as I was taught. Rather I see a sinister sign of pain, the earth underneath it drenched with blood.

Many of my white Afrikaans friends are going to the beer festival this year, as we do most years. I get more than one invitation to join. I told Paul about the festival and its location this year and I show him the Lady Skollie interview. My feeling is that it is not okay to go. I wonder what he will say, whether my reaction is too extreme. But he is with me, at once.

Wow, he says, how can they house the beer festival there? We talk about this as we walk through the small streets of Observatory. I am looking ridiculous in my winter outfit that comes straight out of Europe, a long black coat and a big woollen shawl that covers most of my face. Paul is wearing only a long sleeve t-shirt and jeans. We are on our way to Café Ganesh for samosas.

The problem is not the commemoration of historical spaces and buildings, but the callousness of a beer festival and one that does not try to enter into dialogue with the history of the space at all, simply a festival that seeks a fun location to take place at. Paul points out, most of the festival goers will probably be white, as it is usually the case with these kinds of events in inner city Cape Town. A reality so in line with the disturbing history of the space, white people having a good old time drinking, blissfully unaware or untouched by the trauma that sits in those stone walls.

This beer festival can then also be interpreted as an indication of whose trauma and pain is taken seriously in this country, whose lives are regarded worthy enough to grieve. Will anyone dare to host any old beer festival in a Boer War concentration camp site? Probably not. Because the torture and death of white Afrikaners get mourned with seriousness.

Njabulo Ndebele argues that Afrikaner whiteness became more unaffected and morally sterile as apartheid worked its way into the centre of its moral fibre. Ndebele urges white South Africans to write a new chapter in world history by declaring that the dignity of the white body cannot be separated from the dignity of a black body. Ndebele argues that white South Africans now have the opportunity to redeem the shameful heart of whiteness by participating in a restoration of the dignity of the black body.

He writes, putting itself at risk, it will have to be clear that it is home now, sharing the vulnerability of other compatriot bodies. South Africa whiteness will declare its dignity as inseparable from the dignity of black bodies. It is here that lies the opportunity to become a different and new kind of white person. Paul nods as we take a seat at a pink table in the courtyard of Ganesh. We will have to work on that sterile white heart of yours, he says. He smiles at me, my body lights up.

My cousin and I decide to take a road trip into Namaqualand. I want to see the Hardeveld. I want to go look where my great grandfather grew up, taught and travelled around to do his part for the self-realisation of the nationalist Afrikaner spirit.

In the meantime, Wilhelm Verwoerd published a book about his inner struggle regarding his relationship with his grandfather, the hated apartheid leader Hendrik Verwoerd. In her new book about Winnie Mandela, Sisonke Msimang writes that white people are collectively shrugging off blame for apartheid. The older generation say that they did not know what was going on during those years and us, the younger generation, say that we were not responsible, that we were too young or not yet born.

By trying to understand himself and placing the world in relation to his grandfather, Wilhelm Verwoerd is resisting a glib innocence. He is revealing his place in the system and taking responsibility for it. In the spirit of Wilhelm's project my cousin and I hit the road in search of our problematic ancestors.

In our SUV we speed on the N7 toward the West Coast, overtaking other cars. We breakfast in Piketberg and then drive straight through with the Cederberg mountains behind us, the desert in. The landscape is stretched out, copper and silver, rust red in places, carefully divided up, piece by piece. The land belongs to the Laubschers, Pooles, Kotzes, Coetzees,

Vissers, Strausse, Nieuwoudts, Meyers, de Kocks.

But there's an incoherence, time is unhinged. Garries, Kamieskroon, Goegap, Nigramoep, Okiep, Aggeneys, Kommaggas, Koingnaas, Gamoep, Papendorp, Koekenaap. Something echoes from elsewhere, from another world. There's nothing here, says my cousin, in the hours of driving through the Knersvlakte. Yes, I say.

I thought that by being there I would get a grip of my great grandfather, understand something about his Afrikaner heart. But except for the merciless beauty of the desolate landscape, the impenetrable emptiness I see back when we turn around. We spend the night in Lutzville and rise early the next morning to be back in the city for a friend's baby shower on a wine farm.'

PART 2: THE STATE OF JUSTICE IN SOUTH AFRICA

2 1 Words of welcome and introductions

Professor Hester Klopper (DVC Strategisation and Internalisation, Stellenbosch University)

In the next 20 minutes, I will attempt to answer the question that was posed to me, what is the contribution that universities can make to the social justice agenda? Before I proceed, I want to specifically refer to the principles of institutions that are underrated. Also, to Professor Adam Habib, the Vice-Chancellor and Director of WITS University, and all the other esteemed guests from around the country, we are very pleased to have you here.

It is important to think about the way that history and some of the concepts that we have been seeing over the last couple of years are taking place within our lexicon, and often with much emotion. What is the history of this? Most probably, it is because of our apartheid legacy, which has formed the multiple justices that we are still practising today, 25 years later. To get a sense of the magnitude and scope of these issues seems like a lot of work.

A cursory glance at these topics essentially provides everything that we are faced with, specifically as universities and academics. Not so long ago, when academics started debating social structures, much of our time was taken up with voting instead of policy formulation, as universities used to not act as agencies of development.

However, recently the focus within our Institution shifted to promoting a culture of social justice. That is the culture of human rights, and how our graduates will occupy this space for the future. In a world of inequality, the challenge remains on how we do things. Almost a billion people around the world do not have access to water and sanitation. Equally, this number of people might not have access to services or health care in terms of getting to a state of social justice. It was a step in the right direction when the United Nations adopted the teaching development goals, as it provides us with a framework and the opportunity to move forwards. The report was published by the Department of Culture and Social Development in 2012, providing the recognition that resonates with our current position, that social justice is the extension of principles which speak to human dignity, equity and freedom to participate in political, social, economic and in the cultural spheres of society.

I am very thankful that through your appointment at Stellenbosch, we have seen the take up of the social justice agenda. I do not want to dwell on the realities of the recent past that, as with social justice, right at the centre of the academic projects, the focus of all universities on academic success which is skewed by race, and then all the academic interventions that have been implemented to undo some of the crippling effects of our very fractured school system.

What can universities do to ensure social justice? My value is “shared shaped”, and this is what I am sharing with you, to shape and to show that we are indeed grappling with these issues. It is a very humbling experience. Some of the major changes that we have seen at Stellenbosch University are the SciMathUS programme, which has been focusing on the teaching of maths and science subjects to deserving students from disadvantaged communities and focusing on science and maths and engineering fields. Many of these students never had the opportunity to be leading scientists, engineers or even becoming academics. In addition, we are seeing very good results from the extended degree programme as well as the success rate. In terms of student tracking, we have been ensuring that we pick up on early warning signs to be able to support students in an academic project that ultimately needs additional classes. Universities have all contracted to restore social justice in one form or another. In terms of employment requirements, we have been prepping and ensuring continued provision of access to ensure everyone’s humanity, as structural trends are impediments to human flourishing.

We really need to think of research as cross-country and across the decolonisation divide, unpacking rights and our history, by promoting new and previously suppressed states of history, so as to ensure that all universities continue to grapple with the impact of a failure of social justice. This has led to a renewed emphasis on intercultural and diversity studies. I believe that universities can systematically make the biggest difference to eradicate social injustice, to promote human rights, and provide solutions to new forms of restorative justice that is sustainable. It is further important to think about how to find the effectiveness of social justice in our research programmes. Third, holding everyone accountable to champion human rights law aims, to contribute to the deepening of a human rights culture in our own society through high-quality research and public debate.

Although there has been a landmark success in some of our human rights jurisprudence under the 1996 Constitution, it still remains a critical challenge in terms

of reshaping our entire system to respond effectively to conditions of structural poverty and inequity in our society. The key is being focused on revisiting and researching the meaning of the mobile rules and moving towards embeddedness to ensure diverging and converging discourses in social justice.

Another striking example in our Institution is the work of the Sustainability Institute, linked to Stellenbosch University on the outskirts. Their work provides space for people to explore an approach to create a more equitable society, and not only provides expertise in navigating the transition to social justice but also in finding ways of living that encourage social justice as a business. Amongst the projects that have been completed, is a spatial development framework for Stellenbosch, as well as capacity building in transdisciplinary research and food security. These are all examples of how we find that research can really speak to the agenda of social justice.

I also want to give recognition to the University's social justice agenda, by showing support from the University for this very challenging topic. Today's agenda is about promoting social justice consciousness and scholarship towards reforming the academic fields. From an academic perspective, I believe we will see a real impact for the future. The work that Professor Thuli is doing in terms of transformation within vulnerable situations, is providing a legacy for the future.

So what does this mean for us? Social justice means going from indifference around advocacy to empathy. Empathy leads to action. We have to strive to get to know, understand and live together. We are part of the story. At Stellenbosch University we are making it about the following values: excellence, accountability and integrity, human dignity and respect, innovation and criticality, and ownership and leadership.

To understand qualitative restorative justice, it is important to know who / what is going to take us forward. It is also about what it means for activating, finding new ways of conducting research, being at the leading edge of transformative storytelling. When we look at how social justice research is being conducted, it is not about the numbers, rather, it is about really engaging and being there in the moment.

So let me conclude with some wisdom and advice from the German American political theorist and philosopher, Hannah Arendt who concluded that liberation means more than a political declaration from absolute and despotic power. For freedom first means to be free from want. As a principle of social justice, we want to end up in a society where people do not say, we want social justice, but where we will say that we have social justice. It is a life-changing challenge for us to deal with this during the

conference and afterwards, and as the foremost activist for social justice and human rights says, everything seems impossible until it is done. It is a collective aim which shows the commitment to move forward. So, colleagues, in the spirit of our Centenary that we commemorated last year, I want to say: *saam vorentoe*, forward together.

2 2 Keynote address: The role of universities in advancing social justice

Professor Adam Habib (Vice-Chancellor, University of the Witwatersrand)

I wish to start off by thanking Thuli for inviting me to share some thoughts. Originally, I had planned to give a lecture on social movements, incidentally, of research on which I am currently working. However, when I was at the summit yesterday, two significant things happened, at least for me. These made me change my mind and focus this conversation in a slightly different way.

The first was listening to Ben Turok and FW de Klerk say that they agree with each other. I said, how lovely, how wonderful. But I wonder whether they really agree with each other. A short while later I was on a panel with Helen Zille and somebody asked her what is, I think Thuli had asked her. She was asked what her vision of the future of South Africa was. Helen went on and then they asked me, what is your vision? I said, perhaps for the first time in my life, I am going to say I agree with Helen Zille. That kind of got somebody excited and a guy out there put it on Twitter. Then Helen cheekily said in the evening that we agree on the same goal, but I have a better strategy. Which riled me up at 22:00 last night. I am sure some of your strategies are not entirely going to work. Then she said, well, let us debate it.

Accordingly, this morning I am going to put some of the issues that I think I will immediately put back on Twitter after this conversation. Please indulge me a little. The summit was important. It is important to develop consensus. I think declarations from summits are important in that regard. But if there is a real problem that South Africa has. It is that we pretend we agree when we do not. We write beautiful policy papers, but we have no capacity to implement them.

To get where we want to be from where we are, we need to address certain fundamental dilemmas. It is in the politics and the implementation that the choices are made. It is also in the politics and the implementation that the real outcomes will be attained. You can write beautiful documents. We have had a fantastic Constitution for the last 20 years. While some of it has been delivered, frankly, an enormous amount of it has not.

Strategy is important, but until we start grappling with the dilemmas that enable outcomes, we are never going to get there. In a sense, I do not mean to be a wet

blanket, Thuli, but it seems to me that unless we grapple with the dilemmas, we are never going to get there. I am, accordingly, going to kick off on that.

Since I do belong to a university, I cannot resist the opportunity as to wade in a little and say if you are going to ask the question of how universities can advance social justice, it is important to say we must advocate for social justice. It is important to say that we must produce students and graduates that are responsive to issues of social justice. However, universities have to really think how they operate.

Throughout the millennia universities were institutions that produce elites. They consolidate elites. They take the society as it is, and they replicate it and produce its leadership. That is what universities have always done, in all parts of the world. In this historical moment we must take universities to create an alternative elite, to unravel the inequality divide for the society in which we exist and to re-establish and reconfigure it. To do that, you need to do the things that Hester's talking about.

But it seems to me you need to do two things fundamentally. The first is you need access. You need to take people from poor environments and let them come into this institution. The second thing that you need to do with them is you need to give them a quality education. It is both access and quality.

Because if you give them both, when they walk out, they get jobs, they have incomes, they help their families and their communities. You, accordingly, create social mobility and, as a result, you address inequality. However, if you do only the one, access, but you do not pay attention to quality, frankly they do not get the jobs that you require and then you do not achieve the social mobility.

It is both access and quality. That is the problem with both the primary and secondary education. We have access, but no quality. But if you do both, then you start addressing the true ills of our society. The real dilemma we are in at the moment, is how do you do both. Frankly, to be honest, in higher education we are lying about the issue of quality. It is a hidden conversation that we are not having. We know in the reality the market treats quality differentially across the system. Unless we take that on and on and recognise it, there will be no redressing inequality in society. So, I put that there as part of the conversation that we are having.

I really want to go to the six dilemmas that comes out of yesterday's conversation. Because everybody believed that we need to address inequality. There was not a single person yesterday at the summit who said no. Everybody said we need growth, and everybody said we need inclusion.

But did they mean the same things when they say we need to address inequality, or we need to address growth, or we need to address inclusion? Because you can get growth without inclusion. The last 20 years is an example of it. The US is an example of it and many other parts of the world. The last 30 years there has been growth without necessary inclusion around the world. You cannot get inclusion without growth when you see what is happening in Venezuela or Cambodia, or all of these many places.

The question is we want to avoid both of those, and the trick is how you do both together. You need policy certainty. You need investment. Investment leads to growth that addresses inequality. What kinds of investment? What kinds of employment? What kinds of educational interventions? What kinds of health? If you get into all of that, you must address the following six dilemmas.

Dilemma one, if you are going to actually address inequality, we need to play the long game rather than the short game. But social actors today are playing the short game. Check every dean's union demand. I want huge wages, 13%, 14%, 15%, 20%. Social actors are saying we need immediate delivery. Why do they want to do that? Because what we have at this moment is a serious trust deficit in the society. Nobody trusts each other. When you say to unions, please, what we want from you is merge and demand. You know what is the danger? The last 20 years you told us that and you you took, and we do not have enough, now you give something in return. You are never going to get measured engagement from unions and social movements until elites put something on the table. Is it going to change the game plan? No. But that symbolic action by elites, whether it is in the form of remuneration and say we are taking no increase for the next month, or whether it is in the form of tax concessions, or whether it is in the form of containing shareholder wealth, something has to be put on the table for you to create the incentive structure for poor people to make the concessions. Otherwise, you can do whatever you want. When the African Labour Civil Rights Union goes on strike, they are going to request 15%, or COSATU or SABTU. They are going to make the demands because they do not trust the elites. I do not mean political elites, that is important, but I mean economic elites – and yesterday, we were silent on that question.

Dilemma two, you have to recognise that there are political actors today that have alternative agendas. There is a whole series of racial and ethnic entrepreneurs on both sides or all sides of the divide that actually say, they use racially toxic rhetoric with

social justice demands. By the way, that is not a South African phenomenon. Go to Western Europe, you will see it. Go to Trump, you will see phenomenon of this.

If you are going to move ahead, you have to politically contain those individuals. Which means they cannot lead the political conversation; you need to lead the political conversation. Frankly, when I look at the debate on social justice or land or #FeesMustFall or health, many others are leading the conversation rather than the political, those who are interested in building bridges.

2 3 Plenary: Leveraging the Sustainable Development Goals and the Global Human Rights Agenda to advance Social Justice

Moderator: Professor Sakhela Buhlungu (Vice-Chancellor, UFH)

2 3 1 Progress towards SDG 10: reducing income inequality in South Africa – Professor Ingrid Woolard (Dean, Faculty of Economic and Management Sciences, Stellenbosch University)

One of the key Sustainable Development Goals that both the National Development Plan and other policy documents are speaking to is SDG10, which is to reduce income inequality. Income inequality globally is not coming down and what we know is that within country inequality is now a bigger component of overall global inequality than between country inequality. The SDGs point us in the direction of saying that we need to think hard about how we start to reduce inequality within countries while also thinking about the global picture of what is happening with between countries.

I want to start with a quote by Nobel laureate, Jo Stiglitz, where he says:

Countries around the world provide frightening examples of what happens to societies when they reach the level of inequality toward which we are moving. It is not a pretty picture: countries where the rich live in gated communities, waited upon by hordes of low-income workers; unstable political systems where populists promise the masses a better life, only to disappoint. “Perhaps most importantly, there is an absence of hope. In these countries, the poor know that their prospects of emerging from poverty, let alone making it to the top, are miniscule. This is not something we should be striving for.”²¹

Even though an American economist wrote this, we can immediately see the parallels with South African society. We see inequality wherever we work, where we live, where our children go to school. I, accordingly, wanted to show you these three very powerful images from Johnny Miller. He has a website called Unequal Scenes and if you go there, he has the most remarkable pictures. One of Imizamo Yethu, one of Masiphumelele, and finally where we find ourselves today, Stellenbosch. Incredibly powerful pictures of extreme levels of inequality in South Africa.

²¹ K Motlanthe “Restore hope to SA’s democracy” (20-10-2017) *Mail & Guardian* <<https://mg.co.za/article/2017-10-20-00-restore-hope-to-sas-democracy/>> (accessed 12-08-2022).

I am an economist. Most of the work that I do is more about trying to describe the inequality problem. I am unapologetic about the fact that I do not necessarily present policy scenarios of how one would reduce that inequality. It is an important aspect that we need to consider, that we need to understand the problem. An understanding of the problem perhaps gives some pointers which we can take up in the discussion about how one starts to address the problem of inequality.

If we think about why inequality matters, first of all. I do not need to tell this audience. Intrinsically, as a society, we feel that inequality is basically unfair. Everywhere you go in the world, if you do surveys amongst citizens and you ask them, they say that while they understand that some level of inequality is perhaps desirable, it is understandable that there should be some reward for innovation, for particular expertise or hard work, but in general societies are of the view that high levels of inequality are fundamentally unfair.

Also instrumentally, and I will talk less about this, inequality poses other problems for us as a society. First of all, it is a brake on poverty reduction. We know that it is much more difficult to reduce poverty in highly unequal societies. As Professor Habib said this morning, inequality we now know reduces future economic growth.

Income inequality promotes other forms of inequality. Societies with higher levels of income inequality typically also exhibit high levels of inequality within health, education and political power. We know that unequal societies are societies that are more likely to be politically unstable, where there is conflict, disaffection and strife. Income inequality furthermore limits economic opportunity for our young people.

These are three photographs (maybe try to get her slides?) from data collection that happened in something called the National Income Dynamic Survey which I helped run for the last ten years. This is our field coordinator from NIDS wave three, in the middle of nowhere you might say, trying to figure out exactly which homestead she needs to find to interview the people there. Considering these fieldworkers, think about the fact that they need to go and actually interview hundreds of thousands of individuals in order to provide the data that you will see in a very condensed slide in a moment. We need to find a better way of reflecting the reality both of how that data collection happens, but the fact that these fieldworkers are going out and collecting individual stories from hundreds of thousands of people and somehow those individual stories we need to find a way of communicating better and not just in the starkness of the data. The data behind a slide like this and the data collection behind these three

data points was in the vicinity of R100 million. So, R100 million worth of data collection happens so that we can try and understand these macro type pictures.

The first key message I want to leave you with is that income inequality post-apartheid in South Africa has not fallen. What you see here is we have taken the population; we have divided them up into ten groups with equal numbers of people in those ten groups and ranked them from the poorest to the richest. What you see is these miniscule amounts of income going to the lower part of the income distribution. The bottom four deciles, we call them deciles, the bottom 40% of the population earning roughly 5% or 6% of national income, whereas the very top decile, the richest 10% of South Africans capturing between 55% and 60% of income. It paints a very stark picture of inequality.

Most of you will be familiar with the Gini coefficient. If we plot Gini coefficients for all the countries in the world for which we have data, we have the depressing statistic that South Africa comes out as having the highest inequality that is measured in the world. We have an infamously high level of inequality.

I would have liked to talk to you a little bit about the role of fiscal policy. The state has a role to play in terms of ensuring that economic forces move in a particular direction, but the state can also directly redistribute income and it does that in two key ways. The first is through taxation. By employing progressive taxation we can reduce the incomes of the rich and then use those funds in a pro-poor manner on the expenditure side of the budget.

This is a picture of who pays personal income taxes in South Africa, and you will see that the richest 10% of households contribute about 87% towards personal income taxes. They earn about 67% of income and then they contribute about 87% of personal income taxes. That is a narrative that you can weave in many, many different ways.

You will often hear, for example, the South African Institution of Race Relations talks about how few taxpayers there are out there. The reality is we can only really tax on people who have an income, and the reality is because the income distribution is so incredibly skewed, we end up with this very skewed picture of personal income taxes.

Of course, personal income taxes are not the only taxes that we as citizens pay. There are many other forms of taxation. VAT, which we all pay. Every man, woman and child pay VAT. We pay excise duties. We ultimately contribute towards corporate taxes and so on. But this is one of the pictures of how the state can directly intervene

in terms of levying a progressive form of taxation.

On the other side of the budget, one of the other key ways in which income is directly redistributed is through cash transfers. If you were to look at this graph where we just focus on the poorest five deciles having ranked households based on their market income, in other words the income before they pay taxes and before they receive any cash transfers, you see a picture in which cash transfers that go to about 16 million South Africans appear to be very well targeted. They are certainly pro-poor; they go predominantly to poorer households.

What is interesting though is if you then graph that with all ten deciles showing. The picture immediately looks quite different. Yes, this is a large amount of income compared to the market income of somebody in the poorest decile, but it does not actually have a major impact in terms of reducing that overall picture of inequality simply because the richer deciles are so many, many times richer than the poorer deciles.

A system that certainly contributes, it is certainly important in terms of increasing the incomes of poorer households, but in the greater scheme of things it does not necessarily make a major impact on inequality. It has a very impact on poverty, but it does not necessarily do that much to reduce inequality.

That is one part of the story. That is the direct role of the state. But our research suggests that actually the much bigger and harder problem is how do we think about labour market inequality, so the inequality that arises through employment. Work that we have done over many years suggests, and we can argue about methodology, I do not think that is the role of the session today, but we estimate that somewhere between 85% and 90% of the Gini inequality arises from the labour market.

Then in turn we go on and we say that we think that about one third of that which we term labour market inequality comes from households that earn zero income, in other words everybody in the household is unemployed. That immediately gives us two key elements that we would need to think about in policy formulation. One, that about one third of labour market inequality comes entirely from the unemployment problem.

But that then still leaves us with two thirds of the problem, which is the inequality that arises within the labour market. In other words, the inequality that Professor Habib was talking about this morning where we think about the differentiation between extremely high earning CEOs, for example, versus people earning the minimum wage.

It is not an either or. As a country we need to address both the unemployment crisis, but we also need to be thinking hard about how we address the earnings inequality in the country.

I am going to talk very briefly about some new and quite provocative work that we have been doing about the top 1%. Because most of our information about income distribution has historically come from household surveys, we have not known very much about the very wealthy. The very wealthy typically do not show up in our household surveys, for two reasons. The one is that being very rich is quite a rare event. When you do a sample survey where you are only interviewing perhaps 30 000 households, you may not pick up any very rich households or you may not pick up enough of them.

But then, second, even if they are a part of the sample that you intended to survey, typically interviewing rich people is very difficult. They live behind high walls, they are not at home during the day and they are particularly uncooperative when somebody knocks on the door and says, please can I come inside and interview you for the next three or four hours. Even if you do interview them, of course, they do not necessarily give you the full picture.

Thanks to SARS we are now becoming receptive to the idea that tax data is useful beyond just thinking about tax policy. SARS has now opened up their data to us to allow us to actually see what really goes on right at the top of the distribution. I wanted to show you this graph where we have used tax data from 2003 to 2015 to try and see what is really happening at that very top end.

When we talk about the top 1%, we're talking about roughly 350 000 people, just to give you a sense. These are 350 000 individuals who are, if you look at that righthand graph, capturing about by now almost roughly 13% of income. So, 350 000 people, the richest 1% have seen an increasing share of, they have been capturing an increasing share of the overall pie over the time period that we are able to study.

That is quite a new and interesting finding. It speaks directly to what Professor Habib was talking about this morning, that we need to see those elites putting something on the table if we are going to start having a conversation about how we move forward.

I have left you with a couple of nuggets perhaps, the role of fiscal policy, the fact that the labour market is actually the key driver of this income inequality in South Africa, and third, a new picture of what is going on right, right at the top of the income

distribution.

How do we fix this? It is really very difficult. We cannot just think about short-term fixes, we cannot just think about the direct role of the state. We know from the literature that there are very deep, deep-seated drivers of inequality and those are issues that we need to think really hard about in an interdisciplinary way that draws into the conversation political scientists, historians, demographers, etcetera, in order to really understand these issues more deeply.

We know that inequality has a self-sustaining path of dependency. It is very difficult to suddenly shift inequality. One can address poverty more directly and quickly, but in the case of inequality one has these very deep-seated drivers. We know that deep-seated social stratification sustains inequality. We know that this is not a simple story of simply thinking of society as homogenous. We know that there is a racial dimension, a gender dimension, a geographical dimension and those are all things that we need to think about.

Third, norms regarding inequality and redistribution are durable. It is quite hard to change people's perceptions of what they regard as a reasonable level of inequality. Fourth, we know that there is a very strong link between economic power and political power, and similarly economic and political inequality. Something else that Professor Habib touched on this morning. We know that the presence or absence of social movements is important and that is what is particularly inspiring about this summit and this conference, is to think about how one mobilises to have a much deeper and richer conversation about these issues and actually find change.

Finally, we know the demographic dynamics can exacerbate inequality. We need to understand those shifts as well. What happens now that we have a younger population? Perhaps a population that, a younger group of people who do not necessarily see tremendous hope within an economy in which youth unemployment is still on the rise, in which not everybody has access to education. It is the interplay of all these issues, social movements, demography, history that makes this such a complex issue.

2 3 2 The universal health coverage (UHC) and National Health Insurance (NHI) –
Professor Nomafrench Mbombo (Western Cape Provincial Minister of Health)

Professor Mbombo says that health is crucial to the discussion. The reason that health

is crucial in this debate, we know that health and wealth together and if we invest in health, it has six folds in terms of the returns.

But first, let us look in terms of what is this health that we are talking about as a global aspect. The Committee on Economic, Social and Cultural Rights (CESCR) talks about a general comment specifically that defines health beyond World Health Organisation definition of health where it talks about the right to the highest attainable status, but specifically not only the access to healthcare, but looking at the social determinants of health.

Social determinants, it is about when we talk about the structural issues, the access to housing, access to water, to the sanitation and so forth. This is the package that the international human rights instruments tell us when we talk about health. There is nothing about the physical illness per se, the disease, but it is the whole of the package.

If you consider the WHO's definition of health, it talks about the state of complete physical, mental, social well-being and not merely the absence of the disease. Furthermore, the South African Constitution it talks about the right to access healthcare inclusive of the reproductive and so forth. It goes on to state that everyone has the right to have access to healthcare, no one may be denied access to the medical services. So, these are the two.

Now, the question is to what extent does South Africa's health system responds to those global agendas in terms of the definition of health. People must wait longer because we are prioritising red patients, which is those ones specifically due to crime, the gunshots and whatever, yet it is related to the crime. How come now we move away from that? Crime is part of the social determinants of health, and it needs the non-health sectors in order to be able to curb that problem.

How come that we, for example, the Western Cape has got, the major cause of disease in the Western Cape, which has changed now, it is diabetes. Because the life expectancy is higher, meaning the diseases that are associated with the old age, we have those more, especially amongst the women. But we do know that with the diabetes, even with the treatment you still have to change your lifestyle, you still have to eat healthy, you have to still do exercise.

So at what extent now the definition of health that talks about the social determinants? Because in the human rights agenda related to the health it does state clearly that the state cannot be responsible, cannot protect anyone in terms of the

whole package of illnesses. Because there might be genetic factors, there might be social determinants and so forth that are there.

Now, here I am an employer of all the employer products, the biggest employer product. I have to speak as an employer in that sense. As part of the Public Service Act I am responsible for all the HR training and development in the province. Every provincial Minister of Health is responsible for that. Therefore, meaning now the linkage is in terms of the research and what we are talking about. We have to produce a responsive curriculum that will respond to what I have just mentioned.

To what extent the medical schools or other health professionals' higher educations are responsive in terms of producing health professionals that go beyond the biomedical in the definition of health? Are we still using that where the body is the machine and then you as a health professional, are a mechanic to fix the body, yet we do know that there are issues related to social determinants of health that are beyond the anatomy, the physiology that you are being taught in the classroom?

To what extent is the UHC/NHI responsive to what we have just mentioned: social determinants of health? It is there. You saw that the bill specifically talks about the funding mechanisms. It does not speak anything about service delivery. As we know, South Africa, we lost it when we ended up being hospicentric. In the five years that I have been in the department, we are trying to move away from focusing on the illness, replacing that I of the illness with a WE, wellness.

Because there comes a time when we'll never be able to keep on curing the disease. Remember, with the TB previously, ten, 20 years ago, you could have your TB treatment, after six months you are cured, and you are fine. But now we have got the resistant TB, irrespective, whatever, there's no treatment. You will know you will die because it is with an XDR or MDR. So why would you still continue focusing on the disease and the biomedical when we do know that actually it doesn't work?

So that is why for the province we are focusing on wellness and well-being, looking at the social determinants and addressing the issues of social justice, Professor, the issues of social justice through the upstream factors. You cannot do this alone, so that is why we must work with other sectors, the community, and the private sector. I will speak quickly now about the role of the private sector.

If we look at the NHI as a funding mechanism, it is focusing on the diagnostic-related groups (DRGs). Meaning it is an international model where you package the disease and then you have the coding. Whoever comes with an orthopaedic to fix the leg,

everyone will bill in terms of the same definition, it is code whatever, so everyone knows what currently is being used within the private sphere in terms of these prescribed benefits in terms of your illness. Whether you go to the Mediclinic in East London or Netcare in Gauteng, if it is about an operation related to a caesarean section you will be charged more or less because of the DRGs.

The NHI does not say anything about service delivery. We do not know whether social determinants of health will be addressed. But what we do know, again, is that it is going to be a hospicentric approach. So it will still be about where people are. It will still be focusing on the disease and then people still have to be cured at the hospital. To what extent does it address social justice upstream factors? No, it will not.

Hence for us we are saying that let's look in terms of at what extent now in terms of the universal health coverage, which we support, no one in his or her right mind could reject universal health coverage because it addresses the issues of quality of care, equity, you spoke in issue more about inequalities.

The issues related to financial risk protection; it cannot be you are worried about whether you are going to afford to pay when you are ill. It is just like when you have a broken car, you pay your insurance and then when now your car breaks, you just call your insurance and then they come to fix it and tow, whatever. Same applies. You pay for your funeral insurance so that anyone does not get worried when you are dead because everything will be covered. So how come we do not do the same thing for the health, so everyone does support financial risk protection and also in terms of the human rights issues, you cannot now be worried about such.

Also, if you can afford to pay for your services, there are times when you ended up not being able to pay, especially when you are a breadwinner and then it causes medical dumping to our side. So, to what extent then we can say no to universal coverage? You cannot.

So that is why we are saying what is important is to strengthen the public health system throughout the whole of society. Health is a property of all other systems, including social systems and therefore, so that is why for us the municipalities, all other departments and safety and so forth, should form part of that. To strengthen these toward universal health coverage you need to develop a shared vision, purpose and values.

But what is a shared vision within the private? What is their understanding of the purpose and values? Because for them they benefit through the DRGs, using the

diagnostic definition of the disease and then do the costing and then you get the millions from the patients. But for us, it is about that we have to respond irrespective of cause, the progressive realisation of the human rights where we could be able, depending on the state, if the state can afford.

There are many cases where we have to do the rationing, where we say that you cannot be able to do the kidney dialysis. Although you qualify for it, you are number 400 on the list, meaning you will have the dialysis in year five and then the person dies. When you have to rob Paul and pay Pauline it is the kind of challenge you have. To what extent do we have a shared vision and purpose and values with the private?

The government, we do have a multilateral agreement and a bilateral agreement with all the four universities. We have the quarterly meetings at the level of the HOD with the deans and then we have a twice-a-year meeting which I chair with the VCs for all the universities. But in between, you might have some of the bilateral engagement, myself, a cabinet and also with the VCs. We keep on having these conversations. We are lucky in the Western Cape when it comes to that part of it.

I am responsible to licence the private doctors in terms of giving them the licence to practice medicine and related services. Regarding equality, there is a lot where there's no transparency, so we do not know the clinical outcomes.

People say private doctors must come and teach the public sector doctors. Yet everyone knows that there is no private medical school. All those doctors you see in the private clinics and hospitals, the specialists, have been trained by us. The professors train them here. They are trained within our public system then they go private. An impression is given that they have the solution, which they do not necessarily have. The solution is still within the public health system.

So that is why for us we are saying to the nation we want to be a steward of all the health services in the province, public and private, where we could be able to have a shared vision and purpose, where health goes beyond the biomedical. Because we do know that it has a limitation. Because we do know that it does not respond to the issue of the global agenda of human rights in terms of access to healthcare.

Because we do know that aunty Sarah suffers from haemorrhaging and bleeding. She is bleeding because she had more than three or four children or five children. Right now, her womb is unable to contract. But she had more children because at the time she wanted to have family planning there was a nurse with a bad attitude who kept her from accessing family planning methods.

While she ended up going there, she was told to come back the next day. The next day her husband was around and therefore refused her to get treatment for her womb because she is dependent on him. Even though she wanted to, she was unable to make an informed decision about that because of her education. Although she wanted as a girl child wanted to study further, she was told that she must leave behind and then let her brothers be the ones. The journey to maternal death started from elsewhere. But what we see, we only see the definition at the last moment.

But what is that extent now with the universal health coverage, NHI? What is the cause of death? It is about haemorrhage; it costs you R3 000. Service providers, we pay you 3 000 for that without necessarily looking in terms of the cause. Because you might have 20 deaths and then we keep on pumping money, pumping money to that, yet you do not look in terms of the social justice, the accessibility, the affordability and all of those, and the quality of care. So that is what we are bringing.

So that is why now, coming back now in terms of the research agenda, we have the provincial research committee where all the universities are represented because we get names from them, plus also from the government's side and also others who are part of that. We work closely, especially with the South African Medical Research Council.

Probably might have picked up, I am not using too much of the word NHI because it has got a limitation. It is only one mechanism for fixing the health system. The whole package is universal health coverage, which we all accept within the strength of the health system you have to strengthen six blocks which are also, they are systems on their own. Human resource system, leadership and governance as a system, health financing as a system, which is what the NHI is trying to resolve, the health information systems, the technology and research, and the package of care.

So, all who are now talking in South Africa, we are only talking about one system, which is the health financing, forgetting what type of package, whether comprehensive or not, how we will be able to respond to this package in terms of the HR skills mix and so forth. Leadership and governance, where we know that in some provinces, probably in some parts maybe here where we'll find that the system has collapsed because of these issues related to mismanagement of funds, corruption and so forth.

Then there are issues related to the technology, which is what we are trying now, it has been confirmed that if going forward, the NHI want to focus more on the information system and technology. Because you will not be able to bill anyone.

Service providers, how will they be able to have a common understanding in terms of when they are part of the DRGs? They want to focus on the technology and also on the infrastructure.

As I always make an example, you go to Alfred Nzo in the Eastern Cape, I am making an example of your province, Professor, because I am born and bred there, and I am an alumnus from Fort Hare. Yebo, I have been everywhere. I made an example of Alfred Nzo where you will find that even if you have got a million, you are a millionaire, you have got the best medical aid, you will still suffer the same way as aunty Sarah and gogo Dlamini who have got nothing.

Why? Because even if there is an emergency, there is no ambulance that will come and fetch you with your millions and go to the nearest hospital. There is no nearest hospital anyway. It is either you have to go to Mthatha, or you go to the other province. You might need a private helicopter, whatever, which might take longer. To what extent that anyone will actually do so much of, spending so much money to do that? Whether now you take your money and fund aunty Sarah to access UHC, both of you, there's nothing.

Coming back home, there is no private hospital on the West Coast. Starting from the Matzikama, there is the furthest border nearer to the Northern Cape. So even when you have private medical aid, you still have to go to the public hospital. So, therefore, the first thing is to improve the quality of those existing hospitals. The first thing in Alfred Nzo is to build the best services that everyone can be able to access. Because in the end, both of you, you will still be left behind.

In those words, we are saying that for health there should be no one left behind because it is a human rights issue.

2 3 3 Freedom from Violence: SDG 16 and the right to life – Professor Christof Heyns (Professor of Human Rights Law and Member of the UN Human Rights Committee)

I was reminded when I walked through Stellenbosch yesterday, I walked past where I was at primary school, which was actually Bloemhof Meisieslaer, it was gender inclusive at the time, and thinking of how little exposure I ever had to violence myself. Of course, being in academia you have conflict, and you have faculty politics and that kind of thing, but nothing prepared me for, in 2010 when I had the opportunity of

working for the United Nations as a special rapporteur on extrajudicial, summary, arbitrary executions.

That means you are an independent expert, work for the United Nations, and focus in particular on the right to life. Then you do that from the human rights perspective. Essentially the kinds of things that one is involved in is to look at thematic issues that you want to raise with the general assembly, with the Human Rights Council, and you do some country visits.

The thematic issues that I had the opportunity of looking at are revisiting when the police may use force, the elements of necessity, proportionality, and how one really get that from the international level to the domestic level. The same with private security providers when they may use force. That is in a way policing the line of saying when we are dealing with an arbitrary deprivation of life. In other words, something that violates international standards. There is a line drawn by international law, once that line has been crossed that line must be restored, and the norm must be restored. Only accountability can bring that about.

That was the same then as far as armed drones are concerned. When may armed drones be used in the context of counterterrorism operations? Autonomous weapons, killer robots, when do they cross that particular line? What is accountability? How do you hold robots accountable? But essentially it is the human rights approach. The same for the death penalty. When may the death penalty be used? What are the most serious crimes?

That is the theoretical part of what one does. But the practical side is that, in the six years that I served in that position, you have the opportunity to visit conflict spots and you report to the Human Rights Council on what had happened. In my case, India, the encounter killings, Kashmir, the border of India and Pakistan, the mass graves, and police brutality. In Ukraine both sides of the conflict line that is patrolled by drones, not armed drones but recognisance drones, to ensure accountability that takes place – particularly in Latin America. So, Mexico, and Honduras have very high levels of crime. That is where you see it in practice, what violence does to a society. In Mexico, for example, when I was there, at the time 160 000 people were killed during the drug cartel conflicts.

So, the starting point for this approach is one where there is this norm and the norm is then patrolled. At the time when the Syrian war broke out, to me it became quite overwhelming to be confronted with violence on such a large scale. At that very same

time, I started reading about the area of study where people work on violence reduction. To recap: My questions were, are we doing the right thing as far as the human rights approach is concerned? Are we stemming the violence at all or are we just in a way comforting ourselves?

It was a complete revelation for me to get exposed to the work of Steven Pinker and Elias, Eisner and others who say there is actually an overall decline in violence in the world. If one looks at Morris' figures, he says that during the Ice Age something like 15% of the population died violent deaths, during the Middle Ages about 8%, and during current times about 2%. This is continuing also if one looks at the 20th century, that there is actually a decline of violence despite the two major spikes that occurred during that time. This can be attributed to a number of factors.

Now, we do not have time to go into that, but certainly, to me that said, well, maybe what we are doing collectively is not necessarily wrong, we need more of it. We need more of the human rights approach, and we need more of the violence reduction approach. With the human rights approach, this idea of a line, if it is crossed you must have accountability. The violence reduction approach, really looking at violence as a public health issue, it is an epidemic.

Say if 1.4 million people per year die violent deaths today, that is more or less the same figure globally for tuberculosis, it is more or less the same figure for motor vehicle accidents. From their perspective, they look at all these things as an epidemic that needs to be addressed. You look at the data, you design an intervention, you test that intervention, and you see whether you bring the overall number of deaths, bring it down.

In a way, for me those things connected then to say, well, we probably need both. You have to ask yourself, what are the synergies between the human rights approach and then also the violence reduction or public health approach?

I think if one must boil it down from the human rights point of view, the approach is very much a normative one. There is this line that must be patrolled, it is very much individual-focused, and it is often retrospective. It looks at something that had gone wrong that must be addressed. From the violence reduction point of view, it is based on data. It is not in the first place a normative system; it is based on data. It is population-focused, not just on the individual, and it is largely prospective. These seem to be two sides of the same coin that need to be brought together.

There are many synergies then between the approaches. Of course, if you can

reduce the violence in society, you also by definition reduce the number of cases for which you need to find accountability. From a human rights point of view, it is very important, and we have not paid enough attention to it, to also see what are the indicators and the drivers of violence that need to be addressed to reduce the problem that one eventually has when one looks at it from a human rights point of view.

Conceptually if one looks at when may the police use force, for example, the traditional approach has very much been this one of necessity, is it lowest level of force, is it proportionate, so is it justified in terms of the objective that you are trying to pursue? If people are in a situation where they defend themselves, yes, it can be acceptable.

But if we look at this issue in the broader context, which the violence reduction approach urges us to do, is to say how could that situation have been prevented? In human rights law this slowly started coming in and certainly as UN special rapporteur this is something that I pushed very hard as well, is to say that in addition to necessity and proportionality in the use of force, you must also look at precaution. Could this situation have been avoided?

If one looks at demonstrations, for example, if the police, if there are ten of them, 1 000 people who are protesting and it is a potentially violent confrontation, if the police put themselves in a vulnerable situation, yes, in the end, we may all agree that they have to defend themselves if they are attacked, but they should not come into that situation in the first place. They must find ways in terms of barriers and so forth to protect themselves.

You must go further upstream also in the way in which we manage demonstrations. It always strikes me how much effort we put as lawyers into the rules that regulate, for example, civil war, and non-international armed conflict. But if we look at the rules of engagement for demonstrations, for example, we often only look at the response of the police at that moment. But how do you go further upstream?

In Northern Ireland, for example, the research has shown that if the police do not have fireproof overalls, if they do not have full body shields, they will shoot much earlier. If somebody comes with a Molotov cocktail and crosses maybe 20 metres, the police will shoot because they feel vulnerable. If they have the proper equipment, in other words, if you exercise precaution, then maybe the person will cross the 20 metres, come and make a threatening gesture and go back and a life is saved.

One needs to look at the right to life from a much more holistic perspective and also

in the structures that we have. When I started working as UN special rapporteur in executions, there was no counterpart in the African Union in their human rights mechanism for such a mandate in the UN. I was looking for a particular counterpart on the regional level because we need to bring the human rights mechanisms closer to the ground. We must strengthen the regional systems.

It was only within the African commission that there was a working group dealing with the death penalty. If we consider right-to-life issues on the continent, yes, the death penalty is one of them. But relatively speaking in terms of the number of people who are killed, there is a much bigger problem with the availability, for example, of light weapons, with the effects of alcohol. There are many more problems with excessive violence by the police or excessive use of force by the police, for example.

We had discussions with them, and they said in addition to having a working group on the death penalty, they also included extrajudicial, summary, and arbitrary executions which brings a whole right to life into place. That is because these other issues are of major concern on the continent as well. Onboarding this broader approach to the right to life has structural implications in terms of what are the kind of interventions that we design. It also has substantive implications. Do we look at precaution, for example, and further upstream, how can we prevent things from taking place?

This has been taken up very broadly, this link between human rights and violence reduction, and in SDG 16 we see a combination of just and peaceful societies being brought together, largely also the theme of this conference. It is extremely good that we have this linkage between the violence reduction approach, at least that part of SDG 16, the violence reduction approach, and the peaceful societies which force one to bring these two things together.

There are of course also tensions between a human rights approach and a public health approach. In a public health approach, the idea is to look at the data of the population collectively. It is much easier to make trade-offs and say, well, we are going to focus on saving as many lives as possible, whereas from the human rights approach it is very difficult to make trade-offs and you say every individual life is actually of infinite value.

It is much more a Kantian kind of philosophy in the human rights approach which emphasises the infinite value of every individual life. Whereas from the public health approach it is I think much easier to say, well, we look eventually at whether we can

move from 90% fatalities to 80%, move done without so much focusing on the individual. This means that they are supplementing each other. There is one general sort of approach and then the one that really emphasises the idea of the supreme value of each individual life.

We have the human rights instruments directed in particular at the human rights issues, for example, the committee on civil and political rights, the human rights committee on which I serve, and Sandy for example on socio-economic rights look at it specifically from a human rights perspective. Within the SDGs we now have the human rights together with the public policies approach and those are supplementary approaches, and it is a very good step forward.

What are the implications for research, since we are also talking about the role of universities? If one looks at violence, in particular as I say at physical violence, it is to a large extent, murder for example is a proxy for violence in many other forms. I do not think we should think about violence only as physical violence, it is also emotional violence, and it can go much broader to structural injustices as well. But murder and robbery are particularly good indications and proxies of violence in the rest of society.

Now, in terms of measuring that and comparing it with the rest of the world, Africa is by all indications the second most violent region in the world. Latin America is far ahead of us. They are very much the region with the highest level of violence in the world. But this also means that we have a lot to learn from them. In terms of south-south cooperation and collaboration, the issue of violence is vital.

But it is also important that we as Africans and those of us who are in universities in Africa, that we have a common research agenda. Because it is almost impossible to establish exactly what we mean when we say that Africa is the second most violent region in the world. Exactly what are the trends and what are the conditions? If one of the solutions to violence is hotspot policing, for example, how do we actually locate where this violence takes place and are able to direct our police forces at those? This must be done by researchers on the ground.

To mention one example, over the last four years I had the opportunity to work with a group of people who looked at six countries, at commissions of inquiry that dealt with right-to-life violations. This was in Chad, and it was in Malawi, in Nigeria, Khayelitsha and so forth. We had to dispatch people from here to conduct ground research and then come back and our book is now coming out. It is great if you have the resources for something like that, which a donor gave to us.

However, will it not be much better if we have a common research agenda across the continent where these things can be done by local researchers that feed into a common approach? We can learn from Latin America, we learn from others, but we learn from better our situation where we can say these are the trends, this is what is working in this part of Africa. We could say this is how we should respond.

The South African Police Service, I believe, seems to be much more open to researchers. There was a meeting yesterday in Pretoria on this as well as research feeding into our approach to violence. A community of scholarship, I believe, is needed across Africa and within our country.

I want to conclude by saying that it seems clear to me that if we are considering the effect of violence on societies, then where we have high levels of violence. The impact of violence is to stop everything else from happening appropriately. If the choice is your money or your life, there is no point in saying take my life, I need my money for my old age. You will not be around. Unless we protect life, all the other rights cannot be protected, and all the other development goals cannot be met.

Of course, what do we mean when we refer to life? Is it merely biological existence? In the human rights committee, we just completed general comment 36 on the right to life where we said the right to life must be seen more broadly. It is not just physical existence; it is a life in dignity. That brings in the idea that underlies human rights in general as well.

During the time when I served as UN special rapporteur, I had the opportunity to visit Mexico and Honduras. First, we were in Ciudad Juárez which is Mexico, at that time the most violent city in the world, and I have very vivid recollections of driving in Ciudad Juárez with three military vehicles protecting us. They said even though there was something like 12 machine guns protecting the group going, they said we have to be back in the compound by 16:00 because the entire city closes down. It is a complete sterile city. Nothing happens in terms of economic interaction, in terms of going to restaurants, in terms of music, culture and that sort of thing.

