



CENTRE FOR SOCIAL JUSTICE | FACULTY OF LAW

SOCIAL JUSTICE AND EQUALITY LAW EDUCATION

SUMMARY REPORT OF EXPERT SYMPOSIUM ON SOCIAL JUSTICE AND EQUALITY LAW EDUCATION

“Social justice makes societies and economies function better and reduces poverty, inequalities and social tensions. It plays an important role in attaining more inclusive and sustainable socio-economic development paths and is key for reaching the Sustainable Development Goals (SDGs) of the 2030 Agenda for Sustainable Development (2030 Agenda), especially at a time when the achievement of those goals remains far away.”

UN Secretary General Antonio Guterres, 2023

I. INTRODUCTION

The globally tumultuous 2023 concluded with a high note for the Centre for Social Justice (CSJ) and Law Trust Research Chair on Social Justice at Stellenbosch University (SU) and fellow social justice and equality law educators from across the world as they convened under the auspices of the **Expert Symposium on Social Justice and Equality Law Education on 19 December 2023**. The symposium was convened by the CSJ at the Faculty of Law, Stellenbosch University. At the end of the symposium, which took place on the Teams platform, participants agreed to formalize their future collaboration by constituting themselves as a professional association named the **Social Justice and Equality Law Educators’ Association (SOJELEA)**.

A coordinating committee that will formalise the establishment of the new association of social justice and equality law educators was agreed to. Chaired by Professor Thuli Madonsela, the committee membership comprises:

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1. **Prof Thuli Madonsela:** Director, CSJ and Law Trust Research Chair Professor of Social Justice, Faculty of Law, Stellenbosch University.
2. **Prof Anton Kok:** Senior Lecturer to the Department of Legal History, Comparative Law, and Legal Philosophy (known as Department of Jurisprudence at University of Pretoria).
4. **Dr Ruth Andrews:** Shared Humanity: Lessons in Critical Thinking and Shared Humanity Learning Coach Training, Stellenbosch University.
5. **Dr Yvette Basson:** Senior Lecturer in the Department of Mercantile and Labour Law, University of Western Cape.
6. **Ms Maricia Froneman:** Head of Access and Advocacy at Thuma Foundation, Admitted attorney, Conveyancer of the High Court of South Africa and Certified Social Justice Educator.
7. **Mr Fanelesibonge Ndebele:** Former Course Coordinator of Shared Humanity: Lessons in Critical Thinking and Shared Humanity Learning Coach Training; and
8. **Carmel Jacobs:** Senior Lecturer and a specialist in Law of Persons and Family Law creation by means of Assisted Reproductive Technologies (ART), University of Western Cape.

2. PURPOSE AND CONTEXT

The *Expert Symposium on Social Justice and Equality Law Education* brought together legal academics currently offering courses on **Social Justice and Equality Law** or **Social Justice and the Law**, to share good practices while reflecting on current approaches, challenges and prospects with a view to improving and scaling offerings. The ultimate objective was to level up on collaboration, while expanding the uptake of relevant courses.

Symposium participants were drawn from eleven (11) leading institutions, among them international academic institutions and the chairperson of the International Labour Organization (ILO) Committee on Freedom of Association (CFA) in Switzerland. The institutions included Stellenbosch University (SU), University of Pretoria (UP), University of the Western Cape (UWC), Africa Jurists and Judges Forum (AJJF), Legal Practice Council (LPC), African Law Student Journal (ALSJ), South African Women Lawyers Association (SAWLA), Thuli Madonsela (THUMA) Foundation, University of Cincinnati, United States of America (USA), ILO Committee on Freedom of Association (CFA) and Washington College of Law

(USA), while more than a dozen others expressed an interest or confirmed attendance but were unable to do so on account of festive season constraints.

The backdrop of the symposium was appreciation of the fact that although social justice is at the core of international human rights instruments such as the Universal Declaration of Human Rights (UDHR) and the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) in addition to being an express constitutional goal and commitment of constitutions such as those of South Africa, Kenya, India and Nepal, it tends not to be expressly weaved into the body of the constitutions, particularly the Bill of Rights.

The impact is that court jurisprudence and legal scholarship flowing from and feeding into such, particularly through pedagogy, step in to enable those responsible for giving life to the international and constitutional obligations on social justice to do so effectively. This can also catalyse the transformative impact sought to be achieved by such constitutions as noted by the South African Constitutional Court in cases such as *National Coalition for Gay and Lesbian Equality v Minister of Justice*.¹ The theory of change behind the symposium centred on understanding that having a platform for cooperation can enhance scholarship and praxis in thus catalyzing the impact of this area of transformative legal pedagogy.

3. CORE OBJECTIVES

The conception and planning of the conference was influenced by the understanding that appropriate education can catalyze understanding of social justice and the mainstreaming of its tenets in social policy design, law reform and everyday justice situations. Among others, the conception and planning was influenced by the UDHR main architect, Eleanor Roosevelt who stated:

“Where, after all, do universal human rights begin? In small places, close to home—so close and so small that they cannot be seen on any maps of the world. Yet they are the world of the individual person; the neighbourhood he lives in; the school or college he attends; the factory, farm, or office where he works. Such are the places where every man, woman, and child seeks equal justice, equal opportunity, equal dignity without discrimination. Unless these rights have meaning there, they have

¹ *National Coalition for Gay and Lesbian Equality v Minister of Justice* 1999 (1) SA 6 (CC)

little meaning anywhere. Without concerted citizen action to uphold them close to home, we shall look in vain for progress in the larger world.”²

Mindful of the fact that for people to respect and promote or assert human rights in all spaces, while ensuring such are equitably enjoyed by all on a *de jure* and *de facto* basis, as dictated by social justice and substantive equality, outmoded thinking that hierarchizes humanity, needs rapturing to give way to an egalitarian paradigm. For this to happen, social Justice and equality law education is considered essential. The same applies to indifference to structural inequality and the need to implement measures to level the playing field in case of systemic inequality whether due to nature’s arbitrariness as envisaged by John Rawls³ in his theory of justice or as an enduring legacy of past legalised and legitimised discrimination and consequent injustice.

Nelson Mandela’s famous aphorism stating that "Education is the most powerful weapon you can use to change the world,"⁴ influenced both the planning of the symposium and the spirit of its deliberations. The core objectives of the Expert Symposium on Social Justice and Equality Law Education, were to:

- 1) **Review** the Social Justice and Law short courses offered by the CSJ, benchmarking the same against comparable approaches on social justice and equality law education.
- 2) **Share information** on social justice and equality law courses, including short courses, modules, master’s, and doctoral studies and reflect on what has worked.
- 3) **Identify and reflect** on overlaps and gaps.
- 4) **Share perspectives** on the future of social justice and equality law pedagogy and collaboration opportunities; and
- 5) **Establish** a Social Justice and Equality Law Educators Association (SOJELEA) as a platform for learning and growing together.

² Intercultural Cities Newsroom Intercultural Cities’ Thematic Seminar on “Human Rights in the Intercultural City: Where do universal human rights begin? In small places, close to home” 14-16 June 2017

³ J Rawls A Theory of Justice (1971, revised in 1991).

⁴ N Mandela, Speech, Madison Park High School, Boston, 23 June 1990, referenced in S Ratcliffe (ed) in *Oxford Essential Quotations* (5 ed.) 2017.

4. KEY THEMES IN SOCIAL JUSTICE AND EQUALITY LAW PEDAGOGY

The dialogue unexpectedly centered on the importance of empathy and integration of the ubuntu ethos in the making, practice and formal and informal teaching of law.

Professor Evance Kalula, chairperson ILO-CFA kicked off the dialogue with a powerful keynote address on the history of the formal adoption of social justice as a legal concept and the importance of advancing it. Prof Kalula traced the formalization of social justice into legal jurisprudence and labour market policy and the transformative impact thereof, including the adoption of the Treaty of Versailles at the end of the First World War in 1919.⁵ Professor Kalula opined that:

“Flawed as it may have been, the transformative impact of the Treaty of Versailles on labour market policy and labour law cannot be doubted...Paradoxically, apartheid South Africa was a front runner in embracing social justice principles and integrating them in labour law as it tried to convince the world it was not as oppressive as the world thought, particularly as the tide was turning against it from the eighties.”⁶

Prof Kalula proceeded to explain the relationship between social justice and human rights, opining that social justice, at the core of which is equity, underpins all human rights beyond economic inequities. He took participants through the history of the ILO and highlighted the role it had played in shaping labour market policy though lamenting that when it was conceived, its role was meant to shape and align policies with the social justice ideals of fairness, beyond labor market policy. He explained that the reasoning behind embracing social justice was to anchor peace starting with but transcending industrial peace.