Some years later, I went back to Honduras, to San Pedro Sula, which has subsequently seen a 50% reduction in violence, not because of my earlier visit. I remember the morning when we arrived there. The mayor was late, and she apologised saying she was late because last night they had a musical concert with 20 000 people out in the streets. She added that no one was killed.

I was struck by the idea that she was really talking about celebrating life and the

fact that they were able to do these things. Accordingly, we need to see violence within this broader context. It is a place where such concerts can take place. But it is also when such concerts take place, that you can have a society in terms of which people can in the first place relieve the suffering and also flourish because they have the precondition for a life of dignity.

2 3 4 Economic, social, and cultural rights and the SDGs: Towards greater convergence – Professor Sandy Liebenberg (HF Oppenheimer Chair in Human Rights Law, US and Vice-Chairperson of the UN Committee on Economic, Social and Cultural Rights)

I would like to pick on the cross-cutting themes of the synergies between the SDGs and the human rights agenda. I will start with the possibly obvious point that basic shelter, education, healthcare, food, water, social security, are amongst the most basic prerequisites of a right to life, as Christof has mentioned, but also a life of dignity and the ability to participate as equals in society.

It is for this reason that since 1948, economic, social, and cultural rights were recognised in the UDHR and given legal force subsequently in 1966. This was through the International Convention on Civil and Political Rights (ICCPR),²² which Christof mentioned. They were also given legal force by the International Covenant on Economic, Social and Cultural Rights (ICESCR).²³ I was very grateful, Professor Mbombo, to hear someone in government referring to the practical utility of this key human rights instrument in terms of conceptualising health as a human right.

As we all very much know, a central part of South Africa's transformative Constitution is the inclusion of economic, social, and cultural rights as human rights. What does this mean, to recognise economic, social, and cultural rights as human rights? First, it tells us that poverty and inequality are not simply natural phenomena. They are the outcomes of generations of laws, policy choices, and conduct made by people in history over centuries. In other words, they are issues of social justice, the theme of today's conference.

This, in my view, can be much more eloquently stated by former President Nelson Mandela when, in motivating the inclusion of economic, social and cultural rights in the

²² (adopted 16 December 1966, entered into force 3 January 1976) 999 UNTS 171.

²³ (adopted 16 December 1966, entered into force 23 March 1976) 993 UNTS 3.

South African Bill of Rights, he said: a simple vote without food, shelter and healthcare is to use first-generation rights as a smokescreen to obscure the deep underlying forces that dehumanise people. It is to create an appearance of equality and justice while by implication socio-economic inequality is entrenched. We do not want freedom without bread. Conversely, we do not want bread without freedom. We want all the fundamental rights and freedoms associated with a democratic society.

This implies that by recognising economic, social, and cultural well-being as human rights, we accept that basic mechanisms of accountability have to be put in place for monitoring and providing remedies where these rights are violated. This accountability can of course take many forms, including parliament, Chapter 9 institutions, administrative bodies, courts, regional bodies, and international human rights treaty bodies.

However, if we are to realise these rights on the ground, we need a comprehensive, well-thought-out strategy for development. In South Africa, we have our National Development Plan (NDP). It is worth noting that human rights and development have a very synergistic relationship. However, in practice, the relationship between human rights and development has a troubled history. Too often, human rights have been viewed as drags or collateral damage in the development process. This is apparent in the International Monetary Fund (IMF) and World Bank structural adjustment policies imposed on many developing countries in the interest of promoting development.

The international community has struggled to bridge this gap between human rights and development, most notably in the 1986 UN Declaration on the Right to Development where development is defined as follows:

An inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to and enjoy economic, social, cultural and political development in which all fundamental freedoms can be fully realised.

This tells us that human rights are both a key methodology and a key goal of development. This resonates very much with Nobel prize economist, Amartya Sen's, ground-breaking conception of development as freedom. She asserts that the expansion of human capabilities and freedoms is the principal means and end of development.

However, since the Declaration on the Right to Development in 1986, the paths of

human rights and development seem to diverge again. The predecessor of the Sustainable Development Goals (SDGs) was the Millennium Declaration of 2000, which made no mention of human rights. Human rights were completely absent from the Millennium Development Goals (MDGs).

While human rights were being marginalised, one of the strong factors in the development discourse was an increasing recognition of the importance of the environment for development. This already gained momentum from the late 1980s with the Brundtland Report of 1987 where sustainable development was famously described as development that meets the needs of the present without compromising the ability of future generations to meet their needs.

This inaugurated at the UN level this particularly important principle of intergenerational equity. This received further momentum with, for example, the UN Declaration on Environment and Development, where some very important principles of environment integrated with development were affirmed.

This synergy and this marrying of an environment within the development agenda has been absolutely critical given the multiple environmental crises that the planet is currently undergoing. This is ranging not just from global heating, but also to ozone layer depletion, air pollution, soil degradation, biodiversity loss and much more. In short, climate change is a game changer for both the development and human rights communities.

The United Nations special rapporteur on poverty and human rights recently said in his most recent report to the UN Human Rights Council, he said that climate change will have devastating consequences for people living in poverty. Even under the best-case scenario, hundreds of millions will face food insecurity, forced migration, disease, and death. Climate change threatens the future of human rights and risks undoing the last 50 years of progress in development, global health and poverty reduction.

This is this perception that really caused the international community to converge around the 2030 Agenda for sustainable development which encompasses these Sustainable Development Goals. So, the 2030 Agenda, which I will refer to, which incorporates the SDGs, is the international community's roadmap for responding to the challenges of poverty and inequality within and amongst countries while safeguarding the earth's life-giving and sustaining capacity.

It also has heralded a convergence again between human rights and development in the international community. Because what is most promising is that the 2030

Agenda proclaims that it is grounded in the UN Charter, the UDHR and international human rights treaties. So, it really starts off by saying that development and human rights and the environment are now married together in this instrument.

There are many synergies between the SDGs and economic, social, and cultural rights. They share common commitments to the objective to end poverty, reduce inequality, improve food security and nutrition, quality education, safe and resilient human settlements and decent work for all. They share this common mantra of leaving no one behind, which resonates very well with the human rights focus, which is on marginalised, disadvantaged groups and groups facing systemic discrimination in society. The same applies to the cross-cutting commitment to goal 5 of gender equality.

In theory, this is good news. It heralds a meeting on human rights and sustainable development. However, the reality is that human rights methodologies and accountability are in fact very weakly reflected in the indicators and monitoring mechanisms of the SDGs.

Accountability for the 2030 Agenda is largely characterised by its voluntary and political character through voluntary national reviews of countries and monitoring by the High-Level Political Forum in New York, which is an intergovernmental body. The interaction between the SDG agenda and the human rights agenda is still entirely insufficient. Unfortunately, they are still very much operating in separate silos.

This raises the question; how can one move towards great convergence? What does a human rights lens bring to the SDG agenda and, conversely, what do SDGs bring to the human rights agenda?

I will start with the first question, what do human rights bring to the SDG agenda? I will refer to an important statement which the committee on which I currently serve, the committee on economic, social and cultural rights which monitors the international covenant on economic, social and cultural rights, which South Africa is a state party to and is bound to, which it adopted in March 2019 at its most recent session on the question of the leave-no-one-behind principle in the SDG agenda. It really set out how a human rights methodology could complement and strengthen the SDG agenda and I will just highlight a few features of this statement which show what a human rights lens brings to the SDG agenda.

First, it highlights that the human rights agenda is based on these core principles of participation, accountability, non-discrimination, transparency, human dignity and

empowerment, the so-called PANTHER principles which the office of the high commissioner on human rights develops. They should guide the implementation of the SDGs and how states move toward meeting those goals in the SDGs.

The human rights agenda is also very strong on the question of accountability and remedies. Without proper accountability mechanisms, you are essentially toothless tigers. States can make themselves very good, but actually, if they are not called to justify what they are doing, their progress towards the relevant ends and who they are leaving behind, then these are no more than nice words on paper.

The human rights agenda also brings very sophisticated tools on discrimination, concepts which are very familiar in the South African context of substantive equality, systemic discrimination, which the UN committee defines really as discrimination that is based on social behaviour, deeply entrenched patterns of organisations, and that they are based in legal rules, policies, practices, predominant social attitudes either in the public or private sector which create relative advantages for some groups and disadvantages for other groups.

Next, the committee has also developed a very important set of criteria. I cannot see what those two red things are, but I assume it is moving quickly towards finalisation. The criteria to see whether these rights are fulfilled. So, the Availability, Accessibility, Acceptability and Quality (AAAQ) framework looks and is unpacked in the context of health, which Professor Mbombo mentioned, in the context of water, sanitation, and housing. That rights should be available and accessible, which include physical access, economic access, affordability, non-discrimination, and information access. That the rights must be culturally acceptable and of a decent quality. This really reflects the notion that economic and social rights are not simply commodities to be delivered to the passive citizenry, but encompass the spiritual, cultural, and all dimensions of human existence.

I will not look at the further, because I have to move along. Just to mention that many of these criteria resonate with our own constitutional jurisprudence developed in the ground-breaking *Government of the Republic of South Africa v Grootboom*,²⁴ *Minister of Health v Treatment Action Campaign*,²⁵ and *Mhlauli v Mashisane*²⁶ cases about a reasonable government programme. That government programmes must be

²⁴ 2001 1 SA 46 (CC).

²⁵ 2002 5 SA 721 (CC).

²⁶ (2020/11024) [2021] ZAGPJHC 645 (8 November 2021).

designed comprehensively, well-coordinated, comprehensively financed with resources, balanced and flexible, providing for short-, medium- and long-term needs, that there need to be urgent responses to urgent needs. Policies must be reasonably implemented, transparent and developed through meaningful engagement with the rightsholders.

Just to mention that although I am speaking at a very high level of abstraction here, many of these indicators have been applied by NGOs and by our own committee to monitor how economic and social rights are fulfilled. The Outcomes, Policy Efforts, Resources and Assessment (OPERA) framework looks at outcomes, policy efforts, resources and assessment and the Studies in Poverty and Inequality Institute in Johannesburg have furthermore done amazing work in terms of applying this framework to the various socio-economic rights in the South African Constitution and applying these human rights agendas.

I will just end, as the flag-waving is getting a bit intense now, by saying that I have not focused too much on the other side of the coin regarding what can sustainable development bring to the human rights agenda. But I just want to note, in a nutshell, that the important thing it can bring is integrating an environmental and sustainability perspective into the human rights agenda, which has not been very prominent up to now. Our committee is really working on developing how to so-call green our Covenant, and how to incorporate environmental factors into the human rights agenda.

I will conclude to say that it is important to emphasise as a human rights lawyer that human rights norms are not only the right thing to do morally, but they are legally binding under international law and the South African Constitution and they attract legal accountability if they are violated. The SDG is a political commitment and states are primarily politically rather than legally accountable if it is violated.

But this does not counterintuitively mean that legal accountability necessarily means strong accountability and that political accountability necessarily means weak accountability. We know that there is ample political energy currently on the SDG agenda. It is currently the major game in town for many states. Many NGOs are very much focused on the SDG agenda.

Based on my observations in Geneva and looking at the global situation, the human rights agenda is very much under threat in many contexts. The UN Office of the High Commissioner is facing serious budgetary problems. We have a range of authoritarian governments worldwide, from the US to Hungary to Brazil and so forth. We are

witnessing a shrinking of civil society space for mobilisation and activism. Many big businesses continue to violate human rights norms with impunity in development projects across the globe.

Finally, I would just say that this should be a concern not only for the human rights community but also for the SDG community. This is because my key message is that sustainable development and human rights are interdependent and mutually reinforcing. Without respect for human rights, the 2030 Agenda will not be capable of fulfilling its commitment to put the health and well-being of people and the planet at the centre of the SDG agenda. Economic, social, and cultural rights ensure that social justice remains the loadstar for the SDG agenda.

2 3 5 *How South African Business can contribute to sustainable land reform – Professor Johann Kirsten (Director of the Bureau of Economic Research, Stellenbosch University)*

Professor Madonsela, thank you for the invitation to talk to you about land reform. Obviously, as you now gathered through the whole conversation over the last two days is that the issue of land reform is critical in the context of social justice.

On being put into the section on Sustainable Development Goals (SDGs), I wondered how I was going to deal with this. I went back to the list of SDGs and figured out that, first of all, goal 10 says Reduced Inequalities. Implementing land reform is, obviously, a key component of that reducing inequality and, in the context of social justice, redress of the injustices of the past is part of reducing inequalities. We, accordingly, immediately dealt with goal 10.

We also implicitly, deal with SDG 1, Reducing poverty, depending on how we implement land reform. How we deal with land reform will also deal with the issue of Zero Hunger, which is goal 2. How we deal with land reform also deals with goal 5, Gender Equality. It also deals with goal 8, Decent Work and Economic Growth. If we do not implement land reform properly, we might destroy the potential for economic growth and the potential for decent work.

Another one I can highlight is goal 15 on Life on Land and Sustainable Use. If we do not implement land reform and the utilisation of land appropriately, we will not have sustainable use. Lastly, goal 17, Partnerships, I believe in the context of my presentation today, partnerships are the angle.

The other complexity here is that in agriculture the trust deficit is perhaps the highest. We need to deal with the trust deficit because there are all sorts of misinformation and negative narratives that destroy the potential of overcoming this trust deficit. In addition, being an agriculture economist and working in land reform since 1991, before it was official policy, I tend to be a pragmatist and want to deal with land reform pragmatically without letting emotion destroy the outcome.

The argument around this whole presentation, which I am going to run through given that the time is limited, is really that we are trying to build a proposal here with partnerships as the argument, but also in the context of contributing and putting something on the table. I have built this argument around the recent presidential advisory panel on land reform, and I have in the past four weeks done a series of articles in the *Business Day* that speak to the main strong elements of the report and how we can activate that in action, in actional processes. If you do not want to listen to me, you can read the four articles in *Business Day* on your computer while I am talking.

The land, in my view, as an economist I will always view land as a productive asset, a productive input, not ignoring the emotion and the issues of dignity attached to it. But if you want to deal with the goals of decent work, economic growth, zero hunger, and poverty alleviation, then you need to deal with land in its context of contributing to that end. Consequently, land as a source of production is the starting point for this.

I will also now talk about the points of the department that build my argument and it starts off actually with the argument that we have 25 years of experience with land reform and unfortunately it did not deliver because of patronage, incapable state, and inefficiencies in the state. The state has not done the job as we expected them to do, as the Constitution demanded of the state. Restitution, land redistribution and tenure reform, nothing happened in tenure reform. That third argument of how to upgrade the rights to land for the majority of the people has not taken place. So, regarding the issue of patronage, let one ask the question, what can we do with the process of redistribution outside the mechanism of an inefficient and corrupt state?

Obviously, there is also the argument that we as a white community cannot ignore the duty that is on our shoulders given the past injustices. In the spirit of social justice, redress and reconciliation, white people as a collective need to implement mechanisms and solutions to facilitate the redistribution of land to the majority. It is from that starting point that there's a role for commercial farmers, for landowners to

think about and actively donate land and expertise and finance to facilitate the process because it is not going to happen inside the fiscus.

That is the one dimension. We should also make the argument that the wealth of this country, as Ingrid has shown in that 10% decile, the tenth decile, is not necessarily in agriculture. The wealth is in the urban economy. The argument is, how is the urban and non-farming economy contributing to facilitating the process of redress in the context of land assets? Which goes to urban land, rural land and productive farmland.

Now, recently, in the last ten years of my academic career I have been a follower of institutional economics and actively work in that field, which brings law and economics into play, brings culture, sociology into play, and if you understand human beings more appropriately and correctly you realise that people have latent altruistic behaviours that you can encourage through nudges and incentives.

To facilitate the social objective, without having to raid the fiscus, you can do it much easier through, almost like the church which says you go to hell if you do not donate a tenth of your revenue. Now, utilise that same principle and you see good behaviour. Anybody comes to church and pray, and they are all happy. We should think about how people feel guilty about the past and utilise and design mechanisms for them to pay for their guilt.

There are roles for commercial farmers, large and small, there is a role for agribusinesses, the wealthy urban elite and the non-farm businesses to make a contribution to the injustice of our unequal land ownership by voluntarily donating land, to be able to subdivide land for the workers, for their houses, etcetera.

Have you ever tried to subdivide a piece of land? It is frightening. You are not able to do that because of an apartheid piece of legislation, the Subdivision of Agricultural Land Act 70 of 1970. This piece of legislation is still on the statute books and prevents you from subdividing a piece of rural land or urban land without the permission of the minister of land affairs. The minister must physically apply their mind to every piece of application to subdivide land. That can easily be done very quickly.

Mentorship and in-kind support are all potential contributions. Financial contributions to a land reform fund which is outside the state's environment which can really help us to facilitate bridging finance, etcetera. Joint ventures are also key of this partnership dimension. Nevertheless, I have not put it on the slide, but we often forget the social investments that large farmers are already making in terms of their contribution to society.

How many farmers have clinics, have schools, have crèches, have built houses, have supplied electricity, have supplied water? That is the positive narrative that is nowhere out there. It is only the negative narrative about evictions, mistreatment of workers, etcetera. I do not say they are not there, but the argument is nobody tells about the good social engagement and social investments that are made to improve the lives of many of the workers.

For the entire issue of expropriation without compensation, I want to use Professor Madonsela's word of a red herring, it is a red herring to hide the inefficiencies of the past. It is a red herring that is just creating emotion and conflict, it is destroying investment and, in the meantime, we could have redesigned our systems of delivering land to the majority much more efficiently. We only need solid commitment, honest engagement, and smart centres – that is my argument.

Now, the other dilemma that we have in the land reform debate is the facts. There are three numbers I want to highlight on this slide. It is the top number. South Africa is a country of 122 million hectares of total land. Of that 11 million are in urban areas, land under traditional tenure, 18 million hectares, and at the time of our democratic change, 81 million hectares of freehold agricultural land.

We subsequently lost 3.8 million of that land into urban areas, into mining, all these deep excavation of coal mining that is used to supply our energy, take out agricultural land, and the expansion of our parks and forests, which leaves us with 77.5 million hectares of farmland under freehold. Remember, the panel of the president highlighted the multiple tenure system as an important dimension of our land system, and we need to recognise that.

Then we have redistributed that 77.5 million in the following ways and the two top figures are very important. If you add them together, roughly 3 million hectares have been bought by the state and are owned by the state and leased out in various ways to individuals without giving them a title deed. We have successfully redistributed 4.9 million hectares, restitution another 3.6, and yesterday in Karyn's panel we had a discussion with Judge Meer about the delays and the problems with the restitution and the Land Claims Court.

What should never be ignored when examining transactions in the deeds register, is that roughly 2 million hectares of land have been transferred to people of colour without going through the government system, which leaves you with 64 million hectares under, estimated in the hands of white farmers, which is then roughly half of

the total surface area of South Africa.

The other reality that is often ignored in the land debate. Again, I am talking about land as an asset in the context of providing jobs and opportunities and economic opportunities, is that 51% is natural veld, extensive grazing with virtually very limited production potential. Add to that another 32% of planted pastures on the dryland. We have 80% of that is animal production. The rest of the high-value land of Stellenbosch, is about 0.4%, 1.5%. That is the typical Stellenbosch area of the productive and high-value land itself.

When we talk about this in the context of all the SDGs, we need to think about how fragile our natural resources and our land resource bases are and how limited the scope we must provide livelihoods in the redistributive context.

The points I have raised throughout and I am just going to skip through this, is that there are various options that we can do in this context of partnerships and promoting an avenue for this voluntary contribution of your wealthy elite and land owners through a land reform fund, through simplifying our land administration processes, which is a very interesting highlight that the panel has present to us. Obviously, if you want to make this at scale and let it happen at scale, you need to do a set of enablers. The enablers are straightforward. Just make it easy for people to do.

The issue of again behaviour, if you constrain the ability to act then people will not do it, but if you facilitate that process through an easy process or a one-stop-shop, through a recognition mechanism, you get some points, it is like school kids, if you get a star or a right mark and so on, you have done good, then people will do things. Just do a simple recognition principle.

Speedy transfer and speedy registration. You do not want to wait six months or two years for your transfer to take place. Water rights is a key issue. Given the natural resource argument I have presented earlier, if we can expand our water resource and we can allocate water resources in a way that facilitates the transfer of land rights to new farmers, at the same time you can intensify existing agriculture, then you have a win-win situation.

Restructuring the availability of finance is a key thing. The process of subdividing land as such is especially important. The land reform that I have skipped over is just a way of actually getting donations and foreign donations into a fund that carries no interest. In the end, you can lend that to your new farmers at rates below market rates, 1.5%, 2%, which is key to getting the establishment of farmers done.

What we are arguing is a private decentralised approach to land redistribution. You can see those words and notions also coming through the Treasury document that was released in the week, all building on the private expertise, the private willingness to contribute, facilitating their contribution to fixing the rails, fixing the provision of electricity and in this case also contributing to land reform itself. There are various ways that that could happen. I am not going to go through all those details.

I just want to end off with a few stories. Because as I said at the beginning, the trust deficit in agriculture is huge. The examples that are presenting a positive narrative are often not portrayed. There are very interesting stories of how big businesses in sugar, fruit and horticulture have taken land reform by the horns and implemented it themselves through finance, support services, facilitating the transfer of land, building joint ventures and actually in the process facilitating a sustainable business on redistributed land. Those stories are not told because it is probably in our society not nice to tell good stories.

The good story that I want to end with is the front page of the *Landbouweekblad*. Now, I do not know if anybody in this room reads the *Landbouweekblad*. Do you? Maybe secretly. This is a story of two individuals, I, fortunately, know them both personally because one is the son of my partner in the Karoo. My partner told his son, you are not going to farm with me, you have to start your own business. No land, nothing. You need to rent land and start your own business because you need to learn the hard way.

He learnt the hard way and then he met Mister Sass through a rugby game. They play together in Carnarvon's rugby team. Mister Sass wanted to also start farming and he went to the land reform office in De Aar, in Kimberly, put his proposal there and say I want to have access to the grounds, I want to access land. Three years, nothing. Now, talk about a committed state wanting to transfer land, which is available to an individual that aspires to become a farmer. Nothing happens. He complained and they talked and say, but let us start together. Let us start our business together. They put the little cash they have, bought some used and rented land in a joint operation.

We always think about the large-scale Hazendale winery-type businesses that can contribute to land reform, but you can also contribute to the process of empowerment through personal engagement, which is the motto that we have heard throughout today. It is interesting, through my discussions over the years with these guys, they probably got the philosophy that I can do something as well, I do not have to wait for

the state. This is an interesting and beautiful story to me that you can work together and in the process deal with the redress.

2 4 Plenary: Question-and-Answer Session

Moderator: Karyn Maughan (Political Analyst)

Karyn Maughan posed the following questions/comments to the panellists:

Question/Commentary 1:

Professor Ingrid Woolard: very interesting, the question of inequality, that it is there, it is stubborn, it is not something that is going to be removed quickly. The one thing and some of these questions are a little bit on the mischievous side, so pardon me for that, but the question of corruption, you spoke about drivers of inequality, to what extent is corruption a driver? I am saying this, not as a statement, I am raising it as a question. Because the corruption has now reached catastrophic proportions in the country, and the drain or the drainage of resources through corruption. So that is a question for you. You may or may not answer it, it is up to you.

Question/Commentary 2:

Professor Nomafrench Mbombo: The question of health, again, is very important, and the social kind of approach that you are proposing, that it is not just about putting people in hospitals, it is also about dealing with those issues outside, the socio-economic determinants of health, dealing with those. A question to you, very quickly, you are saying the current approach is massive, you call it the hospice approach. Hospicentric approach. Do we have professionals that can currently carry your approach? Are we training them? Are they there anywhere? These things are going to need people from inside the system, the health system, to drive that.

Question/Commentary 3:

Professor Christof Heyns: Freedom from violence. Again, a fascinating presentation. As you were talking, one question was ringing in my head about violence and one form of violence that we should foreground, in fact, every time now we talk about violence it should be a first item, the issue of rape. While we are talking about

the possible reduction of violence, rape is on the increase and there's no end in sight. How do we deal with that one? How do we incorporate it so that violence is not just about shootings or people being stabbed or mugged or hijacked, but we focus on that issue in particular? But related, a sub-question, is the rather chaotic state of our policing system. What does that say? What does that say to us in terms of crime, rather than violence reduction?

Professor Sandy Liebenberg: Again, a very interesting issue about human rights. All I thought when you were talking is service delivery protests in this country. It is a daily occurrence now. In fact, on some of the radio stations in the morning, they give a weather and traffic update. When they do the traffic they will mention service delivery, every day. Every day there are service delivery protests and that is an issue. That is people invoking their rights. But let's face it, some of those protests actually become part of the problem. They turn violent, they destroy the very infrastructure that is supposed to underpin their access to these human rights, and they go wild. As someone who hails the Eastern Cape, I should know. So, this question about violence during these protests.

Johann Kirsten: Again, fascinating issue. It goes against the grain of public opinion at the moment. Everyone now is saying expropriation without compensation, you are saying no, red herring, face up to the real issue. Are you perhaps being a little over-optimistic? You are asking the proverbial turkeys to vote for Christmas. Will they do it? Let us face up to this one. It would appear at the moment that the overwhelming opinion is, one, expropriation without compensation, and on the other side it is this is unfair, we cannot do it.

At this point, Mohlahlana opened up the floor for questions from the audience.

Question/Commentary 4

This is for Professor Kirsten, but I want to preface it with a conversation I had with the archbishop of Cape Town. I work for him, and the University of Limpopo is his alma mater. He also attended a conference there two weeks ago at which the minister of agriculture gave a lecture. We spoke about the question of whether Limpopo has an agriculture department, and it turns out graduates, and many of those graduates, upon

graduating do not get work. He agrees that they do not get work. We were thinking of approaching German agriculture to help make the optics of studying at Limpopo more attractive to big businesses and big agriculture in South Africa.

Yesterday I heard from Professor Schoonwinkel that the Department of Agriculture at Stellenbosch University receive the bulk of its funding from farmers, from the farming community. I am sure it is also true of KwaZulu-Natal, their agriculture department, Pretoria, Free State. They are networked in that community. Thus, a black graduate in agriculture has a 100% better chance of getting a job when he studies at Stellenbosch University than if he were to study at Fort Hare. Now, my question is about the land. Have you ever thought in your research about how the elite universities can share this resource that funds these students with agriculture at Fort Hare and Limpopo so that those graduates have a better chance of getting into big agriculture?

Question/Commentary 5

Professor Thuli Madonela: Thank you, Professor Buhlungu. Well, first to say thank you for the remarkable presentations from all of you. Two questions. One is to Professor Kirsten. I thank you for the presentation. First, we had planned to invite a farmer and his protégé that I met at the German embassy to come and tell a good story. Somehow during the process, we lost them, but I do agree with you about the importance of those good stories. Because if you are trying to change the world, you have got to give the world a model of what is possible. If you overwhelm everyone with the challenges, then everyone thinks the challenges are bigger than us. But here is the question. You know the story about the hunter who always told stories of triumphs over lions, until the little boy asked, why is it that lions, my teacher tells me that lions are really powerful, but in your stories, the lions are always succumbing to your power? The grandpa said, let the lions tell their own stories. So how do we as a social justice movement tell all of the stories, the ugly ones and the good ones, but also consistently send this message that we need to do this, it is doable, and it will be good for all of us? So that is a challenge to you and possibly the other panellists.

To the rest of the panellists, I believe South Africa does not have an SDG movement. Whatever little that there is focusing on tracking change, whereas everywhere else we have gone there's an implementation movement. Because the SDGs are meant to be a catalyst for change, and those of you who are scientists will

know if you have a lab and you have different chemicals that you want to put in and you continue to use the chemicals you had before you got the catalyst, you will get what you got before the catalyst if you do not add the catalyst to the mix. Even if you start later to measure whether there's been any change, there will be no change if the catalyst was not added to the mix.

The question to everyone is, how do we in this room change the game in terms of a focus on implementation as opposed to just tracking change?

I gave an example the other day, when I went to the Hague, that every company had its own SDGs. The hotel where I was sleeping, Marriot, was the gender SDG, and others were of course the environment, etcetera. How do we, when we break the four walls, get out of this room, and come up with a plan that place the focus in South Africa on SDGs combined with Agenda 2063 and the NDP?

Thank you.

Question/Commentary 6

My name is Roelof van der Merwe. My company is called Eco International. My question is directed at Professor Liebenberg. 83% of income tax is collected by a small percentage of high-income individuals, what is the rand value of that 83% of income tax collected? Can you give me that figure right now? Do you know what it is? The rand value.

Response(s):

Sandy Liebenberg: I can put you in the ballpark. The tax take is about 1½ trillion. Personal income tax is a third of that. So, 80% of 500, call it 400 million. Nobody holds me to that.

Question/Commentary 7

Roelof van der Merwe: 85% is 400 million? Okay, so 400 billion divided by 17 million people on social grants, I do not know where the zeroes are going and the decimal

point, but to my calculation, that comes to about R23 000 per individual on social grants comes from the income tax from the top echelon of personal income tax. I want to join Professor Kirsten in saying that it is time that we must change our perspective. In every conference, in every forum that I have attended, there is always an accusatory tone when there is a discussion about income disparity, the social injustice of wealth and so on. Instead of saying thank you to the people who are paying the R42 billion.

To Professor Habib, having heard that when we robbed Paul to pay Peter during the #FeesMustFall movement, what plans do we have in place to go back and build that foundation that we have lost? Because I have seen houses without foundation, but beautiful houses, but it is all for nothing. Thank you.

To all the other panellists, I want to say it pains me to note that the indigenous knowledge systems, whether it comes from Afrikaans, English or any other or diverse linguistic groups, are not given the space that it deserves in this dialogue. Correct me if I am wrong, maybe I was not here when you started. Indigenous knowledge systems are not paid attention to, yet we must reclaim and restore our African ethnic identity.

Question/Commentary 8

My name is Derrick Hendrickse. I am a counsellor in the local Stellenbosch Municipality. We are very fortunate here in Stellenbosch that Professor Thuli and most of the panellists here are from Stellenbosch University. I always refer to Stellenbosch as the cradle of apartheid and I have always maintained if we need to break that cycle, it needs to happen at Stellenbosch.

So, Professor Madonsela, I want to thank you for having this initiative, but if you will allow me to answer the very pertinent question: what do we take from this conference, from yesterday, today and tomorrow? I always said use Stellenbosch. Everything that we have discussed, everything that these panellists have discussed, the people on the ground experience it in Stellenbosch, like in any other municipality. But we can use Stellenbosch and the university with all its expertise as a guinea pig.

To give an example of the farming issue. Stellenbosch University is the proud recipient of three farmland from the Stellenbosch Municipality under Coetzenburg where they engaged in milk and dairy farming. They can look at using their own farmland, never mind Elsenburg and the farms around there.

A relevant topic about private investment and land ownership, of how you reduce

that. In the Eikestad news of yesterday, again you will find there is the Adam Tas corridor which Stellenbosch University is the driver and you have got the private sector, Remgro, Steinhoff, all those people owning those private land. How are they going to use that project to do the distribution?

You have the issue in Stellenbosch where you have got the municipality's renting out 1 500 hectares of farmland to white farmers. All those white farmers own their private own farms. Gielie Hanekom rent 13 farms from the municipality, and he owns about 300, 400 hectares of his own.

What I am saying to all the academics and Stellenbosch University that want to champion this, is to use Stellenbosch Municipality and all those benefits, and all those things that we have discussed here are happening in Stellenbosch. It will be a travesty, considering what we want to achieve under the auspices of the university, if they do not use their hometown to practice what they preach and to address all this.

Question/Commentary 9

My name is Franklin. Two years ago when I saw there is a new group called Gatvol, I was very happy because I thought I was finally not alone anymore, particularly in my town.

Professor Woolard mentioned that we must not be polite when it comes to inequality. Thank you very much, Professor. Just yesterday I wanted to give up because I am *gatvol*. But now you gave me a new and fresh mandate, so I am going to be unapologetic now. You know, the old me always said to myself "Franklin, you say the right thing, but the problem is how you say it". I will continue to say what needs to be said; I will not change that.

The elite should put something on the table. I can recall the late Professor Sampie Terreblanche made a noble proposal with good intention at the TRC, and that was a 1% sin tax. It was declined and a few years later, the same notion was brought to the table. Do you think it is still relevant?

Lastly, that is about the violence. This is the last one, I promise, Professor Madonsela. You mentioned in particular social injustices were created, by implication evil men and women, because they wrote the policies, etcetera, etcetera. I hope I am not out of order saying that, but I am not an academic, we say it like it is on grassroots.

Now, my question, which I also want to address to Professor Heyns because he also touched on violence and so on.

Since you said it was people – men and women – who wrote the policies who were responsible for our destruction and hardship and unhappiness. Why can the victims not use violence to rectify a situation, in particular, where there is insensitivity by political people or a lack of political will?

Thank you very much, Professor Madonsela.

Question/Commentary 10

This is a comment/question aimed at Professor Buhlungu's comment and at Professor Kirsten's presentation about expropriation without compensation. I just want to say that we must stop oversimplifying the issue of expropriation without compensation. You said either people are saying we must expropriate without compensation or people saying it is unfair. The conversation was much more nuanced than that and I am going to give you five reasons why.

The first one is when we talk about expropriation without compensation, we mean a few different things. It is time that we clarify when we talk about it, and what conversation we are having. The first one is the EFF speaks about nationalisation when they say that. The second one is the ANC talks about acquiring the land to transfer it to private ownership. That is the other one. The deeper question is the question of who must pay and that links into Franklin's thing. Who must pay for this land reform? So that is part of the question.

The other one is to whom does this country belong? In a sense, we are having a whole conversation about whether we can trust the Constitution if the Constitution did not deliver on restitution. So that is part of the EWC conversation. However, the one that I am interested in, is the legal conversation and the legal mechanisms.

The other point that people must remember is even if we do expropriate without compensation, it is not for free. It is a very costly state process to expropriate property. There are 32 steps that the state must take that are legally binding before property can be transferred. Based on the Expropriation Bill, which will take eight months. If the state does not provide adequate compensation, I can promise you the owners will take every legal step to review if there is a mistake and with the current failed administration in land reform there will be many mistakes. Expropriation is not a simple legal

mechanism to acquire land.

The other thing that we must keep into account is that legislation is supposed to make explicit what is implicit in the Constitution and that is the conversation that is in front of the parliamentary committee now that must draft an amendment to make explicit what is implicit. It does not really have a legal changing effect, so people's expectations will not be met. If it is not drastic, there is no guarantee that the EFF will vote on that, which means it might be that by March 2020 we will have an amendment to the act in front of the Constitution, in front of the parliament that will not be accepted by the EFF.

It is indeed a red herring. We need to look at how can the state acquire property and what must happen afterwards.

Thank you.

Question/Commentary 11

My name is Suraya, fondly known as Bibi Khan. I am with the South African Women in Dialogue. The interconnection is society and politics, religion and the relation to the militarisation of the state, so in that context is important for the motive and the expectations for life. Can citizens determine which is more important to maintain? Order, which may be detrimental as it forsakes or find less important the rule of law.

We are sitting with a serious situation in our country and how people look at things and then they want to bring the military in for social unrests, and it is in Cape Town with the crime and so forth, and we do not really go to the crux of the matter. We are in a site of winery here. Although I do not drink, I am sure people enjoy it. We need to understand that context of building here. Stellenbosch and all the areas had a *dop* system in the past. Based on that *dop* system, we have a high prevalence of foetal alcohol syndrome in our country.

Then we want to blame people when things go wrong. *Ja, jy's 'n dronklap*, you are just a drunkard, you are an addict, and so on. Children are beginning to question a lot. Young people are wonderful and perceptive.

They talk about things, and they talk about the preservation of life, that life is sanctified, thou shalt not kill. They talk about the preservation of property and protection against theft. They talk about the preservation of religion because religions need to be preserved against blasphemy. They talk about the preservation of intellect

because we have outsourced our thinking. We let the political parties, and everyone think for us. Here we are sitting, God willing I am going to listen, and I am going to learn, I have learnt, but I do not want to outsource my thinking, it is mine to think.

For the preservation of family, there is no fortification. The defensive war, the enforcements in our houses, because we say crime is there. The preservation of honour, dignity, and human dignity, not torture. We have an opportunity with the national action plan based on the UN security council resolution 1325 and the subsequent ones. There is a national action plan that women are discussing because women wage peace. *Hulle maak nie oorlog nie.*

There is a lot that is going on and it does not get unpacked for ordinary people, for us to mobilise. SAWID mobilises, in 2003, but we do not get businesses to come and support us. *Ons sukkel met geld.* You *bedel* here and this one pays, and that one gives. We are sitting without money as SAWID, but we have done a lot that you do not have in a tick box.

I thank you.

Response(s)

Johann Kirsten: I am grateful for Elmiën coming to my rescue on the expropriation question because she articulated very nicely and she makes the important point about the costly dimension of the expropriation strategy. We can argue that the land was stolen in various ways through the colonial and imperial processes and then the question is, what do you do with the expropriation process? Do you expropriate the land or all the assets on the land? The assets on the land have been established through private capital. Obviously, you can argue in a just way, but then the question remains: are those assets still valuable and need to be expropriated as well? So that will come at a cost and therefore the argument, null compensation, which Elmiën in her long legal opinion has been developing quite well is particularly important to this.

The discussion on education and graduates not finding work is quite comprehensive. It is another conference on its own. I think in the same spirit that you do a contribution to engage with new entrants into the agriculture sector, these financial contributions assistance, the skills transfers and those things can happen via these universities as well. Professor Madonsela, I agree, the good stories, we need to tell them. It is something that we have done many times, but it all depends on who tells

the story. Because if I tell the story, people do not believe me, and they think I have a vested interest in doing so. If the farmer tells the story, then they say, but you have done it in a patriarchal and powerful way, that you are the power person, you are dictating the relationships. So that can also have different interpretations. But we need to learn from these stories because it will help us to find the recipes to redress all the inequalities that we have.

Stellenbosch Municipality, I also want to challenge the municipality, since you are a counsellor, why do you not take some incentives and nudges to force these people out of their leases, which have gotten those leases unjustly? Yes, you are an EFF counsellor, but there are many mechanisms that the counsel can introduce to actually show us the way ahead. I have not seen that Stellenbosch Municipality has been vocal in terms of redress. There are some arguments that we should have to establish how to do this. How do you play on the minds of these individuals that have unjustly acquired the land? There certainly are some consciences with which you can play.

Professor Christoff Heyns: Thank you very much for the discussion and questions. The chair asked a question about the focus on murder and whether the focus should not also be on rape. I must emphasise that the overall focus is on violence and that is the issue that needs to be addressed. Every subdivision of that in terms of whether it is murder or whether it is rape or whether it is used in robberies or assault, culminates into the bigger picture that needs to be addressed.

I think the focus on murder is often because it is easier to measure. There is a body, so it is reported. If you want to have an indicator of trends over time, that is often used as a proxy for broader violence in society. We know rape, for example, is often not reported, and it is difficult to measure.

But that does not take away at all from the starting point, which is how to address violence, and that can be done through accountability. That is the message I want to convey, it can be done in many other ways, and it should be done in many other ways, early childhood education, hotspot policing, and the use of technology. All those things are important to address violence in all its manifestations.

The question about policing: yes, I think to a substantial extent it is clear that one of the most important elements of addressing violence is the role of the state. A responsive state, a state that focuses on violence, prevents it but also ensures accountability. The police in South Africa, say after 2012, 2013, the rise in violence, a

number of things there, but including the bringing back of specialised units that can deal with a particular issue, including the section such as rape and so forth and not requiring the police, all of the police to do everything. Those things are very important.

Thuli's question about the SDGs and how does one rally around it. I must say, I see with universities, well, at least at the University of Pretoria, but I would think here as well, that there is actually, there seems to be quite a strong focus and a very helpful focus in terms of aligning research. This should be strengthened because then we have a common research programme. At the same time, I would think it is also important to see the SDGs.

Professor Thuli Madonsela: I am interested in broader society and business.

Professor Christoff Heyns: Yes. In terms of raising awareness, universities are a good starting point, but it is important to see the SDGs as one part of the larger picture. The underlying issue is the one that you identify here as social justice and that is one of the measures to bring that about. Hopefully, the universities are at least a starting point to bring the capability and the focus into the broader society as a whole.

I would certainly also think that human rights standing on its own, not just as part of SDGs, remains very important because human rights have a special component that it brings a longer-term value and the one that is not in the first place focusing on data, but focusing on the norms itself and the immeasurable value really that you cannot really compare people to each other, you cannot balance between people, everyone is of infinite value. That is what the human rights approach brings to the SDGs.

The last question concerns using violence to address injustice. Yes, I do not think, neither myself nor international law is pacifist, but the underlying principle is that as a last resort in order to defend oneself, violence is not excluded. But just to emphasise that a recent study looked at a comparison of violent transitions and non-violent transitions, civil resistance versus violent resistance. They considered 323 cases of 106 years.

The conclusion for me was quite startling. They said that the success rate in terms of their own objectives, of those who wanted to bring change, was double as high as civil resistance. When considering, for example, Slobodan Milosevic, the butcher of the Balkans who fell through non-violent resistance. If we look at what happened in Sudan and Algeria, if we look at the end of communism, in many societies non-

violence also plays a role. I am not excluding violence.

But also, what they emphasise, and I will conclude with that, is that also the chances of recurring violence are much higher if you have a violent transition. If you have a non-violent transition the chances of human rights violations not taking place and of violence not recurring in many cases are there. So violence I do not think is excluded, but to some extent, the research shows that in many cases one may too easily resort to it and there may be other alternatives as well.

Professor Nomafrench Mbombo: About the issue of the implementation related to social determinants of health. South Africa has a good history when it comes to community-oriented care. Starting as early as 1940, Professor Sydney Kark, who eventually left for Israel, started this at Pholela Park in KwaZulu-Natal. I know for a fact that people like Doctor Dlamini-Zuma were also part of it at the time that they were medical students. South Africa influenced the 1978 Alma Ata primary healthcare, health for all internationally.

Now, where did we go wrong? In the Western Cape, in terms of primary healthcare, people like the then Doctor Ivan Toms were the trendsetters in terms of including the socio-economic aspects of healthcare without being hospicentric.

The fault we did was about when we lose that focus, when people used to go even to the communities, the health professionals. 1994, when we started, there was a district health system, a white paper and all of those where we said that our health will be around that and also primary healthcare focus in order to make it a point that we ensure that we do not lose that part behind. But we ended up losing that.

Now, in order now to fast track, which is when we end up sending some medical students to Cuba, yet we have not changed the focus. Because when they come back, we end up frustrating them because they might have seen only one TB case there whereas in one ward here you get thousands of the TB case where they are unable to manage. Same applies with the issue of the obstetric and so forth.

We do have the whole policies, we have done it before, but we ended up being so excited with other methods that are going elsewhere. But we have done it. But in terms of a paper, we could be able to do that. In the Western Cape community, we are resuscitating primary care together working with the municipalities. In the rural provinces health is not a competency of the municipality. In the metro you have some clinics that are under the metro, but the majority is under the province who are already

doing that.

Also, to respond to Professor, what you have mentioned. The issue, tracking, the focus is still on the individual health outcomes, like neonatal care, and infant mortality, without necessarily looking at the other indicators that are crucial for health. For example, the distance, and accessibility to the health facility. Where the World Health Organization might suggest a no more than 5 km walk and also 2 km in between the referral.

But you do not require to measure that. We are not being measured for that per se. You get in areas where availability does not transfer to accessibility. Because there might be a clinic there, but would aunty Sarah be able to walk so many kilometres in farming communities?

Lastly, it was mentioned that Stellenbosch could also be a lab and so forth. Currently, we do not know the Gini coefficient for Stellenbosch. I think it is second after Bitou (Bitou is Plettenberg Bay). It is the most unequal, within the province, and the most unequal among the 25 municipalities compared to the rest.

South Africa is one of the most unequal countries in the world. There are, however, pockets in the Western Cape that are doing far better. Again, Stellenbosch might do far better in terms of the human development index in terms of life expectancy, access to services, and education. However, the inequality that is there, is problematic and affects access to healthcare.

Now, what you could do, is what has been done in Witzenberg – which is an extremely poor community, but it is also a farming community. They already have clinics of their own, the farmers act as employers, where they have their own clinics, their own staffing, and then you assist them there. We are not giving them any funds, they do it for their own farms.

Swellendam and the Thornlands Group also have their own clinics where they build their own clinic for their own staff, plus also the community's employing doctors and so forth. Same as with the Matzikama in the Lutzville and Grabouw and Elgin chicken farming. They are doing it already. So how come Stellenbosch cannot do that? Because in most instances you will find that some of the land is located on private property, so you cannot build a government clinic on it.

Professor Sandy Liebenberg: I will start and link the question that the chair posed on service delivery protests and the questions that were coming on issues of structural violence because the two are very much linked issues. My perspective is very much that violence by very marginalised communities who loses out in the new South Africa is a symptom of something deeply wrong in the structures of governance in local government.

We had the Auditor-General last night at the annual human rights lecture, and he was just painting this absolutely terrible picture of these enormous sums of money that have just gone missing on issues of vital service delivery and wasteful expenditure, corruption. I cannot remember the exact figures, but a very small percentage of municipalities get clean audits.

Coupled with that the number of studies that have been done, the Centre of the Study of Violence on service delivery protests, about access to remedies, access to get people's voices heard when they have service delivery issues, whether it is from sewerages, pipes bursting and flooding into their informal settlements, whether it is from land allocation issues, how also inaccessible this legislative framework of integrated development planning is to the poor, how it really is not working for communities.

It is symptomatic for us of the fact that the human rights framework of participation, and human dignity is not being integrated into local governance. This is the framework that I try to present on: the human rights framework. I would very much like Counsellor Hendricks to see Stellenbosch Municipality, the university as an organ of state, adopt that as criteria for assessing all our activities. Whether it is our agricultural sector, whether it is our housing sector and so forth, it should be our guiding lights.

I will just end with that point, to say that violence is usually symptomatic of something, no avenues, there's no safety valve, there's no meaningful redress. I certainly can tell many stories of trying to get redress for people in the Stellenbosch community, whether it is the backyard dwellers in Idas Valley, whether the people in Kayamandi and how difficult it really is to get relief. Especially also because the legal system is so expensive and so inaccessible to the poor.

That for me, although of course, I do not condone it, is deeply understanding why people feel desperate in these circumstances. A human rights framework can help us provide a safety valve where people do not feel the need to resort to violence.

Professor Ingrid Woolard: Let me answer your explicit question about corruption and I hope my answer will touch on the issues that were raised by various other people in the room. Corruption steals money from all of us. We see a direct effect in terms of the fact that we see the money that is intended for education, health, and other service delivery gets siphoned off. That has a direct impact on the efficacy of the state. But we also see an indirect role. Corruption of course is not limited to the public sector. We also see corruption in the private sector. That means that we are introducing inefficiencies into the market whereby we are overpaying for electricity, we are not necessarily getting, and we are overpaying for other types of commodities.

corruption has an incredibly negative impact both directly through the fiscus and indirectly through how the market functions. But it also plays another crucial role and this to some extent goes to the question that we had at the back of the room. Taxes are what we call quasi-voluntary. There are myriad ways in which you can avoid paying your taxes. As soon as taxpayers start to think that their tax rands are being wasted, they become less and less inclined to pay their taxes and they feel increasingly aggrieved. That is something we have seen over the last few years.

I do not think we are facing a tax revolt, but for sure we are seeing increasing *gatvolheid*, is the word over here, from the taxpayer. That then also feeds other issues that we have spoken about today. Professor Habib this morning spoke about the need for trust in society. When taxpayers do not have trust in the state, that then has ramifications both for tax collection, but also in terms of how we interact with each other. We are seeing increasing polarisation; people are feeling increasingly distrustful of others.

That goes directly to the question of whether we can even have a conversation about new forms of taxation that could facilitate redress? It is a very difficult space to have that conversation when we are in a low-trust environment.

2 5 Afternoon Panel Discussions – Parallel Panels

These six parallel panels were grouped around thematic areas centred on the SDGs. Rapporteurs were identified from each group to report back on these discussions at a separate plenary on Saturday 31 August. The feedback included summaries of information shared and alliances formed. All presented their findings in their own way and according to the methodology adopted in each group.

Parallel Panels on six topics, with eight questions that were discussed in each group:

1. Identify the nature of social justice.
2. What is the desired future in terms of social justice efforts in your thematic area?
3. What are current challenges for social justice in your thematic area?
4. How should our call for action look in relation to this thematic area?
5. What pathways are available to address social injustices in this area of expertise regionally and nationally?
6. How do we leverage the opportunities presented by the SDGs, national constitutions and development plans in a national context?
7. How can we better share information on social justice research that is being undertaken?
8. What alliances can be formed that work in a coordinated way to advance social justice?

PART 3: CONFERENCE: SATURDAY, 31 AUGUST 2019 – REPORT BACK FROM ROUNDTABLES

3 1 Welcoming keynote by Professor Eugene Cloete, Vice-Rector for Research, Innovation and Post-graduate Studies at Stellenbosch University, Stellenbosch University

Good morning, colleagues. A hearty welcome here and thank you for coming on this Saturday. Thanks also to Professor Madonsela for the invitation to be here, I appreciate it. I acknowledge my colleague, Professor Nico Koopman, and everyone else here who I regard are really important people to be here on a Saturday morning.

I would like to talk to you about the role that Stellenbosch University is playing in achieving the United Nations' Sustainable Development Goals (SDGs) and also the National Development Plan (NDP). I am going to make it easy for you to remember the SDGs and also the essence of the NDP.

What we do, as universities, is to create a wealth of knowledge. The idea is to share that wealth of knowledge with society. I use the word wealth here very deliberately. I am also using it as an acronym for what we do, what our research focus is at the university, and how we apply it. It will become evident as I continue. The W in the WEALTH acronym is for water, the E for energy, specifically renewable energy, the A stands for agriculture, because with agriculture comes food security, the L for land, the T for technology, and H for health.

Just consider this for a second. If you take any one of those away, you are poor in one way or another. If you do not have water, you are water poor. No energy, energy poor. If you do not have proper agriculture you can very soon become poor in terms of food, health and so on. I could spend a lot of time on each one of these, which I do not have time for, but I do want to mention one or two things which are currently hot topics in South Africa.

Let us consider the issue of health. We have institutes or centres of excellence in each one of these fields. In fact, in health, we have three centres of excellence. Two focusing on HIV, one on tuberculosis, and then we also have a cancer institute. In terms of water, we have a water institute and so on. Let me talk about land for a second.

There is this notion that I do not clearly understand, that if you give someone land

you will automatically eradicate poverty. Owning land is not what will eradicate poverty or create jobs. It is the value chain. Land is simply a place where you can drive the value chain. It is like giving someone a building and saying, well, that building will now eradicate poverty because you have it. It is what will happen inside the building that will eradicate poverty, the market, the knowledge, and, ultimately, the product. The whole value chain is important.

I would like us to talk about the value chain when we talk about land in South Africa. A lot of the people who are highly successful at farming do not own the land, they own the value chain. That is what we should focus on because that is what will bring jobs.

I want to go further with the acronym, WEALTH, because it is more than the hard science issues that I have just mentioned: water, energy, agriculture and so forth. There are other very, very important things that we should focus on at university: W is also for women and how we empower women in Africa and around the world. Now I add a third W here, since we are in Stellenbosch, and that is also wine. But wine is not necessarily part of the SDGs or the NDP. It is something the university does specialise in. We are the only university with our own winery in South Africa.

The important thing here is empowering women who form the backbone of African society. We need to work very hard on their careers and empower them to take Africa forward. The E is not only for energy, but very importantly also for education where we play a leading role as a university. It is also for employment, for the economy and for equity. These are all things that are high up on the agenda that I think we should drive in South Africa and, if you think about it, also worldwide.

The A for agriculture, but also for access; access to energy, access to education, access to land, access to technology, and access to health. The L is for land, very importantly, also law, the rule of law. You cannot have any of the other things if you do not have social justice and the rule of law in place. Allow me to add a third L and that is leadership. However, I like to qualify leadership as thought leadership. We have too many leaders at the moment in the world that first speak and then think and then have to spend weeks trying to say what they meant when they said something in the first place. Perhaps they should just pause for a minute before they say something and think. So thought leadership is important.

Then we come to T, which is the technology part, and that is nanotechnology and all the other technologies that we think of here, big data, computational thinking and so forth, but also transformation. Now, transformation should manifest in everything

that we do. The world is currently at a crossroads. We cannot continue to live the way we live because it is not sustainable.

To support an average American, you need ten hectares of land. That is the consumption of an average American. If everyone in the world had the same consumption as the average American, the earth can only house 1.2 billion people and not 7 billion. We are already in trouble as far as our ecosystems are concerned. We are consuming one and a quarter, which is 1.25 of the earth's resources as I speak. That results in 2 billion people without food today and 1.2 billion people that do not have access to water today.

We are in a crisis there, so we will have to transform society, we must transform the way we teach. If we want to teach 200 million young people in the next 15 years in Africa, we will not be able to do it the way we are doing it right now. We will have to transform the way that we work.

This is what I think is possible. Many people spend hours on the highways between Pretoria and Johannesburg or Somerset West and the Paarl or Somerset West and Cape Town and once they get to the office, what do they do? They email each other from one office to the next. You can do that from anywhere in the world.

The mindset has, however, not yet caught up with the technology. The mindset is that you must be at work between 08:00 and 17:00, what you do there does not matter, as long as you are there, instead of saying, let us see what we want to contact you for and when you deliver on that it is your own time and you can do it whenever you want. We need to transform that. We need to transform society. We need to question everything that we do, and we need to do it better and we need to do it more sustainably.

Let us go to H and talk about health. Another big challenge that we have in South Africa is housing and that is obvious if you live in this part of the world. We have a major need for housing. So, what is my third H? The third H has to do with hope. I look at South African society at the moment and then consider the four categories of hope. If I need to classify South Africa right now, I will classify it as a large number of people in South Africa who have lost hope.

The single mother living in Kayamandi or Khayelitsha without a job who does not know where the money will come from for food tomorrow and who does not have the means to take their children to the clinic if they are ill is a case in point. These people are hopeless. They have lost hope over the past 25 years. They do not believe in

promises anymore. When this happens you become depressed. Hopelessness often results in deep depression and there are currently millions of hopeless, deeply depressed people in South Africa.

Then we have our young people who, I believe, have been denied hope. Hope denied leads to anger. This is why our young people are angry. I have a lot of empathy for that. When we had these protests on campus, I often felt (and I think my colleague, Professor Koopman felt the same) that we all just about got into trouble for wanting to walk with them because we believed in the cause to fix things.

They were not angry so much at universities as they were angry at their situation in the country. To fix it the university was a place, a platform to try and fix their own future. We will have to do something about that. We cannot have young people that live in a world where there is no hope.

We also have the third category, which is hope deferred. For that you need patience and when your patience runs out, you will go back to either of the previous two hopes. You will either go to hope denied and become angry or you become hopeless, and you become depressed. So, what is missing at the moment – and this is why I think this conference is so absolutely important in this timeframe in South Africa, it is timeous that we have these conversations with each other – is hope realised.

For hope realised, you need a vision, a plan and action. You also need to align everyone behind that vision, plan and action. Let me share with you my vision for this beautiful South Africa of ours. It is a very short vision. It is a smile on everyone's face and a clean t-shirt. Think about it for a second. What does a smile symbolise? It says we are all happy in this country. Just imagine everyone in this country being happy. What does the clean t-shirt symbolise? It symbolises we all have enough: enough food, enough shelter, and enough love.

The challenge that I put to myself every day and the challenge that I put to my students and my fellow workers, is what can I do today to bring a smile to someone's face? For the students in residence, when someone is dishing up their food, they must realise that the person dishing up the food is on the other side of the counter and will never have the kind of life prospects that you, the student on this side. The least you can do is to find out her name, find out when her birthday is and make a fuss of her and acknowledge her because it will give meaning to her life that might already be pretty miserable.

The clean t-shirt is going to take a bit longer, but that does not mean that it is not

important. Every time that we graduate a student, which is approximately 9 000 students annually, it is hope realised. Life changes for that person. It is not enough, to change what happens in South Africa, but it is vital for those 9 000 students and also at other universities. You must remember that their future has changed, it had an impact on their immediate environment, on at least their parents, and on at least one sibling. So, you can multiply the impact of those 9 000 students by at least three.

I am currently working with the Department of Higher Education hoping to convince them to not have dropouts at university any more. The way to do this would be to say if someone has completed the second year of a chemistry degree but they failed, for example, Mathematics I, they now cannot continue with their degree. The solution I propose acknowledges them with a certificate or a diploma for Chemistry II because they will make a better lab assistant than someone who does not have Chemistry II.

I reckon if we get this right, we will not be wasting the taxpayers' money anymore as we will effectively create a possibility for those people to find and keep a job. It is one of the things we can do in South Africa that will have the largest immediate impact on society. Remember, instead of thinking of yourself now as a dropout and a failure, you are looking at someone that has achieved something that has been acknowledged. This is not lowering the standard; it is acknowledging someone's real effort and success.

Colleagues, with those few words, I am looking forward to spending this morning with you.

Thanks for having me, thanks for listening, and have a great day.

3 2 Report back from thematic social justice roundtables

Rapporteurs, as identified from each group, reported back on the conference proceedings of the previous day, emphasising information sharing and alliances formed, with Karyn Maughan moderating the session.

Maughan opened the floor by highlighting that "one of the themes of this conference, is to choose hope over fear. That is a global need, but particularly a need in the most unequal country in the world."

3 3 Thematic social justice roundtables – Parallel panels

3 3 1 Employment and inclusive economic development – Moderator: Solly Moeng (Reputation Management Advisor and Independent Media Professional)

Panellists:

- Professor CB Ncube (SARChi Chair in Intellectual Property, Innovation and Development, University of Cape Town)
- Doctor R Raju (Director: Research and Learning at the University of Cape Town Libraries) – “Open Science and Open Access: A social justice imperative for South Africa”
- Professor Monray Botha (Head of Department of Mercantile Law, Faculty of Law, UP) – “In search of sustainable employment: Can employment be sustainable in South Africa? The chasm between social justice, business and collective bargaining in a post-constitutional dispensation”
- Professor Catherina Schenck (DST/NRF/CSIR Chair in Waste and Society, University of the Western Cape) – “Social Justice and informality: The case of day labourers and waste reclaimers”
- Ignatius Ferreira van Afrika (Journalist, author, screenwriter, painter, musician, and life-long social justice activist) – “*Nelson's Knot, the second South African miracle*, a rational economic transformation investment plan titled free entryprise(sic)”

Rapporteur: Edwin Cleophas (Managing Director, Social Justice Agency)

Sustainable Development Goals:

Goal 1: End poverty in all its forms everywhere

Goal 8: Promote sustained, inclusive, and sustainable economic growth, full and productive employment, and decent work for all

My name is Edwin Cleophas, and I am representing the Social Justice Agency. My group dealt with employment and inclusive economic development.

We started with Professor Ncube who spoke to us about the challenges throughout the education sector that we are having to address from an outside perspective our efforts should be to help society through social justice and from an inward perspective we must address the challenges impacting the education sector. Education, which is geared towards producing employees, needs to be addressed urgently. The gentleman from the University of the Western Cape highlighted this on day one.

A further issue that was discussed was the fact that we have largely succeeded in providing access to education. However, now we need to look at the quality of the education that we are offering especially at rural schools located in disadvantaged areas.

Intellectual property as transformative action is also critical. Questions we should attempt to answer include how intellectual property law has impacted education thus far. Research shows that the impact has been largely negative.

Professor Botha spoke to us about access and exactly what it entails as well as what we are trying to achieve through education, especially in the tertiary space. What are we doing about the transfer of skills?

There is something fundamentally wrong with producing graduates who are not employable. We have to recognise that the value of humans as a resource is critical for South Africa. There is a big problem with labour law and its lack of representation and understanding of the needs of employees. In fact, some of these laws, if we look at them in-depth, might very well be outdated.

Another big problem that Professor Botha highlighted concerned the lack of representation of women in senior positions and the fact that women are still being excluded and marginalised in business specifically. We discussed dirt pickers and day labourers, their place in society and the challenges that they face daily.

Some of the reasons that were advanced as to why they ended up on the streets ranged from losing their parents and having to take care of their siblings, poverty, and political turmoil in their country, for example Zimbabwe, which ultimately brought them to our streets to go through our bins. Some of the day labourers noted how at times they would not go home because they cannot face their loved ones without bringing anything back home and they will end up sleeping in the bushes.

Suggested resolutions included that we need to listen to the plight of our dirt pickers

and our day labourers and that government and NGOs should get involved to get these people some much-needed help. Nevertheless, collective action will be more progressive, and it would include their opinion on how to best help them and work together to assist them in ensuring dignified lives for all.

Ignatius Ferreira came to the fore and had an immensely powerful speech which he said that he has been waiting 20 years to give and that he gave it the last time 20 years ago. He said to us that the marginalised in society are still suffering 25 years on. He believes that South Africa still possesses the will and the resources to overcome this. While gaining political liberation was a memorable moment in South Africa, economic liberation fell by the wayside. That is the task at hand that we have to deal with, namely, economic liberation, something Madiba called for but never achieved.

Issues that further need to be addressed include figuring out how to stop the exodus and loss of intellectuals and professionals to the international community. What systematic changes are required to achieve the SDGs that we have discussed here? Further discussions that emerged included the reality of black tax. This led to some robust discussions from our panel as well as a meeting of the social justice community.

The governing party need to be held accountable while not losing sight of the fact that a few good ones can transform the many corrupt ones that we have amongst our leaders. We have to address the ideology of self-enrichment. Vocational training is critical as we need skilled labourers and workers should have decent jobs. In fact, it should be a basic right.

Access to information is required. Students should not be paying exorbitant fees for textbooks, among other things. We need a consumer-driven movement. It makes no sense that the work that is produced by South African academics is unaffordable for students attending South African universities. We need easy access and an accelerated process because moving the delivery date to 2040 is not an option.

Miss Mohlahlana noted that we might need a resolution from this conference specifically concerning helping students who fall through the cracks of a broken system. She told the story of a student from a rural community who got six distinctions and who has still not been enrolled in a university due to a lack of opportunity and access. This cannot continue. She is in the process of helping him register at a university. It was noted that we cannot keep on following systems and policies that have proven repeatedly that it is fundamentally flawed and not helping the most vulnerable in our society.

Here are a few things that we need to think about before I conclude. It includes having an economic TRC.

Why are we still training students for jobs that do not exist? Non-delivery on mandates, maladministration, and lack of policy on issues of social justice. As academics, we are challenged to why we are not the ones drafting these much-needed policies. For whom are we waiting, why is the cost of data so high, and how are we going to address this issue? #Datamustfall and Universities should stop working in silos. We should commit to working together and sharing information to effect greater change.

Our students are suffering and dropping out of university because of corruption in institutions like NSFAS. The needs of the most vulnerable are placed above the greed for self-enrichment. We all agree that the money is here but the problem lies with those who are entrusted with managing the funds. How do we solve this?

We focused and zoomed in on state capture and the corruption in national structures. This reminded us of the sinister undercurrent of a vile and corrupt system that threatens the stability of communities across all nine provinces, which is known and referred to as municipal capture.

Mister Van der Merwe said yesterday that the 17 million people who received grants and have job should rather say thank you. We want to say to Mister Van der Merwe, thank you, but we do not want your jobs anymore, we want ownership. We want to know that when we start a small business it can succeed much like our white counterparts do.

Reparations, which should be coupled with land redistribution, including assets without compensation. This is not difficult. Europe has done it and continues to do it with survivors and their families of the Holocaust, ensuring that people live like survivors and not victims. We in South Africa are good at taking things from Europe and this is one we should start taking and looking at very swiftly.

Finally, hope without lasting change for the poor and marginalised is a failure of our mandate as a social justice community.

3 3 2 Food security and Health – Moderator: Professor Jimmy Volmink (Dean, Faculty of Medicine)

Panellists:

- Doctor Hamilton Grant Pharaoh (School of Health Sciences, Physiotherapy Department, UKZN) – “Lessons learnt from Youth Development Program amongst Grade 8 learners in a selected high school in Paarl, South Africa (2016-2018)”
- Professor Kathryn Chu (Global Surgery, Faculty of Medicine, Stellenbosch University and Doctors Without Borders (MSF) board member) – “We are not sure that words can always save lives, but we are sure that silence kills”: The Role of the *Medecins Sans Frontieres* in Social Justice”
- Professor Lloyd Baiyegunhi (School of Agricultural, Earth and Environmental Sciences, UKZN) – “Demand Driven Evolution of Traditional Insect Foods through the Configuration of Traditional Ecological Knowledge, Local Branding and Marketing Strategies”
- Sue Statham and Marlie Enright (Faculty of Medicine and Health (Physiotherapy), Stellenbosch University) – “Developing leadership and health advocacy skills in final year physiotherapy students using Community Assessment projects”

Rapporteur: Marlie Enright (Faculty of Medicine and Health (Physiotherapy), Stellenbosch University)

Sustainable Development Goals

Goal 2: End hunger, achieve food security and improved nutrition and promote sustainable agriculture

Goal 3: Ensure healthy lives and promote well-being for all at all ages

1. **Key issues: To frame health in the context of social justice, we need to understand two key points**

- a. According to the WHO, health is not merely the absence of disease but a state of complete physical, mental, and social well-being. Social justice and health have the same definition – both revolve around the well-being of society and therefore are inextricably linked
- b. If health is defined beyond the mere absence of disease, the social determinants of health should be emphasised. These are the conditions in which people are born, live, learn, work, play, worship, and age that affect their health. In turn, those conditions are determined by both structural privilege and discrimination. People's distinct and unique identities impact their ability to seek, reach, receive, and retain care.

2. Key issues for health and social justice in line with this framework

- a. The role of the health care provider should be strengthened and they should be reimagined as change agents.
- b. As mentioned previously, people trust their doctors. The trust between health care providers and patients is precious and can be harnessed to improve health outcomes.
- c. Medical professionals need to be trained in the field of social justice and specifically in the social determinants of health to encourage them to invest in communities.
- d. In a health care setting, there is an inevitable power dynamic. This power dynamic is detrimental to health. Patient advocacy should therefore be enhanced because a person-centred approach to health is true justice.
- e. The ideal provider-patient interaction would be where patients ask questions and feel involved in their treatment. During this interaction, providers should normalise enquiring about the patient's home life and focusing on what they can do to help the patient learn about their treatment. There is no point in telling a patient to eat better in order to control their insulin levels when they live in a food desert. Or when they are bedridden and cannot access food. There is a dire need to create the awareness that health is holistic.
- f. The body cannot be separated from the community.

3. A need to better understand and balance the role of the government

- a. The tension between community-driven and decentralisation of power and privilege but with a need for leadership and alignment. This debate has surfaced repeatedly during this conference and summit.
- b. If health is partially determined by environments and conditions, who is responsible? Is it the role of the government to ensure that communities are resourced or should communities take more ownership given that they understand the on-the-ground nuance?
- c. This also raises the question: Why not both? We have to be participants because we are all in it together, and do not need one stakeholder to step up in the absence of another.

4. The need to highlight the issue of the weaponisation of human rights

- a. Many people have heard of biosecurity and chemical weapons, and the denial of food as a means of control. Below are some examples of this form of weaponisation.
- b. Operation Lifeline Sudan was a coalition of UN agencies and NGOs to provide humanitarian assistance in South Sudan in the 1990s as a result of a civil war. However, when aid was delivered, innocent civilians would naturally flock to the sites of food drops and both sides would use these gatherings to kill en masse.
- c. After the Rwandan genocide in 1994, there was a massive cholera outbreak. The Interahamwe, led by Robert Kajuga, who ran the refugee camps levied a tax on the humanitarian health workers and were vocal about using the funds to finish the genocide.
- d. In 2015, an MSF hospital and its patients and workers were collateral damage of a US airstrike.
- e. Although there are resolutions concerning the protection of humanitarian workers, this is still a moral issue that needs attention.

5. It has been emphasised that it takes a village of stakeholders to advance health. This raises the question: how do we align for a common goal when there are different funders with different agendas? We need to do better in sharing resources and creating alliances.

- a. The group discussed the first step: keeping abreast of the innovative work of colleagues. It was pointed out that at conferences, the attendees will often talk to each other and so discover the cool and innovative work that their colleagues are doing. However, there should be consistent tracking and mapping of the resources and deficits.
- b. This tracking and mapping will assist to establish what worked and what did not. It will value evidence-informed research, which is evidence-based research combined with on-the-ground experiences and expertise of the community served.

6. This segues into the translation of research to policy. There is so much health research going on but a concern around the time and barriers to implementation

- a. It is acknowledged that translation into policy can take a while but, in the meantime, we need to internalise the learnings.
- b. In 2004, *The New England Journal of Medicine* published guidelines that dual therapy antiretroviral drugs were the most efficacious treatment. However, South Africa did not allow AZT. Doctor Colin Pfaff working in the community called out this injustice and said it was unacceptable to withhold treatment. Doctor Pfaff further raised money and began treating patients with dual therapy but the provincial government subsequently charged him with misconduct. Civil society, however, rallied and there was an outcry from the media and NGOs. A true alliance formed and the charges against Doctor Pfaff were dropped. This is a good example where justice was prioritised over policy.

7. The final key issue: A health care practitioner working during the Ebola crisis challenged us to change our thinking from community engagement to community ownership

- a. Community engagement can have the connotation of a power dynamic where communities need external help, but community ownership decentralises this power and supports agency.

- b. In particular, this issue highlighted agency among the youth. Schools were identified as a focal point of transformation where health behaviours and the environment during critical development stages should be encouraged. Prevention is better than cure.
- c. Social justice is lived values and it starts with each individual. During the conference, community and various alliances were discussed. It was highlighted that we need to do better for our children and young people. Enright stated that she is one of the youngest people on the conference stage and it is already going downhill for her given that she does not recognise anyone on the Grammy's red carpet anymore. In spaces like this, community-based organisations and leaders should be invited. Let us have these discussions take place in communities. Enright concludes that she has always loved the mantra from the disability life movement: "nothing about us without us".

8. In conclusion, health is beyond the individual. There is an urgent need to realise the SDGs. Health is isolated into one interconnected goal. It takes a village to be healthy.

3 3 3 How education can contribute to achieving SDG 4 and advance national development and creating the future South Africa our next generation deserves – Moderator: Professor Francis Petersen (Vice-Chancellor, University of the Free State)

Panellists:

- Doctor Mary Nel (Public Law, Stellenbosch University): "A Prison-University Educational Partnership: Rehumanising Learning and Working Towards Social Justice Through Collaborative Course Design"
- Sindile Mahambehhlala (Educational Transformation Officer, Stellenbosch University): "Exploring Life Sciences Educators' Enactment of Resource-based Teaching in Three Rural Secondary Schools in South Africa-A Case Study"

- Professor Nicolette V Roman (SARChI Chair: Human Capabilities, Social Cohesion and the Family, University of the Western Cape): “Investigating the intention to drop out of school: Implications for social justice”
- Chrischar Rock (Social Impact, Stellenbosch University) and Jackie Boulle (Chief Director: After School Programs, Western Cape Government): “When the School Bell goes ...”
- Professor Cecilia Jacobs (Centre for Health Professions Education, Faculty of Medicine and Health Sciences, Stellenbosch University): “Responsive curricula for healthcare professionals”

Sustainable Development Goals

Goal 4. Ensure inclusive and equitable quality education and promote lifelong learning opportunities for all

Feedback from Rapporteur: Portia Davidse (University of the Western Cape)

I am Portia Davidse from the University of the Western Cape. I am, a South African Research Chairs Initiative chair member and hope to develop a framework to assist with our learner dropout and to submit to the president within the next few years. *Ubuntu.*

I was part of the education group yesterday where we looked at how education can contribute to achieving the Sustainable Development Goals, four especially, and advance national development and create a future South Africa our next generation deserves.

We looked at identifying the nature of social justice and we all should know this by now, social justice in education is concerned with achieving equitable and quality education for all students where a socially just education system is both a process as well as a goal. The goal of social justice education is full and equal participation of all groups in society that is mutually shaped to meet their needs.

What is the desired future in terms of social justice efforts then? Political willpower is demonstrated through leadership that prioritises achieving social cohesion by breaking down barriers where collaboration and community building are paramount in achieving a socially just society. To build an education system which aims to level the playing field and set the course for collaboration, where everybody starts at the

position of humility, where there is no right way, but each one is valid in its own context.

The idea of transformative learning theory, drawing from the strengths of people's lived experiences, reflecting on the past and imagining an inclusive future. To draw from skills, knowledge and who we are, our values and our sense of purpose, with a stern focus on the process of de-othering, with a humanised instead of an objectivist approach for better learning which will foster holistic student development.

Where RBL is an approach to pedagogy, that actively involves students, teachers and a range of resource providers, both human and non-human result in learners being better prepared to become lifelong learners capable of independent and informed decision making.

The challenges for social justice. South Africans face a defining moment in our history. Our education system is in crisis. South Africa essentially has a two-tier education system; a richly resourced minority of schools, mostly situated in the middle class and rich communities, while low socio-economic schools, specifically rural schools, struggle to move towards the fourth industrial revolution because of a deficit in resources, lack of skilled educators and therefore underperforming learners.

This would confirm that schools were not failing individually, rather the nation was failing them collectively. It is not a technical problem to be solved by experts, but rather a national disaster requiring our collective efforts.

In higher education universities are called upon to develop graduates with a strong political critical consciousness. Graduates are called upon to develop a professional identity that takes on an advocacy role with a strong sense of social accountability. Students should think about the concept of the greater good for others where they engage in authentic learning and embodied experience, modelling the practices and values they draw from and always focusing on the big picture.

The call for action then. Mutual trust underpins the process. Without it, no policies or action plans will ever matter. Individuals and groups need to trust each other and hold each other accountable for agreed actions. This is a precondition for realising a transformative social justice agenda in which social cohesion is evidenced in the curriculum, the classroom, communities and in all governance structures.

Relating to teaching and learning, a socially cohesive approach will recognise the difference, although not to such an extent that difference itself becomes a source of division and differentiation between social groups. Our difference is our strength, not our downfall.

Regarding dropout prevention, to focus on a multisectoral approach by re-establishing core educational values with a proactive plan to focus on ECD, play, early-stage monitoring, afterschool initiatives, life skills, and learning centres. To match the needs of the family and the community and quality programmes which seek to connect with all assets within the community.

What pathways are available to address social justice regionally and nationally? It is very simple. Any unjust aspect of society, which is a result of prejudice or policies, qualifies for social justice intervention. The education, our collateral damage, a system, inevitably the basket that has all these disparities. Minister Jackson Mthembu stressed that trade-offs from all parties will ensure that national justice is advanced. It would require tangible investment in social equality as a genuine gesture of sustainable redress and conciliation rather than just window dressing.

To achieve this goal a shared consensus and participation are inevitable. Every stakeholder in the education system and beyond must be committed to social cohesion. Forums for dialogue and consultation are vital to creating a robust policy framework to address underachieving and vulnerable learners, low motivation amongst teachers, disengaged parents and disgruntled communities.

How do we leverage the opportunities presented by the SDGs, national Constitution, and development? How do we leverage it? The first is to emphasise political buy-in from all, without which policy coherence is not possible. National ownership is key to the development of a cohesive future.

A useful guideline is an emphasis on using existing institutional structures and processes. There's no need to reinvent the wheel. Rather existing structures should be organised and utilised in the most efficient way. This should result in a coordinated effort to improve policy coherence that includes various government participants and stakeholders. The notion that development priorities are interconnected is a defining characteristic of the Sustainable Development Goals and also characterises South Africa's National Development Plan.

How then can we share information on social justice research that is being undertaken? With the growth of the digital economy, data sharing has become an essential business practice, whether between different groups within the same organisation, between partners in a larger platform or even in growing open data movements with the public. Sharing enables new insights from existing data and allows organisations to make full use of this core research. Data sharing encourages

more connection and collaboration between researchers which then can result in important new findings within its field, specifically for education.

My last point. What alliance can be found that works in a coordinated way to advance social justice? It is simple. A shared consensus and participation of every stakeholder in the education system and beyond must be committed to social cohesion. Forums for dialogue, as I said earlier, and I reiterate, that consultation are vital to creating a robust policy framework that includes a detailed funded implementation plan.

Social justice cannot exist as an independent phenomenon because it is the underlying principle of all phenomena. All of us are teachers. *Makhulu umfundis* Portia, the normal man in the street, Jan Alleman. We are all educators in our own way. Thank you.

3 3 4 Social and Gender Justice – Moderator: Professor Annika Rudman (Professor, Public Law, Stellenbosch University)

Panellists:

- Doctor Chijioke Ifeoma Okorie (Postdoctoral Research Fellow, University of Cape Town): “Gender equality and social justice through the regulation of collecting societies in South Africa”
- Fundiswa Khaile (School of Government, Faculty of Economic and Management Sciences, University of the Western Cape): “Social Justice a Necessary precursor to building a sense of belonging in the City of Cape Town”
- Seehaam Samaai (Director, Women’s Legal Centre): “Striving towards the recognition of De Facto Co-Habiting relationships and Religious marriages”
- Shelley-Ann Vickerman (University of the Western Cape): “You are not human enough. You are not man enough, you are not woman enough. You are a reject to society” Exploring the voices of a group of transgender females living on the streets of urban Cape Town through the Human Capabilities Approach”
- Alice Wilton and Michelle Petersen (Civil Society, Stellenbosch University): “The psychological impact of Apartheid, its’ impact on the psyche and long term repercussions in terms of intergenerational loss of dignity and violence”

- Doctor Maria Assim (Researcher, Children’s Rights Project in the Law Faculty, University of the Western Cape): “Leveraging on the SDGs for the advancement of children’s rights”

Sustainable Development Goals

Goal 5: Achieve gender equality and empower all women and girls

Goal 10: Reduce inequality within and among countries

Feedback from Rapporteur: Rapporteur: Fanelesibonge Ndebele

How can one really summarise what was probably the most powerful conversation that I have ever been a part of? I was truly inspired by the women in front of me, and I have to say it was an all-women panel and for some reason they chose this man to come and report back. You know the irony of all of that.

But also, if I have to think about the people that were in the room, I think there were only three men in the room and I was really sad that there were not more men in the room that were going to hear the incredible work that the phenomenal women in this panel are doing and the role that each and every one of us can play.

Men need to really join that dialogue and not sit in the corner thinking it is an issue that only women need to address. Because if we look at the patriarchal society, we find ourselves in, it is men who continue to perpetuate these stereotypes and continue to violate women every single day. I am really honoured to stand in front of you giving this report back.

Jumping right into it, I am not one that is particularly good with summarising, which is ironic because I am a law student, you would expect I would have this on lock, but I will really try my best. We began with Doctor Chijioke Ifeoma Okorie who spoke about gender equality and social justice from the regulation of collecting societies in South Africa. We really looked at the intellectual property rights of women and she really unpacked the legal framework and spoke about these collecting societies, something that I was not aware of, so I really learnt something new.

To give a short definition or an understanding of what a collecting society is. It is an association of copyright owners. They operate as this association, and they negotiate licences on behalf of members, and it is really meant to streamline the process of

attaining copyright and really your protection if you are a copyright owner. It is a society that really operates and what they will do perhaps is to collect the fees for the owners and then distribute them to whichever copyright owner. It is a very important entity within copyright law and within intellectual property.

She really began looking at how women are really disadvantaged in those spaces, and she gave various examples talking about musicians. She gave an example of musicians that she has interviewed, women who are in the music industry who do not receive the same type of protection as men and how women constantly must fight within that space for recognition, for protection. When considering the industry, and if we look at issues of intellectual property, it is very difficult for women to navigate that space.

She did outline if you look at the key aspects of collecting societies, one thing, trust. Because this collecting society is acting on behalf of its members, you need to create a space of trust where people can know that their rights are protected. Far too often for women that is not the case within that space. She really outlined the incredible work that she is doing to really advocate for women within this field. I was extremely inspired by that.

We then moved on to Fundiswa Khaile. I hope I am pronouncing your surname correctly, please forgive me. For me, what really struck me with her talk was that she particularly looked at local government and the sense of belonging. She talked about the study, particularly she is talking in the City of Cape Town: "This is the reality that we find a lot, particularly as black communities, this sense of belonging."

She said that the statements made by the former Premier Helen Zille, really triggered her research when the latter referred to individuals coming in from the Eastern Cape to the Western Cape as refugees. This statement really sparked a lot of debate and outrage, and rightfully so.

She explored the idea of belonging in the context of South Africa especially my personal experiences within Black communities, this lack of belonging. If we bring in, I am from KwaZulu-Natal, so coming into Stellenbosch, for me to thrive in that space there needs to be a sense of belonging.

That is why we have issues with people in this case if you look at violent protests, which is why protests turn so violent. Because if you are not going to validate me, if I do not have a sense of belonging within that space, I will violate what you hold dear so that you can in turn create a space where I have a sense of belonging. It is a big

issue that we face. She looked at the work of local government and how it has a developmental mandate because it is local government that really works on the ground with people.

The conversation included an overview of the history, including the issues of Bantustans. Attention was paid to the manner in which these communities that were historically Bantustans are struggling to adjust to modern South Africa because of historical issues that have still not been addressed. She identified spatial injustice as one of those continuities. She asked noted how historically Black communities are structured pointing out the spatial injustice that continues to bedevil these communities undermining the development of women.

She gave a summary of the presentation by Seehaam Samaai, Director of the Women's Legal Centre and the work it does on women's legal empowerment and giving women a voice.

She particularly focused on the recognition of religious marriages and unregistered marriages, how women in those spaces are not given a voice and how the courts and how the legal system and how government, not enough is being done to protect women. That is why you find women end up staying in violent and abusive relationships because you are not given a voice, they are not given protection.

I particularly love the work they are doing with the empowerment of women where they are being a voice for women in communities. I think really if you can just go and look at the work of the Women's Legal Centre and you will be amazed at the work that they are doing. She gave a really powerful talk on issues that women face, herself as a lawyer and the work that she does for women.

We then moved to Shirley-Anne who addressed the rights of transgender individuals, a group of marginalised individuals in our community that are not given a voice. I particularly loved the touch of bringing in personal experiences of transgender individuals. We looked at issues of suicide, we looked at issues of discrimination, and we looked at issues of the psychological impact of the abuse that transgender individuals are facing within our community.

She outlined personal experiences of trans individuals who have given a personal account of the discrimination they have faced, whereas maybe it is in state facilities, like policies, whether it is with issues of gaining access to healthcare, with access to many other services that need to be afforded because it is basic human rights. Trans individuals are not afforded the protection that they deserve.

We then went to Alice Wilson who again spoke about really looking at the psychological impact of apartheid. Looking again at the work that she is doing, again the overall theme of the empowerment of women.

One of the projects that I really liked was where they train women, particularly with legal education, now I do not know if I am mixing up stories now, with legal education and particularly something that I am really passionate about in terms of legal education. Because once they have the knowledge, you have empowerment and women can stand on their own and be able to demand their rights to be protected, to be recognised.

She told a story of how they are really teaching. For example, you know the forms if you want to go and report a sexual crime, what are the steps? Because we know that it becomes a very violent space. I have heard personal accounts of women who have experienced a lot of abuse, a lot of discrimination within that space because of how our state facilities are structured and are geared against the protection of women. So, to empower them with the necessary knowledge so that they are able to enforce their rights.

Lastly, we looked at Doctor Maria Assim. She brought in something that is very important and something that we never really think about, that we need to include children in the social justice discourse. Because each and every day we make decisions that impact children, but they are not in the room. I love the work that they are doing in terms of bringing children to the table because we are talking about issues that affect them.

She particularly looked at how the issues that children face, should be treated with a sense of urgency because the first few years of a child's life are the most important in terms of their development. We really went into the issue if we look at issues of trauma and how a lot of issues that we face as adults are linked to the childhood trauma within our family that we do not talk about.

In closing, I really love what Karyn said when she brought in the question of how do we then, obviously within Black families the reality is we don't talk about these issues, children, and within various other families' children are silent. So, we need to include children. Because when we talk about the best interest of the child, they need to be included in that discourse and we need to start giving a voice and there becomes a sense of accountability.

She offered an example of how children speaking up and becoming accountability

agents towards the government and the government needs to actually, and the state needs to account to kids themselves.

3 3 5 Safety, Security and Good Governance – Moderator: Professor Zsa-Zsa Boggenpoel (Chair: South African Research Chair in Property Law, Stellenbosch University)

Panellists:

- Doctor Delano Cole van der Linde (NWU): Leveraging Sustainable Development Goals 1 and 16 in the eradication of criminal gang activity in the Cape Flats”
- Joy Watson (Feminist Researcher and Writer): “Budgeting for social equity”
- JB Gaetsewe: “Realistic Ultimate Vision for Africa from An Ordinary African’s Perspective”
- Doctor Nombulelo Lubisi (Dean, Nelson R Mandela School of Law, Faculty of Law, University of Fort Hare): “The interface between the rule of law and women’s access to justice: the African Union’s 2063 Agenda”

Sustainable Development Goals

Goal 16: Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable, and inclusive institutions at all levels

Goal 17: Strengthen the means of implementation and revitalise the global partnership for sustainable development

Feedback from Rapporteur: Thembaletu Seyisi

I will be reporting on behalf of group five, safety, security and good governance. Before I commence, I would like to remind us who we are, where we are and where we would like to be by reading the preamble of the Constitution.

It goes, we, the people of South Africa, recognise the injustices of our past; honour those who have suffered for justice and freedom in our land; respect those who have worked to build and develop our country; and believe that South Africa belongs to all those who live in it, united in our diversity.

We, therefore, through our freely elected representatives, adopt this Constitution as the supreme law of the Republic so as to: heal the divisions of the past and establish a society based on democratic values, social justice and fundamental human rights; lay the foundations for a democratic and open society in which government is based on the will of the people and every citizen is equally protected by law; improve the quality of life of all citizens and free the potential of each person; and build a united and democratic South Africa able to take its rightful place as a sovereign state in the family of nations.

There were five themes that group five identified as important. One, to promote peaceful and inclusive societies for sustainable development; to provide access to justice for all; build effective, accountable and inclusive institutions at all levels; strengthen the means of implementation; revitalise the global partnership for sustainable development.

We have heard from Doctor Delano van der Linde from North-West University (now at Stellenbosch University) who is given us disheartening statistics concerning gang activities in the Cape Flats. There have been 909 gang-related deaths in the Cape Flats, and that is why the army was sent in. But this military is just a band-aid, and it does not solve the problem and the deaths of people in the Cape Flats.

There are approximately 130 gangs and public resources allocated to the people in the Cape Flats are not enough. He made an example of the amount of police in the Cape Flats and the amount of police in Stellenbosch. He said with a small population in Stellenbosch, we have actually got more police than they do in the Cape Flats. Because in Stellenbosch we can report crime and how the government sees it is that we are actually using the service, whereas in the Cape Flats they cannot report crime, so government thinks there is not much crime, therefore they will not allocate police to the Cape Flats.

He conceived of alternative measures in addressing gang activities, with one model being labelling, which is a positive model which could be effective, but there are constitutional rights that can be infringed, so we have decided no. He produced a second model that is registration, meaning that in whatever you do, if you build up a company or you start anything, you must register. But we said the gangs do not register anything, they operate in the underworld, so what now?

We have also heard from Joy Watson, a feminist researcher and writer, and she is told us how a budget review comes out every year to set the vision of where the money

is going and where it is going to come from, but nobody has analysed the impacts of that budget on women, children and the marginalised in society. The inequality gap has widened and has major implications for the budget. Service delivery challenges cause the gap between the rich and the poor to widen.

We have also heard from JB Gatswe who talked about being an ordinary human being and including common sense in everything that we do. Common sense is most supreme, and rules of common decency should be included in law-making.

But dear colleagues, how do we proceed from here? What is the punchline from all of this? We have heard from Doctor Nombulelo Lubisi, Dean of the Faculty of Law at Fort Hare University, who told us a very sad story of how women struggle to access justice and how women lose humanity and dignity in the fight for power.

She told us a sad story of a woman in Gugulethu who went to get a court interdict against her husband and they gave it to her to deliver to the perpetrator and the perpetrator threw her with hot boiling water. What then? What do we do in such situations? The integration of social justice and laws should be on the agenda.

We need a paradigm shift. Policy cannot fix everything. We need systems that are based on values. But should we trust the government to do this? We said no. We need to empower civil society to deal with social ills. But as a civil society we should also stop complaining. We had a light moment where we said if you want to complain, go work at the airport and say “kom plane, kom plane”.

We must confront the dilemmas and the tensions gently. When we have these dialogues, we must be gentle with each other. It must come from a human place, in heart-to-heart conversation, not to discredit anybody's lived experience, but also to listen, to hear and to understand.

Dear colleagues, the way forward, we have also discussed access to justice which is SDG 16. We must Africanise our approach. For instance, in locations and squatter camps, justice is very expensive, it does not get to the ground-root level. Therefore, we have suggested that the justices in the Constitutional Court should start visiting the ground and start taking action without waiting for anybody to come to the Constitutional Court. Perhaps the role of the South African Human Rights Commission should also be to go to the ground, but we know there are budget implications.

Therefore, we have concluded that government is like a bus without an engine, but we the people of South Africa can be that engine. As I conclude, and as we have heard this morning, in everything that we do we must always remember, hope is an invincible

source in times of despair.

3 3 6 Resources and Infrastructure and Environment and Sustainability – Moderator: Professor Oliver Ruppel (Director: The Development and Rule of Law Programme, Stellenbosch University and Non-resident Distinguished Fellow, Fraunhofer Centre for International Management and Knowledge Economy, Leipzig Germany)

Panellists:

- Jason Samuels (Stellenbosch University) and Professor MJ Booyesen (Electrical and Electronic Engineering, Stellenbosch University and Member of the Institution of Engineering Technology): “Helping schools, especially poor ones, save on electricity bills”
- Cheroine Ripunda (Stellenbosch University) and Professor MJ Booyesen: “Saving water at schools: Evaluating the effect of maintenance and affluence on water usage at Cape Town’s schools”
- Mark Rountree (Scientist, environmental consultant, researcher, Western Cape Provincial Legislature and interim National Policy Officer, GOOD): “Poverty by design: Cape Town examples of how social, spatial and environmental justice are inter-related” interested awaiting paper
- Professor Elmien du Plessis (Faculty of Law, NWU): “A look at the state’s expropriatory power to acquire land to fulfil its constitutional obligation of providing access to adequate housing”

Rapporteur: Mark Rountree (Scientist, environmental consultant, researcher, Western Cape Provincial Legislature and interim National Policy Officer, GOOD)

Sustainable Development Goals

Goal 6: Ensure availability and sustainable management of water and sanitation for all

Goal 7: Ensure access to affordable, reliable, sustainable, and modern energy for all

Goal 9: Build resilient infrastructure, promote inclusive and sustainable industrialisation and foster innovation

Goal 11: Make cities and human settlements inclusive, safe, resilient, and sustainable

Goal 12: Ensure sustainable consumption and production patterns

Goal 13: Take urgent action to combat climate change and its impacts

Goal 14: Conserve and sustainably use the oceans, seas and marine resources for sustainable development

Goal 15: Protect, restore, and promote sustainable use of terrestrial ecosystems, sustainably manage forests, combat desertification, and halt and reverse land degradation and halt biodiversity loss

Feedback from Rapporteur

Our group was looking at resources, infrastructure, environment, and sustainability. We had to look at eight of the sustainable development goals, the other groups only had to look at one or two. I do not know if that means I get four to eight times more time but let me just see where we get to.

So I will just, of the eight sustainable development goals that we were looking at, it is water and sanitation for all; affordable, reliable energy or electricity; resilient infrastructure; cities that are inclusive, safe, resilient and sustainable; sustainable consumption of resources; a very urgent action to climate change; sustainable use of our ecosystems; and a halt to biodiversity loss. There are quite a few members of the group in the audience here and if I forget something, please jump up and shout at the end.

We had four presentations. The first one was from Jason. You can put your hand up because people are going to want to ask you questions. I am amazed at what I discovered yesterday. R1 500 investment of an electricity metre and a bit of awareness building at schools, resulted in huge savings, and those savings are obviously disproportionately more important for lower-income schools. If you are spending less on electricity, you can spend a lot more on the important job of education.

Next to him is Caroline, who worked with the private sector for an R5 000 investment in schools. They could achieve millions of rands in water savings by doing some basic repairs and maintenance at schools. Again, at lower-income schools, incredible savings for those governing bodies and principals. That is just a little bit of awareness raising around efficient resource use.

I spoke a little bit about what is going on in Cape Town and I mentioned this a little bit the other day. Who drove here this morning and who took public transport? I drove. If anyone took public transport, thank you for trying to save the planet, but the rest of us, like me, we are all part of the problem. The collapse of the public transport, of rail infrastructure around the country, but we see it particularly badly in Cape Town. The refusal to provide affordable government housing in well-located areas in our towns and cities.

All those actions are reinforcing and exacerbating spatial and economic injustice in our towns and cities and also raising the emissions. So, there is my environmental hat, climate change and our drought, it did not happen by accident. In Cape Town, lower-income families spend 43% of their household income on the direct costs of transport. Since the collapse of bus systems, their costs have increased by four to six times and some people report they run out of money by the middle of the month, and they cannot get to work anymore.

So that is the one aspect of spatial justice. On the economic justice side, we also looked at the cost of water in the city and how the changed tariff structure is penalising larger families, which is particularly obvious in the middle- and lower-income parts of the city, so that they pay more per litre of water than the affluent areas. We had some great photos earlier in the week about the visual discrepancies between affluent and lower-income areas, but there are also real costs and economic injustices happening there.

Professor Du Plessis from the North-West University spoke about government or local government's existing ability to already expropriate land at zero compensation, it is completely possible within the Constitution, and in doing so we would be able to increase access to housing in urban areas.

Almost 70% of South Africans live in our towns and cities now, so when we are talking about land and this was mentioned yesterday as well, we are not always and perhaps very seldom in fact talking about agricultural land. It is about secure tenure in towns and cities. Her criticism of the fact of the lack of government bravery to take action with the existing tools that they have.

In the discussions afterwards we, and this is, there we go, the young people in our group reminding us that climate change is not really an issue, it is an urgent crisis. When we were asked about what social justice is, social justice is connected to environmental injustice and spatial injustice and economic injustice. These are not

separate things. We cannot achieve social justice unless we have towns and cities that are not spatially unjust and reinforce economic injustice.

For my part, I am not surprised to see inequality and poverty levels rising in South Africa because it is obvious the decisions that we are making around the location of housing, around the cost of transport are simply creating those conditions. It is not a surprise. The decisions we are taking now are in fact causing inequality and poverty to rise.

The challenge that we identified was information. We had some people from local municipalities. It is quite hard for researchers or academics even living in Stellenbosch to access information about what local government is doing. So, there is a challenge in accessing information or knowing where to find the information on decisions that are being made. Inaction on the part of government or the part of affected communities. Sometimes that is because the poor have no voice or often do not have the information to speak out about injustice.

The studies that are being done by Stellenbosch is showing that government is not the innovation leader, it is the private sector or academics and researchers that are leapfrogging the existing way of doing things. We sit back for government to be the innovation leader; it is not going to happen. Government follows innovation and how do we get the information and results of your amazing studies fast-tracked into widespread implementation. The Eastern Cape has run out of water already and hopefully, we can get that information out to the right people.

Our vision was around developing collaborations and information sharing between academics, NGOs, activists, and government. The talks in our session for me showed me very strongly that the tools and decisions to reduce inequality and to reduce poverty exists right now, we just are not using them, and we are not taking them. We can talk about the lofty ideals of what we want to see happening in 2030, but right now we could be reducing our terrible impact on society, and we are not doing that.

Somebody raised the point earlier that trust is really important. I am going back to the first day. We need to have a healthy scepticism or slight mistrust so that we make sure we hold government to account.

3 4 Thematic Social Justice Roundtables Feedback – Question and Answer Session

Below is a selected collection of excerpts from the thematic social justice roundtables feedback.

Question/Commentary 1

Professor Thuli Madonsela: I want to say that in this part of the conversation we do not have to only ask questions because it is also about us breaking the four walls and deciding how we take this process forward. In doing so I would also, first I want to thank the report-backs and everyone who spoke, that we make the conversation a little bit more international because the conference part was an international conference, hence we had a speaker from Nigeria, Botswana, Kenya, etcetera.

We discussed how to move forward as South Africa, but also how to move forward as a continent and as a world. I am going to ask Doctor Mshai Mwangola to just say very briefly how in Kenya they have brought the ordinary Gogo Dlamini into the conversation. One of their slogans is the law is clear.

Response(s)

Doctor Mshai Mwangola: Thank you Professor Madonsela, that was completely unexpected. First, let me just say, I will be leaving in a few minutes, but just how immensely privileged I have been to sit into this conversation, both just listening and learning. You are such a rich country in terms of the people resources. I know often when we talk of South Africa we talk of natural resources. But I think your richest asset by far, are people.

I also want to say just how amazing it has been to see. I am an academic who works on the side, I try to create spaces where other people come in. I just have to say that this format of having people come together from such different spheres with such respect for each other and listening to academics, listening to civil society, because often academics we talk down to other people, listening to people who come from such different approaches. Most importantly, Professor Madonsela, is that thing of not just talking, but saying after this we are going somewhere, I just want to thank you for this.

In terms of what Professor Madonsela has said, for me what is very rich is that often a lot of these conversations happen in terms of policy and government and demand from the state to do. It is really important to hold the state accountable because they are the servants of the people. But in Kenya, we are learning that we have rights, yes, but we also have responsibilities.

One thing Wangari Maathai said that I keep going back to is that one of the things that the colonial structure and legacy, and I know here you talk a lot about the legacy of apartheid, the legacy of colonialism for us was to tell us that the people could not do, that all the people could do is ask and beg and hope that the government would do it for them.

Our move now is to say, actually, the government are the servants of the people, and we must hold them accountable. Business is a citizen, it is a corporate citizen, but it is a citizen with rights and responsibilities as much as anybody else. Any partner who comes into our country and they bring us money, or they bring us other things, they too have responsibilities, but at the heart of it is the people.

What Professor Madonsela is referring to, I do work with our Constitution and at the bottom of it is that the people of Kenya are sovereign. One of the things we do in learning the Constitution is to ask people, what can you do? What is your responsibility?

To hold the government or to hold all the different players, but more importantly, to start with what is it I can do and where I cannot do it, who do I need to light a fire under them to be able to do it and how do I create the partnerships? Because partnerships are important. Some things citizens cannot do on their own, and some things government cannot do on its own.

I just want to say thank you so much. I have been taking notes throughout, and the one thing I will light a fire under those in this room is that it is not just a South African agenda or fight or problem. You guys are so big on this continent, we must work together. I look forward to seeing some of the collaborations out of this. I have told Professor Madonsela that I am willing to climb Kilimanjaro to support what the South Africans are doing as long as we are doing these things together.

Question/Commentary 2

Tsidi Bishop from the ThuMa Foundation: What I have noticed and observed throughout the three days that we have been here is that there are lots of ideas that have come up and there's lots of concern about various shortcomings that we are going through, not only in South Africa but on the continent as a whole.

But I worry that we learn about things when we come to forums like this, we have a place full of academia that has produced lots and lots of papers, that have done lots and lots of research, but we never get to hear about it. The people that we are sitting here talking about know nothing about some of the efforts that people who are sitting here are doing.

Even the media, I am talking to my colleagues Karyn and Cathy here, choose stories that are sexy. We choose stories that grab the headlines. When are we going to go back to the basics and report on some of the stories that touch the lives of the people? Because what we are talking about here is what people care about. People do not care about what is making the headline on the front page of a newspaper. People care about what is in their stomachs, whether they have a roof above their head, whether they have clothing, and whether they have access to education.

All these things have been discussed here, but how do they know how to access that? Who is here who is going to put up a hand and say from now onwards I am going to make a concerted effort to make the work that I do behind the doors of the university, go out so that those who have money, those who are holding the purse strings can fund your establishments, can fund your organisations, your foundations so that you can carry on the mandate?

Question/Commentary 3

Karen Maughan: Summing up what I have learnt here, *ja, ek het baie geleer*, I would sum it up with he who pays the piper, plays the flute. You do not have control, because the end result is that wealth, wealthy people have the money to make more wealth. We do not have that kind of investment in the stock exchange and what have you. So, the rich get richer, money makes money. When we work, our money is about survival and putting food on the table. We do not have access to influence the stock exchange and all the things but watch out, the revolution is coming.

Question/Commentary 4

I just want to touch a bit on the employment and inclusive development, and then also on the statement by this one young gentleman who mentioned there's no sense of place for us. I always say one day I want to write my own book. The title will be SOS, meaning Struggle on Stellenbosch. *En as jy hom translate Afrikaans dan bly hy dieselle, Stryd op Stellenbosch.*

I can testify to this young gentleman. I always say, and I can say it with conviction as a veteran activist, whether they want to recognise it or not, I will prove it to you now. There is no sense of place for the average previously disadvantaged individual. I am talking about this from a local perspective. Like Derrick Hendrickse said, and I think Professor Madonsela quoted him, it concerns the cradle of apartheid.

When it comes to economic emancipation the emphasis should fall on the element that lacks. It must be equally shared growth. That two must go hand in hand. For example, the one gentleman who mentioned we must hold the government accountable, let me tell you something. Within one month I was in two courts, Clanwilliam and Stellenbosch. Do you know why? For holding local governments accountable.

What I want to try to say to you for the quest toward social justice, there must be advocates. The biggest challenge in this hostile environment is that those voices becoming less and less. Why? Because of the persecution. There is no protection for individuals in today's democracy who wants to fight for social justice. Who is protecting them? Who is protecting those men and women who are conscious of the perpetrators and who are responsible for social injustices?

I will conclude: it has been 25 years now that we have had conferences like this and thank you very much Professor Madonsela for this opportunity, that I as an ordinary person can also come and raise my opinion and say my frustration. Because, in conclusion, it is tough outside there if you dare speak against injustices. But Professor Cloete, do not worry, I am still smiling, and my t-shirts is always clean, ask Professor Koopman.

Thank you very much.

Question/Commentary 5

Whenever we see someone doing something that is kind, building the country up, being sacrificial, we as South Africans reverberate with that. This mythology that the media is only interested in negative stories, we really need to break that in ourselves. Because I can tell you that whenever we do a positive story, the way people respond to it, the way they attach heart, significance to it, is amazing.

But what I will say to you is a lot of the time we simply do not know those stories and that there can be an engagement between academia, I mean, your research on transgender young people on the streets is amazing, but we in the media do not know about that. One of the biggest take-homes for me today was how we as media engage with academic institutions that have real insight, real knowledge, and real access, to do both the positive and the negative.

But most importantly, to give people hope by showing them what works. Particularly in the land space, there are models and we do not constantly look to solutions for government, but we look to the human beings, the amazing South African citizens that our colleague acknowledged before she left, we bring hope through that because that is what the country is hungry for.

Thank you so much.

Question/Commentary 6

Hi, good morning. It is just amazing; this lady just took my thoughts away. I just want to quickly say something about that. I once had a saying where a guy was very despondent or a lady, and she asked God, what is wrong, what is happening with this world, all of that thing, and what can we do to solve it? So, God said to her, I sent you.

What I want to say to this lady, she is got a lot of capabilities, if it is not in the paper, start a new paper and call it the SA Good Newspaper. Start with a sun that comes up in the morning on the first page and on the back page, a sun that goes down. Pay somebody to take that photograph, it is the best photo you will ever see. But that is the first page and the second page, the rest is in between.

This just proves to me that the community papers we get in Cape Town are for free. They have the best news. The paper you pay for has the bad news. On page 13 it displays the good news in the left bottom corner, you know, where they have a Bible

verse or a Koran verse. That is on the middle page somewhere where nobody sees it.

Mister Cloete said one thing, he got this double W and to put another W into it is the triple W, the internet. That makes it six. We must use it. In terms of the Hs, the hope, we can just add heaven to it. That makes sense, but we are not going to discuss that.

In terms of the smile idea, it is the most amazing. I got this one son and, you know what, all that I want to add to the smile, it makes you happy, but the best for me is I personally believe if you wake up in the morning and everybody that makes eye contact with anyone, and God gave us 180-degree vision, you acknowledge it and half of the world's problems will disappear. It makes people feel wonderful, and the best of everything, it is free.

In terms of the t-shirt, Mister Cloete also said something about some things, it is deferred, hope deferred. If a guy does not have a t-shirt and you have two t-shirts, just give one to the guy so that he has a good, clean t-shirt. There are enough t-shirts around. Not just at election time, you know.

The other thing I want to say, somebody mentioned something about women. I have got a woman, a wife, maybe I have got more, but I have got one wife, and I wanted to clear this, because this is so true. Every woman that, I can call it sacrifices, but it is a privilege to bring up a child, and that is also a privilege, is an executive CEO, more important than the most important Chief Executive Officer in this JSE. So, if you want to count numbers how many women CEOs are in the world, count them in. They cost the economy nothing, but they are also CEOs.

What I can say about people, to actually that right, my sister-in-law, unfortunately, immigrated to Australia but at least they did one thing, they paid her to stay at home to look after her child. It is also just an idea. It is a very important thing.

I just want to say, work is a basic right. I mentioned it three days ago, somebody mentioned it today, and I know the UN has got it. Professor Thuli, you mentioned it, it is difficult. But I can just say there the Bible says so, *in die sweet van jou aangesig, sal jy jou brood verdien*. So, if you want to live godly, you have to work.

Then I just want to add to the three Cs that somebody in education mentioned. Curriculum, classroom, communities, is that right? Who mentioned that? Christ also starts with a C. They said sharing is a connection, and collaboration, but I say sharing is caring. It is just another C. Social cohesion, which is also a C, but that was mentioned.

The next speaker said something about the poor woman. I do want to suggest to that guy that studies law, maybe he must get another degree because he will do even better with that. I just want to say, the role of the woman can only be successful with the man and the role of the man can only be successful with a woman. It is the role of the man, and it is a combined role.

Children, Professor Cloete, you said something. A child is a funny thing. Even when they cannot speak, all they do is eat and smile and cry. That already tells a story, but the medical tells us a child has a fully developed brain, and you will not believe what is inside a child. When somebody said involve children, be my guest.

It is just shocking, yesterday somebody said this ECD, I found this term today, early childhood development, I call it training from nought to six, that is the university for the future. It is that training, it is the training of the children and the parents of the children that are going to make the difference and it is just sad to hear that government has cut the budget for early childhood development.

I just want to say one thing. Somebody had an acronym with a bus and the children in the bus or the people on the bus are the engine. I once heard a very good one. We are all very busy, we are like bees, and ants, but it is like sitting on a rocking chair, you look very busy, but you get nowhere. You must get up from the rocking chair and keep on walking, like Johnny Walker. But thank you.

Question/Commentary 7

Akhona Sandaza: I want to raise three points on environmental issues. Basically, currently in this month, there is a youth climate summit happening in the US and there are also climate strikes taking place. I just want to pose the question to our leaders who are currently here, what is being done by government to respond to these climate strikes? Because I know memorandums and declarations are being prepared every time and they are being handed over to parliament, but then there's never a response which is coming back to state what is happening.

The other point I have is the role of developed nations. Because some of us young people who are at the grassroots never have the opportunity to go on an international platform and we have realised that developed nations should pay for the carbon emissions that they are releasing into the air. We just want to know, because countries such as the US have veto power in the UN, and they are always voting out every

environmental policy we are proposing, so how can our leaders advocate for us at a global platform and state that developing nations need to pay? Because Africa is currently the most vulnerable continent to climate injustice.

I also want to say, the last point is, that Africa has always been Afrocentric and now we are being sold the idea of an aesthetic Africa which looks green, but we have always lived in that nature, but now it is also expensive for us to experience the nature we have always lived in. What is the better way to build green sustainable cities which are not expensive to the average person in South Africa? Thank you.

Response(s)

Mark Rountree: Yes, these are not easy questions to answer. We spoke about it yesterday. Look, the simplest way to make sure that our cities are more resource-efficient going forward is to promote inward growth, not more sprawl.

Aside from the apartheid legacy and townships very far away, it is the cost of transport, it is the amount of emissions, it is the provision of services and more roads and more cars, further and further. The lower the density and more spread out the cities are, the less efficient public transport can be. Last year or a half and a year ago we passed a new plan for Cape Town, which shrunk the development footprint by 3 000 hectares. Hence, we are trying to shrink the city as fast as possible.

I do not always like to look at what developing nations are doing, because it is all about leadership and while Trump is there we are in for a rough time and the same thing in Brazil. Our own energy emissions, I worked in the environmental sector around the coal mines for a long time, we have the worst acid rain in the world, and we have 2 000 people dying each year from air pollution on the Highveld. That is all the electricity we are busy using.

We are also responsible for those things. South Africa is a particularly bad carbon emissions emitter per GDP or per person because of the source of our energy. So, support the initiatives for more solar, and more energy efficiency that your colleague is doing. If we use less, we are going to emit less for a start. If we start generating more solar and more wind, and there is a huge pushback from the gas and oil and coal sector against IPPs, that energy is cheaper than new coal, it does not make any sense that we should be investing in new coal, in my opinion. If you think about the water security, it does not affect Cape Town, but the pH of rivers coming off of old coal

mines is two. You cannot put your finger in there because it dissolves the flesh on your skin.

Fanelesibonge Ndebele: Thank you. If I may say something. It is unfortunately not about climate change and the environment. I just want to address a question that I was asked by uMa at the back of the ThuMa Foundation. Or the statement or question that was made. For me, if we look at the role of the media, I have been fortunate enough to have conversations with individuals who are in that industry, either as journalists or researchers or whatever, and I always bring it back to my personal experience. If you speak to anyone that I interact with, I always bring up the fact that I am from Ladysmith, a small town where nothing ever happens. But there is so much that is happening within that town.

Small towns in this country are plagued with corruption, which has been one of the biggest injustices. I was fortunate enough last year to work; I was part of a constitutional or elective that looked at public participation in local government to advance socio-economic rights. When I began to read the research that is out there, I began to see the issues that those small towns are facing because of the corruption that exists. People are not included in the decision-making process. People are not included, and people do not receive the necessary services that they need to carry on with their daily lives. So, we begin to see that.

However, if I link that to the role of the media, I once posed a question to a journalist, like two years ago, and I said, how do we then give a voice to those individuals in those hometowns? Because if we look at the mainstream media, the issues, and it is real issues that are being addressed, are in your Johannesburg areas, your Cape Town areas, all of that, because that is where, because the media is not able to stretch itself and go to the grassroots of those communities. It is something that we face in KwaZulu-Natal a lot. I remember in Ladysmith there was a service delivery protest because the municipality, there was no water for a particular community for three weeks. There was no media attention, none.

We have seen the power of the media and particularly if we look at the power of social media to give a voice to those individuals that do not particularly have a platform within mainstream media. So that is something that I truly believe we need to advocate towards. Particularly as young people that come from those areas and then how do we go back? Which links with the conversation that I had with Sis Fundiswa. How do

we go back to those communities and create those platforms? What opportunities exist for us to go there and begin to create those platforms because we built networks?

You know, I have networks all over the country, so if Fanele is in Ladysmith and is working within that system and has a network in Johannesburg, how do we then work together to ensure that the goals are being met? If we look at technology, Professor Cloete spoke about the fact that we do not need to be in the same room to work together, how do we utilise those spaces to be able to give people like us in those small towns the voice that we need because we are being silenced.

Local newspapers play a pivotal role, but again, we get a lot of intimidation that happens within small towns and local journalists are not given the freedom to operate, to tell real stories and issues of funding. There is a lot that goes into that, but I believe there is a collaboration that needs to begin within that so that we can open up our country so that mainstream media can also go to the grassroots and begin to report on those stories.

Then, I also just want to comment on the issue of the sense of belonging. When Sis Fundiswa gave her talk, she really spoke about, what I would really love about that was this issue that there is a reason our communities were built the way they are. Black individuals, coloured individuals, and the apartheid government, it did that to systematically oppress and dehumanise individuals.

Again, bringing it to my own personal experience, I grew up in a township and growing up there is just a narrative that I always needed to strive towards a better life. For a very long time, there has been a mentality within our communities that you need to strive to move towards white spaces. That is a mentality that exists within.

If you, for example, look at Ladysmith as well, we are always taught that you need to work hard to get out. Once you are out, you have made it. I have many peers that did not go to university because of a lack of opportunities but are labelled as failures because they did not get out of that type of community. We are seeing the effects of that.

That is why we have this issue where the sense of belonging is not there because as Black people, in our case, we are constantly trying to move around because of a lack of opportunities. I have a brother who works in Johannesburg. He hates it. But when he went to the municipality in Ladysmith, he had to prove that he was part of a certain political party before he could be offered a job. It is that type of corruption that exists within those spaces that again seeds this idea that we do not have a sense of

belonging.

He hates Johannesburg. He does not consider it his home, and that is sad for someone who lives there permanently. We are seeing that effect that happens. So, I am hoping while we begin to address all these issues we can then start creating a sense of belonging to say, as Fanele I belong in Stellenbosch, this is my home, and then addressing the issues that affect that. Thank you.

Question/Commentary 8

Marthe Muller: Thank you very much. I just wanted to thank the speaker who just spoke, Fanele, I just loved what you said because it speaks so deeply to that deepest part of us. I want to speak just for myself as an Afrikaner and as a beneficiary of the incredible generosity of black African women.

Aunty Bibi and I belong to an organisation called SAWID that was started by women like Zanele Mbeki and Doctor Brigalia Bam. I have been there for 16 years listening to the voices of African women from all the places you talk about where 1 000 or 2 000 women come from nine provinces in busses.

I have an office in SALGA which is an amazing opportunity, but SALGA has made it clear that their mandate is to help municipal officials and so there is a gap there that somehow sits with Cooperative Governance and Traditional Affairs (COGTA), which has the mandate of cooperative governance. So, our systems are not structured to do the work that we think needs to be done.

But because of the enormous sense of shame, I had growing up as an Afrikaner, looking around, saying but this is not the way the world should be, why is it like this? I spent four years at Stellenbosch University, for which I am very grateful, then I spent 16 years in New York and Colombia and 16 years listening to African women. Poverty and inequality, which are the biggest issues, which are the reason we are all here, were the biggest issues for SAWID as well.

SAWID went and looked at models of poverty eradication in Chile and Tunisia, which are the only two countries that were able to halve poverty at that time, and the Chilean model was a very touching one, because it was a social work model of saying we have 45% poverty, 1990, just after Pinochet, how do we send our young men and women to families to make sure that every member of every family is linked to 53 indicators of well-being? Over three to five years your social worker would sit with a

family and make sure that you were linked to all the available resources.

SAWID then started piloting this model, we started a social auxiliary work model, we worked from 2009 to 2015, we trained 81 social auxiliary workers in three different municipalities in three different provinces, and we did not quite have the impact we thought. We asked the HSRC to measure, but they could not really see the financial impact.

But the impact of training young men and women not related to political parties, what the real issues of people, are is really a way forward. There's now a tool that the United Nations has chosen as one of the 11 strategies for the implementation of the SDGs, and it is called the Poverty Stoplight. It has 50 indicators where families self-diagnose their own well-being. It is then geo-mapped for a whole area so that every family in a whole area can be seen and that all the offerings of NGOs like ours can be immediately relevant to family needs.

Afrikaners have come together. There is something called a restitution charter which is being handed over to Bishop Tutu or will be handed over soon. The UN has a national action plan on women, peace and security which has just been finalised in the last few weeks. It is also ready to be signed by government. Three departments are responsible, DIRCO, Women's Department and Defence. The implementation plan of the United Nations national action plan on women, peace and security and this restitution which we as Afrikaners, thank heavens, are allowed to do 25 years of not doing it.

I just want to thank the African women who are guiding us to do the work we should have done decades, hundreds of years ago. slowly, Professor Madonsela, you are shaking us and saying here I am with you, let us hold hands, let us just do this work now with love and compassion.

Thank you so much to all of the women who have allowed us to do this and to still want us to be part of this. Thank you.

Response(s)

Karen Maughan: Thank you so much, thank you. Fundiswa, you are going to wrap us up. I was lucky enough to be on the, well, to witness the gender panel yesterday, which was phenomenal. I am sure everyone else's panels were amazing.

But one of the most exceptional things was Fundiswa's research, I am not going to

explain your research, but essentially around that issue of spatial inequality, particularly in Cape Town. But you have heard the comments and the kind of conversations that your work has provoked. Why is this such a deeply, it is a heart, it is a soul issue. Can you see solutions in what you have uncovered already?

Question/Commentary 9

Fundiswa Khaile: Thank you to Professor Thuli Madonsela for this opportunity. As I indicated in my presentation yesterday, for me this issue of sense of belonging is also a personal issue. Because I come from, originally from Eastern Cape and I have been shuttling between the two provinces, Eastern Cape and Cape Town. I grew up in Khayelitsha in Site B where you see there's a lack of coherence and diversity in this community.

For me, when I went to the University of the Western Cape and study my undergraduate studies, I realised there is a problem with people travelling between these two provinces because these are the people who cannot even afford to be servicing two households. I was asking myself, why as black Africans do, we when we go to certain spaces feel there's this lack of sense of belonging as if we do not belong here.

It triggered something because the issue of a sense of belonging is attributed to the lack of meaningful spatial planning – that is the issue. Even after 25 years, we see our government reproducing the same spatial patterns. Where are the solutions? Because we, the people that were displaced in the Cape Flats where there is just flat land, sand, outside of, far away from the ocean, far away from the mountain, you belong there in those flatlands.

And Black people belong to the townships where it was not even meant for human settlement, because it was a labour reserve. This is why people do not have a sense of belonging. You come here, you give your labour and after you have given your labour, you must go back to the homelands where you belong. That is where you belong, in the homelands.

And it resonated something for me to say, no, something needs to be done. This is why we elect the representatives, to say we give you a mandate, you are policymakers, with this mandate that we give you, what do you do to facilitate these social issues? Because the local government has been tasked with the realisation of an expanded

mandate and sometimes when you talk to them it is like they do not understand that.

What is it that we need to do? I do not have an answer for you. It is still continuing research and I am hoping to find a solution. Because my research is looking at designing guidelines to assist local government to utilise and promote these issues of trust and sense of belonging of aspects of social cohesion.

Thank you.

Response(s)

Karen Maughan: If you have time to speak to Fundiswa, she has done amazing work, and she is going to do amazing work. You just came from a space of pain to do something that is solution oriented. You inspire all of us. That is the perfect note to end this on. We are going to have tea and then resume with the resolution after this.

3 5 The Resolution

Resolution adopted by the Inaugural International Social Justice Conference 2019, Hazendal Wine Estate

*Leveraging the Sustainable Development Goals and the Global Human Rights Agenda
to advance Social Justice*

The Participants,

Mindful of the reality that as long as there is injustice somewhere there cannot be sustainable peace and that the greatest imperative of our time is social justice as a basis for sustainable peace, while acknowledging the inherent worth, value and dignity of the national environment,

Recognising the constitutional responsibility to advance equality, human dignity, freedom and social justice,

Concerned about the systemic disparities that continue to pervade society and the resulting deterioration in social cohesion and environmental sustainability,

Note that socio- economic disparities is primarily as a result of the intersecting grounds of race, gender and class, as well as ceaseless patterns of violence and environmental abuse, and within a common understanding of the psychological and emotional trauma of a large majority of our people,

Acknowledge the important role of academia and civil society in advancing the global Social Justice Agenda,

Welcoming the initiative of the Law Trust Chair in Social Justice, Faculty of Law at Stellenbosch University in leveraging the SDG's as a catalyst for social justice change,

1. *Decide* to give life to the constitutional promise of social justice and to draw on the lived experiences of the people,
2. *Encouraged* by the commitment and willingness of participants to join hands to continue with reseach and dialogue, even where we disagree, to ensure that the

constitutional and universal declaration's promises of equal enjoyment of all human rights for all, is realised for all,

3. *Invite academia* and civil society to expand our common understanding on how to reduce poverty and inequality so that we can move the social justice discourse forward in a manner that is in line with the constitutional objectives of a united South Africa anchored in shared humanity and prosperity,

4. *Agree*
 - to explore the pathways available to address social injustices globally;
 - to leverage opportunities presented by the SDGs, national constitutions and development plans in national and international contexts;
 - to share information on research that is undertaken;
 - to source information for the Social Justice hub at Stellenbosch University;
 - to form a coalition of universities, researchers and civil society that works in a coordinated way to advance social justice;
 - to focus on a multisectoral approach for a cohesive future; and
 - to endorse the Social Justice M-Plan.

5. *Request* the Law Trust Chair in Social Justice, Stellenbosch University to convene yearly social justice conferences.

1st Plenary meeting

31 August 2019

3 6 Vote of Thanks: Professor Nico Koopman (Vice-Rector: Social Impact, Transformation and Personnel)

I pose the words of thanks on behalf do Stellenbosch University and we would like to thank all the individuals and the institutional partners of the university who were involved in this conference. All of you sitting here from different levels of society, locally and globally, we really thank you that we can journey together. Is it Mama Bibi that I met this morning here from Gauteng? We really thank you. You gave me such a warm greeting this morning here I immediately felt very energised. We say thank you to our partners, institutions and individuals.

The Chair for Social Justice at Stellenbosch University really helps us as an institution to prioritise social justice. We are so thankful that we have you in that chair as somebody who embodies social justice and who encourages a whole nation and brothers and sisters from other parts of the world to enliven our commitment to social justice.

ProfessorThuli, the notion of social justice was discussed here. Social justice with the first word in it, social. We seek justice in all walks of life, in all spheres of society. And you would have noted that somebody said if you look at the conference programme, so many themes, so many areas where we neglect justice and where we need to seek justice. And it reminds us of Martin Luther King Jr's words, we must keep in mind, that an injury to justice anywhere is an injury to justice everywhere. We need to attend to justice everywhere.

Then, second, the notion of justice. Sometimes we feel discomfort when we use the word justice. It is as if we become apologetic. We do not really want to use the word. It is for some a word of threat. But justice is our vision, it is our dream. In our country, in the Bill of Rights, we say we envisage a society of dignity, healing, justice, freedom and equality. It is our dream.

Justice is also our defining value. Justice is the acid test for all values. At Stellenbosch we say we have the values that we call ECARE. We say we want excellence; we want to be compassionate; we want to be accountable; we want to respect each other, and we work for equity. But all of those values are measured by how they serve justice. Therefore, in traditions of all parts of the world over millennia justice is viewed as the *summum bonum*. You can even say it is the supreme good. If you talk about policies, plans and procedures – the acid test for it is justice.

My colleague whom I cherish so much, colleague Eugene Cloete spoke this morning and he cited one of our practices and policies which has to do with what type of recognition do you give to those who do not complete their degree qualifications. Do we have exit measures of justice? We say access with success. Do we have an exit with success, even though you do not complete your degree? Is our definition of success a definition that reflects justice? We thank you for tabling it so clearly, colleagues.

I want to conclude. We need partnerships for justice. That we saw at this conference. This is the important thing. There was a famous theologian, Dietrich Bonhoeffer, who was killed by the Nazis who used to say, beware of the person who cannot be alone, beware of the person who cannot be together.

We need to do it together. We need to complement each other. We need to ask what our distinctive contributions are. All of us cannot work on every justice theme, but what is our distinctive contribution? Government can do something, civil society can do something, academic society can do something, but we must say, what are our distinctive, indispensable contributions and work very hard on that.

But we must also then say as individuals there are distinctive contributions we need to make. Here on my right are colleagues like my colleagues from Stellenbosch, Derrick and Franklin, who would like to describe themselves as activists. But we all need to be activists and that means we must pay attention to what is going on around us, we must hear the stories, especially the stories of pain. We must analyse and we must act, colleagues.

The late Professor Jakes Gerwel was always concerned about Nelson Mandela and the way that people responded to Madiba. Remember, he was director-general in the office of President Mandela. And he used to say, the big danger is that people see Nelson Mandela as a moral elitist. Meaning they really want us to be little Madibas. What he is doing, is what we need to do.

But he said the danger was, the effect was the opposite. People started to think, oh, that type of conduct as a leader is reserved for Madiba. I am not Madiba, do not expect that from me. Colleagues are important that we all must say we will not function with this notion of elitism to leave the good to some, we all need to be involved with that.

Our small grains build continents. The small grains of sand build continents. The small drops of water form oceans. Let us do all those bits and let's not underestimate

it. There is one universal human practice that we must revive, the practice of encouraging each other and affirming each other.

I am afraid we can walk away from a conference like this, I do not know whether there is such a disease, but we can name it justice fatigue or justice exhaustion. If you hear all the stories that we have heard here, then it can really exhaust you, you can feel overwhelmed. Let us drink from our wells, spiritual wells, moral wells, philosophical wells, and intellectual wells. Let us drink from each other.

As Africans let us drink from the well of *ubuntu*, to say we are all in this together and I will acknowledge and recognise what you do, and I will talk about it. I will tell the stories, also the story of this conference. Colleague Thuli, it is for me so encouraging to see on this Saturday so many young people still here and I see how energetic they are. When I dwell here *mankerig in die gange*, then I hear and feel their energy. Let us encourage each other, colleagues, let us affirm each other. Affirmation and encouragement is our oxygen.

I want to acknowledge what our colleague did right at the end there, Doctor Matthys de Kok. Maybe as a male, I can also say, as an inhabitant of patriarchal South Africa and may I even patriarchal Africa, that if we talk about justice we are not only talking about justice in general, but we are also talking about it in very specific terms. I think a challenge for us that we were left with at the end is that do we prioritise gender justice in the same way that we prioritise racial justice and do we prioritise economic justice in the same way that we prioritise political justice. We need to wear lenses.

Martin Luther King also said, and I conclude with that, “justice delayed is justice denied”. Let us appreciate that the work of justice is an urgent priority and let us help each other on that journey. I am privileged to give the floor to her now, you are really for us one of the great inspirations on this journey, Professor Madonsela.

3 7 Vote of Thanks: Professor Thuli Madonsela

Thank you, dear colleagues, and thank you ProfessorKoopman, one of the people from Stellies who recruited me. Happy last day of Women's Month.

I truly honour you, every person in this room, for being here, for staying the course. But how about honouring yourself? Maybe take a minute or have a minute to tell yourself that you honour yourself for being a social justice champion, for choosing hope over fear, for embracing ubuntu. That is why you are here, whoever you are. Then turn to the person next to you, look them in the eyes and say to them I honour you for being a social justice champion, for choosing hope over fear, for embracing ubuntu, human solidarity and human compassion.

Like in this room today a little over a century ago a 19-year-old boy from rural KwaZulu-Natal sort of prophesied that a new world was going to emerge, that Africa was going to be a midwife for that new world. This 19-year-old boy combined what he had been told in the tradition about ubuntu, the interconnectedness of humanity, I am because you are, my humanity is defined by yours, I hurt you to hurt myself and I preserve your life to preserve mine, with his Christian teachings.

So, he had these two influences, Christianity and ubuntu, and he truly believed despite the oppression he was experiencing, this is more than 100 years ago, and things were going to be better. He was studying at Yale University at the time, and he put his thoughts in an essay that won a competition because he touched people's lives. That young person was Pixley ka Isaka Seme.

He explained that without embracing each other's humanity, the world will never know peace. But he had hoped though that the mistakes we are making at the time were going to be corrected and we'll come to a place where we understand that to exist peacefully, we needed to look after each other.

But do you not wish we had listened to Pixley earlier? Not just us South Africans. Don't you think the world would have done better if it had listened to Pixley ka Seme? Do you think we would have been spared the human suffering that has come from us hurting each other, from the zero-sum game, from the approach that says for me to be successful I must stand on someone else, what they call a poverty mentality?

Well, the Catholic church already believed in what Pixley believed in. They started preaching social justice at the turn of the nineteenth century already. The UN believed that social justice was going to be the glue that binds a peaceful world together.

From the very formation of the UN, the UN Charter had social justice as its foundation. But more specifically Eleanor Roosevelt and colleagues, when they drafted the UDHR, they understood that humanity, to coexist peacefully needed to have something like ubuntu, I am because you are, I will look after you and you will look after me and that your humanity is not superior to mine and neither is my humanity superior to yours, we are just humans.

If you read the Universal Declaration of Human Rights, you will note that the loadstar beneath all of those rights is social justice because it is everyone shall be entitled to these rights. The UN reinforced the notion that social justice underpins human rights when it said in 1993 that these rights are interrelated and mutually supporting. So, you cannot say you have a right to freedom and the right to dignity when you do not have the right to food, water, shelter, etcetera.

It was much later, in fact after the fall of the Iron Curtain, that we stopped respecting socio-economic rights, that the world felt that now that the threat of communism was gone, it did not matter that we should look after the poor. But we did so at our own peril. We ignored social and economic rights and the right to equality at our own peril.

Then the UN awoke to this reality when it came back with MDG at the turn of the millennium, realising that the world was becoming increasingly fractured because those we are leaving behind are not prepared to take it lying down, they are fighting back. In the same way that the world wars were caused by people gravitating towards demagogues, we started seeing demagogues again winning the day, because they were promising people quick solutions, they were giving people scapegoats.

But that did not leave us scot-free. It is not good enough to say a person who has been hungry for the last three days, which is the truth amongst students, which is the truth among people in townships and villages, and then you say to them, we need the rule of law. We need you to support our anti-corruption quest. Those things are cold comfort. It is Maslow's hierarchy of needs that food, and physical security is the first thing that we need.

This sense of social justice being important also informed the Europe recovery plan, what we refer to as the Marshall plan, because General Marshall crafted it. It still was that the rest of the world needed to help Europe to deal with the poverty that came from World War II and the infrastructure to make sure that people do not feel left behind and then they fight back against society, and the world.

I have told you about the rest of the world, but there were simple human beings

here. We have spoken about Women's Month. Olive Schreiner was one of the early advocates of a world that embraces the humanity of everyone. In fact, she thought it was absurd that we placed the hierarchy on humanity based on race and gender because when we go six feet under it makes no difference. Then Charlotte Maxeke took this gospel further and said that if society ensured the well-being of women and children, the welfare of men, black and white, would also be restored. Why didn't we listen?

Where we are now is where we could have been, again, if we had listened to one other person, a middle-class protestant American white male, James Patrick Kinney. Seeing the suffering and the social fracture that came with the Jim Crow laws in America, something similar to apartheid, he penned a poem called *The Cold Within*. Have you read that poem? *The Cold Within*. If you have not, get a copy.

It is about six persons trapped by happenstance, just as we happen to be in this subcontinent called South Africa. In this world, in this continent, between them they have a fire that is dying, just like the flame of democracy seems to be perishing globally. These six persons all have a log in their hands that they could throw into the fire to revive it.

The first person decides not to throw their log because they look around the room, and they see somebody who is not from their church. Not even from a different religion, just not from their church. I can think about that. I used to be a Seventh Day Adventist. We thought all of you who worship on Sunday are misled by the devil. Yes. I could relate to that one as a Seventh Day Adventist. This person keeps the log because they see somebody who is not from their church.

A rich person looks around and sees a poor person and he says the lazy poor, he keeps it. The poor person, not knowing what is in the mind of the rich person, looks around, sees this rich person, and says, the filthy rich, they exploit us, he keeps his. A white person sees a Black person and says, no, he is not going to get my log. The Black person not knowing what everyone else is thinking is saying, those people have exploited everyone, they have exploited us all our lives, time for revenge.

The last person I call a mercenary, Advocate Xoli Maduna, those people who are not going to give you a cent unless they can claim it back from SARS. He looks around the room and he thinks, no, these guys are not going to pay me, he keeps his log. James Patrick Kinney says they did not die from the cold without, they died from the cold within.

Thank God, because of people like the people in this room, and many others who would have wanted to be part of this conference but did not make it, we are not going to die from the cold within as South Africans. We are not going to die from the cold within as Africans. I do not think the world is going to die from the world within because we are going to listen, finally, to Pixley ka Seme as Africans and heal the world by returning the world to the principles of *ubuntu*.

During our discussions in the last three days, it was said that we have a great constitutional vision that entrenches social justice as a foundational principle. We were also told that we have the universal declaration of human rights and the African Charter on human and people's rights, amongst many other instruments. The chief justice calls the Constitution a promise to us. That is Chief Justice Mogoeng Mogoeng.

But like any promise, it is useless if you do not take action to deliver on it. We need human action to deliver. In the last three days, there was consensus that we have not done enough to deliver on this constitutional promise to ourselves and globally we have not done enough to respect the social justice foundations of the Universal Declaration of Human Rights and the African Charter on Human and People's Rights.

We noted though that there had been some actions, and there had been some policies. There have been some actions from the government. There have been some low fair people taking the state to courts, taking the state to the public protector and institutions like that. There have been social movements that have sued the state that have also protested and social movements like #FeesMustFall, and have made a dent against social justice. There have also been individual action by people in this room and elsewhere to make a difference.

But a lot of it, one colleague said, has been like the starfish project where that man on the beach was throwing back fish into the sea and somebody said, why are you doing this because they are going to the beach themselves anyway? This person threw one into the sea and said, it makes a difference to this one.

For example, if it was not for starfish approaches, I would not be standing in front of you. My parents could only take me to grade 10, so strangers funded my education from there onwards. I would not have been a successful professional. Those who say just get an education and you will have social mobility are telling you half the story.

Because if it was not for people like Mathole Motshekga who got me into the circles where they were discussing the Constitution, I would not have been able to do that. If it was not for people like Justice Dennis Davis making sure he co-arbitrates with me,

he gets me involved in the training of judges and things like that, I would not have been able.

If it was not for Frene Ginwala, Mavivi Manzini and all of those women who drew other women into the Constitution drafting process, I would not have been able to do that. But what does it say? It says it takes your action plus people in society opening up spaces for those who are left behind. Thank you.

So, we have done a lot in terms of the starfish project, but we have been asked and I have also asked the question previously, why are the starfish beaching themselves? Because sadly when it comes to poverty and inequality, if you do not arrest it, if you do not uproot it or disrupt it, the situation gets worse. Poverty operates like an epidemic. They spoke about health, for example, social determinants of health. The same thing with poverty. It is not about lack of money.

Being stuck in a place that is out of town where you have to take six busses to get into town, where you have to leave your house at 04:00 AM and come back at 08:00 AM means you cannot continue with your education if you did not get yourself enough of an education. Whereas somebody who is living in the suburbs goes to work and comes back and uses their Wi-Fi and they proceed with their education.

Health determinants. Children who are going to schools in Kayamandi versus children going to Paul Roos. Government has come up with a brilliant plan for democratising the governance of schools. That was one of the most horrible decisions that government ever took, but with good intentions. Because what you are doing is you are ringfencing poverty and ringfencing opulence. Because the school governing bodies in Kayamandi are going to be mostly uneducated and poor people, mostly even people who are not working. Because by the time the meetings take place, some people are still on the bus coming back from work. So that was not the intention.

But I am saying the Starfish Project means going beyond the starfish project, uprooting the causes and influencing factors behind poverty and inequality means you have to look at everything. Under apartheid that is exactly what they did, they looked at the entire system. That is why we spoke about land, we spoke about the Group Areas Act, we spoke about job reservation, we spoke about educational infrastructure being poor. We also spoke about dumbing down of that education.

So going forward you have to tinker with the entire system. But how do we do that? In the last three days, we identified the SDGs as a catalytic moment for us. Because we then add SDGs with Agenda 2063 and the NDP into the agenda and we move

forward.

This is why 80-year-old Ignatius Ferreira van Afrika now says I want to say despite the past, of everything, despite the rising angry psychological ghosts from 350 years of debilitating colonialism and insane apartheid, I want to say confidently that we shall overcome as a nation. Because I know there is a vast reservoir of immense ubuntu and goodwill amongst our people waiting for summum bonum leadership. That is leadership that is focusing on the public good. But where I will add to Ignatius Ferreira, I would say the leaders we keep looking for are us. Thank you.

You saw that we have been leading through this conversation, from our speakers, from Business Leadership South Africa, Busi Mavuso, Nicky Newton-King, Habib, from education, Buhlungu, Peterson, de Klerk, Zille, Turok, Kenya Moshai and our two DVCs here and Professor Klopper as well, everyone who has spoken has said we need new thinking, we need new action. So that is the leadership that has come from this room, not from anywhere else.

But the Vice-Chancellor from Stellenbosch University, Professor Wim de Villiers, showed us something beyond analysis, what people call analysis paralysis. He showed us a possibility when he told us that Stellenbosch University has adopted a vision and a statement that acknowledges the role of the university in our unjust past, acknowledges that that past was wrong, was unjust and apologised.

We have two apologies today. We got an apology from the Vice-Chancellor of Stellenbosch University apologising for the injustices of apartheid and the role of the university in that. We got an apology also from another colleague earlier this morning apologising to the women of this country. But Professor Wim de Villiers went further to show us what the university is doing as part of its commitment to reversing the legacy of that unjust past.

So that is an example and Ben Turok refers to this legacy as continuities. I normally just refer to it as the complex long shadow of our unjust past. It is racial in nature, it is gender in nature, it affects disability, LGBTI, rural, urban, etcetera, but it remains with us as Justice Edwin Cameron acknowledges it in the case of *Daniels v Scribante*, that the past is here with us. Whether we like it or not, it is not behind us, it is right here with us. Because it defines social relations in society. It defines who has and who does not have. Why wouldn't it?

Those of you who play Monopoly, just think about a Monopoly game where you have, for example, a blue team and a pink team. We are starting a Monopoly team,

only the blues get to play, and they get the money. They play and they play. When they have built their buildings and they own everything you then say, pink team, you can come in with your money. Do you play Monopoly? Do you think the pink team could ever, ever catch up with the blue team? No.

What happens, like in real life, they are likely to be even worse off than when they started with little money. Because in Monopoly you need that money when you land someone's building. People say you do not need land and people keep telling us that in Singapore they do not have land. Nobody owns land in Singapore. In a country like ours where to borrow money from a bank you need collateral in the form of land, the person on the Monopoly board who got land and you do not have land has an advantage. It is just real.

But to say for the newcomers you are only going to open up for jobs only, that is not sustainable because they can keep falling off the ladder when nobody wants to give them jobs. That is why I think the people from the economic section said open up space for everyone to own. In that way not only are you advancing social justice, but you are also advancing growth. Because you have many centres of investment and therefore many centres of growth for all of us. This is what is happening in the Scandinavian countries, is they invest in everyone to be able to be an owner of a business, not just to be seekers of jobs.

In fact, personally, I think if we only say we are going to open up space for people to get jobs, we are feeding into Verwoerd's vision of society. Because Verwoerd killed the business skills of people, killed people's ability to start businesses. People like Charlotte Maxeke had started businesses, Pixley and many others. They killed that ability because they wanted a labour reservoir from the majority of people.

Nobody wants a labour reservoir today. We cannot even afford that labour reservoir in the face of the fourth industrial revolution. But in any event, if you are going to have the majority of your people as a labour reservoir, then you have a country where the top is white and male, and the bottom is black and female and disabled and LGBTI and all of the intersectionality. That is the recipe for resentment, which is a recipe for economic inefficiency, and structural economic inefficiency.

What are examples that we could follow in terms of moving forward? A lot of interesting ideas have emerged from this. But one of my favourite ones is something that warmed my heart when I went to Uppington. Ordinary humans lead change, and it is happening a lot in the agriculture sector. Yesterday we were given an example of

what is happening to farmers.

But we have had farmers where somebody for example built, here in Stellenbosch, houses, proper houses, not four-roomed houses, proper suburban houses for his farmworkers. We have had people who have subdivided their farms to co-own with others. We have had people who have not divided it but given shares to others. There are so many emerging activities around the sharing of assets in this country.

But beyond this country I have seen in America, Georgetown University, it is a great university. It is a Catholic university, and it is built on hope. I have been there recently to deliver an OR Tambo memorial lecture. But it turned out that it was saved from liquidation by selling slaves and that became a thorn in the students' discourse. The students had a discourse on it and then they voted on it to do restitution. What the students resolved at Georgetown was that students would pay just a little bit more so that the descendants of slaves could come and study at Georgetown University for free.

That is just one example of restitution. Senator Ridgeway from Australia, the first Aboriginal parliamentarian in Australia, says there can be no reconciliation without restitution. Because if on this Monopoly board you say we are all equal now, we are now good friends, but I keep getting kicked off the board, not because somebody's intentionally kicking me, but because I do not have enough leverage to stay on the board and advance on the board, there will be resentment. It is natural. But if the board is a country that is trying to advance itself, it is weighing itself down by leaving a whole lot of its people behind.

Cambridge is currently contemplating something. Kenya has the Mau Mau restitution process. The Europe recovery plan is one of the examples, and the starfish projects that we have been speaking about are an example.

How do we break the four walls though, dear colleagues, going forward? We have a Constitution that promises everyone an improved quality of life and the free potential of every person. We have a national development plan, we have a Universal Declaration of Human Rights, Agenda 2063. This conference was about saying what is the moment that we can grab to catalyse the way forward.

We have identified the SDGs and I get the sense that there's an agreement that we can leverage the SDGs to catalyse the way forward. We have also suggested using the M-Plan to facilitate policy reform and avoid a one-size-fits-all approach. However, it is necessary to include a restitution element in some of those policies. We have

further suggested that there should be social cohesion, an initiative that Wilhelm Verwoerd suggested. Fundiswa Khaile talked about how we make people belong.

But I must say, dear colleagues, and I am saying to South Africans who are black like me, the quest for belonging in this country has become a quest for everyone. It is not just Black people who are fighting to belong. White people are also asking themselves, particularly those who were part of the struggle, do I belong here? Because every time I say something, people ask, why are you talking?

So, the quest for belonging is a quest by everyone, which means all of us will have to sit back and say:

“What do we start doing differently to make sure that when the Constitution says South Africa belongs to all its people, we truly make sure that it belongs to everyone in all aspects of the economy and all aspects of social well-being. Who will make sure that we belong?”

I will continue playing my part and part of my playing my part is what people call black tax. At the end of the month, I am always battling because I am taking five of my sisters' children through school. One of them is at university. I am accommodating a total stranger and, well, not a total stranger, semi-related. But also, when other kids that I do not know ask for assistance, they are about to drop off from university, there's a small amount I pay. If it is a big amount, I call Advocate Maduna and say, can you go to our bank? We have saved students who were on the verge of being thrown off the grid.

If you say people are angry in this country, I remember one kid when I was at Harvard doing finally an LLB at the University of Free State. I get a call that says he is being told go home because nobody will pay for him anymore. Can you imagine how angry you are when you almost got it, but for money? You know that there are students there who are rich who have failed four times, who have changed course five times, but they keep staying in the system because they have money. You have to work harder to get 70% to stay on the bursary because you are poor. Which contributes to mental health problems.

Considering individual things, you can do something about just individuals, continue with that and continue with foundations. Many of you have foundations. The ThuMa Foundation has enterprising communities that is trying to lift communities, help communities to lift themselves up and then bring business there to invest. Because

we must invest in the municipal wards, 4 392 municipal wards.

But lastly, regarding the M-Plan, I am grateful that we have all said we are embracing the idea of having a comprehensive plan. I am saying to the rest of Africa and other countries that have extreme disparities, something like an M-Plan is the best way to go because you are going to deal with the little issues, but also will have a systems approach to policy change, to resource mobilisation, but also to bring in people into the part to drive social cohesion and public accountability.

The M-Plan is also about educating people about how the system works so that what the auditor-general told us the other day never happens again. I do not know if somebody repeated it here, where in a poor community a municipality was asked to build a stadium so that people could have a place, young people could have a place to work. They wrote and everything was good, everything on paper was saying a stadium has been built, until the auditor-general, Kimi Makwetu, drove with his team to find the stadium and all he could find there was a barbed-wire fence. R21 million had been paid.

So part of the M-Plan is to make sure that that never happens, because there would be a board that says here there's a stadium that is being built and it would say what are the timelines for building it and people would have to ask for plans, for information as the situation is supposed to unfold. Because if you only come after the money has been paid, it is too late to recover it.

When we move out of this room, we must just remember one thing, moaning the darkness does not change the world. Every single thing we are doing now makes us the light of this world. But one light against darkness makes a difference. But if you combine those lights, you get light that is formidable against the darkness. So, let's go do this.

Thank you.

PART 4: SELECTION OF PAPERS PRESENTED

4 1 Economic, social and cultural rights and the SDGs: Towards greater convergence

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Introduction

Food, water, land and housing, health care, education, decent work and social security are amongst the most basic prerequisites for human survival, a life of human dignity, and enabling people's participation in all spheres of society. For this reason, their status as fundamental human rights has been recognised in the Universal Declaration of Human Rights (1948), the International Covenant on Economic, Social and Cultural Rights (1966) and a range of regional human rights treaties including the African Charter on Human and Peoples' Rights. They have also been increasingly recognised in national constitutions, with the South African Constitution being one of the celebrated global examples of social constitutionalism.

At the heart of this group of rights is a recognition that poverty and socio-economic inequality are not natural phenomena. Rather, they are the outcome of laws, policy decisions and other acts and omissions of powerful political and economic actors – stretching over generations. As Former President Nelson Mandela famously said in supporting the inclusion of economic, social and cultural rights as justiciable rights in the 1996 South African Constitution:

“A simple vote, without food, shelter and health care is to use first generation rights as a smokescreen to obscure the deep underlying forces which dehumanize people. It is to create an appearance of equality and justice, while by implication socio-economic inequality is entrenched. We do not want freedom without bread, nor do we want bread without freedom. We must provide for all the fundamental rights and freedoms associated with a democratic society.”

Given the severe impact of material deprivation on human well-being, the international community has recognised that accountability mechanisms must be in place to guard

against policies (or a lack of policies) that have severe negative impacts on people's access to socio-economic rights. Accountability can take a variety of forms – parliamentary human rights committees, chapter 9 institutions, international and regional human rights bodies, administrative tribunals and, of course, courts.

ESCRs and development: A troubled relationship

Realising economic, social and cultural rights effectively requires a holistic strategy of development. However, the relationship between human rights and development has had a troubled history.²⁷ Too often human rights have been viewed as constraints or collateral damage in development processes or in development financing, notably in the structural adjustment programmes imposed by the World Bank and IMF on developing countries.

The international community has made efforts to recognise the ideal of a mutually complementary relationship between human rights and development, most notably in the 1986 UN Declaration on the Right to Development. The Declaration defines development as an “inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized.”²⁸ This definition resonates with Amartya Sen's argument in his book, *Development as Freedom*, that the expansion of human capabilities and freedoms should be the primary end and the principal means of development.²⁹

However, the paths of the human rights agenda and developed diverged again in the Millennium Development Goals of 2001 which did not make any explicit references to human rights.³⁰

Environment and climate change: Game changers

²⁷ See the collection of essays in Philip Alston and Mary Robinson (eds) *Human Rights and Development: Towards Mutual Reinforcement* (Oxford, University Press, 2005).

²⁸ GA Res 41/128 of 4 December 1986.

²⁹ A Sen, *Development as Freedom*, xii.

³⁰ M Langford, A Sumner, and A E Yamin *The Millennium Development Goals and Human Rights: Past, Present and Future* (Cambridge University Press, 2013).

One aspect of the development discourse that has become stronger has been that of its impact and implications for the environment. Although initially neglected, the crucial environmental dimensions of development were being increasingly affirmed in a range of UN Conferences and Declarations, building on the concept of “sustainable development” in the Brundtland Report of 1987.³¹ Sustainable Development was famously defined in the Brundtland Report as “development that meets the needs of the present without comprising the ability of future generations to meet their own needs” – the principle of intergenerational equity. The 1992 Rio Declaration on Environment and Development was a significant milestone with a number of important environmental principles affirmed including the principle of sustainable use of nature resources; the preventive and precautionary principles; polluter pays and the principle of “common but differentiated responsibilities”.³²

These environmental dimensions of development are critical given the multiple environmental crises the planet is undergoing, ranging from global heating, ozone-layer depletion, air pollution, soil degradation, biodiversity loss and more. Climate change is a game changer for both the development and human rights community. As the UN Special Rapporteur on extreme poverty and human rights noted in his recent report on climate change and poverty:

“Climate change will have devastating consequences for people living in poverty. Even under the best-case scenario, hundreds of millions will face food insecurity, forced migration, disease and death. Climate change threatens the future of human rights and risks undoing the last 50 years of progress in development, global health and poverty reduction.”³³

Towards convergence? The 2030 Agenda and the Human Rights Agenda?

³¹ Report of the World Commission on Environment and Development: *Our Common Future* (1987). <http://www.un-documents.net/our-common-future.pdf> (“*Our Common Future*”). See also the link drawn between environmental protection and economic development in the Stockholm Conference on the Human Environment: Stockholm Declaration of Principles (1972)

³² Evolved into principle of “Common but Differentiated Responsibilities and Respective Capabilities” (CBDR-RC) in context of the UNFCCC.

³³ UN Special Rapporteur on extreme poverty and human rights”, *Climate change and poverty*, UN doc. A/HRC/41/39, 25 June 2019, p. 1, 4 – 6.

Global consensus on the concept of sustainable development has now converged on the Sustainable Development Goals (SDGs) in the 2030 Agenda for Sustainable Development (The 2030 Agenda).³⁴ The SDGs represent a global commitment to development that is sustainable and equitable so that it can support the needs of the present and future generations.³⁵ *The 2030 Agenda* is the international community's roadmap for responding to the challenges of poverty and inequality within and amongst countries while safeguarding the Earth's life-giving systems.

What is even more promising is that the 2030 Agenda proclaims that it "is grounded" in the UN Charter, the Universal Declaration of Human Rights and international human rights treaties³⁶ as well as being informed by various UN Conference Declarations and other instruments such as the Declaration on the Right to Development.³⁷

There are many synergies between the SDGs and ESCRs. Both share the common objectives to end poverty, reduce inequality within and between countries, ensure food security and improve nutrition, quality education, inclusive, safe and resilient human settlements, and decent work for all. "Leave no-one behind" is a central theme of the *2030 Agenda*, directing developmental priorities towards marginalised and disadvantaged groups, peoples, and fragile countries, including least developed countries, small island developing States and countries in conflict and post-conflict situations. This reinforces the focus on groups and populations facing systemic discrimination in international human rights law. The same applies to the cross-cutting commitment to gender equality (Goal 5).

In theory the 2030 Agenda and the objectives of ESCR would seem to converge.

Separate silos and moving towards practical complementarity

However, the reality is that human rights methodologies and accountability are weakly reflected in the indicators and monitoring mechanisms of the 2030 Agenda. Accountability for the 2030 Agenda is largely characterised by its voluntary and political character through voluntary national reviews and the High-Level Political

³⁴ *Transforming our World: The 2030 Agenda for Sustainable Development*, Resolution adopted by the General Assembly on 25 September 2015, UN doc. A/Res/70/1.

³⁵ *Ibid*, Preamble

³⁶ 2030 Agenda, para 10.

³⁷ Resoluton 41/128, annex.

Forum, an intergovernmental body. Moreover, there is insufficient dialogue and interaction between Agenda 2030 and the UN human rights institutions. The two systems are still operating largely in separate silos and with insufficient integration of the two systems.

This raises two questions of critical importance to strengthening the practical complementarity between the human rights agenda and the SDGs:

- 1) First, what a human rights lens can contribute to the 2030 Agenda?
- 2) Second, how the 2030 Agenda can enrich and strengthen the human rights agenda.

I will start with the former question.

What does a human rights lens contribute to the 2030 Agenda?

The Committee on which I currently serve, the UN Committee on Economic, Social and Cultural Rights monitors the fulfilment by the 169 States Parties to the International Covenant on Economic, Social and Cultural Rights of their obligations under the Covenant. At its recent session in March 2019 it adopted a significant statement at its recent session highlighting how the rights-based methodology developed by the Committee for the implementation of economic, social and cultural rights can assist States in implementing the SDGs.³⁸ In this statement it highlighted key features of a rights-based methodology based on the core human rights principles of participation, accountability, non-discrimination, transparency, human dignity, empowerment and the rule of law (the so-called PANTHER principles. These are normative principles that should guide the implementation of the SDGs. They help ensure that people are treated not as the passive beneficiaries of development, but as “rights holders” entitled to active participation in development processes.

A rights-based approach to development also emphasises the importance of *effective and expeditious remedies* when human rights are violated. Remedies are critical to the accountability mechanisms that I referred to at the outset of this paper. While remedies can take a variety of forms, the South African experience has

³⁸ Committee on Economic, Social and Cultural Rights, *The Pledge to Leave No-One Behind: The International Covenant on Economic, Social and Cultural Rights and the 2030 Agenda for Sustainable Development*, UN doc. E/C.12/2019/1.

highlighted the crucial role that judicial remedies play in securing accountability for ethical and human rights-oriented governance.

In addition, human rights law at national and international levels has developed sophisticated tools for analysing and achieving accountability for various forms of *discrimination* that contribute to social exclusion and systemic inequalities. For example, the CESCR has highlighted the importance of the concept of “systemic discrimination”, which it defines as forms of discrimination against some groups that is “pervasive and persistent and deeply entrenched in social behaviour and organization, often involving unchallenged or indirect discrimination.” It goes on to note that:

“[s]uch systemic discrimination can be understood as legal rules, policies, practices or predominant cultural attitudes in either the public or private sector which create relative disadvantages for some groups, and privileges for other groups.”³⁹

In the specific context of economic, social, and cultural rights, the UN Committee on Economic, Social and Cultural Rights has developed a number of criteria for assessing whether rights are fulfilled. The Availability, Accessibility, Acceptability and Quality (AAAQ) framework assesses the fulfilment of socio-economic rights in terms of their availability, adequacy, accessibility (incorporating physical accessibility, economic accessibility/affordability and information accessibility), cultural acceptance and quality. The nature of criteria is further elaborated in the context of the various specific rights of the Covenant, and are adapted to the specific duties imposed by the relevant rights.

In addition to these criteria for assessing ESCR fulfilment, the Committee also interprets the Covenant to impose a number of obligations of conduct on the part of States parties such as the priority duty to secure minimum core obligations, and to make measurable progress towards the full realisation of the rights, and procedural obligations such as developing comprehensive, participatory and transparent plans of actions with benchmarks and indicators for measuring progress.

In many respects, these resonate with the criteria for a “reasonable” government programme developed by the SA Constitutional Court in its landmark socio-economic

³⁹ General Comment No. 20 “Non-discrimination in economic, social and cultural rights” (article 2(2) of the International Covenant on Economic, Social and Cultural Rights, UN doc E/C.12/GC/20, para 12.

rights cases. According to these criteria, a reasonable programme in the context of socio-economic rights must be –

- capable of facilitating the realisation of the right;
- comprehensive, coherent and coordinated;
- appropriately funded with financial and human resources;
- balanced and flexible with appropriate provision for short-, medium- and long-term needs;
- not exclude a significant segment of society;
- include short-term measures of relief for those whose needs are urgent and who are living in intolerable conditions;
- be reasonably conceived and implemented;
- be transparent with its contents being known effectively to the public; and
- be developed through meaningful engagement with those affected by the programme.⁴⁰

A number of NGOs have developed helpful methodologies for translating these normative criteria and obligations into implementation and monitoring tools for government, national human rights institutions and civil society. Thus the Centre on Economic, Social and Cultural Rights has developed a four-phase methodology entitled OPERA – Outcomes, Policy Efforts, Resources and Assessment.⁴¹ This has been adapted and applied in the South African context by the Studies in Poverty and Inequality Institute.⁴² CESCR also applies a methodology to assess compliance by states parties with their obligation to devote “the maximum available resources”⁴³ for the realisation of economic, social and cultural rights based on outcomes; resource mobilisation and expenditure priorities. This methodology was applied last year in the Committee’s Review of South Africa’s initial report under the Covenant and is reflecting in the Concluding Observations of the Committee on South Africa.⁴⁴ These

⁴⁰ Grootboom; TAC; Khosa, Olivia Road. Liebenberg *Socio-Economic Rights: Adjudication under a Transformative Constitution* (2010, Juta & Co) 151 – 157.

⁴¹ <http://www.cesr.org/opera-framework>.

⁴² <https://spii.org.za/research-and-advocacy/the-socio-economic-rights-monitoring-tool/>

⁴³ International Covenant on Economic, Social and Cultural Rights, article 2.

⁴⁴ CESCR, Concluding Observations on the Initial Report of South Africa, UN Doc E/C/ZAF/CO/1, 29 November 2018

tools can play an important role in developing SDG indicators and in monitoring progress toward their fulfilment at national and international levels.

A human rights methodology is important to the implementation of the SDGs both as a matter of principle and instrumentally. This methodology ensures that all policies to implement the SDGs are based on fundamental human rights norms. Policies that are based on principles of non-discrimination, transparency, participation, and an enabling environment for human rights defenders are also more likely to generate legitimacy and the buy-in of society. The latter is vital to the long-term success of relevant policy initiatives.

What can the 2030 Agenda contribute to the Human Rights Agenda?

The other side of the coin is that the SDGs bring to the human rights agenda an increased appreciation of the need to incorporate the principle of environmental sustainability in the interpretation and implementation of economic, social and cultural rights.

CESCR is currently integrating this dimension in the periodic reporting process. It is also developing a new general comment on sustainable development and the Covenant, and actively seeking synergies between the Covenant and the SDGs.

It also as a matter of course reminds states of the importance of fulfilling their obligations under the ICESCR in implementing the SDGs through a standard paragraph in the Concluding Observations issued on State Reports.

Conclusion: Legal and political accountability

In conclusion, it is important to emphasise that human rights norms are legally binding under international law and attract legal accountability when they are violated. In contrast, the 2030 Agenda is not in itself legally binding, and states are politically rather than legally accountable for the implementation of the SDGs.

Counterintuitively, this does not mean that legal accountability is necessarily strong, or that political accountability is weak. The political energy for the SDGs is currently high in the global community, while there is a growing sense that the human rights

agenda is becoming weaker internationally. Core UN human rights treaty bodies and Human Rights Council special procedures face serious budgetary challenges.⁴⁵

We are witnessing a rise in populist and authoritarian governments and the erosion of critical civic space for mobilisation and activism for human rights and democracy in many countries. Many multinational corporations and financial institutions violate human rights norms with impunity in large-scale development projects across the globe, particularly in developing countries.⁴⁶

This should be of serious concern not only to the human rights community but to governments and all who are invested in the success of the 2030 Agenda. What I have attempted to show in this paper is that sustainable development and human rights are mutually interdependent and reinforcing. Without respect for human rights, the 2030 Agenda will be incapable of fulfilling its commitment to put the health and well-being of people and the planet at the heart of sustainable development. Economic, social, and cultural rights are integral to human rights and are vital to ensuring that social justice is the lodestar in implementing the SDGs.

⁴⁵ <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24621&LangID=E>

⁴⁶ CESCR, General Comment No. 24

4 2 Open access and open publishing: A social justice imperative for South Africa

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Introduction

In deeply unequal societies, such as South Africa, social justice imperatives are stark and urgent. Inequities are exacerbated in times of crises such as disasters and pandemics. Efforts to address inequity are framed within international, regional and national normative and regulatory systems. For example, South Africa's approach is informed by the United Nations' 2030 Agenda for Sustainable Development which includes the Sustainable Development Goals (SDGs), the African Unions' Agenda 2063 and the country's National Development Plan (NDP) 2030. In addition, the Constitution together with legislation and policy place a legal obligation on the state for inclusive development through, *inter alia*, quality education which in itself is dependent on unhindered access to the necessary learning materials including scholarly and scientific knowledge. One of the conduits mooted for inclusive development is open access and open publishing. However, the openness movement, with its social justice imperatives, has been derailed by a number of pseudo proposals to make access to science and information accessible to society. The roll-out of these pseudo proposals perpetuates the information divide and exacerbates current social injustices.

This contribution will consider how validated open access practices may be leveraged as ways of addressing social justice imperatives in alignment with SDGs 4 (quality education), 8 (decent work and economic growth) and 10 (reduced inequalities). Its focus is on the educational sector with an emphasis on the role of educational institutions' libraries, specifically as publisher. Therefore, it does not

⁴⁷ Professor, University of Cape Town. This work is based on the research supported in part by the National Research Foundation of South Africa (Grant Numbers: 115716) Any opinion, finding and conclusion or recommendation expressed in this material is that of the author and the NRF does not accept any liability in this regard.

⁴⁸ Director: Research & Learning at the University of Cape Town Libraries.

engage in debates about conventional copyright markets and commercial publishers.⁴⁹ This is because as eloquently put by Helfer and Austin:⁵⁰

“the human right to education imposes public law obligations on governments, including the provision of free educational materials (particularly to primary school children). The human right to education must therefore mean something other than the existence of markets for copyright-protected works, which anticipate that educational materials will be sold rather than distributed free of charge.”

Consequently, it leverages “virtues of openness” to consider how libraries are contributing as publisher. These virtues are the:

“underlying values that promote certain qualities held to be “good” or to sustain our belief system, culture, or way of life. In the public or social sense we might talk about the ways in which openness promotes certain kinds of freedom, justice, forms of participation, transparency, sociality, collaboration, solidarity, and democratic action...The movement toward greater openness represents a change of philosophy, ethos, and government as well as a set of interrelated and complex changes that transform markets, altering the modes of production and consumption and ushering in a new era based on the values of openness: an ethic of sharing and peer-to-peer collaboration enabled through new architectures of participation.”⁵¹

The ideological basis of openness includes social justice, sustainable development, human development, human rights⁵² and public interest infused meta-norms.⁵³

⁴⁹ For an overview of the evolution of commercial publishing and its impact on education in South Africa see Eve Gray and Laura Czerniewicz. 2018. ‘Access to Learning Resources in Post-apartheid South Africa’ in Karaganis (ed.) *Shadow Libraries : Access to Knowledge in Global Higher Education* 107 - 143;

⁵⁰ Helfer & Austin *Human Rights and Intellectual Property: Mapping the Global Interface* (2011) 316

⁵¹ Michael A. Peters and Peter Roberts (2012) *The virtues of openness : education, science, and scholarship in the digital age* London and New York: Routledge p.1-2.

⁵² Caroline B Ncube ‘Using Human Rights to Move Beyond Reformism to Radicalism: A2K for Schools, Libraries and Archives’ in Matthew Callahan and Jim Rogers (eds) *A Critical Guide to Intellectual Property* (2017) Zed Books 117- 143

⁵³ Caroline B Ncube ‘Calibrating Copyright for Creators and Consumers: Promoting Distributive Justice and Ubuntu’ in R. Giblin & K. Weatherall (eds.), *What if We Could Reimagine Copyright?*, Canberra: ANU Press, (2017) 253 – 280.

The chapter will proceed in four further sections as follows. Section two will set out inequalities in education and how they interface with economic development in South Africa. It will also expound how these inequalities may be addressed through a social justice approach, in alignment with relevant international, relevant and national policy, strategy, constitutional and legislative frameworks. In particular, the Bill of Rights and the NDP, 2030 will be foregrounded. Section three will outline how social justice animates open publishing and open access, using some examples from South African universities. Section four will conclude with recommendations on how the social justice agenda can be furthered by libraries as publishers.

Inequality in education: A social justice perspective

This chapter considers education to be a vital steppingstone to enabling people to engage in decent work leading to economic growth and reduced inequalities. Its discussion therefore centres on the benefits of an openness paradigm with respect to education. The primacy of education with respect to developmental aspirations is a common theme at global, continental and national levels. Globally, education is articulated by the SDG 4 which seeks to “ensure inclusive and equitable quality education and promote lifelong learning opportunities for all”. Education is also part of seven other SDGs through their education-related targets.⁵⁴ At continental level, the African Union (AU)’s Agenda 2063 aspires to create “a prosperous Africa, based on inclusive growth and sustainable development” with the affiliated goal of “well Educated citizens and skills revolution underpinned by Science, Technology and Innovation” achieved through prioritising “education and STI skills driven revolution”.⁵⁵ This is amplified in the AU Continental Education Strategy for Africa 2016-2025. South Africa has a range of policy instruments, supported by a national strategy and a regulatory framework for education.

Education is a multi-tiered sector, ranging from pre-school through primary, high and tertiary levels. There are a variety of post-school leaving options that include

⁵⁴ UNESCO Institute for Statistics. 2018. Quick Guide to Education Indicators for SDG 4. p7. <<http://uis.unesco.org/sites/default/files/documents/quick-guide-education-indicators-sdg4-2018-en.pdf> > accessed 1 June 2020.

⁵⁵ African Union (AU). Goals & Priority Areas of Agenda 2063 <<https://au.int/en/agenda2063/goals>> accessed 1 June 2020.

vocational schools, colleges, and universities. This chapter refers to education broadly across all these contexts and levels. Nuances are vital when it comes to policy and pedagogical practice. However, this contribution only requires a broad setting of the sector which highlights the existing inequalities. Consequently, only a broad picture is drawn in this section. Accounts of inequality in education abound,⁵⁶ addressing multiple dimensions of inequality such as economic disparity, inadequate infrastructure, racial disadvantage⁵⁷ and gender parity.⁵⁸ These dynamics have been comprehensively examined in the South African context⁵⁹ and this chapter will not seek to replicate such thorough analyses. Suffice it to say that inequality in education, at all levels, is rampant and indefensible in a post-apartheid democratic state.

Addressing such inequality is a social justice issue. The response must be both comprehensive and deep, including leveraging policy options on resource mobilisation, educator competencies and deployment.⁶⁰ Social justice is the underpinning paradigm of this volume and has been conceptualised and explained in preceding chapters. Its pursuit in South Africa has also been the subject of extensive scholarship elsewhere⁶¹ and is the focus of renewed activism.⁶² Therefore, it is not necessary to unpack it again. This chapter's purposes will be met by highlighting that social justice is a quest for equity and fairness in many aspects of life including

⁵⁶ See, for example, Donald B. Holsinger and W. James Jacob (ed.s) 2009. *Inequality in Education: Comparative and International Perspectives*. Springer Science & Business Media.

⁵⁷ Barry Troyna (ed) 2014. *Racial Inequality in Education*. Routledge.

⁵⁸ Edward B. Fiske. 2012. *World Atlas of Gender Equality in Education*. Paris: UNESCO.

⁵⁹ See for example, Nic Spaul and Jonathan D. Jansen (ed.s). 2019. *South African Schooling: The Enigma of Inequality: A Study of the Present Situation and Future Possibilities*. Switzerland: Springer Nature; Eve Gray and Laura Czerniewicz. 2018. 'Access to Learning Resources in Post-apartheid South Africa' in Karaganis (ed.) *Shadow Libraries : Access to Knowledge in Global Higher Education* 107 - 143; Equal Education. 2016. *Planning to Fail: A report on Equal Education's Eastern Cape School Visits*. <<https://equaleducation.org.za/wp-content/uploads/2016/07/Full-EE-Planning-to-Fail-Report-2017.pdf>> accessed 1 June 2020.

⁶⁰ Jonathan D Jansen. 2019. 'Inequality in education: what is to be done?' in Nic Spaul and Jonathan D. Jansen (ed.s). 2019. *South African Schooling: The Enigma of Inequality: A Study of the Present Situation and Future Possibilities*. Switzerland: Springer Nature 355 at 367 - 369.

⁶¹ For example, see Thuli Madonsela 2018 'Social Justice: What are we getting wrong?' <<https://www.sun.ac.za/si/en-za/Documents/Events/Symposium%202018/1%20Madonsela%20-%20Social%20Justice.pdf>>; Ivor Chipkin and Sarah Meny-Gibert Understanding the Social Justice Sector in South Africa (2013) <<http://www.raith.org.za/docs/Report-Social-justice-Sector-7Feb2013-FINAL-10022013.pdf>> accessed 1 June 2020.

⁶² For example, see the Resolution adopted by the Inaugural International Social Justice Conference 2019: Leveraging the Sustainable Development Goals and the Global Human Rights Agenda to Advance Social Justice. 31 August 2020.

economic justice, public participation and social cohesion.⁶³ The pursuit of social justice is context specific. For example, the social justice issues in education will manifest differently from those in health. However, in each context, the underlying issue is an inequity that was created by many factors including historical political socio-economic policies.

As indicated above, this chapter focuses on the educational sector with an emphasis on the role of libraries, specifically as publisher.⁶⁴ Libraries are a site for social justice issues and are also simultaneously social justice actors. That is to say, there are internal challenges in the library space and the library has a role to play in external social justice issues that exist in society generally, such as addressing inequality in education through the production of learning materials and scholarly publications.

The right to education as a constitutional imperative

The attainment of education is protected by section 29(1) of the Constitution, which states that “[e]veryone has the right to a basic education, including adult basic education and further education, which the State, through reasonable measures, must progressively make available and accessible”. This national provision, in turn, is founded upon binding international standards. There are several international agreements to which South Africa is a party,⁶⁵ key of which is the International Covenant of Economic, Social and Cultural Rights (ICESCR), to which South Africa is a party, having signed it on 3 October 1994 and ratified it on 12 January 2015, following which, the treaty came into force for South Africa on 12 April 2015.⁶⁶

South Africa is accordingly bound by the ICESCR’s Article 2(1) which enjoins

⁶³ Human Sciences Research Council. 2004. *Social Cohesion and Social Justice in South Africa*.

⁶⁴ Ivor Chipkin and Sarah Meny-Gibert Understanding the Social Justice Sector in South Africa (2013) <<http://www.raith.org.za/docs/Report-Social-justice-Sector-7Feb2013-FINAL-10022013.pdf>>accessed 1 June 2020.

⁶⁵ Including Articles 13 and 14 of the International Covenant on Economic, Social and Cultural Rights; UNESCO Convention against Discrimination in Education, 1960; Convention on the Elimination of All Forms of Discrimination Against Women, 1981; Convention on the Rights of Persons with Disabilities, 2006; Article 17 of the African Charter on Human and Peoples' Rights.

⁶⁶ UN depositary notification (12 January 2015) Reference: C.N.23.2015.TREATIES-IV.3. <http://www.seri-sa.org/images/ICESR_CN_23_2015-Eng.pdf > accessed 1 June 2020.

“Each state party to the present Covenant undertakes to take steps, individually and through international assistance and cooperation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realisation of the rights recognised in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.”

Concerning the socio-economic right to education, under Article 13(2) state parties recognise that, to achieve the full realisation of this right:

- (a) Primary education shall be compulsory and available free to all;
- (b) Secondary education in its different forms, including technical and vocational secondary education, shall be made generally available and accessible to all by every appropriate means, and in particular by the progressive introduction of free education.

In its ratification instrument, South Africa filed the following declaration:

“The Government of the Republic of South Africa will give progressive effect to the right to education, as provided for in Article 13 (2) (a) and Article 14, within the framework of its National Education Policy and available resources.”⁶⁷

Thus far, South Africa has only submitted one implementation report for consideration by the Committee on Economic, Social and Cultural Rights (CESCR) on 25 April 2017, as required within two years of becoming a state party and the next report will be required within five years of the first report, by 31 October 2023.⁶⁸ The 2017 Report sets out the policy and legislative framework for the provision of education, budget, access and attendance, gender parity achievements, inclusive education and dropout rates.⁶⁹ In addition to the regulatory framework, the report gave an overview of the implementation structure which hinges on the 2030 NDP which presents a vision for

⁶⁷ Ibid.

⁶⁸ UN Treaty Body Database Reporting status for South Africa <https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Countries.aspx?CountryCode=ZAF&Lang=EN> accessed 29 June 2020.

⁶⁹ South Africa. 2017. Initial State Party Report. E/C.12/ZAF/1 51-54, <https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolNo=E%2fC.12%2fZAF%2f1&Lang=en> accessed 29 June 2020.

quality education at all levels⁷⁰ and the Medium-Term Strategic Framework (MTSF) 2014-2019 which provided a five-year blueprint for achieving this goal.⁷¹ This prioritisation of quality education has been carried forward into the MTSF 2019 - 2024.⁷² Further, the 2017 Implementation Report set out the monitoring mechanisms that the state has put in place to evaluate its delivery of the right to education.⁷³ In its self-assessment, the state noted that it had achieved

“almost universal access to primary education, ... [and] is now focusing on improving the quality of the education, expanding the provision of infrastructure, facilities and learning resources, and strengthening the capacity of the educator cadre to deliver an enhanced range and quality of basic education”.

This emphasis on the provision of learning resources was also mentioned in relation to post-school education in the *White Paper for Post-School Education and Training: Building on Expanded, Effective and Integrated Post-School Education* published in 2014 (*White Paper for Post-School Education and Training*). In that context, the Department of Higher Education and Training (DHET) emphasised the role of “the development and availability of well-researched, high-quality national learning resources (made available as open educational resources [OER])” as an important aspect of providing good post-school education.⁷⁴

Access to learning materials as a barrier

As shown above, access to learning resources is a critical component of quality education. There are several barriers to access which encompass cost, language, and

⁷⁰ South Africa. 2017. Initial State Party Report. E/C.12/ZAF/1, 11; National Development Plan 2030, ch 9: Improving education, training and innovation, 261 - 294.

⁷¹ Medium Term Strategic Framework (MTSF) 2014 - 2019, 16-17. <<https://www.dpme.gov.za/keyfocusareas/outcomesSite/Pages/the-Outcomes-Delivery-Agreements.aspx> > accessed 29 June 2020.

⁷² MTSF 2019 - 2014, 72-101. <<https://www.dpme.gov.za/keyfocusareas/outcomesSite/Pages/mtsf2021.aspx>> accessed 29 June 2020.

⁷³ Ibid 56.

⁷⁴ Department of Higher Education and Training (DHET) *White Paper for Post-School Education and Training: Building on Expanded, Effective and Integrated Post-School Education*, 50, 54. Government Gazette No. 37227 15 January 2014.

applicability to context.⁷⁵ Books are often unaffordable to economically disadvantaged learners and students. Further, the availability of books in local languages and with global South relevance is limited. The reasons for these barriers are multi-faceted but they are partially attributable to the exploitation of copyright. As indicated in the introduction, this chapter expressly links knowledge governance, through copyright, to access to information, knowledge and science, which are critical components of attaining education.

A full overview of copyright law is beyond the scope of this chapter. The following synopsis serves to contextualise the subsequent discussion of open access and open publishing. The Copyright Act, 78 of 1978 extends economic exclusivity⁷⁶ and the moral rights of paternity and integrity⁷⁷ to eligible works⁷⁸ that are original, reduced to material form and authored by a qualified person or first published in South Africa.⁷⁹ The exclusive economic rights, which include reproduction, adaptation and distribution, can only lawfully be exercised with the permission of the copyright holder or in terms of exceptions and limitations (E&L).⁸⁰ E&L are statutory provisions which are public interest tools used to specify circumstances under which copyright-protected works may be used without seeking a license or authorisation from the right holder, legislated in compliance with the three-step test set down in international instruments. In short, this test requires that the E&L have to be limited to certain special cases; that do not conflict with the normal exploitation of the work and do not unreasonably prejudice the legitimate interests of the author/ rights holder.⁸¹ The second mechanism used to enable openness is licensing, such as creative commons

⁷⁵ Gray and Czernowicz supra, K.D. Beiter 'Extraterritorial human rights obligations to "civilize" intellectual property law: Access to textbooks in Africa, copyright, and the right to education'. *J World Intellect Prop.* 2020; 1– 35. <https://doi.org/10.1111/jwip.12150>; Caroline B Ncube 'Calibrating Copyright for Creators and Consumers: Promoting Distributive Justice and Ubuntu' in R. Giblin & K. Weatherall (eds.), *What if We Could Reimagine Copyright?*, Canberra: ANU Press, (2017) 253 – 280, C Armstrong, J de Beer, D Kawooya, A Prabhala and T Schonwetter (ed.s) *Access to Knowledge in Africa: The Role of Copyright* (2010); Susan Isiko Štrba *International copyright law and access to education in developing countries: Exploring multilateral legal and quasi-legal solutions* (2012).

⁷⁶ ss 6 – 11B.

⁷⁷ S20.

⁷⁸ Namely literary works, musical works, artistic works, cinematograph films, sound recordings, broadcasts, programme-carrying signals, published editions and computer programs.

⁷⁹ Copyright Act 98 of 1978, ss 2 - 4.

⁸⁰ ss 12 – 19B.

⁸¹ It is found in the following agreements - Berne Convention Article 9 (2), TRIPS Article 13, the WCT Article 10 and the WPPT Article 16.

licenses for literary works, and the GNU General Public License (GNU GPL or GPL) for software. That is to say, a work that is protected by intellectual property, copyright, in this case, is licensed by the right-holder for use in various contexts under stipulated conditions. There is a large body of scholarship on the open licensing of copyright-protected materials⁸² and an equally substantial literature on limitations and exceptions.⁸³

Research conducted between 2007 - 2010 by more than 30 researchers investigating copyright laws, policies and practices in eight African countries, including South Africa, demonstrated how copyright environments impact access to learning materials on the continent.⁸⁴ Copyright environments were found to be sub-optimal due to the inadequacy of education-related E&L. However, because access is impacted by many other factors the research found that reforming copyright laws and practices would offer a partial solution to the learning materials access problem. Other remediation strategies are required and should be pursued to directly reduce the cost of legal access. It is in this context that this contribution puts open access and open publishing forward as a viable solution.

The value of open access and open publishing has been underscored by the COVID-19 pandemic. During the pandemic, schools and higher education institutions need access to vast amounts of learning materials which they can lawfully digitise and distribute electronically to students across the country for emergency remote learning to work. This is because students and staff alike are not on school, college and university campuses, so access to physical copies held in libraries is not possible. Turning to distance library loans with books couriered to readers was not possible during hard lockdown, although progressively became possible later as the lockdown conditions were eased.

The first and easiest source to turn to is open education resources (OER) that are already openly licensed for such use. While there are significant amounts of OER, the reality is that there are not enough such resources specifically relevant for emergency

⁸² For example see, Hodgkinson-Williams, C. A., & Trotter, H. (2018). A Social Justice Framework for Understanding Open Educational Resources and Practices in the Global South. *Journal of Learning for Development*, 5(3), 204-224.

⁸³ For example see Caroline B Ncube 2020 'Intellectual Property and Openness: perspectives and a research agenda' in Irene Calboli and Lilla Montgemerty (ed.d) *Oxford Handbook of Intellectual Property Research*. Oxford: Oxford University Press (forthcoming).

⁸⁴ Armstrong et al supra.

remote learning across all subjects and fields taught across the various levels of the education sector in South Africa. It is possible that schools, colleges and other educational institutions could hunt for, and find them, from other parts of the world, but learners and students need resources that are appropriate to their specific global South context. So, this means that there is an urgent need to create more OER from scratch or to adapt existing OER for South Africa. Engaging in the creation or adaptation of such OER within a short period of time to meet the needs of the 2020 academic year is difficult as those who would be creating such materials are themselves caught in the vortex of the pandemic and busy transitioning to remote teaching at the same time. In addition, many educators and academics are not familiar with open licensing and have to educate themselves on this. To meet this need, some higher education institutions issued guidelines on this aspect.⁸⁵

Open-access and open publishing

As noted by De Beer et al, 'whether a system can be considered open or not depends on a variety of factors including, significantly, the degree to which people are free, or even empowered, to universally access a system and to participate, collaborate and share within that system.'⁸⁶ The descriptor 'open' has been applied in various contexts such as open access, open collaborative innovation, open development, open source software, open innovation, open science, open data and open research. This chapter concerns itself with open-access and open publishing. Open access materials are "digital, online, free of charge, and free of most copyright and licensing restrictions."⁸⁷ Open publishing by libraries is a new service offered by academic libraries, under a social justice mandate, to publish works without charging article processing charges

⁸⁵ Centre for Innovation in Teaching and Learning, UCT. 2020. Creative Commons Licensing and Open Education Resources at UCT <<http://www.cilt.uct.ac.za/useful-resources-0>> accessed 1 June 2020.

⁸⁶ Jeremy de Beer, Chidi Oguamanam and Tobias Schonwetter 'Innovation, Intellectual Property and Development Narratives in Africa' in n De Beer, J., Armstrong, C., Oguamanam, C. and Schonwetter, T. (eds.) (2013) *Innovation and Intellectual Property: Collaborative Dynamics in Africa*, University of Cape Town Press p.8.

⁸⁷ Peter Suber. 2012. Open access. Cambridge, Mass: MIT Press. p4.

[Updates and Supplements: <[http://cyber.law.harvard.edu/hoap/Open_Access_\(the_book\)>](http://cyber.law.harvard.edu/hoap/Open_Access_(the_book)>)]

(APCs), also known as Diamond Open Access.⁸⁸ This furthers and enhances their well-established role as creators and curators of open access repositories.⁸⁹

The social justice underpinnings of open access publishing have been persuasively put forward by many scholars, commentators and library practitioners.⁹⁰ Concerns about quality have been met with assurances of peer review, following established journal or book publishing practices. Open access does not compromise the quality of the work, but poor review and editorial processes do, and these are found even amongst closed or proprietary publications. Open access publishing has been accepted and mainstreamed into scholarly publishing in South Africa through various instruments, including the *White Paper for Post-School Education and Training*. Other instruments include the National Research Foundation (NRF)'s open access mandate⁹¹ and institutional open access policies.⁹²

Critiques have also been levelled against the APCs levied for some Gold Open Access publications, which are often beyond the resources of academics and their institutions. In recent years, some institutions have set up funds, accessed by application, to pay for author's APCs.⁹³ However, university and library APC funds are very quickly depleted because of the high cost of APCs and they can only cover a

⁸⁸ Reggie Raju and Jeremiah Pietersen. 2017. Library as Publisher: From an African Lens. 20(2) IFLA 2016 Satellite Meeting Proceedings - Libraries as Publishers: Building a Global Community. DOI: <https://doi.org/10.3998/3336451.0020.203>

⁸⁹ Reggie Raju. 2018. From green to gold to diamond: open access's return to social justice. IFLA WLIC 2018. <<http://library.ifla.org/2220/1/092-raju-en.pdf>> accessed 1 May 2020.

⁹⁰ For example, see Subbiah Arunachalam (2017) Social Justice in Scholarly Publishing: Open Access Is the Only Way, *The American Journal of Bioethics*, 17:10, 15-17, DOI: 10.1080/15265161.2017.1366194; Aulisio, George (2014) "Open Access Publishing and Social Justice: Scranton's Perspectives," *Jesuit Higher Education: A Journal* 3(2) Article 7 <<https://epublications.regis.edu/jhe/vol3/iss2/7>> Koutras, Nikos (2016) "Open Access as a Means for Social Justice in the Context of Cultural Diversity in Europe," *Seattle Journal for Social Justice*: 15(1) Article 10. <<https://digitalcommons.law.seattleu.edu/sjsj/vol15/iss1/10>>

⁹¹ National Research Foundation (NRF) 2015. Statement on Open Access to Research Publications from the National Research Foundation Funded Research. < <https://www.nrf.ac.za/media-room/news/statement-open-access-research-publications-national-research-foundation-nrf-funded>> Accessed 1 May 2020.

⁹² For example, see University of Cape Town Open Access Policy as adopted by Council, June 2014 <http://www.uct.ac.za/sites/default/files/image_tool/images/328/about/policies/Policy_Open_Access_2016.pdf>; University of the Western Cape Open Access Policy, 2014 <http://elearn.uwc.ac.za/open-access/uwc_open_access_policy_2016.pdf> accessed 1 June 2020.

⁹³ For example, see University of Stellenbosch Open Access Publication Fund Policy, 2014 <http://library.sun.ac.za/SiteCollectionDocuments/services/Open%20Access%20Fund%20Policy%20and%20Procedures_Final%20Draft_Eng.pdf>, University of Cape Town <<http://www.openaccess.lib.uct.ac.za/oa/about-oapf>> accessed 1 June 2020.

small number of authors. It has been suggested that these funds would be more equitably used to fund library publishing which would cater for a greater pool of authors.⁹⁴

The motivation behind libraries as publishers are manifold. First, they meet calls, in the educational context, to produce learning materials that are free and appropriate for the South African context. To begin with cost, in the Diamond Open Access model

“neither the author nor his/her institution or funding agency has to pay a publication fee, APCs or any other fees for getting articles published. In this model, not-for-profit and non-commercial organizations publish material that is made available totally free.”⁹⁵

In relation to context relevance, to be most effective, learning materials ought to be relatable to learners and students. For instance, in clinical contexts most illustrations in texts exclude brown and Black patients, making it difficult to use those pictures to diagnose the majority of patients in the global South. In response to this, libraries are publishing more representative illustrative guides, such as the *Atlas of Paediatric HIV Infection* published by the University of Cape Town libraries.⁹⁶ This guide is described as:

Sub-Saharan Africa bears the greatest burden of paediatric HIV disease. This atlas is the first of its kind with photographs of varying skin, systemic conditions and opportunistic infections in the HIV-infected paediatric patient. The aim of the atlas is to illustrate conditions which were captured among paediatric patients presenting to HIV clinics and wards in an African setting. Some of the conditions are commonly seen in HIV-infected children while some are not specific to HIV.

Another example is Fagan’s *Open Access Atlas of Otolaryngology, Head and Neck Operative Surgery: Volume 1 - Head and Neck*, which is described as:⁹⁷

⁹⁴ Jeff Pooley ‘The Library Solution: How Academic Libraries Could End the APC Scourge’ *Items: Insights from the Social Sciences*, September 3, 2019.

⁹⁵ Pietersen & Raju 2017 supra.

⁹⁶ Regina E. Oladokun, Rannakoe J. Lehloenya, Carol Hlela, Agozie C. Ubesie, Sherifat O. Katibi, Ombeva O. Malande & Brian S. Eley. 2018. *Atlas of Paediatric HIV Infection*. Cape Town: UCT Libraries. DOI: <https://doi.org/10.15641/079922541-69>.

⁹⁷ Johan Fagan et al. 2016. *Open Access Atlas of Otolaryngology, Head and Neck Operative Surgery: Volume 1 - Head and Neck*. Cape Town: UCT Libraries. DOI: <https://doi.org/10.15641/0-7992-2534-1>

“Developing world ENT is important as more than 50% of the world’s people live in the Developing World. 360 million people have disabling hearing loss, this represents >5% of the world’s population 70% of new cancers will occur in the Developing World by 2030. The book aims to promote exchanges of ideas between practitioners and institutions in the Developing World, to promote appropriate teaching and training, as well as to facilitate links with Developed World training institutions in ENT services.”

Second, they address real concerns about the availability of publicly funded research and the strain induced on university libraries’ budgets by having to subscribe to scholarly journals and/or finance APCs for authors at their institutions.⁹⁸ Third, they give voice to marginalised academic communities who are otherwise excluded from global debates because they have inadequate and limited access to research. The inclusion of these communities enriches scholarship and the solutions to “African challenges such as sustainable development, food security, poverty, health and drought”.⁹⁹

Fourth, libraries as publishers enhance the equitable production and distribution of context-appropriate and up-to-date materials in a variety of formats. Accessible formats to serve persons with physical/visual/aural/cognitive impairments or disabilities are critically important as the prevalence of disabilities is very high in the global South.¹⁰⁰ In addition, open textbooks and other open learning materials may need to be distributed in hard copy, where online access is a challenge.¹⁰¹

Library as a publisher: In practice

⁹⁸ Raju (2017) supra 3; Jacintha Eilers, Thomas W. Crowther and Jeffrey A. Harvey. 2017 ‘Gold Open Access Publishing in Mega-Journals: Developing Countries Pay the Price of Western Premium Academic Output’ 49 *Journal of Scholarly Publishing* 89-102

⁹⁹ Raju (2017) supra 3; Raju, R., Smith, I. & Gibson, H. 2013. Opening access to African scholarly content: Stellenbosch University's AOARI platforms. *Insights*. 26(1): 44-50, 46. DOI: 10.1629/2048-7754.26.1.44

¹⁰⁰ Caroline B Ncube, Blake E Reid and Desmond O Oriakhogba ‘Beyond the Marrakesh VIP Treaty: Typology of copyright access-enabling provisions for persons with disabilities’. *J World Intellect Prop.* 2020; 1– 17. <https://doi.org/10.1111/jwip.12144>

¹⁰¹ Hodgkinson-Williams, Cheryl Ann; Trotter, Henry. 2018. A Social Justice Framework for Understanding Open Educational Resources and Practices in the Global South. *Journal of Learning for Development - JL4D*, [S.l.], 5(3). <<https://jl4d.org/index.php/ejl4d/article/view/312>> accessed 3 December 2019.

The library as publisher service unfolds in a number of different ways. As of 2017, four of the 23 public academic institutions in South Africa, were publishing 27 journals using Open Journal Systems (OJS), developed by the Public Knowledge Project (PKP).¹⁰² These are Stellenbosch University,¹⁰³ the University of South Africa (UNISA), the University of the Western Cape and the University of Cape Town.¹⁰⁴ In addition, the University of Cape Town also uses PKP's Open Monograph Press (OMP) to publish open monographs.¹⁰⁵ As at June 2020, University of Cape Town Libraries' catalogue has 13 titles which include open monographs and open textbooks published as part of the University's transformation and social responsiveness agenda.¹⁰⁶ Monographs are intended for a scholarly audience in general and may be used in teaching contexts, while open textbooks are curriculum driven and are specifically generated for a teaching context.

At the University of Cape Town, the library publishes monographs and open textbooks within a social justice paradigm built on authors' willingness to share their work through the library's infrastructure for the wide distribution of free scholarly content. The library comes alongside authors to provide research support services as the author's research and writing progress.¹⁰⁷ Ultimately, the library publishes the monograph or open textbook, via its OMP. The textbooks are downloadable in multiple formats including pdf, Html and epub formats. The library's publishing service was rolled out in two phases, with monographs in the first and open textbooks in the second.

As academic libraries' publishing services deepen, it is anticipated that collaboration across institutions will begin to emerge. This is because collective library publishing efforts would be more efficient and effective than individual institutional

¹⁰² Pietersen & Raju 2017 supra.

¹⁰³ For the complete offering - SUNJournals, SUNScholar, SUNConferences, SUN Digital Collections, see Stellenbosch University open access initiatives <<https://library.sun.ac.za/en-za/Research/oa/Pages/su-oa-initiatives.aspx>> accessed 1 June 2020.

¹⁰⁴ *ibid.*

¹⁰⁵ *Ibid.*

¹⁰⁶ UCT Libraries Catalogue <<https://openbooks.uct.ac.za/uct/catalog>> accessed 29 June 2020.

¹⁰⁷ Jeremiah Pietersen and Jaya Raju 'The shape and form of the 21st century academic library, with particular reference to a South African case' in Raju, R., Adam, A., Johnson, G., Miller, C. & Pietersen, J. 2015. The quest for a deeper meaning of research support. Cape Town: University of Cape Town Libraries. DOI: <http://dx.doi.org/10.15641/0-13-28>.

initiatives. Policies and practices to ensure quality, equity and sustainability would be required.

Conclusion

The realisation of the right to education and, with it, the affiliated developmental goals of decent work and economic growth leading, ultimately, to reduced inequalities is dependent on meaningful access to learning materials. The provision of free and context-relevant materials is critically important. The human rights and social justice imperatives of fulfilling this need require more than reliance on copyright markets and commercial publishing. Consequently, academic libraries in South Africa have risen to the challenge to enhance their previous role as curators of open access materials on repositories to actually provide publishing services. Several South African university libraries are already offering library as publisher services, with an emphasis on journal publishing. The University of Cape Town had diversified into open textbooks and monographs while Stellenbosch University has also added open conferences to its portfolio. As the rallying call for the Open Access Symposium, 2020 said:

“Open access services must become mainstream for academic and research institutions in Africa as open access is one of the most significant conduits for inclusive and free access to scholarship for the marginalised and has the mandate and potential to strongly promote unhindered participation in knowledge production.”¹⁰⁸

4 3 Lessons learnt from Youth Development Program amongst grade 8 learners in a selected high school in Paarl, South Africa (2016-2018)

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“Adolescents have been entirely absent from national health plans for decades” said Doctor Flavia Bustreo, assistant director-general World Health Organization (WHO),

¹⁰⁸ UCT-SPARC Africa Open Access Symposium 2019. The Concept Model. <<http://www.sparcafricasymp.uct.ac.za/sparc/aboutus>> accessed 1 June 2020.

resulting in a lack of focus in preventable measures. An adolescent is defined by WHO to be any person between the age of 10 – 19 (WHO, 2020). In 2015 two thirds of adolescent deaths occurred in low- and middle-income countries in Africa and East Asia, (WHO 2018). Health risk behaviour significantly contributes to the burden of disease and social problems among young people globally (Gore, Patton, Ferguson, Joseph, Coffey, Sawyer & Mathers; 2011). The Global School-Based Student Health Survey (GSHS). 2013 indicated that although prioritised forms of HRB may vary across geographical and demographic contexts, some of the commonly assessed forms of HRB include: sexual behaviours resulting in unintended pregnancy and sexually transmitted diseases; alcohol, tobacco and other drug use; behaviour resulting in unintentional injury or violence; unhealthy dietary behaviour; poor hygiene practices; and inadequate physical activity. HRB is particularly of concern during adolescence, mainly because this stage of development has been linked with increased impulsivity and propensity for risk-taking that might result in disability and fatal outcomes (Ssewanyana, Nyongesa, Baar, Newton & Abubakar; (2017) & Embleton, Nyandat, Ayuku, Sang, Kamanda, Ayaya, Nyandiko, Gisore, Vreeman, Atwoli; 2017).

Understanding HRB of adolescents especially from low resource settings such as sub-Saharan Africa (SSA) is partly hindered by the lack of culturally appropriate measures of HRB, considering that majority of the available HRB tools have been developed and utilised in high-income settings (Ssewanyana, Nyongesa, Baar, Newton & Abubakar; 2017). There is consensus internationally and among South African researchers that engagement in health risk behaviours amongst the youth is a concern from a public health perspective. In South Africa, the first Youth Risk Behaviour Survey (YRBS) conducted in 2002, was one of the first studies undertaken in South Africa, and possibly in Africa, to establish the prevalence of key risk behaviours affecting the country's youth (Reddy et al. 2003). This same study was repeated in 2008 among 10 000 learners from grades 8-11, and it found that adolescents in these grades engaged in risky behaviour (Reddy et al. 2010). "Risky behaviour" included engaging in sexual practices (38%), being overweight (20%), considering suicide and attempting suicide (21%), and smoking (30%). Learners who reported alcohol consumption numbered 50% for ever having drunk alcohol and 35% for having drunk alcohol in the past month, and 29% for having engaged in binge drinking in the past month (Reddy et al. 2010). The authors stated that although

improvements had taken place when compared to the same earlier survey done in 2002, learners are continuing to engage in adult activity with no regard for the consequences of their actions that may affect them for life. The challenge for the current administration in South Africa will be to effect a more substantial and enduring change following the past 20 years. Although the period of adolescence seems to be filled with risk-taking behaviour, the curiosity and desire for novel experiences that fuel risk-taking also present tremendous opportunities for exploration, learning and development. Learning to become independent, for example, is a very risky endeavour, but it is a key part of adolescence.

The youth face many challenges within an ever-changing environment. Combatting the engagement of Health Risk Behaviour among the youth has become a battlefield. Addressing all these challenges programs need a comprehensive youth development programme (Pharaoh, Frantz & Smith 2018) to include the important transferring of skills to assist them to make better health choices. However, the lessons learnt through the process of implementation are of utmost importance to inform future programs. To understand the outcomes, it is however important to discuss the components that contributed to or influenced the design of the program. These components included the following:

- (1) The Health Risk Behaviour engagement profile of learners in selected schools in Paarl grade 8-10 (2010-2014)
- (2) The concept maps were created following the health risk behaviour engagement survey with learners, teachers, NGOs and Community Youth Facilitators
- (3) The outcomes of a systematic review pertaining to the best practices in the design of youth development programmes to combat health risk behaviour Engagement
- (4) Feedback from experts in the field of youth development through a Delphi Study
- (5) The concept map depicting the pillars of the programme
- (6) Learners' perspectives on the impact of the implemented programme

The purpose of this article is to describe the lessons learnt during the implementation of a Youth Development Program amongst grade 8 learners in a selected high school in Paarl, South Africa. Methodology & Theoretical Orientation: A mixed method approach was used, and the design of the study was a cross-sectional, sequential

explanatory study design. Intervention Mapping was used as a framework to guide the various phases of the study from theoretical design to practical implementation.

The health risk behaviour engagement profile of learners in selected schools in Paarl grade 8-10 (2010-2014) and Grade 8 learners (2016-2018)

Data for the 2010–2014 period depicts that the age of learners ranged from 13-18 years with the majority falling into the age groups of 14 (35.1%) and 15 (29.6%) years. More males participated in the study than females (591 and 425 respectively). The grade 8 learners (431) made up the majority of participants with grade 10 learners (238) being the fewest. The participants also reported their participating health risk behaviours. Six hundred and sixty (64.3%) participants smoked, 510 (49.65%) drank alcohol, 251 (24.4%) have used dagga, 26 (2.5%) have used cocaine, 258 (25.1%) were sexually active and 398 (38.8%) were physically inactive. In addition, 132 (46.8%) participants had had one sexual partner in the past three months, 54% reported having multiple sexual partners, 20% reported having more than four sexual partners in the last three months and 13% had more than six sexual partners. Current sexual activity, i.e. in the last three months, was reported by 199 participants (19.37%). Of the participants, only 311 participants responded to the question of condom use during their last sexual encounter. One hundred and eighty-four (59%) reportedly used condoms while 127 (41%) did not use a condom. Furthermore, 50 (21.6%) learners consumed alcohol and/ or drugs before their last sexual encounter.

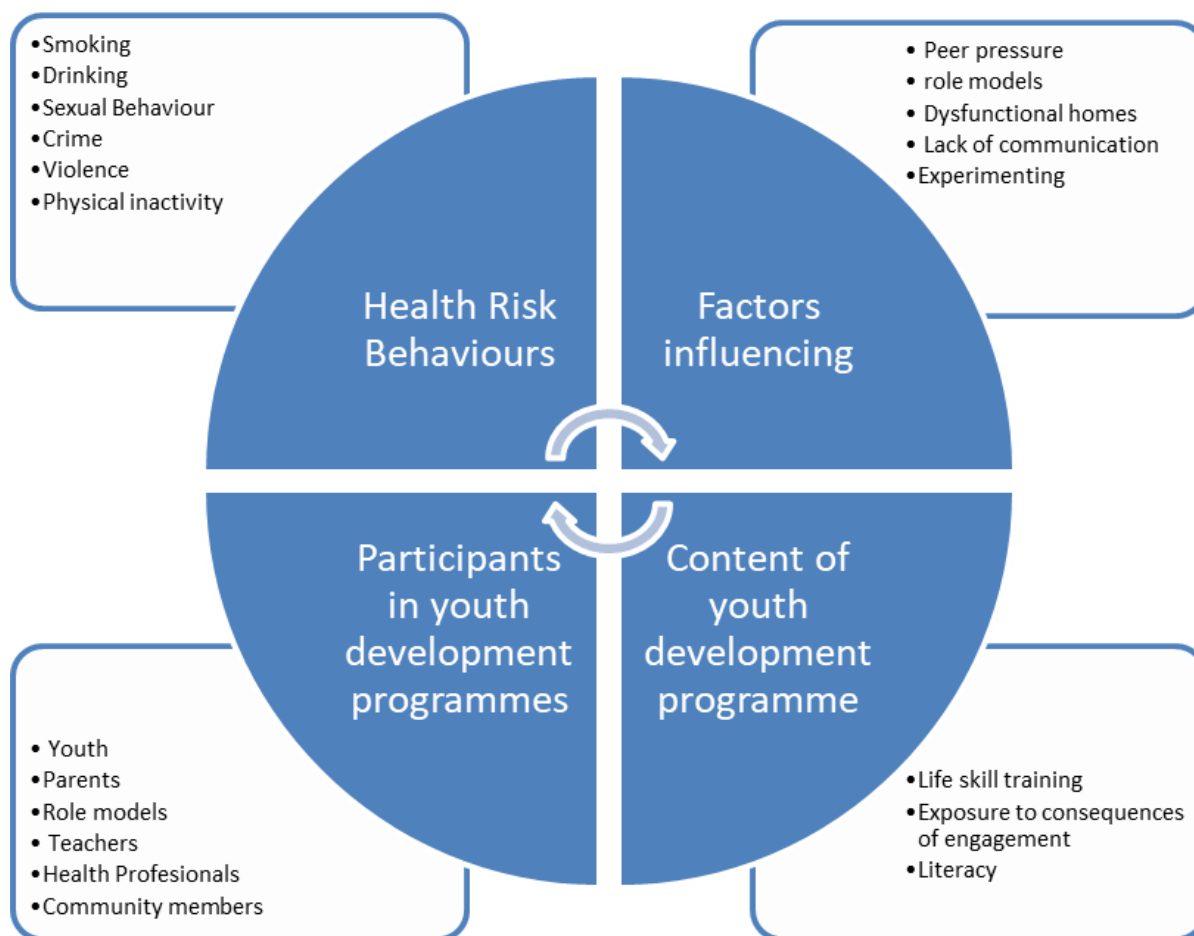
Data from the 2016-2018 Grade 8 learners who participated in the implementation of the youth development programme are tabled below.

Table 2: Engagement in health risk behaviour Grade 8 learners

Health Risk Behaviour	Responses	Frequency			%		
		2016 (N=160)	2017 (N=107)	2018 (N=84)	2016	2017	2018
Smoking	Yes	100	54	43	62.5	50.5	51.2
	No	57	53	41	35.6	49.5	48.8
	Missing	3	0	0	1.9	0	0
Drinking	Yes	107	60	54	66.9	56	64.3
	No	53	47	30	33.1	43.9	35.7
	Missing	0	0	0	0	0	0
Drug use: Dagga	Yes	57	23	35	35.6	21.5	41.7
	No	103	84	48	64.4	78.5	57.1
	Missing	0	0	1	0	0	1.2
Cocaine	Yes	13	9	2	8.1	9.4	2.4
	No	147	97	81	91.9	90.7	95.4
	Missing	0	1	1	0	0.9	1.2
Sexual activity	Yes	26	13	10	16.3	12.1	11.9
	No	132	91	74	82.5	85	88.1
	Missing	2	3	0	1.3	2.8	0
Physical activity	Yes	94	73	64	58.7	68.2	76.2
	No	66	34	19	41.3	31.8	22.6
	Missing	0	0	1	0	0	1.2
Violence related behaviour (physical fight)	Yes	65	48	42	40.6	54.2	50
	No	95	58	42	59.4	44.8	50
	Missing		1	0		0.9	0

The concept maps were created following the health risk behaviour engagement survey with learners, teachers, NGOs and Community Youth Facilitators

Based on the information that emerged from the focus group discussion and individual interviews with all stakeholders, four concept maps were distilled. The matrix presented below is a summary of the concept maps which emerged from the data (Figure 1) (Pharaoh, Frantz & Smith 2014). Each quadrant represents a concept map that corresponds to a theme that emerged, and they are conceptualised as interacting with one another. The derived concept map suggests that the development of programme content should start with contextual relevance achieved by understanding the range of HRBs that youth engage in. This allows for an exploration of the pathways in which engagement has come about. The second and third quadrants illustrate this in their focus on the reasons why youth engage in HRBs and the places where they are exposed to HRBs. Once the content has addressed what they do and why they do it, the process of skills development can begin to combat engagement in HRBs.



Concept Map 1: Themes

The outcomes of a systematic review pertaining to the best practices in the design of youth development programmes to combat health risk behaviour Engagement

Using a systematic review, a rigid process could be followed to investigate research regarding youth interventions looking at health risk behaviour among adolescents in high schools. Interventions seem to be most effective when they widen the scope and include other aspects such as life skills, sport, and parental education/involvement. All of these elements displayed positives and negatives on their own, but the studies with the best results were those that included more than one of these additional elements. The addition of sport was particularly powerful at increasing positive, more realistic attitudes and perspectives regarding the self and others and these elements in turn were successful at reducing health risk behaviours. Parental involvement was

particularly effective at reinforcing the positive effects of the intervention and maintaining long-term results. Life skills education was particularly effective with females and at helping learners in poorer areas cope with community stressors. Interventions which used trained professionals as facilitators were generally more successful. Facilitation by classroom teachers was generally less effective, especially regarding HIV/AIDS intervention. The theoretical underpinning of the intervention does seem to affect the results with regard to the nature of the health risk behaviours that are addressed, as well as the extent to which the interventions are successful at reducing these health risk behaviours and whether or not healthy behaviours and positive personal attributes and skills are promoted. Theoretical orientation also seems to have the potential to affect the long-term maintenance of reduced health risk behaviours. Generally, the interventions targeting younger intermediate students were more effective than interventions targeting older intermediate and senior students. In some cases, long-term studies showed good results among lower intermediate students which were not maintained as the students became seniors. Some studies also suggest that interventions conducted with non-drug users were more effective than with drug users.

Feedback from experts in the field of youth development through a Delphi Study

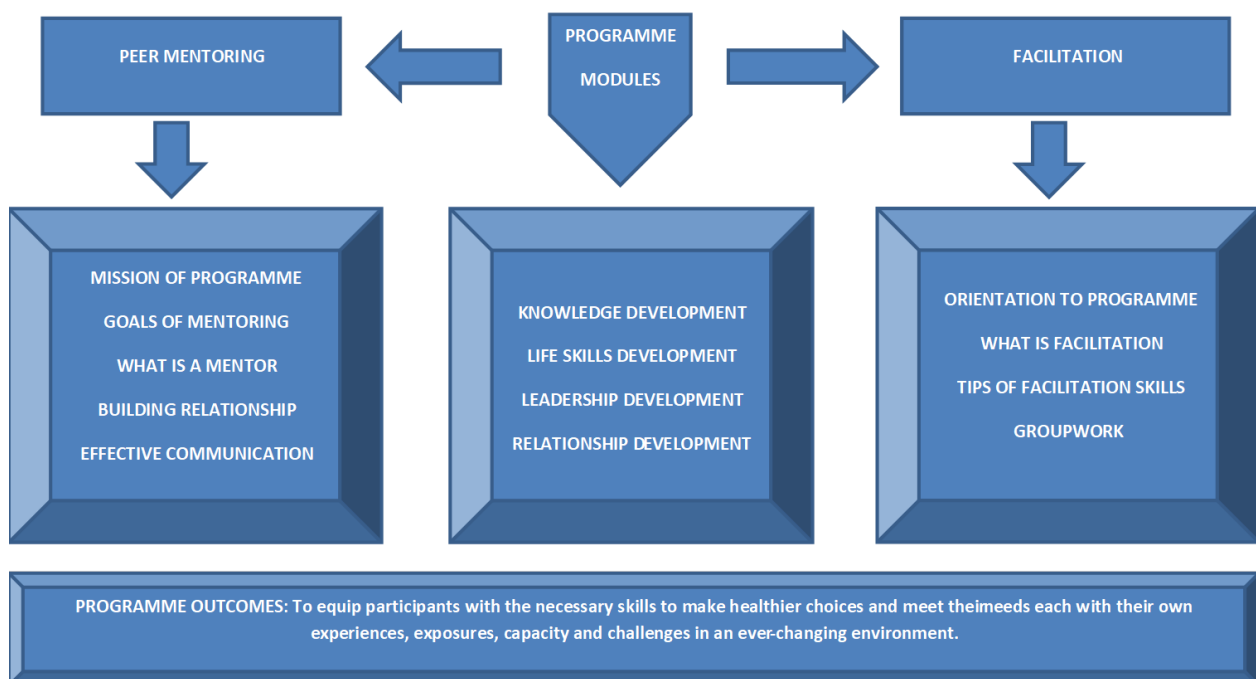
In this study the researcher through the Delphi could include important stakeholders who have the expertise that ultimately is needed to improve youth development programmes (Pharaoh, Frantz & Smith 2019). Through this process, the researcher was able to get a consensus on all the components that formed part of the Youth Development Programme that is being designed. More importantly, aspects have been highlighted that affected the design of the youth development programme, which include:

- (1) Scaffolding of the programme into specific age- and gender-based activities;
- (2) The understanding that the programme should be sensitive to the diverse needs and background of its participants;
- (3) The need for training of facilitators to have the participants being mentored by facilitators equipped to deal with the challenges that will emerge throughout the programme.

The concept map depicting the pillars of the programme

Finally following these steps, it was possible to design a concept map that depicted the pillars of the designed programme showcasing the structure of the programme and a clear understanding of how the programme should be implemented in a stepwise manner where learners would be skilled together with facilitators and peer mentors to build a sustainable programme. Concept Map 3 below depicts the pillars of the programme

Concept Map 2: Pillars of the Youth Development Programme

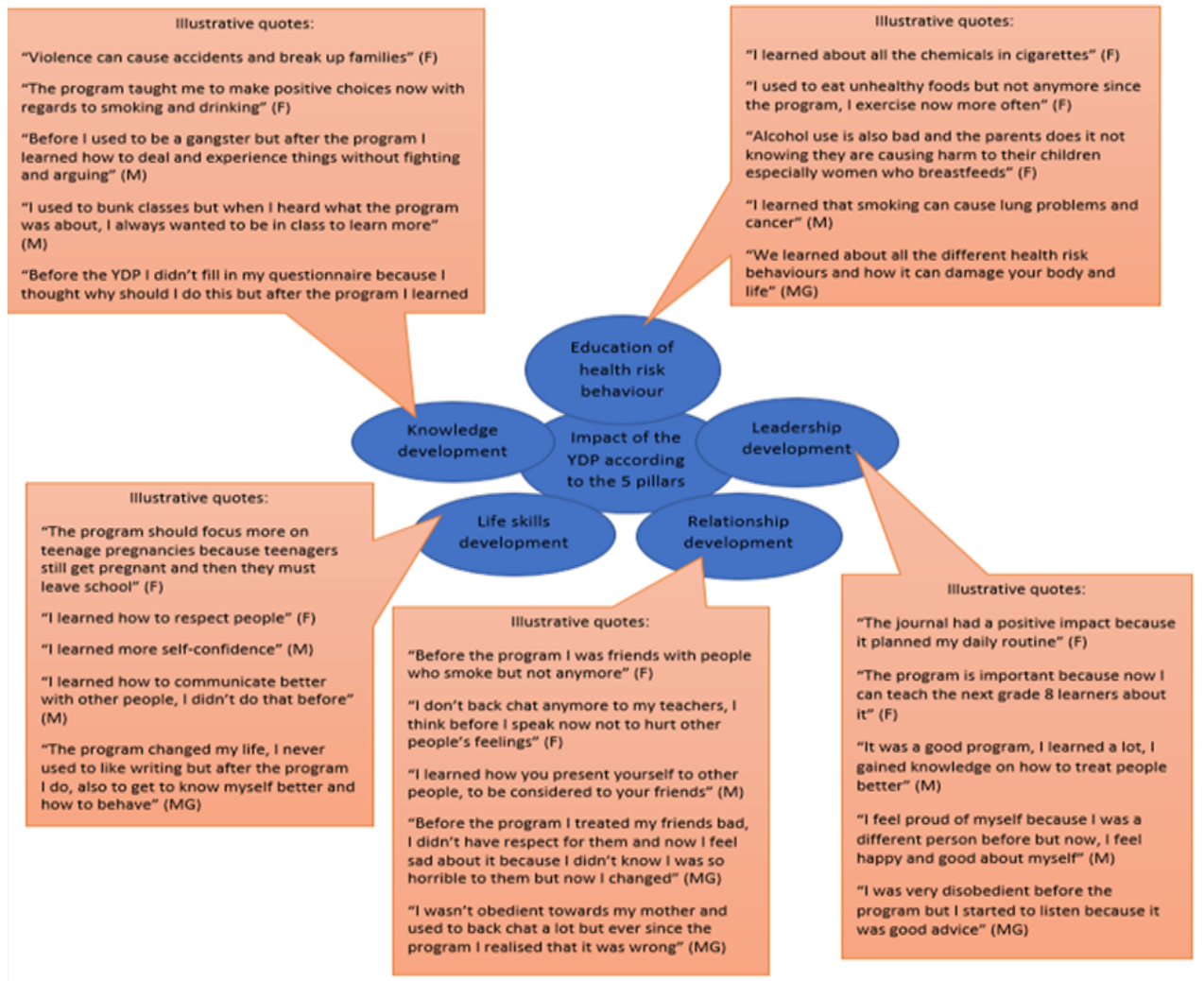


Impact of programme on Learners

Concept Map 3 below illustrates the feedback from the grade 8 Learners who participated in the programme on the impact of the programmes on themselves and the choice that they are now making. The five areas on which the programme focused on developing and impacting are clearly commented on by learners through their own thought processes and lived experiences during the programme implementation to completion. Those five areas namely Knowledge development, Education of health

risk behaviour, Leadership development, life skills development and Relationship development are reflected relating to quotes from the learners.

Concept Map 3: Impact of programme on Learners



Lessons learnt form the Implemented Youth Development Programme

During the implementation of the programme, it became clear that success is not merely based on a well-designed programme but rather on a greater understanding of the immediate and current needs of the young people that one is dealing with. Young people in very desperate and difficult circumstances constantly live in noise, fear, lack of sustenance, family violence, abuse, gang violence, drug abuse and other related trauma. Learners attend a schooling system not necessarily as a way forward but

rather as a place of safety, a respite from the challenges of the home environment and hopefully a place they see as “a place of hope”.

Implementation needed the building of trust among learners and facilitator, a change in an environment away from the noise where all is shouting louder than the next person, and no one is actually listening to each other. It needed a change in communication not only between learner and facilitator but also within the school environment among teachers and teacher-learner. Creating a positive communication language that created hope and faith in a system that is broken and unequal.

- All children want to be loved, listened too, feel safe, have dreams, feel they have worth and belong.
- Learners coming from broken homes cannot merely be seen as those needing behavioural change as future research need to look at building programs that can address the brokenness of communities through:
 - (a) being sensitive to the trauma
 - (b) and hopelessness that these communities experience daily
 - (c) creating a changed environment as illustrated in Diagram 1 below.

Diagram 1: Cged environment



4 4 We are not sure that words can always save lives, but we are sure that silence kills: The Role of the *Medecins Sans Frontieres* in Social Justice

Professor Kathryn Chu (Global Surgery, Faculty of Medicine, Stellenbosch University and Doctors Without Borders (MSF) board member)

As a doctor, I went to medical school to learn to alleviate suffering and if I was lucky, to cure the sick. However, as a doctor, when should I speak out against social injustices, such as crimes against humanity that I witness? How do I maintain my neutrality as a healthcare professional, but not lose my humanity?

Medecins Sans Frontieres is a medical humanitarian aid organisation which works in 70 countries worldwide in areas of conflict and political instability. When we witness extreme acts of violence against individuals or groups, or when access to lifesaving medical care is hindered, we speak out publicly. Our decision to do so is guided by our mission to alleviate suffering, protect life and health, and restore respect for human beings and fundamental human rights.

When MSF was first created in 1971, its original members had returned from working for the Red Cross during the Biafra war in Nigeria. The Red Cross pursues a policy known as “silent diplomacy”—very rarely speaking out, no matter the scale of atrocities, for fear that this would offend parties in a conflict which could limit their access and ability to do their humanitarian work. MSF was founded on the commitment to provide humanitarian medical care but also to raise awareness and bears witness to the fate of the populations it helps and brings abuses and intolerable situations to public attention.

So, the question is what do we, as doctors, do when we witness violations of international humanitarian law? When civilians are unable to receive essential food and healthcare because of political injustices or violent conflict? What happens when armed combatants are wounded and need medical attention but cannot receive care? What happens when hospitals and medical personnel become casualties of war?

Rwanda is a country located in central Africa. In 1994, MSF doctors witnessed the systematic killing of 1 million ethnic Tutsis and moderate Hutus. During this time, MSF provided surgical care at the front lines, but the organisation questioned its efficacy.

While it treated hundreds of wounded per day, the doctors and other staff on the ground witnessed the brutal butchering of an average of 100 000 persons per day. MSF spoke out repeatedly in Europe and the United States, taking out full-page ads in French newspapers and appealed to the UN security council urging it to label the killings as a genocide which would prompt international military action. However, despite this, no action was taken and when help did come, it was too late. The genocide ended not through international action but when the Tutsi-led, Rwandan Patriotic Front took control of the country in July 1994.

Days later, the Interahamwe, the perpetrators of the genocide, and their families fled across the border to Goma, DRC. In just a few days, there were an estimated 2 million refugees. Sanitation was poor and water unclean, and with those conditions, an outbreak of cholera, a diarrheal disease, began. There were an estimated 100,000 cases and the death toll was in the thousands. Dozens of NGOs flocked to Goma, including MSF to treat the outbreak. The media dubbed it a great humanitarian emergency. One doctor reported there were so many dead bodies, many of them of children, piled on trucks without any place to bury them. However, treating the sick was not as straightforward as it would seem. MSF hired local staff who lived in the refugee camps. The Interahamwe, who had orchestrated the Rwandan genocide, had brought their military organisation to Goma who were now running the refugee camps. They took a large proportion of the salaries that MSF and other NGOs paid their staff as a “tax”. Moreover, they were overt about their unwavering objective to return to Rwanda and finish off their extermination of Tutsis. While in the humanitarian world some amount of corruption and misappropriation of funds is tolerated, in this case for MSF, this type of misuse of donor funds was a moral line in the sand. Could MSF knowingly fund a possible second genocide in the name of humanitarian aid? Would potentially saving thousands be worth the possibility of contributing to the death of millions? After much internal debate, MSF withdrew from Goma and left behind its cholera patients.

At other times, speaking out has brought significant change in policy and practice. In the 1990s long-standing civil war led to famine in South Sudan and MSF, along with other humanitarian aid agencies, provided and distributed food aid under Operation Lifeline Sudan, which was coordinated by the United Nations. However, humanitarian

aid became complicit in the conflict. *MSF asked itself, was providing food helpful or harmful?* Both sides of the conflict used food aid as a weapon of war by telling NGOs where to drop the food, which would lead to large population migration towards these food drops. Unfortunately, then militants were waiting at these locations to kill the innocent. It was an ugly ploy that cost the lives of thousands. When rebel groups started stealing food from feeding centres, sometimes, out of mothers' hands, MSF decided it could not sit silent. In newspapers across the globe and at high-level meetings, MSF slammed the United Nations for allowing thousands of tons of food meant for famine victims to be misappropriated at a cost of millions of dollars to donors. Initially, the UN denied allegations and asked MSF to stand down in order not to jeopardise food provisions as well as a political embarrassment. After continued threats by MSF to pull out of OLS and from Sudan altogether, the UN admitted that perhaps the food distribution oversight was not as stringent as it could be. Within months, there was greater accountability.

International humanitarian law protects medical personnel and hospitals at the front line of conflicts. However, in recent years, these laws have not been respected and health facilities have been bombed, patients and staff killed. Perpetrators have not just been terrorist groups but western governments as well.

In 2011, MSF established a large hospital in Kunduz, the Taliban-controlled area of Afghanistan. In late Sept 2015, heavy fighting between the US military and the Taliban resulted in a large increase in patients and surgical activity. On 3 October 2015, airstrikes by the US military killed 42 people and destroyed the MSF hospital in Kunduz. Here are some photos of before and after.

MSF did not stay silent after the deaths of its staff and patients. In May 2016, the (then) MSF international president scolded the five-member voting members of the UN security council stating "You, therefore, must live up to your extraordinary responsibilities, and set an example for all states," she said. "I repeat: Stop these attacks."

This prompted a UN resolution demanding protection for those who provide health care and accountability for violators.

These stories might seem a bit extreme, and you might ask: How is this relevant to South Africa? Do doctors here ever need to speak out to fight against social injustice? Let me tell you the story of Doctor Colin Pfaff. In 2004, the *New England Journal of Medicine* published results from a clinical trial showing that dual drug therapy, the use of AZT and nevirapine greatly reduced mother-to-child transmission of HIV and the World Health Organization soon after adopted these guidelines. However, in South Africa national guidelines only allowed for single therapy with nevirapine. Babies were getting infected. Colin Pfaff, a South African doctor working in the rural hospital of Manguzi in KZN decided this was unacceptable. For months, he and other doctors pleaded with provincial health to allow both drugs to be given, a province where 40% of pregnant women were HIV positive. The Western Cape government was already giving dual therapy to its pregnant women and had shown a reduction from 22 to 5% transmission to babies. In a letter to the provincial authorities Doctor Pfaff, said it was unethical to withhold a treatment used so successfully elsewhere. "We cannot sit silent any longer. We know better options are available and that we have the capacity to deliver them," he wrote. But Doctor Pfaff request was rebuffed. So, he raised the money on his own through an NGO and began providing dual therapy to his patients. A week later he was charged with misconduct by KZN health authorities. This sparked national and international outrage in defence of Doctor Pfaff acting on an ethical obligation to provide better care for his patients and declaring criticising the province for withholding care that was proven to be effective. With the support of media, professional groups such as the South African Medical Association, the Rural Doctor Association of South Africa, SA HIV Clinicians Society, and civil society groups such as Treatment Action Campaign and Section 27, eventually this charge was dropped.

In conclusion, the Sustainable Development Goals of ending hunger and ensuring healthy lives apply to all persons living in different conditions worldwide. But providing food aid and treating malnutrition, curing disease, and alleviating individual suffering is not always enough. As Doctors, do we address the root causes of poor health? Poor health does not exist in isolation, it is often a result of structural inequities such as conflict, political policies, and/or systematic injustices against one group of people. If we speak out, we can lose access to our patients. However, if we do not speak out, we are

complicit in social injustice. In the words of James Orbinski, former MSF president, “We are not sure that words can save lives, but we are sure that silence kills.”

4 5 Responsive curricula for healthcare professionals

Professor Cecilia Jacobs (Centre for Health Professions Education, Faculty of Medicine and Health Sciences, Stellenbosch University)

1. Identify the nature of social justice

Social justice in education is concerned with achieving equitable and quality education for all students. Where a socially just education system is both a process and a goal. The goal of social justice education is full and equal participation of all groups in society that is mutually shaped to meet their needs.

2. What is the desired future in terms of social justice efforts?

Political willpower is demonstrated through leadership that prioritises achieving social cohesion by breaking down barriers where collaboration and community building are paramount in achieving a socially just society. To build an education system which aims to level the playing field and set the course for collaboration. Where everybody starts at the position of humility, where there is no right way but each one is valid in its own context. The idea of a transformative learning theory, drawing from the strengths of people's lived experiences, reflecting on the past and imagining an inclusive future.

To draw from skills knowledge and who we are, our values and our sense of purpose with a stern focus on the process of de-othering with a *humanised* instead of an *objectivist* approach for better learning which will foster holistic student development. Where resource-based learning (RBL) is an approach to pedagogy that actively involves students, teachers, and a range of resource providers (both human and non-human). Resulting in learners who are better prepared to become a lifelong learner, capable of independent and informed decision making.

3. What are current challenges for social justice?

South Africans face a defining moment in our history ... our education system is in crisis. South Africa essentially has a two-tier education system, a richly resourced minority of schools, mostly situated in middle-class and rich communities, while low socio-economic schools, specifically rural schools, struggle to move towards the 4th Industrial Revolution because of a deficit in resources, lack of skilled educators and therefore underperforming learners. This would confirm that schools were not failing individually; rather, the nation was failing them collectively. It is not a technical problem to be solved by experts but rather a national disaster requiring our collective efforts.

In higher education, universities are called upon to develop graduates with a strong political and critical consciousness. Graduates are called upon to develop a professional identity that takes on an advocacy role with a strong sense of social accountability. Students should think about the concept of the greater good for others when they engage in authentic learning and embodied experience. Modelling the practices and values they draw from and always focusing on the big picture.

4. The call for action

Mutual trust underpins this process. Without it, no policies or action plans will matter. Individuals and groups need to trust each other and hold each other to account for agreed actions. This is a precondition for realising a transformative social justice agenda in which social cohesion is evidenced in the curriculum, the classroom, in communities and in all governance structures.

Relating to teaching and learning, a socially cohesive approach will recognise the difference, although not to such an extent that difference itself becomes a source of division and differentiation between social groups.

Regarding dropout prevention, to focus on a multisectoral approach by re-establishing core educational values with a proactive plan to focus on ECD, play, early-stage monitoring, after-school initiatives, life skills and learning centres to match the needs of

the family and community and quality programs which seek to connect with all assets within the community.

5. What pathways are available to address social justice regionally and nationally?

Any unjust aspect of society which is a result of prejudices or policies qualifies for social justice intervention. The education system is inevitably the basket that house all these disparities. Minister Jackson Mthembu stressed that “Trade-offs from all parties will ensure that social justice is advanced”. It would require tangible investment in social equality as a genuine gesture of sustainable redress and conciliation rather than just window-dressing. To achieve this goal, a shared consensus and participation are inevitable. Every stakeholder in the education system and beyond must be committed to social cohesion. Forums for dialogue and consultation are vital to creating a robust policy framework to address underachieving and vulnerable learners, low-motivated teachers, disengaged parents and disgruntled communities.

6. How do we leverage the opportunities presented by the SDGs, national Constitution and development plans in a natural context?

The first is the emphasis on political buy-in from all without which policy coherence is not possible. National ownership is key to the development of a cohesive future. A useful guideline is an emphasis on using existing institutional structures and processes. There is no need to reinvent the wheel. Rather existing structures should be organised most efficiently. This should result in a coordinated effort to improve policy coherence that includes various government participants and stakeholders. The notion that development priorities are interconnected is a defining characteristic of the sustainable development goals, and also characterises South Africa’s national development plan.

7. How can we better share information on social justice research that is being undertaken?

With the growth of the digital economy, data sharing has become an essential business practice—whether between different groups within the same organisation, between partners in larger platform endeavours, or even, as in growing open data movements, with the public. Sharing enables new insights from existing data, and allow organisations make full use of this core resource. Data sharing encourages more connection and collaboration between researchers, which can result in important new findings within the field.

8. What alliance can be formed that works in a coordinated way to advance social justice?

A shared consensus and participation of every stakeholder in the education system and beyond must be committed to social cohesion. Forums for dialogue and consultation are vital to creating a robust policy framework that includes a detailed, funded implementation plan.

4 6 Helping schools, especially poor ones, save on electricity bills

Jason Samuels (Stellenbosch University) and Professor MJ Booysen (Electrical and Electronic Engineering, Stellenbosch University and Member of the Institution of Engineering Technology)

Our school electricity endeavour advances the social justice agenda through multiple levels of simultaneously benefit. Using our primary study field, electrical and electronic engineering, we are identifying bad symptoms with schools' electricity usage and electricity payments, but more importantly, causing savings for schools. These savings in electricity could be invested in better education and reduce their emissions into the environment.

Smart metering data is used at schools to accomplish the savings. Schools are monitored for electricity usage patterns, valid metrics are used to determine reduction, and data analysis is done to create reader-friendly visuals. Moreover, using the smart metre data, experimental methods are used with difference-in-difference comparisons to compute changes in electricity usage at both affluent and poor schools.

In a pilot study, we show achieved financial savings through smart metre data visualisation and periodic information sharing, and staff training. It yielded savings of 11 to 14% through mostly behavioural intervention. As a small and affluent set was considered, an expanded experiment is executed for poor schools of a bigger sample set.

The experiment features a two-phase intervention, behavioural and technological, at five of 17 indigent schools in Stellenbosch. Using their patterns of usage for specific periods (e.g., before/after school), operating times (e.g. week and weekends) and daily usage, electricity wastage is identified. The reduction is then accomplished through the two-phase intervention. Comparisons are then made with affluent and indigent schools to determine savings causes between affluence types. Electricity savings affect the cost and the environment contributing to social justice, especially for the poor.

We plan to roll out the project to all 17 indigent schools. We also plan to completely understand the working of structures of responsibility, finance and decision making for electricity in schools. A full evaluation of intervention pre- and post-implementation usage will be done still.

4 7 Saving water at schools: Evaluating the effect of maintenance and affluence on water usage at Cape Town's schools

Cheroline Ripunda (Stellenbosch University) and Professor MJ Booysen

The recent crisis brought on by Cape Town's "Day Zero" drought highlighted the need for enhanced water demand management techniques. With the effects of apartheid still visible in society and school infrastructure coupled with the high-water usage rates at schools, we evaluated the impact of maintenance and school affluence (by whether it is fee-paying and self-governing or not) on water usage.

We evaluated the impact of "quick-and-easy" maintenance at 196 schools within the Western Cape. This was part of the #SmartWaterMeterChallenge, a corporate-funded campaign in which two tertiary academic institutions, two provincial government departments, a radio station, and over 90 corporate sponsors joined hands in an effort assist schools in reducing daily water usage and hence the related expenses. Currently, this campaign consists of 352 schools and the running savings are 552,5 megalitres of water, which equivalent to R40,9 million (see <https://schools.bridgiot.co.za/> for further information). Thereafter, Bayesian models were used to classify underlying variables that are good indicators for higher water usage. The variables considered were the number of students and educators, fees paying and governance status and water usage at different times of the day and on different days of the week.

The campaign resulted in a 28% reduction in the initial losses of 198L/hour. In total R1,22 million was spent and an immediate aggregate monthly savings of R1,9 million was achieved. The campaign proved the importance of basic maintenance. Second, we found that the non-fee paying, not self-governing schools used substantially more water irrespective of the time period considered compared to the fee-paying, self-governing schools.

The project showed that an investment in water systems maintenance can free up finances that schools can use for their primary objectives. Further, it was evident that post-apartheid education funding policies are a long way from eradicating the effects of apartheid.

4 8 A look at the state's expropriatory power to acquire land to fulfil its constitutional obligation of providing access to adequate housing

Professor Elmien du Plessis (Faculty of Law, NWU)

Over the past two days, what has become evident and more concerning to the environmental and sustainability group is that even amongst us at this conference, many still do not find environmental justice as the most pressing issue of our time because our group consisted of roughly 12 people each day. If anyone is following the global news, climate change is no longer considered an issue, but as an urgent crisis. All leaders have been called to act now, and we, therefore, believed that the issue of environmental injustice should have been a plenary theme of its own considering that we are all facing extinction.

It is time to sit up and realise that environmental justice is at the core of all social issues and without tackling issues such as water scarcity, floods, droughts, climate change, food insecurity, resource depletion and many others, we will never achieve social justice because unfortunately there will be none of us around to enjoy the global equality.

We looked at four different presentations which differ in nature but speak to the same core of environmental and social justice. Two of the papers focused on interventions in schools whereby one looked at how schools can save electricity by improving the infrastructure, while the other looked how water can be saved in schools by also improving the infrastructure. The recurring concern of the first two papers was how the lack of involvement of School Governing Bodies in decision making and budgeting in the disadvantaged schools led to an unawareness of the electricity and water costs thus resulting in wastage.

The other two papers focused on the legacy of spatial apartheid in cities and the expropriation of land. The third paper looked at how the design of cities, access to transportation, housing and water has led to an increase in poverty in the country. Governments' decisions are reinforcing the inequality because no one is questioning why do we say we live in a post-apartheid state while our cities are still designed to cater to a smaller and segregated population? The final paper looked at land expropriation and supported the points raised in the previous paper of fragmented cities. The issue which

was raised is not that there is not enough land for housing, but government needs to make the right decisions to provide housing for the citizens while expropriating land in a fair and just manner.

The five points which were highlighted by the group are that first, all the citizens need to be able to access information. The information and knowledge which is being generated needs to be supported by both scientific facts and indigenous knowledge systems. Government websites are currently not user friendly, therefore we propose for the creation of independent data collection and production systems which provide information which is fair and not bias towards any political or private entity.

Second, the only way to promote environmental and social justice would be to promote more collaboration and integration amongst all stakeholders. Specifically looking at how governments, businesses, universities and communities can form alliances to identify the issues that the people at the grassroots face and how they can be addressed. With the recent government portfolio allocation, it has become evident that our leaders do not know how to split the duties of environmentally related portfolios, which therefore highlights the greater correlation of the issues and requires more integration.

Third, government needs to see projects through. As Professor Habib stated, we must not take short cuts but rather aim to sustain projects in the long run. An example which was raised was the My Citi bus route which was stopped to Khayelitsha and other areas without considering the implications on the affected communities. We also propose that projects such as the two which were presented to our group that look at water and electricity interventions should be carried out at a larger scale since they have proved to be successful. The papers proved the benefits of community-based intervention programmes and how electricity and water were saved at the schools. The challenge which could be looked at would be how can these prototypes be used to convert the behaviour of larger groups?

Fourth, although we looked at many SDGs and how each can be individually promoted, we would like to suggest for an integration of all the related goals. For example, goal 7 on energy is directly related to goals 9 and 11 which look at infrastructure and human settlements. We need an approach which not only aims to educate the average person

about these goals in basic and understandable terms but also ensures that our policy implementation processes aim to achieve all of them.

Finally, all the papers portrayed an important fact, which was the importance of public participation and empowerment in all decision-making and policy implementation processes. When government works with the communities, they must ensure that they cater the right services, they cater quality services, and they create empowered and resilient communities which will survive even when the intervention processes have ended. We have also seen the role of young leaders, NGOs and NPOs in driving the Green Movement and when stakeholder engagements are taking place, government must ensure that these parties are encouraged to have a say in how the country must move forward.

4 9 Expropriation as a mechanism for the State to help fulfil its obligations in terms of section 26 of the Constitution & Goal 11 of making cities and human settlements inclusive, safe, resilient and sustainable¹⁰⁹

Professor Elmien du Plessis (Faculty of Law, NWU)

1 Introduction

A recent cover on the Time magazine not only unacceptable high inequality in South Africa, but it also showed that spatial Apartheid is still evident in our cities. This inequality is re-enforced by our housing crisis, where housing for the urban poor is mostly reserved for the peripheries, far from work and economic opportunities, leading to a spiral of poverty that is hard to escape.¹¹⁰ This needs to change, and it needs to change urgently.¹¹¹

This chapter investigates the expropriation power of the State in the context of acquiring land to not only fulfil its housing duty but also to ensure that the principle of spatial justice is adhered to in the process, that will ensure that the social development goal 11 of safe, inclusive, resilient and sustainable cities can be reached.

The paper will start by setting the scene of the legacy of Apartheid spatial planning before moving on to discussing the sustainable development goal in general. After that, a discussion of the Constitutional framework follows, that will frame the discussion on the legislative and policy instruments available to the State to fulfil its Constitutional obligations and ensure that goal 11 is reached. A short case study will be discussed to show how this can work in practice before the paper concludes with recommendations.

¹⁰⁹ Prof Elmien du Plessis, North-West University, elmien.duplessis@nwu.ac.za. Paper presented at the Inaugural social justice summit & international conference, hosted by the Chair in Social Justice, University of Stellenbosch, 29 – 30 August 2019.

¹¹⁰ SERI *Edged out: spatial mismatch and spatial justice in South Africa's main urban areas* (2016)

¹¹¹ Turok I, Scheba A and Visagie J "Reducing spatial inequalities through better regulation" 2017 *Report to the High Level Panel on the assessment of key legislation and the acceleration of fundamental change. Draft Report. Human Sciences Research Council, Cape Town*

2 The legacy of Apartheid spatial planning

Apartheid city planning was explicitly designed to ensure that Black workers live far from well-located white areas, regardless of whether they were employed in these areas or not.¹¹² This legacy is still very much with us. In general, white elite lives in relative comfort, well-located close to city centres, while black South Africans live in peripheral urban areas in dense and poorly serviced settlements. The homeownership rates are low. Without Apartheid, this kind of spatial planning would make no sense at all.¹¹³

This was confirmed in *Fedsure Life Assurance Ltd v Greater Johannesburg Transitional Metropolitan Council*¹¹⁴ when the court stated that

The apartheid city, although fragmented along racial lines, integrated an urban economic logic that systematically favoured white urban areas at the cost of black urban and peri-urban areas. The results are tragic and absurd: sprawling black townships with hardly a tree in sight, flanked by vanguards of informal settlements and guarded by towering floodlights, out of stone throw reach. Even if only a short distance away, nestled amid trees and water and birds and tarred roads and paved sidewalks and streetlit suburbs and parks, and running water, and convenient electrical amenities [...] we find white suburbia”

People living on the periphery of cities therefore often live in poverty. Poverty cannot primarily be blamed on individual failings. There are structural features of especially the economy that challenge people economically and trap them in a spiral from which they cannot escape.¹¹⁵ These structural features need to be addressed through spatial planning.

Labour market outcomes (employment and wages) is listed as one of the most significant structural features of the South African economy that makes exiting out of poverty difficult, but also intergenerational mobility almost impossible. If this does not

¹¹² SERI *Edged out: spatial mismatch and spatial justice in South Africa's main urban areas* (2016)

¹¹³ SERI *Edged out: spatial mismatch and spatial justice in South Africa's main urban areas* (2016)

¹¹⁴ 1999 (1) SA 374 (CC) par 122.

¹¹⁵ SERI *Edged out: spatial mismatch and spatial justice in South Africa's main urban areas* (2016)

change, people who are born in poverty will be trapped in the poverty cycle of their parents.¹¹⁶

This poverty trap is linked to city structures, together with South Africa's dysfunctional labour market. If you live in a poorly located area, it makes it more difficult to find a job. However, if you are economically challenged, well-located areas are unaffordable.¹¹⁷

Focusing on increasing the number of people owning homes, or having access to housing, will therefore alone not correct the distorted spatial planning legacy of Apartheid – the issue of location becomes increasingly important. However, this is problematic. Giving people access to freehold title housing (such as RDP houses), is cheaper at the periphery, than in built-up areas in cities, and this is where the land is available.¹¹⁸

Apartheid left us with the conceptualisation of black people having a rural home to which they should return (if they no longer provide labour in the cities). That influx into cities should be controlled, cordoned off, and regulated. People are often regarded as “from another place”,¹¹⁹ rather than with a right to housing in the urban area. However, South Africa, in line with global trends, is urbanising.¹²⁰ We need clear policies, as well as implementation and action on the part of the local municipalities to fulfil their constitutional obligations in line with the sustainable development goals to provide housing and make sure that the cities are sustainable.

One of the challenges is finding land that is well-located to enable the State to comply with this duty. There are various ways of acquiring land for the purpose – either by utilising state land or by acquiring land in the open market. Nevertheless, the State also has expropriatory powers to acquire such land, and in this chapter, that power will be contextualised and explored to give effect to sustainable development goal 11.

¹¹⁶ SERI *Edged out: spatial mismatch and spatial justice in South Africa's main urban areas* (2016)

¹¹⁷ SERI *Edged out: spatial mismatch and spatial justice in South Africa's main urban areas* (2016)

¹¹⁸ SERI *Edged out: spatial mismatch and spatial justice in South Africa's main urban areas* (2016)

¹¹⁹ This sometimes play out in the political sphere too. For instance, Helen Zille then premier of the Western Cape referred to people who moved from Eastern Cape to Cape Town as “refugees”. Pietersen M “Comment about refugees haunts Helen Zille” 2012 (20) *Mail & Guardian Online* .

¹²⁰ Mpofu B “The urban land question, land reform and the spectre of extrajudicial land occupations in South Africa” 2017 (46) *Africa Insight* ; Turok I and Borel-Saladin J “Is urbanisation in South Africa on a sustainable trajectory?” 2014 (31) *Development Southern Africa* .

Sustainable development goals

During the United Nations Rio+20 summit in 2012, Governments committed to create a set of sustainable development goals (SDG) to follow the Millennium Development Goals (MDG) after 2015. It aims to protect the earth's life-support system, and pair it with poverty reduction as priorities for the SDGs.¹²¹

The focus of this paper is on goal 11. In terms of goal 11, cities should by 2030 be safe, inclusive, resilient and sustainable.¹²² There are also various "subgoals" aimed to be achieved by 2030, namely:¹²³

- (1) Access for all to adequate, safe and affordable housing and basic services and upgrade slums.
- (2) Access to safe, affordable, accessible, and sustainable transport systems for all.
- (3) Enhanced, inclusive and sustainable urbanisation capacity for participatory, integrated and sustainable human settlement planning and management in all countries.
- (4) Strengthen efforts to protect and safeguard the world's cultural and natural heritage.
- (5) Reduction in the number of deaths, as well as the number of people, affected and to reduce significantly the direct economic losses relative to the global gross domestic product, caused by natural disasters, with a particular focus on protecting the poor and people in vulnerable situations.
- (6) Reduce the adverse per capita environmental impact of cities, including paying particular attention to air quality and municipal and other waste management.
- (7) To provide universal access to safe, inclusive and accessible, green and public spaces, with a particular focus on women and children and older persons with disabilities.

¹²¹ Griggs D, Stafford-Smith M, Gaffney O, Rockström J, Öhman MC, Shyamsundar P, Steffen W, Glaser G, Kanie N and Noble I "Sustainable development goals for people and planet" 2013 (495) *Nature* .

¹²² UN *Sustainable Development Goal 11* .

¹²³ UN *Sustainable Development Goal 11* .

The focus of this chapter is on subgoal 1, access to housing, mindful of the fact that the subgoals do not operate devoid of context or separate from the other goals. As mentioned in the introduction, South Africa's cities also have a unique challenge due to the impact of spatial Apartheid on the way that cities are structured.

In terms of the Baseline Report 2017,¹²⁴ 63% of South Africans live in urban areas. Of those in urban areas, 12,2% live in informal dwellings.¹²⁵ Of this, 55% live in the largest 25 municipalities, while the other 45% live in 200 municipalities. The 25 municipalities contribute 70% of the GDP and provide the most job opportunities. As far as access to basic services are concerned for urban residents, 78,4% have electricity; 60,6%% refuse removal; 59,3% sanitation, and 92,7% to water.¹²⁶

A State of the Cities report in 2006 (unchanged from 2001) indicated that in the major municipalities, 25,75% of people lived in households without formal shelter.¹²⁷ Up to 2014, the South African government provided 3,7 million houses to people in need.¹²⁸ In addition to this, the State provides state-subsidised housing to 12,5 million people (roughly 25% of the population), with 56% of the subsidies granted to women-headed households.¹²⁹

These cities have had 20%+ growth rate between 2001 and 2011. These cities are, therefore growing at a fast pace. Due to the spatial layout of cities and the lack of affordable housing in the centre of the urban areas, close to work, people who are economically challenged are forced to stay on the periphery of the city.¹³⁰ The challenge is therefore to get access to land for the government to fulfil the development goal of access for all to adequate, safe and affordable housing, in line with goal 11. This is possible in the existing South Africa legal framework, that will be discussed next.

¹²⁴ http://www.statssa.gov.za/MDG/SDG_Baseline_Report_2017.pdf .

¹²⁵ Stats S *Sustainable Development Goals Country Report 2019 - South Africa* (2019) 186. Informal dwellings are defined as “a shack, or shack in a backyard, or an informal structure in a squatter settlement or in a farm”.

¹²⁶ Stats S *Sustainable Development Goals Country Report 2019 - South Africa* (2019) 186.

¹²⁷ Rust K “Analysis of South Africa's housing sector performance” 2006 *FinMark Trust* 9.

¹²⁸ Downie L *Pro-poor legal practice: household rights and subsidised housing in South Africa* (2016) 21.

¹²⁹ Downie L *Pro-poor legal practice: household rights and subsidised housing in South Africa* (2016) 21.

¹³⁰ SERI *Edged out: spatial mismatch and spatial justice in South Africa's main urban areas* (2016) .

Constitutional framework

The State has various policy and legislative tools available to comply with this obligation. Since everything must happen within the framework of the Constitution, the next paragraph will give a brief overview of the main constitutional obligation. After that legislation to give effect to the constitutional obligations will be discussed, whereafter the policy landscape will be explored.

Section 25(5) of the Constitution empowers the State to broaden access to land on an equitable basis. Expropriation of land is also allowed in terms of section 25 of our Constitution, which determined that property may be expropriated for a public purpose or in the public interest, with the payment of compensation. Section 25(8) makes it clear that no provision in section 25 may impede the State from taking legislative and other measures to achieve reform, to address past racial discrimination.

Section 26 guarantees a right to access to adequate housing. In *Government of the Republic of South Africa v Grootboom*,¹³¹ the Constitutional Court made it clear that there is an obligation on the State to “take reasonable legislative and other measures, within its available resources, to achieve the progressive realisation of the right to access to adequate housing”. The Constitution, therefore, enables and obliges change.

The Constitutional Court also made it clear that “housing entails more than bricks and mortar. It requires available land, appropriate services such as the provision of water and the removal of sewage and the financing of all these, including the building of the house itself. [...] access to and for the purpose of housing is therefore included in the right of access to adequate housing in section 26”.¹³² In other words, for a person to have access to housing, they need land, services and a dwelling. This is also true in terms of the sustainable development goals.

In *Grootboom*, the issue of new land occupation and the use of land occupation interdicts became relevant. In that case, Yacoob J explicitly stated, in response to the “land invasion”, that *Grootboom*’s situation before the occupation was desperate, and that

¹³¹ [2000] ZACC 19.

¹³² Part 25.

the municipality did not have a clear plan on how to deal with the occupation of vacant land. In the absence of a plan, the municipal officials were expected to deal with the occupiers to resolve the issues on a case-to-case basis. It is in the absence of such an engagement that the settlement grew.¹³³ This indicates that arbitrary eviction as a method of repelling land occupation will not be tolerated, especially where the people occupying the property is desperate. This also seems to be a futile exercise – evicting people will not prevent mass land occupation - what will solve the problem is the availability of more land, not more evictions.¹³⁴ There is, therefore, a duty on the municipalities to ensure that people have access to land for housing.

In *Port Elizabeth Municipality v Various Occupiers*¹³⁵ the Constitutional Court elaborated on the relationship between section 25 and section 26, when Sachs J stated that

The Constitution recognises that the land rights and the right of access to housing and of not being arbitrarily evicted, are closely intertwined. The stronger the right to land, the greater the prospect of a secure home. Thus the need to strengthen the precarious position of people living in informal settlements is recognised by s 25 in a number of ways. Land reform is facilitated, and the State is required to foster conditions enabling citizens to gain access to land on an equitable basis; persons or communities with legally insecure tenure because of discriminatory laws are entitled to secure tenure or other redress; and persons dispossessed of property by racially discriminatory laws are entitled to restitution or other redress. Furthermore, ss 25 and 26 create a broad overlap between land rights and socio-economic rights, emphasising the duty on the State to seek to satisfy both, as this court said in *Grootboom*.”

There is a real interaction between section 25 and section 26 of the Constitution. The right to housing can, in certain instances, interfere with property rights. This will activate section 25 of the Constitution, not so much in a horizontal way, but by asking the question: if legislation allows for such an interference, is the legislation constitutional? Is the

¹³³ Par 86 and 87.

¹³⁴ SERI *Evictions and alternative accommodation in South Africa: 2000 - 2016* (2016) 41.

¹³⁵ [2004] ZACC 7 paras 19 - 20.

deprivation therefore done in terms of a law of general application and not arbitrary? Moreover, if it is an expropriation, is it in the public interest or for a public purpose, and is compensation provided? If it does, such interference can be constitutional. Ownership is inherently limited; the question is how and to what extent? In this regard, the *President of the Republic of South Africa v Modderklip Boerdery (Pty) Ltd*¹³⁶ case is somewhat helpful:

[The Constitution] counterposes to the normal ownership rights of possession, use and occupation, a new and equally relevant right not arbitrarily to be deprived of a home. The expectations that normally go with title could clash head-on with the genuine despair of people in dire need of accommodation. The judicial function in these circumstances is not to establish a hierarchical arrangement between the different interests involved, privileging abstractly and mechanically the rights of ownership over the right not to be dispossessed of a home, or *vice versa*. Rather, it is to balance out and reconcile the opposed claims in as just a manner as possible, taking account of all the interests involved and the specific factors relevant in each particular case.

From a property theory angle, this is significant. Section 26(3) requires that evictions can only be granted if it is just and equitable considering all the circumstances. These circumstances, in turn, will highlight the interests that need to be balanced (the landowner with those of the occupiers), even if the occupiers do not have property rights in the traditional sense of the word. When this balancing takes place, the history of eviction and Apartheid, and the effect it still has today, is taken into account.¹³⁷ This means that ownership as a property right does not merely trump the rights of the occupiers, but in line with a single system of law, housing rights are governed by section 26 and not section 25. It is not two competing rights. Before the Constitution, the property rights of the owner would trump the occupiers' rights. The Constitution requires a different approach. It requires that the rights of the owner be weighed up with the occupier's rights to access to

¹³⁶ [2005] ZACC 5 par 23.

¹³⁷ van der Walt AJ and Viljoen S "The constitutional mandate for social welfare—systemic differences and links between property, land rights and housing rights" 2015 (18) *Potchefstroom Electronic Law Journal/Potchefstroomse Elektroniese Regsblad* 1061.

housing, considering the historical, social and individual context. The obligation is on the State, not private owners, to provide access to adequate housing.

It is at this intersection that is more feasible for the State to expropriate private land or a private building to avoid an eviction and the provision of alternative emergency housing. The *Modderklip*¹³⁸ case serves as an ideal example of where this should have taken place. This will provide the occupiers with legally secure tenure.

Expropriation is, therefore, a useful tool that enables the State to comply with its constitutional duty of providing access to adequate housing. Expropriation must comply with section 25 of the Constitution. Section 25(1) requires that a deprivation takes place in terms of a law of general application and that no law may permit arbitrary deprivation. Deprivation does not require compensation. Section 25(2) allows for expropriation in terms of the law of general application, for a public purpose (or in the public interest, most notably reform interests) and subject to compensation.

The reformist imperatives in section 25(5) – (8) allow the State to infringe on existing property rights.¹³⁹ The power to infringe on private property rights (as warranted by section 25(1) & (2)) developed from a specific historical context in South Africa and seeks to redress. This historical context and redress should be kept in mind when interpreting the property clause, or where the State limits private property. The reformist imperatives stand alongside the protection of existing private property.

Expropriation is an original method of acquisition, meaning, it is brought about by unilateral state action and does not require the cooperation of the owner.¹⁴⁰ It involves a loss of property for the former owner (whether total or partial, permanent or temporary). On the other side of the coin, expropriation mostly implies that the State acquires something. If done for a public purpose or in the public interest, the expropriation will be valid, and compensation will follow as a consequence.

¹³⁸ *President of the Republic of South Africa v Modderklip Boerdery (Pty) Ltd* 2005 .

¹³⁹ Du Plessis E *Compensation for Expropriation under the Constitution* (2009) University of Stellenbosch LLD

¹⁴⁰ Expropriation is an administrative act and must therefore comply with the requirements of administrative law. Decisions to expropriate can be taken on administrative review or challenged if they don't comply with the requirements of section 25 of the Constitution. The courts, however, show deference towards the decisions, applying a rationality test, see Viljoen S-M "Substantive adjudication of the decision to expropriate property" 2017 (28) *Stell LR* .

Expropriation, unlike deprivation, usually targets a specific property for the benefit of the public.¹⁴¹ Expropriation is done in terms of a statute that authorises the expropriation, coupled with the Expropriation Act that sets out the procedures and method of calculation.

Currently, this is the Expropriation Act 63 of 1975. The *Expropriation Bill* of 2019, as discussed later, will bring expropriation practices in line with the Constitution and the demands of administrative justice. The Bill, in this sense, ties the strings together and streamlines the laws applicable to expropriation.

The Constitution, in chapter 7, contains the constitutional objectives, duties and status of municipalities. It states clearly that the municipalities are autonomous but co-dependent.¹⁴² Notable in this context is the government's duty to structure and manage municipal administrations, to budget and plan and to do so in a way that ensures that the basic needs of the community are prioritised, while also promoting social and economic development.¹⁴³

LEGISLATIVE FRAMEWORK

Housing Act 107 of 1997

Various legislation was promulgated to give effect to section 26. For instance, the Housing Act 107 of 1997 (Housing Act) provides a framework for housing developments and sets out the duties and the functions of each sphere of government in realising this right.¹⁴⁴ The Act places a priority on the needs of the poor, and the obligation to consult meaningfully with individuals and communities that are affected by housing developments.¹⁴⁵

Section 3 places a duty on the national government to determine national policies, norms, and standards for housing development. This requires that goals be set, and

¹⁴¹ Van der Walt *A Constitutional property law* (2011) 197.

¹⁴² Ss 151 -154 and 156 and chapter 3 of the Constitution.

¹⁴³ S 154(a).

¹⁴⁴ Section 2. In terms of the Constitution part A schedule 4 housing is a functional area of concurrent national and provincial legislative competence. See also the discussion in *City of Johannesburg Metropolitan Municipality v Blue Moonlight Properties 39 (Pty) Ltd* 2012 (2) SA 104 (CC).

¹⁴⁵ Section 2(1)(b).

performances monitored. The provincial government must act within the framework of the national housing policy and create an enabling environment by promoting and facilitating the provision of adequate housing. The provincial government must also support local government to improve their ability to fulfil their obligations. Local government must take all reasonable steps within the framework of the national and provincial housing policies to ensure that the citizens have access to adequate housing on a progressive basis. This includes setting goals to achieve housing delivery, identifying and designate land for housing.

To comply with its duties, the Act gives the municipality the authority to expropriate land by notice in the Provincial Gazette if it is needed for purposes of a housing development. The requirements in terms of section 9(3) are:

- (1) the State must be unable to buy the land from the owner after reasonable negotiations;
- (2) the MEC must give permission before the notice is published in the Provincial Gazette;
- (3) the notice must be published within six months of such permission.

Likewise, the National Housing Development Agency Act 23 of 2008 authorises the Minister to expropriate land for the development of sustainable human settlements.¹⁴⁶

Despite this express power to expropriate land for housing purposes, expropriation has not been used as an acquisition tool to get access to well-located land for housing purposes in terms of the Act. *Fischer v Unlawful Occupiers*¹⁴⁷ showed how municipalities resist making use of their expropriatory powers for housing purposes.¹⁴⁸

¹⁴⁶ Section 6(2).

¹⁴⁷ *Fischer v Persons listed on Annexure X to the Notice of Motion and those persons whose identity are unknown to the Applicant and who are unlawfully occupying or attempting to occupy Erf 150 (remaining extent) Phillipi, Cape Division, Province of the Western Cape ; Stock v Persons unlawfully occupying Erven 145, 152, 156, 418, 3107, Phillipi & Portion 0 Farm 597, Cape Rd ; Copper Moon Trading 203 (Pty) Ltd v Persons whose identities are to the Applicant unknown and who are unlawfully occupy remainder Erf 149, Phillipi, Cape Town 2017*

¹⁴⁸ See for instance Cramer R and Mostert H ““Home” and unlawful occupation: the horns of local government’s dilemma *Fischer v Persons Unknown 2014 3 SA 291 (WCC)*” 2015 (26) *Stellenbosch Law*

Spatial Planning and Land Use Management Act 16 of 2013

The Spatial Planning and Land Use Management Act 16 of 2013 (SPLUMA) is framework legislation for spatial planning, land use management, and land development processes on municipal, provincial, and national sphere. SPLUMA specifically aims to address past spatial and regulatory imbalances and links this to the State's duty in section 25(5), and section 26.¹⁴⁹ The Act tries to address this by listing various development principles, of which spatial justice is one. The other are spatial sustainability, efficiency, spatial resilience, and proper administration.

This chapter speaks to spatial justice as a legal obligation on future spatial planning, land development and land use management to comply with the principle. Section 7(a) of SPLUMA provides that the principle of spatial justice applies to spatial planning, land development and land use management whereby, amongst other things “past spatial and other development imbalances must be redressed through improved access to and use of land”.¹⁵⁰

Land Reform: Provision of Land and Assistance Act 126 of 1993

The Land Reform: Provisions of Land and Assistance Act 126 of 1993 was enacted to give effect to the land and related reform obligations in terms of section 25 of the Constitution, to contribute to poverty alleviation, to promote economic growth and to empower previously disadvantaged persons. Section 10 empowers the Minister to acquire property and to make available state land to achieve the Act's objectives. The

Review ; Draga L and Fick S “Fischer v Unlawful Occupiers: could the court have interpreted the ‘may’ in section 9 (3)(a) of the Housing Act as a ‘must’ under the circumstances of the case?” 2019 (35) *South African Journal on Human Rights* and Dugard J “Modderklip Revisited: Can Courts Compel the State to Expropriate Property where the Eviction of Unlawful Occupiers is not Just and Equitable?” 2018 (21) *Potchefstroom Electronic Law Journal*.

¹⁴⁹ For a discussion on the role SPLUMA can play in transforming spatial justice in housing, see Van Wyk J “Can SPLUMA play a role in transforming spatial injustice to spatial justice in housing in South Africa?” 2015 (30) *Southern African Public Law* .

¹⁵⁰ S 7(a)(i).

High-Level Panel report, however, found that this Act is “an inadequate vehicle for giving meaningful effect to the Constitutional commitment to “foster conditions which enable citizens to gain access to land on an equitable basis”, and for correcting the gross spatial inequalities inherited from the past”.

Government Immovable Asset Management Act 19 of 2007

The Government Immovable Asset Management Act 19 of 2007 (GIAMA) provide a framework for the management of immovable assets, held, or used by national or provincial government departments. It seeks to coordinate the use of immovable assets and the effective utilisation of the immovable assets. In terms of section 5 of GIAMA, a principle is created that an asset that is not used for service delivery is a surplus. If this asset needs to be disposed of, the best value for money must be realised, and it is defined¹⁵¹ as “optimisation of the return on investment in respect of an immovable asset in relation to functional, financial, economic and social return wherever possible”. Before disposing of an immovable asset, the (state) owner of the property must indicate whether it can be used by other users, for social development initiative of government and in relation to government’s socio-economic objectives, including land reform.¹⁵² This means that the Act itself can facilitate the movement of assets from one department to the Department of Human Settlements to utilise it for housing purposes. This will not be an expropriation per se, because the assets remain the property of the State but are just utilised differently. As such, it should be an alternative to expropriation. This is currently being tested in court in *T Adonisi v Minister for Transport and Public Works: Western Cape*¹⁵³ that deals with the matter of the sale of the Tafelberg School site to a private party.

¹⁵¹ Section 1.

¹⁵² Section 5(1)(f).

¹⁵³ WCD 7908/17. Court papers can be found here <https://eelawcentre.org.za/portfolio-posts/spatial-justice-and-education-justice-reclaimthecity/> .

Local government legislation

The Local Government: Municipal Systems Act;¹⁵⁴ Local Government: Municipal Finance Management Act¹⁵⁵ and the Local Government: Municipal Structure Act¹⁵⁶ is the core trio legislation that deals with local government governance and enables local government to fulfil its obligations in terms of the Constitution. In terms of the Municipal Systems Act, for instance, the municipality must deliver basic municipal services, that include everything necessary to make sure that people have an acceptable and reasonable quality of life.¹⁵⁷ It also obliges municipalities to do developmentally-oriented planning, to ensure that they comply with their obligations in terms of section 152 of the Constitution.¹⁵⁸

Restitution of Land Rights Act

In terms of the Restitution of Land Rights Act¹⁵⁹ a person or community, who was dispossessed of a right in land after 1913 as a result of a past discriminatory law or practice is entitled to return of the land or equitable redress, if the claim was lodged before 31 December 1998. This can include alternative land or financial compensation. 72% of the claims instituted in terms of the Restitution of Land Rights Act were in urban areas, where people were removed from the areas in terms of the Group Areas Act. It is suggested that most of the settled claims are in urban areas and that most people opted for monetary compensation.¹⁶⁰ Should a person or community comply with the requirements of the Act, the Act empowers the Minister to expropriate land for the purposes connected to the Act.

¹⁵⁴ 32 of 2000.

¹⁵⁵ 56 of 2003. This act deals with the fiscal and financial affairs of municipalities and the management of assets.

¹⁵⁶ 117 of 1998.

¹⁵⁷ Section 1.

¹⁵⁸ Section 23(1).

¹⁵⁹ 22 of 1994.

¹⁶⁰ Lahiff E "Land reform in South Africa: is it meeting the challenge?" 2001 3. Walker explains that money was not the first choice in many instances, but that people often opted for money due to frustrations with the process, see Walker C "Misplaced Agrarianization?: Reflections on Ten Years of Land Restitution" 2005 (72) *Social Research: An International Quarterly* 663.

Somewhat outside the scope of the chapter, but worth mentioning is the fact that land restitution did not necessarily result in the spatial patterns of South Africa changing, due to the monetary compensation component. It also did not guarantee that people have access to urban land or housing. Of course, there have been important and visible urban claims that were also successful, such as the District Six claim in Cape Town.

Expropriation Bill of 2019

The Expropriation Bill of 2019, yet to be promulgated, will replace the old 1975 Act once promulgated. It is the Act used to drive the expropriation process, setting out the procedures and requirements for a successful expropriation. What it also does is it sets out the instances where such land can be expropriated at nil compensation - such as land held for speculative purposes, land held by the State and abandoned buildings.¹⁶¹ Usually the authority to expropriate will emanate from another statute, with some of the examples given above, with only the process and the compensation component left to the Expropriation Act.

POLICY ENVIRONMENT

The National Development Plan

Likewise, the National Development Plan,¹⁶² lists spatial justice as an overarching principle for spatial development. In terms of the NDP, spatial justice is “[t]he historic

¹⁶¹ Clause 12(3) of the Bill states “It may be just and equitable for nil compensation to be paid where land is expropriated in the public interest, having regard to all relevant circumstances, including but not limited to:

- (a) Where the land is occupied or used by a labour tenant, as defined in the Land Reform (Labour Tenants) Act, 1996 (Act No. 3 of 1996);
- (b) where the land is held for purely speculative purposes;
- (c) where the land is owned by a state-owned corporation or other state-owned
- (d) entity;
- (e) where the owner of the land has abandoned the land;
- (f) where the market value of the land is equivalent to, or less than, the present
- (g) value of direct state investment or subsidy in the acquisition and beneficial capital
- (h) improvement of the land.

¹⁶² Commission NP *National Development Plan 2030: Our future-make it work* (2012)

policy of confining particular groups to limited space, as in ghettoisation and segregation, and the unfair allocation of public resources between areas must be reversed to ensure that the needs of the poor are addressed first rather than last".¹⁶³ It, therefore, focusses on achieving spatial justice, spatial sustainability, spatial resilience, spatial quality and spatial efficiency.

In terms of the NDP, there is a need for a comprehensive programme of urban and rural development that starts by recognising the extreme differentiation (as explained above) within rural South Africa. These differences need to be considered to achieve sustainable development.¹⁶⁴

It proposes that spatial norms and standards address the issues of i) densifying cities; ii) improving transport, iii) locating jobs where people live, iv) upgrading informal settlements and v) fixing housing market gaps.¹⁶⁵

One of the challenges is informal settlements. Informal settlements are often the first-time place where migrants end up when looking for jobs in the cities. These settlements offer an affordable entrance into the city. When the urban market does not absorb the migrants, it is difficult for people to move out of shacks into more formal accommodation. Where in the early 1990s people spent an average of 2 - 4 years in the informal settlements, people now stay for an average of 10.¹⁶⁶

Upgrading of informal settlements

The upgrading of informal settlements programme prioritises the provision of basic services, bulk infrastructure, and tenure security, after which the top-structure houses are delivered. This programme focusses on upgrading projects on sites where there are already informal settlements, and it makes provision to acquire and rehabilitate well-located occupied land. Municipalities are expected to do this with the close participation

¹⁶³ Commission NP *National Development Plan 2030: Our future-make it work* (2012)277.

¹⁶⁴ Stats S *Sustainable Development Goals: Indicator Baseline report 2017 - South Africa* (2017) http://www.statssa.gov.za/MDG/SDG_Baseline_Report_2017.pdf .

¹⁶⁵ Stats S *Sustainable Development Goals: Indicator Baseline report 2017 - South Africa* (2017) http://www.statssa.gov.za/MDG/SDG_Baseline_Report_2017.pdf .

¹⁶⁶ Stats S *Sustainable Development Goals: Indicator Baseline report 2017 - South Africa* (2017) http://www.statssa.gov.za/MDG/SDG_Baseline_Report_2017.pdf .

of the community affected. There are no income or nationality selection criteria to benefit from this programme, and therefore makes provision for people who do not qualify in terms of the housing subsidy scheme.¹⁶⁷

In general, the *in situ* upgrading in terms of this programme is weak. It is more common for the municipality to upgrade on vacant land. This translates into practice as people's shacks being removed from the land and people relocated elsewhere in the new development, on formally laid out land with increased plot sizes.¹⁶⁸ Little attention is, therefore paid to existing systems and local realities.

Where the community lives on land that does not belong to the State, as in the *Fischer* case,¹⁶⁹ the local municipality can make use of the powers in the Housing Act,¹⁷⁰ to expropriate the property.

Integrated Urban Development Framework

The Integrated Urban Development Framework (IUDF)¹⁷¹ is the policy framework that guides the reorganisation of Cities to ensure that cities and towns become inclusive, resource-efficient and adequate places to live.¹⁷² The outcome of the IUDF is spatial transformation. It should be read with the *White Paper on Local Government* (1998), the *White Paper on the Energy Policy of the Republic of South Africa* (1998), the *White Paper on the Renewable Energy Policy of the Republic of South Africa* (2003), the *National Housing and Subsidy Policy Programs* (2010), the *National Climate Change Response*

¹⁶⁷ SERI *Here to stay: a synthesis of findings and implications from Ratanang, Marikana and Siyanda* (2019) 7.

¹⁶⁸ SERI *Here to stay: a synthesis of findings and implications from Ratanang, Marikana and Siyanda* (2019) 7.

¹⁶⁹ *Fischer v Persons listed on Annexure X to the Notice of Motion and those persons whose identity are unknown to the Applicant and who are unlawfully occupying or attempting to occupy Erf 150 (remaining extent) Phillipi, Cape Division, Province of the Western Cape ; Stock v Persons unlawfully occupying Erven 145, 152, 156, 418, 3107, Phillipi & Portion 0 Farm 597, Cape Rd ; Copper Moon Trading 203 (Pty) Ltd v Persons whose identities are to the Applicant unknown and who are unlawfully occupy remainder Erf 149, Phillipi, Cape Town* 2017

¹⁷⁰ The Housing act 107 of 1997.

¹⁷¹ Governance C and Affairs T *Integrated urban development framework: A new deal for South African cities and towns* (2016).

¹⁷² Stats S *Sustainable Development Goals: Indicator Baseline report 2017 - South Africa* (2017) http://www.statssa.gov.za/MDG/SDG_Baseline_Report_2017.pdf .

White Paper (2011), the National Transport Master Plan (2010) and the National Development Plan 2030 (2012).

The transformative vision of the IUDF translates into four strategic goals, namely spatial integration; inclusion and access; growth, and governance.¹⁷³ Spatial integration is the formation of new spatial forms in a settlement, transport, social and economic areas. Inclusion speaks to social and economic services, opportunities, and choices. Growth refers to harnessing urban dynamism for sustainable economic growth and development. Furthermore, governance seeks to enhance the capacity of the State and its citizens to work together to achieve spatial and social integration.¹⁷⁴

Breaking new ground

The Comprehensive Plan for the Development of Sustainable Human Settlements (Breaking New Ground)¹⁷⁵ refocused policy attention on the development of sustainable human settlements, and not just delivery of subsidised housing units.¹⁷⁶ The plan set out the ends it wanted to achieve, the means to do achieve them, and the instruments to be used in the process.

The four primary ends were sustainable human settlements,¹⁷⁷ integration,¹⁷⁸ housing assets,¹⁷⁹ and upgraded informal settlements.¹⁸⁰ This was to be done through municipal

¹⁷³ Governance C and Affairs T *Integrated urban development framework: A new deal for South African cities and towns* (2016) 8.

¹⁷⁴ Governance C and Affairs T *Integrated urban development framework: A new deal for South African cities and towns* (2016) 8.

¹⁷⁵ Housing Do *Breaking new ground: a comprehensive plan for the development of sustainable human settlements*. (2004).

¹⁷⁶ Rust K "Analysis of South Africa's housing sector performance" 2006 *FinMark Trust* 10.

¹⁷⁷ Listed as "well-managed entities in which economic growth and social development are in balance with the carrying capacity of natural systems on which they depend for their existence and result in sustainable development, wealth creation, poverty alleviation and equity".

¹⁷⁸ In other words, the need for spatial restructuring.

¹⁷⁹ To ensure "property can be accessed by all as an asset for wealth creation and empowerment [...] supporting the functioning of the entire residential property market to reduce duality".

¹⁸⁰ The aim here is to integrate informal settlements into the broader urban fabric, to address the problem of spatial, social, and economic exclusion.

accreditation,¹⁸¹ effective intergovernmental relations,¹⁸² delivery refined by demand,¹⁸³ and effective functioning housing markets.¹⁸⁴ It would rely on previous policy frameworks (such as the National Housing Code, and the Municipal Systems Act), to relying on incremental housing, social housing, rural housing, financial services, local capacity building interventions, and integrated development planning through housing chapters of Integrated Development Plans (so-called “housing sector plans”).¹⁸⁵ Various cities made use of this, and examples of this are the N2 Gateway pilot project in Cape Town (22 000 housing units with social and other infrastructure).

Emergency housing

The Emergency Housing Programme makes provision for the local government to apply for grants from the provincial government to provide emergency housing to those affected by emergencies.¹⁸⁶ This is meant to provide temporary relief and includes emergencies and the threat of imminent evictions. It allows for various housing options, both temporary and permanent.⁵⁶

¹⁸¹ With funds flowing directly from national government to accredited municipalities, and national government providing operational costs for municipal housing units in the accredited municipalities Rust K “Analysis of South Africa’s housing sector performance” 2006 *FinMark Trust* 11.

¹⁸² With funds flowing directly from national government to accredited municipalities, and national government providing operational costs for municipal housing units in the accredited municipalities Rust K “Analysis of South Africa’s housing sector performance” 2006 *FinMark Trust* 11.

¹⁸³ Also referred to as “demand responsiveness”, with an increased focus on the role for municipalities, and emphasis on the state in determining the location and the nature of the housing, in linking the demand to the supply. Rust K “Analysis of South Africa’s housing sector performance” 2006 *FinMark Trust* 11.

¹⁸⁴ BNG was aimed at the entire residential property market.

¹⁸⁵ Rust K “Analysis of South Africa’s housing sector performance” 2006 *FinMark Trust* 11.

¹⁸⁶ National Housing Code: Part 3 Incremental interventions: emergency housing programme 2009 14 - 15. See also Tissington K *A resource guide to housing in South Africa 1994-2010: Legislation, policy, programmes and practice* (2011), Van Wyk J “The complexities of providing emergency housing assistance in South Africa” 2007 *JS Afr. L.* .

⁵⁶ National Housing Code: Part 3 Incremental interventions: emergency housing programme 2009 31 - 37.

Housing options

Within the legislative framework set out above, the following options are available to people who cannot afford to buy their own houses or rent privately. These are government subsidy housing;¹⁸⁷ community residential units;¹⁸⁸ upgrading of informal settlements programme;¹⁸⁹ Emergency Housing Programme; finance linked individual subsidy programme¹⁹⁰ and social housing.¹⁹¹ People who want to have access to any of these¹⁹² must be registered at their municipality or the provincial Department of Human Settlements. Once a person registered, they will be listed on the Municipal Housing Demand Database, or the province's Housing Needs Register.

In 1994, 86% of households were earning less than R3500 per month, and housing affordability was constrained, indicating the need for subsidy support. Then existing subsidies supported the racially-defined framework of Apartheid's policy, and due to the cost not able to support a post-apartheid all-inclusive society.¹⁹³ End-user finance was limited, retail lenders could not extend down-market, and formal financial institutions were

¹⁸⁷ Also referred to as RDP housing, but more accurately "Breaking New Ground" housing, or BNG. This comprise of houses built by the government and given to low-income families (for ownership). This option is only available to South African citizens over 21, married (or living with a partner), or single with dependents (although single military veterans or aged people without dependents also qualify). The income must be less than R3500 per household. This is only available to first time government subsidy recipient and first-time homeowners.

These houses can only be sold after living in them for 8 years and may not be rented out.

reporter S "Everything you need to know about government housing" *GroundUp* (20 July).

¹⁸⁸ This is aimed at households earning less than R3500 but is rental housing. The project seeks to upgrade inner city buildings and hostels. The requirements are like the government subsidy housing above.

¹⁸⁹ This program aims to provide running water, sanitation, electricity, and roads to informal settlements, but is not focussed on housing. The requirements are similar as with government subsidy housing but can also be applicable to households with an income above R3500, people without dependents, child-headed households, people who used to own property, and on consideration undocumented immigrants or people who previously received housing assistance.

¹⁹⁰ FLISP helps people who do qualify for a home loan with a grant to reduce the monthly payments (or serve as a deposit).

¹⁹¹ So-called "gap" housing, for people earning between R3 500 but less than R22 000 and therefore do not qualify for a home loan at the bank.

¹⁹² Only South African citizens with an identity book or car, or foreign residents with permanent residency permit, over the age of 18 is eligible. People must also bring proof of income.

¹⁹³ Rust K "Analysis of South Africa's housing sector performance" 2006 *FinMark Trust* 6.

reluctant to lend in certain areas and to specific groups of people. Political promises created expectations for a better society.¹⁹⁴

The government sought to respond to this by delivering subsidised housing for low-income households on the one hand, and on the other hand, seek to ensure that this subsidised housing market can operate as part of the broader housing markets to serve a growing economy. To speak to the first objective, the government has provided subsidised housing for ownership (RDP homes) as well as rental. While the goal was to deliver one million units in five years, it took seven years to deliver. This remains a remarkable achievement.¹⁹⁵

Subsidised housing's national minimum norms and standards required a 30m² unit on a 250m² plot of land, with inside sanitation.¹⁹⁶ The bulk of the RDP houses conformed to this, as the government mostly delivered houses aimed at the people at the very bottom of the scale.

For households earning outside the threshold of R3 500 per month, were not eligible for subsidies, and therefore had very little access to housing. This either meant that families moved in together (i.e., two or more families per house), moved into "informal" settlements, or inner-city flats.

Rental housing

Parallel to this is a rental housing market. Rental housing can be divided into three sectors. The private renting sector, regulated by the Rental Housing Act 50 of 1999; and a public renting sector governed by the State,¹⁹⁷ established in terms of the Community Residential Units Programme: Department of Human Settlements' National Housing Code Community Residential Units 3(6) (2009). The social rental sector is managed by private institutions, with the stock not state-owned, but regulated by legislation.¹⁹⁸ The

¹⁹⁴ 6.

¹⁹⁵ 7.

¹⁹⁶ 8.

¹⁹⁷ See Maass S-M "Rental housing as adequate housing" 2011 (22) *Stellenbosch Law Review* .

¹⁹⁸ While aimed at giving effect to the constitutional right of access to adequate housing, its primary objective is to restructure urban areas by means of social housing projects, by securing housing options for

primary instruments here are the Social Housing Policy that is part of the National Housing Code, and the Social Housing Act 16 of 2008.¹⁹⁹ While not directly applicable to the chapter, it leaves the question open whether the State would be able to expropriate property for purposes of “social housing”, where the government does not become the owner of the building rented out.

Using expropriatory powers to get access to well-located land

What is an example of how expropriation would work in the context to get access to housing that will comply with social development goal 11? The *Fischer* case²⁰⁰ is a useful example here.

Marikana informal settlement is in Philippi East in Cape Town. The occupation started slowly in the early 2000s and peaked between 2013 and 2014. During this time the settlement grew to 60 000 people living in 12 000 households. There is no electricity, although legal connections are organised from lower crossroads and Philippi East. There is one tap for every 240 households, and 371 chemical toilets (that is, one toilet for every 32 households). There is no refuse collection, so waste was disposed of in open spaces. As far as economic activity is concerned, it is more focused on the informal economy. It is comparatively well-located – close to transport routes. Most households live in poverty and are dependent on state assistance and financial assistance from social ties (family, neighbours, and friends). There are leadership committees that formed in three areas, and they have similar approaches to land management. These committees uphold local norms and practices regarding the demarcation of land, building regulation, land use

low- and medium-income housings with project-based subsidies. This is not available for people earning less than R1500 per month, with 30% housing going to people earning less than R3500, and 70% of housing allocated to people earning between R3501 - 7500 pm, in terms of the Social Housing Regulations s 23.

¹⁹⁹ Maass S-M “The South African social housing sector: a critical comparative analysis” 2013 (29) *South African Journal on Human Rights* 574.

²⁰⁰ *Fischer v Persons listed on Annexure X to the Notice of Motion and those persons whose identity are unknown to the Applicant and who are unlawfully occupying or attempting to occupy Erf 150 (remaining extent) Phillipi, Cape Division, Province of the Western Cape ; Stock v Persons unlawfully occupying Erven 145, 152, 156, 418, 3107, Phillipi & Portion 0 Farm 597, Cape Rd ; Copper Moon Trading 203 (Pty) Ltd v Persons whose identities are to the Applicant unknown and who are unlawfully occupy remainder Erf 149, Phillipi, Cape Town 2017*

management and transfer of shack ownership as well as access rights. It is this community that the owner, Fischer, tried to evict using PIE. The Cape High Court dismissed the application⁹⁵ by the landowner to evict, and instead ordered the City of Cape Town to enter into negotiations with the property owners to purchase the land. If nothing comes of the negotiations, the City must expropriate the land or provide reasons why it cannot do so.⁹⁶

What is interesting about this ruling is the question whether a court can order the State to expropriate property. The City can lawfully expropriate the property – there is the legislative authority for the City to do so. The public purpose is the provision of housing (also in the public interest), and the only matter will then be the amount of compensation that Fischer must receive for the expropriation of the property.

Constitutional Court jurisprudence makes it clear that the State has a duty to provide emergency accommodation to unlawful occupiers faced with homelessness upon eviction.⁹⁸ The Municipality has this duty, only limited to their resources.⁹⁹ But in *Fischer*, the fact that it was 60 000 people facing eviction meant that the Municipality did not have the resources to provide emergency accommodation by relocating the occupiers elsewhere.¹⁰⁰ But as Draga and Fick argue,¹⁰¹ the emergency housing does not have to be elsewhere. The Municipality was within its powers to purchase the property to avoid eviction and to provide emergency housing.¹⁰²

⁹⁵ For a case discussion on various elements of the case, see Cramer R and Mostert H ““Home” and unlawful occupation: the horns of local government’s dilemma *Fischer v Persons Unknown* 2014 3 SA 291 (WCC)” 2015 (26) *Stellenbosch Law Review* ; Fick S “Fischer v Unlawful Occupiers & others (WCC): difficulties in seeking damages for a failure by the police to prevent unlawful occupation” 2019 (136) *South African Law Journal* .

⁹⁶ SERI *Edged out: spatial mismatch and spatial justice in South Africa's main urban areas* (2016) 13.

⁹⁸ *City of Johannesburg Metropolitan Municipality v Blue Moonlight Properties 39 (Pty) Ltd* 2012 2 SA 104 (CC).

⁹⁹ *City of Johannesburg Metropolitan Municipality v Blue Moonlight Properties 39 (Pty) Ltd* 2012 2 SA 104 (CC) para 69. The court made it clear in this case that the Municipalities must budget for this duty.

¹⁰⁰ See *Fischer* paras 75, 103.

¹⁰¹ Draga L & Fick S “Fischer v Unlawful Occupiers: could the court have interpreted the ‘may’ in section 9 (3)(a) of the Housing Act as a ‘must’ under the circumstances of the case?” (2019) 35 *South African Journal on Human Rights* 405.

¹⁰² Draga L & Fick S “Fischer v Unlawful Occupiers: could the court have interpreted the ‘may’ in section 9 (3)(a) of the Housing Act as a ‘must’ under the circumstances of the case?” (2019) 35 *South African Journal on Human Rights* 405.

It has been argued that, based on a purposive approach to interpreting section 9(3) of the Act, municipalities are obliged to expropriate the land to fulfil their constitutional duties in terms of section 26(2) of the Constitution.¹⁰³

Conclusion

Expropriation will not solve the problem, without linking to Land Use Management tools, decisions as to who gets what in terms of clearly defined housing policies.

During the South African Cities Network Urban Land Dialogues Report, young people said that they “want to move around. If we [the millennials] can have comfort, dignity, and economic viability without owning land. If we can establish economic identity in different ways, then we do not need to own land/property”.

Cities do not only provide housing. It provides economic and social opportunities, and this needs to be taken into account when looking at urban land reform.¹¹¹ In this sense to belong somewhere, does not necessarily rely on ownership. It means inclusion, and it means economic opportunities, it means living with dignity.¹¹²

If we are serious about tackling poverty and inequality, primarily through employment, restructuring the city in such a way that economically challenged people to have better access to employment opportunities.¹¹³

Due to our spatial history, it is often impossible for economically challenged people to get access to well-located housing that will give them a real opportunity to get out of the poverty spiral. Cities should be proactive in this regard, by identifying land that they own in well-located areas, or to acquire such land. Where no agreement can be reached with an owner, the municipality must make use of its expropriatory power, as indicated above, they can do. In this lies the possibility of complying with goal 11 of the Sustainable Development Goals.

¹⁰³ Draga L& Fick S “Fischer v Unlawful Occupiers: could the court have interpreted the ‘may’ in section 9 (3)(a) of the Housing Act as a ‘must’ under the circumstances of the case?” (2019) 35 *South African Journal on Human Rights* 428.

¹¹¹ Network SAC *Urban Dialogue Series: “Knowledge constructed in dialogue”* (2018) 4.

¹¹² Network SAC *Urban Dialogue Series: “Knowledge constructed in dialogue”* (2018) 5.


¹¹³ SERI *Edged out: spatial mismatch and spatial justice in South Africa’s main urban areas* (2016) 68.

4 10 Responsive curricula for healthcare professionals

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Responsive curricula for healthcare professionals

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In this presentation I am reporting on Phase 1 of a four-year longitudinal study into responsive curricula for healthcare professionals. Phase 1 is based at Stellenbosch University, and this is work in progress.

BACKGROUND

- Advance social justice agenda in Health Professions Education (HPE)
- Links to two of the Sustainable Development Goals: *Good health and well-being*; as well as *Quality Education*.
- Framed by Global Health Equity concerns
- South African context - burden of disease and resource-constrained environments
- Lancet Report (2010) - HPE not kept pace with the challenges of healthcare systems, '*largely because of fragmented, outdated, and static curricula that produce ill-equipped graduates*'
- Requires responsive curricula:
 - deliver relevant healthcare professionals who are not only clinically competent, but also
 - critically conscious of the contexts in which they serve and health care systems within which they practice.

This study seeks to advance the social justice agenda in Health Professions Education (HPE) and links to two of the Sustainable Development Goals: *Good health and well-being*; as well as *Quality Education*. The study is framed by Global Health Equity concerns and locates itself in the context of South Africa where the realities of health inequity, the burden of disease and service in resource-constrained environments dominate.

A clarion call from within the field of Health Professions Education (HPE) came some eight years ago in the form of the seminal Lancet Report. The report states that HPE has not kept pace with the challenges of healthcare systems, "largely because of fragmented, outdated, and static curricula that produce ill-equipped graduates" and that a redesign of professional health education was necessary (Frenk et al 2010, 5).

This context requires healthcare curricula which are responsive to health inequity and environments which are crippled by the burden of disease and resource-constrained services. Such curricula need to deliver relevant healthcare professionals who are not only clinically competent but also critically conscious of the contexts in which they serve and health care systems within which they practice. An imperative for exploring a more responsive curriculum framework for healthcare professionals has also been established

in previous work in the field of Health Professions Education. This calls for curricula to be more relevant to the social contexts in which they are located.

LITERATURE REVIEW

- HE is structured to *serve the interests of ‘the haves’ at the expense of the ‘have-nots’* (Lockett & Shay 2017)
- *‘Universities need to be deliberate in shaping themselves to address the creation of intellectual, social and physical meshes between themselves and the struggles and aspirations of their publics, as both universities and their publics are shaped by these interactions.’* (Bawa 2018)
- *‘Students studying the basic and applied sciences need also to understand the political and social natures of the world in which they live.’* (Butler-Adam 2018)
- Ng et. al. (2015) call for a shift beyond the biomedical model in medical education and the competency-based approach to curriculum, towards *critical consciousness* (Freire 2000).
- Bleakley et. al. (2008) raise lack of attention to *‘community health’* and an education system that is disease-oriented rather than patient-oriented.

Disease is managed in the context of a healthcare system and addressing the issues of equity and social justice within local healthcare systems needs to become part of how future healthcare professionals are educated.

I have drawn on two bodies of knowledge to inform the study, Higher Education Studies and Health Professions Education Studies. Curriculum renewal fits within the broader context of institutional transformation and raises questions about what kind of university is needed to respond to the context of South Africa. Lockett & Shay argue that HE is structured to *serve the interests of “the haves” at the expense of the “have-nots”* and that HE needs to be reclaimed as a *“public good”*.

Ahmed Bawa, Chief Executive Officer of Universities South Africa (USAf), highlighted the need for universities to revisit what the purpose of higher education is and what the purpose of a university is (May 2018). He defined the crises that universities were facing over the last 10-20 years as being that of *‘purpose, identity and confidence’* and stated that *‘universities need to be deliberate in shaping themselves to address the creation of intellectual, social and physical meshes between themselves and the struggles and aspirations of their publics, as both universities and their publics are shaped by these interactions.’* Curricula play a crucial role in creating meshes between universities, and the struggles and aspirations of the publics they serve.

Butler-Adam (2018, 1) contends that, “*Students studying the basic and applied sciences need also to understand the political and social natures of the world in which they live.*” This contention speaks to a different kind of basic and applied sciences curriculum.

The work of Scott et al (2007) has shown that the widening of access into higher education in South Africa, since 1994, has not led to successful graduation for those students ill-served by public education. So, one of the questions that this study raises is whether HPE curricula are reproducing the inequalities of broader society or transforming society.

Luckett and Shay (2017) argue that curriculum renewal can be one means of challenging and dismantling injustices and inequalities in society. They suggest that a transformative approach to curriculum should consciously address questions of difference and power and ‘*work with competing and contradictory socio-historical narratives and identities that staff and students bring to the classroom*’ (2017: 11).

Ng et al (2015, 465) call for a shift beyond the biomedical model in medical education, “beyond [cultural] competence, toward a Freire-inspired critical *consciousness*”. They suggest that medical education’s competency-based approach to curriculum, teaching and assessment encourages reductionist mindsets.

Bleakley et al (2008) bring into dialogue post-colonial theory and the field of medical education. They raise issues such as the lack of attention to ‘community health’ and an education system that is disease-oriented rather than patient-oriented. Instead, they argue for a medical curriculum that addresses local concerns and post-colonial problems. Post-colonial problems are inextricably linked to local political and economic systems, as well as world imperialism. Educating future healthcare professionals should then necessarily involve developing a critical consciousness of global health inequality and how global health is framed within a rhetoric of cost-effectiveness, rather than equity and social justice.

The argument being made in this study is that disease is managed in the context of a healthcare system and addressing the issues of equity and social justice within local healthcare systems needs to become part of how future healthcare professionals are educated. Phase 1 of the study hopes to respond to these imperatives by exploring the

development and application of responsive curricula for healthcare professionals across two purposively selected programmes in the FMHS at Stellenbosch University, the MBChB and Physiotherapy programmes.

PURPOSE

- Two programmes in the FMHS at SU:
 - MBChB
 - Physiotherapy
- Purpose of study:
 - To explore the range of understandings that HPE teachers on these programmes bring, as they interpret the principles underpinning their HPE curricula;
 - To explore how the underpinning principles translate into teaching practices and learning opportunities for future healthcare professionals.

The study explores the range of understandings that HPE teachers on these two programmes bring, as they interpret the principles underpinning their HPE curricula. Curriculum coherence requires that those HPE teachers implementing a particular programme of study have a shared set of understandings regarding the broad principles upon which the curriculum is built. A disconnect between the intentions of curriculum designers and the understandings that HPE teachers bring, could have serious implications for the translation of such principles into the teaching practices of HPE teachers and the learning opportunities for future healthcare professionals. It is this problem that the study seeks to investigate.

METHODOLOGY

- **Qualitative study**
- **Research questions:**
 - *How do the participating HPE teachers understand the broad principles upon which their curriculum is built?*
 - *How are these understandings translated into innovative teaching practices?*
- **Data collection:**
 - focus group sessions with module teams; interviews with programme co-ordinators, module leads and HPE teachers
 - analysis of programme and module curriculum documentation
- **Data analysis:**
 - Open coding
 - Thematic analysis

This is a qualitative study informed by an interpretivist paradigm. The research questions are framed as:

- How do the participating HPE teachers understand the broad principles upon which their curriculum is built?
- How are these understandings translated into innovative teaching practices?

The data collection process, which is still in progress, includes focus group sessions and individual interviews with programme co-ordinators, module leads and HPE teachers, as well as the analysis of programme and module curriculum documentation for the two programmes. All focus group sessions and interviews which have taken place to date, have been recorded, transcribed, coded, and analysed through a process of thematic analysis.

What follows is a preliminary analysis of the completed focus group sessions and interviews. Initial conclusions indicate that the HPE teachers on the two programmes understand the need to develop students who are not only clinically competent but also critically conscious of the contexts in which they serve and the health care systems within which they practice.

RESULTS - 1

- HPE teachers understand the need to:
 - *develop students who are not only clinically competent, but also*
 - *critically conscious of the contexts in which they serve and the health care systems within which they practice.*
- **Range of understandings:**
 - Developing Graduate Attributes
 - Developing Professional Identity
 - Developing Change Agents
 - Social Accountability
 - Social Justice
 - Human Rights

There are two things I would like a student to maybe think about at least. The one is the concept of the greater good of the many ... the second part, everything is a balance ... an important balance has always been between rights and responsibilities.

Participants expressed a **range of understandings** of how their programmes and modules were responsive and relevant to the social context:

- **Developing Graduate Attributes**

Something that needs to be bedded down into the Learning Outcomes of curricula

- **Developing Professional Identity**

Being and becoming a doctor/physiotherapist

- **Developing Change Agents**

With an advocacy role and being responsive to contextual needs

- **Social Accountability**

This was a popular understanding among participants

- **Social Justice**

This was another understanding, as expressed in the quotation:

“There are two things I would like a student to maybe think about at least. The one is the concept of the greater good of the many ... the second part, everything is a balance ... an important balance has always been between rights and responsibilities”.

- **Human Rights**

Some participants went beyond the notion of social justice and understood this as a “human rights” issue.

Below is a summary of just a few of the innovative teaching practices arising from the understandings that participants had expressed:

RESULTS - 2

Innovative teaching practices:

- Authentic learning and embodied experience
- Integrated and multi-disciplinary
- Modelling
- Reflection:
 - Time for critical thinking
 - Debriefing
 - Self-awareness
 - Awareness of others' perspectives
 - Seeing 'big' picture
 - Developing change agents

... describe the task, name what you think are the human rights abuses, and reference them to the Bill of Rights, and then explain what could or should have been done differently to stop this.

- **Authentic learning and embodied experience**

The participants indicated that exposure to authentic learning and an embodied experience for their students was the best way to teach towards a critical consciousness in their students. They found that placing students on clinical platforms and immersions in real communities was the best way to achieve this.

- **Integrated and multi-disciplinary**

Another practice was using approaches which integrated medical and allied health students and promoting multi-disciplinary discussions among them. This was usually done using real-world scenarios and service-learning projects.

- **Modelling**

The participants suggested that the best way to 'teach' this was through their modelling the practices and the values they were wanting to instil, as these were not skills or

something you could teach as a recipe. Many did this by drawing on their own personal and practical experiences in their professions.

- **Reflection**

This was the most common teaching practice shared by the participants. They used reflection in two ways – as a means of creating students' *awareness*; and as a means of getting students to think about *how to act* on their awareness. These were some of the ways that the participants used reflection in their classes:

- Creating time for students to think critically and reflect on what they had been exposed to
- Debriefing students' exposure to the real world (this often had an emotional component)
- Teaching students how to reflect – that it was about self-awareness of their own worldviews
- Creating awareness of others' worldviews and the multiple perspectives out there
- Seeing the “big” picture and going beyond just the disease and the individual presented to them
- Developing students' agency to bring about change and their advocacy role (an example of such a task, from the data ...)

CONCLUSIONS

- A dilemma for many of them, however, is how far to take the social justice agenda:
 - only raise students' awareness of the realities of health inequity?
 - prepare students to take on the role of change agent?

How far do we take this? And even though we cover in the human rights things, things like whistle blowing, it's a huge thing to expect a student, even a professional to be a whistle blower.

Do I teach them to be whistle blowers, when I actually know they are putting themselves at a disadvantage? I can't not teach them ... I take them to the point of identifying and saying what should be corrected.

A dilemma for many of the lecturers, however, was how far to take the social justice agenda. While some of them saw the need to only raise students' awareness of the realities of health inequity, others saw the need to prepare students to take on the role of change agent, as the following quotations indicate:

- *How far do we take this? Even though we cover things like whistle-blowing, it's a huge thing to expect a student, even a professional to be a whistle-blower.*
- *Do I teach them to be whistle blowers, when I actually know they are putting themselves at a disadvantage? I cannot not teach them ... I take them to the point of identifying and saying what should be corrected.*

I would be interested to hear your views on this dilemma. Thank you.

4 12 Towards a Feminist Shadow Budget Review

Thoko Madonko and Joy Watson

Why a feminist Budget Review?

The government's budget is a feminist issue because few public decisions have a greater impact on people's lives than decisions about how money is raised and spent. It is on this basis that gender-responsive planning and budgeting should be seen as not merely a technical exercise, but one that is fundamental to advancing gender equality. The role of the budget, as with all laws, should take forward the constitutional imperative to ensure the realisation of intersectional rights, especially the socio-economic rights to health care services, education, food, social security, social services, land, housing, water and sanitation.

The Budget Review is an important tool as an overview of a country's economic trends and fiscal framework. It paints a picture of government's spending plans within the context of the medium-term spending priorities and sheds light on revenue and tax policy. It paints a picture not only at a national level, but provides an overview of revenue and spending at provincial and local government level as well. From a planning perspective, the Budget Review is an important tool because it explains three important policy frameworks:

- The *fiscal framework* sets out government's revenue and spending projections.
- The *division of revenue* shows how taxes and other resources are shared between national, provincial and local government.
- The *medium-term strategic framework* provides details of government's five-year spending plan.

The Budget Review helps us to understand the policy priorities of Government and their intended beneficiaries. Public policy choices do not exist in a vacuum. In a sense, they are cultural products of our time. They exist with and take form within specific historic, national, and international contexts. It is therefore important to ask questions about how policies came about and how they provide us with insight into understanding how

governance takes place and, more importantly, what the implications are for those governed. Policy priorities drive planning processes in Government departments and have the potential to significantly affect different groups of people in society. The Budget Review, by implication, also tells us something about what is not a policy priority and the groups of people who are affected by this.

Building a gender analysis into the budget review

In 2016, the Canadian Government committed to publishing a gender-based analysis of budgetary measures in the 2017 budget and all subsequent budgets. Through this, it sought to examine the way in which public policies affect men and women differently. This entailed the systematic use of data in government programmes that enabled a gender analysis of spending.²⁰¹ The South African Budget Review, by contrast, is gender blind. It makes no attempt to engage in a gender analysis of the budget. If it were to do so, it could become a powerful tool for thinking about gender-responsive planning and budgeting. In addition, it would be a strategic opportunity for focusing on the most socially marginalised women, particularly women from disadvantaged backgrounds who live in conditions of abject poverty. In this way, the intersection between gender and other intersecting identities such as race, spatial location and sexual orientation can be brought to the fore in examining the outcomes of government policies on people's lives.

Assessing the effectiveness of public expenditure from a gender perspective is important to introduce questions of "effectiveness for whom?" and "costs to whom?" There has been a growing understanding of how macro-economic and microeconomic policies affect women's living standards and their prospects for economic empowerment. The way in which the Government develops, implements and reviews its budgets can worsen or improve the living standards of different groups of women and contribute to narrowing or widening gender gaps in incomes, health, education, nutrition etc.

A gender analysis of the Budget Review recognises that government budgets are a powerful tool that can have an effect on transforming gender relations in society and it, therefore, seeks to analyse the impact of spending on women and men and the gender

²⁰¹ Equal Opportunity: Budget 2017's Gender Statement in the Canadian Budget Review

relations between them. In this sense, the Budget Review can potentially contribute to oversight processes by questioning the assumptions, actors, benefits, processes, and outcomes of planning and policies in terms of their gendered implications. The ways in which Government service delivery affects men and women and men and boys and girls would then be brought to the fore. The intersectionality of gender with other forms of identity such as race, class, non-binary conceptualisations of gender, sexual orientation and age, should also be taken into account. In monitoring the impact of Government service delivery, attempts should be made to collate disaggregated data. Key questions to ask here include:

- How are women and girls benefitting from government service delivery?
- How is this different to how service delivery impacts men and boys?
- What is the impact of service delivery on LGBTI persons?
- How are traditional understandings of gender impacting on groups that identify as gender non-conforming?
- What are the negative gendered consequences of service delivery and how can these be addressed?
- How is a gender analysis incorporated into administrative data e.g. strategic plans and annual reports of Government departments?
- Who are the role players that impact service delivery and to what extent are adequately skilled in gender analysis methods?
- Are there clear systems in place to set objectives and goals in relation to revenue-raising service delivery?
- What tools are being used by Government in order to monitor the effects of service delivery as it relates to gender?

This policy brief is intended as a steppingstone to thinking about how to engage in gender analysis of the Budget Review. It is beyond the scope of this brief to comment in detail on the spending patterns of Government across different votes. Instead, it seeks to start a dialogue on engendering the Budget Review by:

- Providing an overview of the economic outlook provided by the Budget Review and thinking about this from a gender perspective.

- Providing brief commentary on two areas of Government spending to kickstart a process for how to engage in a gender review. These areas, health, and unemployment are taken as examples so that we can begin to apply this thinking to all other areas of Government planning and spending.

What does the Budget Review tell us about the 2018/19 budget?

The Budget Review tells us that while economic and fiscal outlook in South Africa has improved overall since October 2017, South Africa continues to face some very significant challenges. These include, rising debt, revenue shortfalls and the dire financial situation of many of the state-owned enterprises. The National Development Plan set a policy vision to reduce unemployment to 6% by 2013. To achieve this, the South African Government has argued that the economy needs to grow at a rate of about 5.4% per annum. In October 2017, the growth rate was scaled down to 0.7% in 2017, 1.1% in 2018 and 1.5% in 2019.²⁰² In this context, the 2018 budget had three key priorities, which were to narrow the budget deficit, to stabilise debt and to turn around economic growth.

The plan behind the 2018/ 19 budget for improving public finances was to both raise taxes and adjust expenditure. This included a one-percentage-point increase in Value-Added Tax in 2018/19. It also included some very significant reallocations in Government spending. The reality for South Africans is that economic growth is slow, and unemployment remains alarmingly high. The national debt is fast approaching R2.5 trillion.²⁰³ Yet, the decision to increase VAT and fuel levies (which is a regressive mechanism for raising revenue) was short-sighted and there were other revenue-raising options.²⁰⁴ The 2018 budget has already had a disproportionate effect on poor households due to the increased costs of accessing healthy food options, public transport and, for those not qualifying for free basic services, increased costs of water and

²⁰² Budget Review, 2018.

²⁰³ Ibid.

²⁰⁴ For more on the impact of the increase in the VAT rate on poor and low-income households read <http://section27.org.za/wp-content/uploads/2018/06/2018-06-05-Submission-by-Budget-Justice-Coalition-to-VAT-Expert-Panel-1.pdf>

electricity. For those living in rural areas, the increase in fuel costs is likely to deepen their inequality of access.

In turning around the economic outlook, Government has a number of pressing challenges to address. These include, inter alia:

The economic recession: The 2008 global financial crisis and recession affected South Africa's recession and led to a structural budget deficit. Government had hoped to resolve this deficit, but 10 years later, public finances have still not recovered.²⁰⁵ In 2017, there was another period of economic recession in South Africa and while the economy has begun to recover somewhat, the recovery is not as significant as it needs to be. From a gender perspective, the key question here is how has the recession impacted women? Women often take on the primary role in caring for their families and extended communities and the recession would have had a very specific effect on these roles.

Challenges with increasing revenue: Economic growth has been restricted by declining levels of private investment, which was linked to political uncertainty and low business confidence. What are the implications of the declining economic growth rate from a gender perspective? It would, for example, have gendered implications for both finding employment and holding on to it, for providing food for families in the context of the increase in VAT, transport costs for travelling to and from work, for stretching budgets further to make ends meet etc.

Public sector corruption and state capture: This has had a negative impact on the economic outlook. The debts of state-owned agencies (SOEs), for example, have increased significantly and their long-term viability is under threat. Risks at SOEs have resulted in Government transfers of an estimated R13.7 billion, resulting in a situation where the funding model of SOEs must be reviewed. What have been the gendered implications of dysfunctional SOEs? How for example, has the mismanagement of Eskom affected electricity costs for women, and what were the gendered effects on transport of

²⁰⁵ Budget Review, 2018

wide-scale corruption in the Passenger Rail Agency of South Africa (PRASA), what were the gendered implications of moving money from elsewhere to bail out the SOEs?

Credit rating downgrades: The bleak economic outlook resulted in credit rating downgrades with 2 of 3 major rating agencies downgrading Government's local-currency debt to sub-investment level. What was the impact of this on the lives of women? How will the economic and fiscal outlook affect women's access to finance? What are the gendered implications for an increased cost in living?

Service delivery cuts: In the context of a challenging fiscal outlook, Government identified medium-term spending cuts amounting to R85 billion.²⁰⁶ This has resulted in a reduction in services. What are the implications of service delivery cuts for women across intersectionality? An estimated R948.7 billion has been allocated over the medium-term in transfers to households as part of a poverty reduction strategy.²⁰⁷ What are the gendered implications of this?

In setting this scene, the Budget Review has been completely silent on the gendered implications of the economic and fiscal outlook. For this reason, it is critical that the Budget Review incorporates a gender analysis.

Since 2012, Government's response to a challenging economic has been to pursue a macro-economic fiscal policy of austerity²⁰⁸. This fiscal approach is in stark contrast to Government's constitutional imperatives and national policy framework as outlined in the National Development Plan and Medium-Term Strategic Framework. Instead of pursuing budgetary consolidation, the Government should be considering stimulative investment in social and economic infrastructure that would enable the expansion of social services. While it is important to focus on deficit spending, it should not be done at the expense of

²⁰⁶ Budget Review, 2018

²⁰⁷ Ibid

²⁰⁸ Fiscal policy is the term that covers policy on public revenue and public expenditure and the relationship between them, as expressed in the government budget and its surplus and deficit. <https://www.cwgl.rutgers.edu/docman/economic-and-social-rights-publications/823-why-macroeconomics-matters-for-realizing-the-right-to-health/file>

focusing on the multiplier effect that public investment would have on the overall economy. The fiscal policy pursued by Government sees spending as a share of the economy reduced from 29% in 2015/16 to 28% at the end of the MTSF in 2019/20.²⁰⁹ What this translates to is an overall reduction in Government spending over the medium-term despite the demand for services in South Africa. This policy is mirrored at the provincial level with provincial spending growing from R487 billion in 2015/16 to an expected R618 billion in 2019/20, which amounts to a real average annual growth rate of -0.5%.²¹⁰ What this means is that there has been a decline in spending on key social services such as health, education, social development and housing.

The fiscal policy of austerity has resulted in an overall reduction in the provision of much-needed services, despite the need for them. While it is important that Government adopt austerity measures, it is critical that this is not at the expense of services that are required for the social well-being of communities. This is because adequately investing in social issues such as violence prevention, adequate healthcare and good quality education will save money in the longer term.

Coming from a history of apartheid where the vast majority of the population is poor and living beneath the breadline, South Africa has a human rights obligation to adopting a developmental approach that promotes the well-being of poor people. This means that even in the context of limited resources, decisions should not be made that compromise on the well-being of the poor. Since 1994, Government has not managed to address the issue of structural inequality and the provision of services to the bulk of the population. Women have been at the forefront of the negative effects of this. The Government's approach has been to focus on stimulating economic growth and to put in place austerity measures at the expense social justice. This approach has not even begun to chip away at rampant structural inequality. Consequently, the lives of many women in South Africa have been negatively affected. Life expectancy for women in South Africa is at 67.3 years,²¹¹ a testimony to the fact that we have a long way to go in improving quality of life for women.

²⁰⁹ Budget Review 2018

²¹⁰ https://www.unicef.org/esaro/UNICEF_South_Africa_--_2017_--_National_Budget_Brief.pdf

²¹¹ Mid-Year Population Estimates, 2018, Statistics South Africa

Budgeting for health

What is the planning vision?

Many analysts have argued that the National Development Plan (NDP) is gender blind.²¹² The NDP 2030, under Outcome 2: '*A long and healthy life for all South Africans*,' envisions a health system that would be accessible to all and would contribute to the following outcomes:

- raise the life expectancy of South Africans to at least 70 years;
- produce a generation of under-20s that is largely free of HIV;
- reduce the burden of disease
- achieve an infant mortality rate of fewer than 20 deaths per thousand live births, including an under-5 mortality rate of less than 30 per thousand;
- achieve a significant shift in equity, efficiency and quality of health service provision;
- achieve universal coverage;
- significantly reduce the social determinants of disease and adverse ecological factors.

The National Department of Health has indicated that one of the main challenges the Government faces is to reach everybody with a minimum set of high-quality essential services. The NDP highlights that South Africa must solve the existing structure and cost of private health care and the poor quality of care in the public health system. The strategy identified for addressing these challenges is the implementation of a National Health Insurance (NHI).

²¹² https://za.boell.org/sites/default/files/wlc_eye_on_the_money_2014.pdf; Gouws, A, 2014. "Critical absence of women and gender in the National Development Plan". Available at <http://www.agenda.org.za/absence-of-women-and-gender-in-national-development-plan/>

Over the Medium-Term Strategic Framework (MTSF) 2014-2019, the antiretroviral treatment programme has been prioritised with the goal of increasing the current 4,2 million people on treatment by a further 2 million. Since 2016, the Government has been implementing a universal test-and-treat policy, offering all HIV-positive patients' antiretroviral treatment regardless of CD4 count. Within this programme, the Government will continue to pay particular attention to tuberculosis (TB). The Minister of Health indicated that an estimated 80 000 people who have TB are either not diagnosed or diagnosed but not on treatment.²¹³

Another policy area of focus is addressing non-communicable diseases, in particular those referred to as "lifestyle diseases" such as high blood pressure, diabetes, cancers and cardiovascular diseases. Over the MTSF, the Department of Health has implemented a public awareness campaign to complement the health promotion levy on sugary beverages and the expansion of the Chronic Disease Medicine Distribution Programme to enable 3 million patients to collect chronic medicines at their collection point of choice instead of at a clinic.²¹⁴

Furthermore, Government has focused on building an integrated community health worker programme including health-related Early Childhood Development services such as breastfeeding support for the first 1000 days.²¹⁵ With respect to addressing women's health specifically, over the MTSF, the Department of Health has embarked on interventions that target 11 regional hospitals to improve the quality of maternal health care services provided. The cervical cancer campaign has been rolled out and the Department of Health will move away from Pap Smear to liquid-based cytology with the aim of screening at least 25 000 women for cervical cancer.²¹⁶

Lastly, a key policy focus over the MTSF has been to improve mental health care. This is critical given the tragedy of Life Esidimeni, which placed a spotlight on the current state of services for those suffering from mental health problems.

²¹³ <http://www.polity.org.za/article/sa-aaron-motsoaledi-address-by-minister-of-health-during-the-health-dept-budget-vote-201819-parliament-cpe-town-15052018-2018-05-16>

²¹⁴ P.g. 60 2018 Budget Review
<http://www.treasury.gov.za/documents/national%20budget/2018/review/FullBR.pdf>

²¹⁵ <http://www.treasury.gov.za/documents/MTBPS/2017/mtbps/FullMTBPS.pdf> 38.

²¹⁶ <http://www.polity.org.za/article/sa-aaron-motsoaledi-address-by-minister-of-health-during-the-health-dept-budget-vote-201819-parliament-cpe-town-15052018-2018-05-16>

To achieve its policy goals, national and provincial health departments are financed via their eight main programmes namely: Health Administration and Management; District Health Services; Emergency Medical Services; Provincial Hospital Services; Central and Tertiary Hospitals; Health Sciences and Training; Health Care Support Services and Health Facilities Management.

What are the main service delivery achievements and challenges?

South Africa continues to have the world's biggest treatment programme with about 60% of South Africans living with HIV taking antiretrovirals (ARV).²¹⁷ As a result, life expectancy in South Africa has increased. It is important to highlight that one of the successes of the programme has been the significant decline in HIV incidence since 2012 by 44% (378, 700 new infections in 2012 to 231, 100 new infections in 2017) with the biggest decline being 56% among women.²¹⁸ While progress has been made, the HIV incidence rate is higher among young women aged 15 to 24 years where the number of new infections was three times that of young men. To address this, it is critical that the ARV programme is strengthened with a focus on reaching the younger population, especially young women.

South Africa has managed to reduce its maternal mortality death ratios in public health hospitals by almost a third (29%) within seven years. Between 2009 and 2016, the number of maternal deaths that happened in public health facilities decreased from 189 per 100 000 live births to 134 per 100 000.²¹⁹ The main reason for the decline has been attributed to the successful implementation of the HIV antiviral treatment programme. When pregnant women with HIV are on ARV treatment, they are less likely to be at risk of contracting other infections like TB, pneumonia, and meningitis during pregnancy.²²⁰

While progress has been made, South Africa would need to halve its 2016 maternal mortality ratio by 2030 if it is to achieve the United Nations' global maternal mortality

²¹⁷ <http://www.hsrb.ac.za/uploads/pageContent/9234/FINAL%20Presentation%20for%202017%20July%20launch.pdf>

²¹⁸ Ibid

²¹⁹ <https://bhekisisa.org/article/2018-03-28-00-maternal-mortality-ratio-south-africa-decreased-by-29>

²²⁰ <https://bhekisisa.org/article/2018-03-28-00-maternal-mortality-ratio-south-africa-decreased-by-29>

sustainable development goal for maternal health. Furthermore, the Rural Health Advocacy Project (RHAP) reports that the District Health Barometer highlights the difference in accessing health care between rural and urban populations. According to RHAP, “a young woman giving birth in the OR Tambo district in the Eastern Cape is twice as likely to die from complications during pregnancy than a woman giving birth in the Western Cape.”²²¹

In an honest account, the National Department of Health²²² has indicated that the main service delivery challenges are the following:

- While networks of public hospitals and clinics have grown, there are still communities in rural areas that cannot easily obtain care.
- Many South Africans living in major cities rely on overcrowded public health facilities with very few health professionals and poor equipment.
- The amount spent on the health care for each person with a medical aid scheme is five times the amount spent on each person who relies entirely on public health facilities.
- The standard of health care gap between the rich and poor continues widening, which is against the equality policy the country is driving in other sectors.
- While eight out of ten patients use public clinics and hospitals, the bulk of the country’s doctors; dentists and specialists work in the private health care sector serving a small section of the population.
- The two-tier system of paying for health care has failed to guarantee good quality health care for all. Government pays for the health facilities that assist the poor and it also provides tax subsidies for medical scheme contributions used by wealthier families, who use private doctors and hospitals. This system has locked out the poor who cannot afford the professionals and facilities in the private sector.

The implications of these challenges have a disproportionate effect on women, resulting in the continual reinforcement of gendered inequalities. Considering the service delivery

²²¹ <http://rhap.org.za/towards-substantial-reform-rural-health-anticipation-2018-budget-speech/>

²²² <http://www.hst.org.za/publications/NonHST%20Publications/Booklet%20-%20Understanding%20National%20Health%20Insurance.pdf>

challenges identified by the Department of Health, the budget must be designed in a way that addresses these challenges.

What is the budget telling us about spending on health?

The Financial Fiscal Commission's submission for the division of revenue 2019/20 states that "like other areas of public service provision, health transfer allocations are not growing in tandem with health care needs".²²³ Since 2012, the under-resourcing of health services has resulted in serious budget strain with grave implications for health care and, by extension, women's rights.²²⁴ The 2018 Medium-Term Economic Framework (MTEF) has reduced the fiscal space (the room that the Government has for spending on public services and social infrastructure)²²⁵ for spending on programmes, and has identified additional budget cuts to programs that are vital to women's rights.

Over the MTEF health spending will continue to be stable both as a percentage of total Government spending and as a share of the economy. Consolidated health spending and allocations as a share of consolidated government expenditure range between 13.4 and 14.1% over the 2013/14 to 2019/2020 period. Despite the stability in real terms, this translates to a reduction in overall health spending. This begs the question, where is the financing for the NHI? The National Department of Health estimates that the current health budget is underfunded by as much as R13 billion in 2018 alone and that this shortfall will accumulate annually due to slow growth in transfers to provinces.²²⁶

As a result, provincial health spending is projected not to grow at all in real terms over the MTEF. Provinces play a crucial role in the delivery of primary health care and, according to the Financial Fiscal Commission, provincial health allocations are under severe pressure "as a result of rapidly growing demands and less than adequate growth in transfers".²²⁷ Furthermore, the slow decline in provincial health spending is taking place

²²³ p.g 15 http://www.ffc.co.za/images/2019-2020_FFC_Annual_Submission.pdf

²²⁴ See the FFC's analysis of provincial health spending from 2002 to 2016.

²²⁵ <https://www.cwgl.rutgers.edu/docman/economic-and-social-rights-publications/823-why-macroeconomics-matters-for-realizing-the-right-to-health/file> p.g. 15

²²⁶ http://www.ffc.co.za/images/2019-2020_FFC_Annual_Submission.pdf

²²⁷ http://www.ffc.co.za/images/2019-2020_FFC_Annual_Submission.pdf

in the context of shortages in medical equipment and medical consumables, healthcare professionals and deteriorating levels of healthcare.²²⁸

According to the National Department of Health and its provincial counterparts, the strategies for managing budget constraints included limiting personnel numbers, centralised tendering for medicines, prioritising “non-negotiable” budget items over non-essential items, prioritising primary health care, chronic medicine dispensing and distribution at additional and alternative sites to reduce queues and improve access and temporarily reducing capital infrastructure spending.²²⁹

The limiting of personnel numbers and the reduction in capital infrastructure spending has been disastrous. According to RHAP, currently there are over 40 000 vacancies in the health system (most of those vacancies are potential sources of employment for women) and they are unlikely to be filled. In fact, recent admissions from the Minister of Health and evidence provided from different provinces show that Health Departments froze and cut critical frontline health posts with budget constraints being cited as the reason.²³⁰ Without health care workers, a health system cannot function and, as a result, will have a disproportionate impact on women.

Over the MTEF period, the government has cut the health facility revitalisation grant and indirect health facility revitalisation grant, which is meant to fund infrastructure programmes within the health sector. These programmes were cut by a total of R820 million despite government’s intention to reform the health system and increase access to health facilities.²³¹ When factors such as the current state of health facilities and the shortage of medical equipment are taken into account, it becomes all the more important to question the government’s current fiscal policy and the burden that austerity budgeting has on the delivery of quality health services. Unfortunately, the effects of austerity budgeting in the context of financial mismanagement and corruption create a perfect storm. This was made evident in the Life Esidimeni tragedy where budgets that would

²²⁸ http://www.ffc.co.za/images/2019-2020_FFC_Annual_Submission.pdf

²²⁹ <http://www.hst.org.za/publications/South%20African%20Health%20Reviews/HST%20SAHR%202017%20Web%20Version.pdf>

²³⁰ <http://rhap.org.za/towards-substantial-reform-rural-health-anticipation-2018-budget-speech/>

²³¹ P.g. 60 <http://www.treasury.gov.za/documents/national%20budget/2018/review/FullBR.pdf>

have otherwise been used to meet the needs of mental ill patients and their families were misappropriated resulting in the death of over 144 mental health care users.

Budgeting to address unemployment

What is the planning vision?

Chapter Three of the National Development Plan sets out the vision for growing the economy and increasing employment. The pillars upon which this plan is built are:

- The elimination of poverty and a reduction of inequality will be attained through raising the levels of employment, as well as through productivity and growth. Specifically, the unemployment rate should fall from 25% to 14% in 2020 and to 6% in 2030.
- The key plan for creating faster growth and employment is the New Growth Path, which sets out the vision for Government investment, microeconomic reforms that lower the cost of doing business and unblocking constraints to investment in certain sectors.
- The rate of labour force participation should rise from 54% in 2010 to 65% in 2030.
- An additional 11 million additional jobs should be created by 2030.

The NDP vision saw most jobs being created in the short-to-medium term in the service-oriented industries, which depend on rising export earnings and rising investment. The plan for large-scale job creation is further dependent on matching the employment needs of the labour market to a targeted post-school training system. A recent report, however, seems to suggest a significant mismatch between labour market needs and skills development initiatives.²³² Critical to raising unemployment is raising educational outcomes and to making tertiary level education accessible to those who live in poor households. Through its employment creation plan, the NDP sets the goal of reducing the

²³² Report of the High Level Panel on the Assessment of Key Legislation and the Acceleration of Fundamental Change, 2017

population living below the poverty measure of R418 per day (in Rands in 2009) to fall from 39% in 2009 to zero in 2030.

The NDP also sets a vision for increased economic participation in rural areas, which is meant to rise from 20% to 40% in 2030 through reforming land tenure, providing support to farmers, ensuring higher agricultural output and expanded social services and broadening investment in water, transport and network infrastructure.

The Medium-Term Strategic Framework seeks to bring about the vision created in the NDP through the New Growth Path, the Industrial Policy Action Plan and the National Infrastructure Plan. These plans contain the detail of how the NDP will be realised through a process of radical economic transformation. The MTSF identifies a number of areas of action to achieve this vision, which include raising economic growth to above 5%, improving upon employment creation (creating an estimated additional 6 million jobs by 2019) and reducing inequality. Key to this is engaging with the private sector²³³ to implement employment equity, skills development and Broad-Based Black Economic Empowerment (BBBEE). Through the Industrial Policy Action Plan, Government has prioritised improving performance in the sectors that are the major employment generators such as mining, agriculture and manufacturing. The Department of Small Business is meant to be a key driver in implementing BBBEE by growing small businesses, which are seen as being critical to reducing unemployment, and in strengthening the support for cooperatives to enable small-scale producers to enter formal value chains. The Expanded Public Works Programme (EPWP) has been an important part of Government's strategy for creating employment. The EPWP has been targeted as a key conduit for the provision of training and providing work experience.

What are the main service delivery challenges?

The reality of the South African situation is that the Government's response to addressing poverty through economic growth has not resulted in addressing structural inequality, alluding to the shortcomings of addressing inequality within a neoliberal capitalist

²³³ The private sector is responsible for 80 percent of production and employment, Medium-Term Strategic Framework, 2014 – 2019.

framework. This approach has failed to address the structural relations of women's lives – the family, the sexual division of labour and sex-class oppression. The release of the recent 'Poverty Trends in South Africa'²³⁴ report by Statistics South Africa shows that the face of poverty is female. One of the key challenges in bringing about economic transformation in South Africa is the fact that the structure of the economy has not changed and continues to reflect distorted patterns of ownership and exclusion, which has very specific race and gendered dimensions. South Africa remains an unequal society and this is reflected in gross disparities in income and wealth. Survey data shows that an estimated 10% of South Africans own 90 – 95% of all assets.²³⁵ Unemployment drives poverty and inequality and affects different groups of people differently. An estimated 60% of adult Black Africans, 50% of Coloured adults, and 46% of the Indian population are unemployed.²³⁶ In South Africa, employment is calculated by the number of people in the category 15 – 64 years of age who did at least one hour of work a week prior to the survey interview. Unemployment is calculated by the number of people who did not do any work during a period of 7 days before the survey interview, but who actively tried to look for work or tried to start a small business in the 4 weeks before the survey interview. Those who are not employed and who had not actively sought to look for work in the 7 days before the interview, are classified as not economically active. When including the number of people in this category, we get an expanded definition of unemployment in the country. The Quarterly Labour Force Survey of 2018 showed the number of unemployed South Africans to constitute 27.2% of the population in the second quarter of 2018. In terms of the extended definition, the number of unemployed people rises to 36.7% of the population.²³⁷ The rate of unemployment amongst women was 29.5% in the second quarter, compared with 25.3% amongst men.²³⁸ Unemployment is also higher in rural areas, where using the expanded definition, unemployment is at 55% compared with 36.3% in the rest of the country.²³⁹

²³⁴ Poverty Trends in South Africa, Statistics South Africa, 2017

²³⁵ Orthofer, 2016

²³⁶ Report of the High Level Panel on the Assessment of Key Legislation and the Acceleration of Fundamental Change, 2017

²³⁷ Statistics South Africa, Quarterly Labour Force Statistics, Second Quarter 2018.

²³⁸ Ibid

²³⁹ Ibid

Poverty in South Africa disproportionately affects women and girls. Research has shown that as a result of global gender inequalities, women and girls are often the first to be taken out of school and are more likely to have the quantity or quality of their food reduced, to forego medical treatment or sell sex for survival.²⁴⁰ A great deal of most women's productive energy goes into just making ends meet. In general, women remain in a disadvantaged position in terms of access to productive employment in the formal sector, with the vast majority of South African women working in vulnerable employment.²⁴¹ In addition, due to the gender division of labour, the burden of care work almost always falls on women and girls to fulfil the family's needs for food, water, clothing, shelter and care for children, the elderly and sick. This, in turn, limits women's opportunities for paid work and other activities. Factors such as women's lack of access to social protection, limited education and training and lack of control of and equal access to economic and financial resources, combine to reinforce inequalities and further impoverish women and girls. Government policy responses need to include good quality childcare to support working women, reducing women's workload overall and creating an enabling regulatory environment. In addition, there is a need for more gender-aware social protection and sectoral policies for more balanced growth and employment-centred growth.

A critical part of Government's strategy to create jobs has been through the Expanded Public Works Programme (EPWP). Yet, the EPWP has not been a viable solution for employment creation amongst women. It has provided short-term, poorly paid employment that has not managed to take women out of poverty.²⁴² Instead, it has locked women into taking on care work and has failed to consider the barriers that women face in accessing potential work opportunities.

Some of the key challenges in relation to women and employment can be summarised as follows:

²⁴⁰ UNAIDS. *Impact of the global economic crisis on women, girls and gender equality*, 2012

²⁴¹ Gender Statistics in South Africa, 2011

²⁴² Parezee and Budlender, 2015

- **Lack of access to education and skills development:** Women and girls face ongoing and significant challenges in accessing a good quality education and skills development initiatives. There is a need to create greater access to tertiary education to break the cycle of poverty and to open up opportunities for promoting lifelong learning.
- **Unpaid care work:** The South African economy depends on the unpaid care work provided by women and girls. Yet, social care work is paid less than what is traditionally associated as being ‘masculine’ work. For example, on average, house mothers at shelters for abused women earn about R2500 a month.²⁴³
- **Women in vulnerable sectors of employment:** The legacy of colonialisation and racism has meant that Black women constitute the majority of the poor. Economic empowerment measures must seek to redress the imbalances of the past. Further, it needs to place emphasis on the plight of women in vulnerable sectors of employment such as in the informal economy, farm workers, domestic workers, and sex workers.
- **Income inequality:** There is a dire need to change the established patterns of gender inequality in institutions, particularly as regards income inequality. Global research has shown that greater equality between men and women has a direct link to increased productivity and a higher GDP.²⁴⁴ Yet the World Economic Forum has estimated that the gender gap in economic opportunity could only potentially be closed by 2186. It notes that the global gender gap across health, education, economic opportunity and politics has closed by just 4% over the past 10 years, suggesting that it will take another 118 years to close the gap completely²⁴⁵ – this is of course, if the pace of change is not increased. When taking both paid and unpaid work into account, women are estimated to work longer hours than men,

²⁴³ Watson and Lopes, 2017

²⁴⁴ Global Gender Gap Report, World Economic Forum, 2016

²⁴⁵ Ibid.

an average of 30 minutes longer per day in developed countries and 50 minutes more per day in developing countries. The Global Gender Gap report shows that only 50% of women of a working age are in the labour force, compared to 77% of men. Globally, more women than men are likely to be unemployed and women are more likely to be employed on a part-time basis. Women are also less likely to be in decision-making positions and they earn between 70 – 90% of what men earn across all sectors and occupations.²⁴⁶

- ***Changing the ethos of workplaces:*** In dismantling patriarchy, it is necessary to transform structural inequality and to ensure that workplaces become gender-equal spaces where women's worth is valued equally, where the physical environment is gender sensitive (such as spaces for breastfeeding) and where the organisational ethos is sensitive to women's family responsibilities.
- ***Lack of access to technology:*** Innovation and technology are key to unlocking women's economic potential. Ensuring that women and girls are technologically empowered, computer literate and able to navigate their way on the internet, is critical to growing their knowledge base. In addition, this is key to economic survival in the formal economy. Digital literacy is a basic requirement for economic development and being absorbed into the world of work.
- ***Violence against women:*** This is a significant obstacle that negatively impacts on women's lives and exacerbates their economic disempowerment. It is estimated that 15% of all sexual offences take place at the workplace.²⁴⁷ Violence significantly affects both women and places of work, for example, in the form of absenteeism, loss of productivity, high staff turnover and costs to companies.

²⁴⁶ Ibid.

²⁴⁷ Parliament of the Republic of South Africa, Report on International Conference on Women in the World of Work, 2017.

When women are economically vulnerable, they are more dependent on men and unable to leave violence relationships.

What is the budget telling us about spending on unemployment?

An estimated R200.1 billion has been allocated to economic development in the 2018/19 budget. Some of the key cost drivers here are as follows:

Budget Area	Amount
Economic regulation and infrastructure	R97.9 billion
Industrialisation and exports	R32.9 billion
Agriculture and rural development	R30.2 billion
Job creation and labour affairs	R23.3 billion
Innovation, science and technology	R15.8 billion

As part of these plans, Government has worked towards finalising an enterprise development fund to improve upon the ability of small enterprises to survive. The fund was announced in the 2017 Medium-Term Budget Policy Statement (MTBPS) and R2.1 billion has provisionally been approved over the medium-term, with the initiative beginning to operate in 2019/20 through the Department of Small Business Development. It will be important to track how the fund is used to create access for women-owned small businesses.

R74 billion has been allocated to the EPWP and other employment programmes over the course of the next 3 years and expenditure in this regard is expected to grow at an annual average of about 8.4%. It is envisaged that the programme will create 3 million jobs of short-to-medium duration over a 3-year period, but no gender-disaggregated data has been provided to indicate how many of these jobs are targeted at women.

An amount of R5.6 billion has been invested in rural development and agriculture over the MTEF period through the Comprehensive Agricultural Support Programme which will provide an estimated 435 000 subsistence farmers with support. Expenditure in this regard would need to be monitored to ascertain the support provided to women farmers.

An amount of R10.8 billion has been allocated to settling land restitution claims, with R8.8 billion allocated to land redistribution. The land restitution process is beyond the scope of this brief, but efforts in this regard have failed dismally to provide access to land to the poor, particularly to women.

It is concerning to note that an amount of R570 million was shifted from the National Treasury Jobs Funding as a result of under-spending in this programme.²⁴⁸ Key activities by the Department of Labour to reach the target of creating 11 million jobs by 2030 are free public employment services, the regulation of private employment agencies to protect vulnerable workers from abuse, support for job creation, the registration of job opportunities and the establishment of work schemes, which are being considered by the newly established Employment Services Board. Over the MTEF period, the Department plans to finalise regulations on the establishment of work schemes that seek to create employment. To achieve this, R1.1 billion has been allocated to the *Employment Services Programme* over the medium-term.

An estimated R 14 million will be allocated to set up 40 labour centres across the country in the form of self-help kiosks. In addition, the Department will pilot four dedicated employment centres in Johannesburg, East London, KwaZulu-Natal and Cape Town. An amount of R23.7 million has been set aside for employing additional employment counsellors and personnel who will assist job seekers to find employment over the MTEF period. R6 million has been allocated over the medium-term to revamp four busses that will be used as mobile employment centres. Importantly, the Department did not meet its annual target for placing work seekers in employment opportunities. Over the medium term, the Department plans to conduct research into the root causes of challenges in placing work seekers and facilitating life skills activities. This work has already been done by other stakeholders, such as the Centre for Enterprise Development and others, so the costs in this regard need to be questioned.

Notwithstanding these initiatives, women continue to feel the pressure of unemployment and when employed, to be in lower level, less skilled jobs. The 2011 census showed us that:²⁴⁹

²⁴⁸ Budget Review, 2018

²⁴⁹ Statistics South Africa, Gender Statistics 2011

- The unemployment rates were higher for women than for men (the Quarterly Labour Force statistics for the second quarter of 2018 show that this is still the case).
- A much higher percentage of women (14.5%) are employed as domestic employees than men (0.5%).
- A larger percentage of men are employers (7.5%) than women (2.8%).
- The top 3 employment sectors for women are the community and social services sector (28.7%), trade (24.4%), followed by private households (14.9%, mostly as domestic workers).
- The top 3 employment sectors for men are trade (21.1%), followed by community and social services (15.9%), and manufacturing (15.6%).
- An estimated 35.4% of women work in unskilled occupations, compared with 22.7% of men who work in unskilled occupations. The largest occupational categories for women are clerical (17%), sales and services (14.8%), domestic work (14.5%) and technicians (14.1%).
- Women are more likely than men to be found in the lower-earning categories. The proportion of women who earned R1000 or less per month was double the proportion of men. In contrast, men are more likely to be found in the top earning categories. The proportion of men who earn R16 000 per month or more is about twice that of women. In addition, white male employees earn nearly four times as much per hour, on average, than Black African male employees, while white women earn almost three times as much per hour, on average, than black African women.
- Employed women from all population groups are more likely to spend more time doing unpaid housework, caring for others and collecting fuel and water than men.

In short, women and girls face a number of structural barriers to the realisation of their human rights, which are either overlooked or not adequately addressed in policies and budgets. They tend to be excluded from leadership and decision making and are disproportionately affected by poverty and unequal access to land, natural resources, infrastructure and services, as well as by a lack of access to decent work and social

protection. Their contribution to the gross domestic product through both paid and unpaid work is only partially recognised. The prevailing social norms result in women having less access to information; skills; training and the labour market.

Recommendations

A feminist analysis of the budget highlights the profound and largely negative impact the current MTEF framework has on the achievement of the right to health and decent employment. The following recommendations are steppingstones to addressing this:

- **Gender Planning and Budgeting**

The 2019 Medium-Term Fiscal Framework should implement a gender planning and budgeting approach throughout the year. It should ensure that it makes a greater effort to consult with women's rights and social justice organisations especially those representing women in low-paying, part-time and precarious jobs. Alongside this, National Treasury should provide in the Budget Review a gender-based analysis of its macro-economic policy, with particular focus on the tax system. Greater participation of diverse women in the budget process would go a long way in ensuring that South Africa's fiscal policy is an effective tool for decreasing economic inequality, reducing poverty and advancing gender equality and *a long and healthy life for all*.

- **Prioritise and Protect Health Spending**

The NHI is arguably the most important social sector reform programme since 1994. It will require a massive overhaul of the current health system in terms of both public and private health care. However, for the programme to be successful, it must be fully funded. It is critical that National Treasury and the National Department of Health undertake a full review of the MTEF allocations to ensure that there is, in fact, adequate funding for the delivery of health care services taking into account the current state of health care service provision.

- **Invest in rural health**

Considering the context of rural health and the challenges faced in accessing services (poor roads, access to facilities, access to qualified health personnel, high unemployment, food insecurity etc), Government must review the equitable share formula and furthermore should review and reform the provincial equitable share formula. The reforms should ensure the inclusion of rural adjusters that would mitigate the increased cost of service delivery in rural provinces.

- **National Treasury, National Department of Health and the Department of Social Development must, as a matter of urgency, address spending on mental health services.**

The National Treasury, in consultation with the National Department of Health, must establish the minimum level of public investment that is required to improve access to a range of mental health programs and services. Dedicated mental health funding would ensure that mental health and promotion and the treatment of mental illnesses are timely, continuous, collaborative and culturally safe and appropriate.

- **Address gender inequality in the labour market with a complete review of the current approach to addressing structural inequality**

The pace and scale of transformation towards realising women's economic empowerment has been unacceptably slow. Current approaches have not begun to address the problem at its root and gender gaps persist in labour force participation and leadership; wages and income; occupational segregation; social norms and workplace culture; unequal working conditions and in the burden of women's unpaid domestic and care work as well as in gaps in social protection.

- **Governments should integrate actions for women’s economic empowerment into sustainable development, poverty eradication and sectoral strategies and into policies and action plans at all levels**

The approach to women’s economic empowerment has been piecemeal. There is a need for more coordinated effort between different Government departments as well as a targeted strategy to invest adequate capacity and resources into accelerating women’s economic empowerment.

- **Invest in technology as a tool for women’s empowerment**

Innovation and technology are key to unlocking women’s economic potential. Ensuring that women and girls are technologically empowered, computer literate and able to navigate their way on the internet, is critical to growing their knowledge base. In addition, this is key to economic survival in the formal economy. Government has a responsibility to ensure that it invests in access to multi-purpose centres that make computers and internet access readily available, particularly in impoverished communities. Technology can expand women’s access to the economy and to entrepreneurship. It can play a critical role in assisting with addressing violence against women, for example, by facilitating access to services.

- **Develop a comprehensive plan to address women in vulnerable sectors of employment**

Government must take seriously and invest in addressing the abuse and exploitation of women in vulnerable sectors of employment, such as farm workers, domestic workers and sex workers.

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OBJECTIVES OF THE LAW TRUST CHAIR IN SOCIAL JUSTICE

The Law Trust Chair in Social Justice aims to:

- bring national and international academics, policymakers and civil society voices together in the sharing of ideas for advancing social justice as a national and global imperative;
- identify the nature of social justice;
- explore the pathways available to address social injustices globally;
- leverage opportunities presented by the SDGs, national constitutions and development plans in national and international contexts;
- share information on research that is undertaken;
- source information for the Social Justice hub at Stellenbosch University;
- form an alliance that works in a coordinated way to advance social justice.