He briefly alluded to the ILO-CFA, that he chairs, mentioning a few of the cases it had been seized with and their implications for social justice. He further extolled the virtues of working together as civil society in influencing public policy in various ways, particularly through transformative education. In this regard, he applauded the idea of forming a professional association for social justice and equality law educators. He further urged

⁵ Armistice treaty signed at the end of World War I on June 28, 1919, at the Palace of Versailles, France.

⁶ Kalula E Keynote address titled “The Importance of Social Justice in Law Making and Teaching: Reflections on the ILO’s Impact on Labour Market Policy, Law and Legal Education’ delivered at the *Expert Symposium on Social Justice on Equality Law Education*, hosted by the Centre for Social Justice at Stellenbosch University, 19 December 2023.

participants and members of the proposed association to familiarize themselves with global social justice quests, particularly the global social justice alliance to ensure their voice influences discourse in global platforms, while having their own processes enriched by positive global developments in the pursuit of social justice.

Prof Thuli Madonsela outlined the logic behind the summit, extensively referencing the concept note for the summit. Madonsela explained that in addition to a yearning for collaboration, an approach she successfully used when coordinating the design and implementation of Equality Court education for judges, magistrates and clerks of court, the symposium had been propelled by a need for a common and etymologically grounded conception of social justice and transformative pedagogy.

She also stated that one of the factors behind the symposium was a quest to expand the demand for social justice and equality law education which she said was not matching the resurgence in social justice awareness and commitment at national leadership and global governance levels, including the United Nations (UN). Quoting from the concept note for the symposium, Madonsela said:

“Social justice, at the core of which is substantive equality, is increasingly featuring as being at the core of social fracture and fissures in the global governance system in an age referred to as the age of polycrisis, permacrisis and unpeace. Though specifically mentioned in international instruments such as the Treaty of Versailles, the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)⁷ and national constitutions such as those of South Africa, Kenya, India and Nepal, not much is understood about social justice. Further, while the concept of social justice dates to the works of Taparelli and Rosmini in the 19th century,⁸ scholarship on it tends to have no etymological or jurisprudential grounding.”

She explained that “social justice, whose essence is equal enjoyment of all rights and freedoms as an expression of fairness to all, underpinned the conception of the UDHR, 75 years ago, as well as South Africa’s interim Constitution adopted in 1993. She further pointed out that according to the Constitutional Court of South Africa in *S v Makwanyane*,⁹

⁷ Convention on the Elimination of All Forms of Discrimination against Women Adopted and opened for signature, ratification and accession by General Assembly resolution 34/180 of 18 December 1979 entry into force 3 September 1981, in accordance with article 27(1)

⁸ T C Behr. *Social Justice and Subsidiarity: Luigi Taparelli and the Origins of Modern Catholic Social Thought* 2019.

https://books.google.co.za/books/about/The_Constitution_Under_Social_Justice.html?id=y63Mggc2irEC&redir_esc=y, 20 December 2022.

⁹ *S v Makwanyane* 1995 (3) SA 391

social justice is a dimension of ubuntu, and in this regard, quoting Madala J's obiter in *Makwanyane*, where he stated:

“The Constitution in its post-amble declares:

‘... there is a need for understanding but not vengeance, and for reparation but not for retaliation, a need for *ubuntu* but not victimisation.’

The concept [of ubuntu] appears for the first time in the post-amble, but it is a concept that permeates the Constitution generally and more particularly Chapter Three which embodies the entrenched fundamental human rights. The concept carries in it the ideas of humaneness, social justice and fairness.”¹⁰ [Text added]

She observed that although the tide had been turning regarding political attitudes towards social justice at municipal and global levels, with courts in South Africa increasingly referencing it expressly as a key constitutional commitment that must inform all decisions, the emerging enthusiastic embracement of the concept was apparently not matched in uptake of social justice courses. Quoting from the symposium concept note, Prof Madonsela stated:

“A compounding factor is that social justice tends to be confused with concepts such as social welfare or social development (possibly because of the Copenhagen Declaration on Social Development and the fact that the Social Work profession is a pioneer on social justice pedagogy) socio-economic rights (possibly because of cases such as *Grootboom*¹¹), affirmative action and socialism. As a result, there is inadequate clarity on the meaning and place of social justice in the legal system, legal scholarship, and legal pedagogy. A related challenge is clarifying the relationship between social justice and concepts such as equality, social welfare or development, socio-economic rights, critical race theory or anti-racism, gender justice and affirmative action. There has also been a paucity of African perspectives on social justice.”¹²

She went on to assert that:

“Until recently, cases that offer jurisprudential insights on social justice have been few and far between, mostly in labour law. However, a few cases on the constitutionality of restitutive measures seeking to redress structural racial asymmetries that are a legacy of past legalised racial discrimination, are emerging, as noted in cases such as *Bato Star*¹³ and *Van Heerden*.”¹⁴

¹⁰ *S v Makwanyane* 1995 (3) SA 391 par 237.

¹¹ *Government of the Republic of South Africa v Grootboom* 2001 (1) SA 46 (CC).

¹² *S v Makwanyane* 1995 (3) SA 391, is among a few outliers regarding African jurisprudential perspectives on social justice.

¹³ *Bato Star Fishing (Pty) Ltd v Minister of Environmental Affairs and Tourism* 2004 (4) SA 490 (CC)

¹⁴ *Minister of Finance v Van Heerden* 2004 (6) SA 121 (CC)

Prof Madonsela further presented an overview of **Social Justice and Equality Law Short Courses** and other short courses in the CSJ's Short Compendium, the three courses mentioned being: the **Social Justice and the Law Course** which is in the process of being renamed the **Social Justice and Equality Law Course**; **Social Justice Trainer's Seminar**, which will be integrated in future **Social Justice and Equality Law Educators' Symposia** and the **Social Justice Jurisprudence Course**, to be integrated in the Social Justice and Equality Law Short Course, which had a compacted version of it.

She explained that the CSJ's offerings extend to short courses on **Administrative Law for State Functionaries**, whose uptake is the highest, **Constitutional Governance and Accountability** and **Administrative Investigations and Commissions of Inquiry**. She further clarified that while some courses are regularized through the university calendar and available on a retail basis, others are available on demand, on a wholesale basis.¹⁵

She advised that the reach of the demand, incorporates dimensions such as: The meaning and legal grounding and application of social justice; The nexus between social justice and concepts such as equality, equity and ubuntu; The ethical foundations of social justice and leadership for social justice. Cohorts reached, she advised, included guest lectures in undergraduate and post-graduate courses on law, constitutionalism, human rights, ethics and anticorruption, leadership and gender mainstreaming at universities.

She had also delivered compacted versions as lectures to national and international occupational groups such as the Management of Parliament, the Public Service Commission (PSC), Gauteng Government Executive Committee, South African Local Government Association (SALGA), the State-Owned Enterprise (SOE) sector, Public Protectors/Ombud institutions, through the African Ombudsman Research Centre (AORC) and the corporate sector. Her Chair, the Law Trust Research Chair on Social Justice, had also contributed to the design of an LLB module on Social Justice and the Law at STADIA university.

¹⁵ Centre for Social Justice, Stellenbosch University, *Short Course Prospectus: Supporting the Professionalization of the Public Sector* (2023)

5. SYMPOSIUM OUTCOMES

The dialogue profoundly enriched and immensely diversified the conscious conversation on social justice and equality law pedagogy. The symposium went beyond expectations, particularly regarding the exceptional level of commitment to social justice among participants, depth of empathy and richness of the shared good practices.

Of particular interest, was the fact that though participants were mainly leading legal experts, an immense amount of time was spent on exploring the relationship between advancing social justice through legal pedagogy and praxis and the need for cultivating empathy. One academic boldly observed that “One of the things the world suffers today, is a chronic empathy deficit.”¹⁶

This triggered a deep dive into the plight of disadvantaged minorities such as persons with disabilities and consensus reached on the need for transformative legal pedagogy that deepens empathy with a shared understanding that empathy can lead to policies that are tailored for all, including the realities faced by persons, including students with disabilities.

The empathy conversation extended to other extreme disparities that are linked to intersectional inequalities, among them hunger and other dimensions of multidimensional poverty and inequality. Education on gender inequality, particularly gender-based violence, was also briefly discussed as an essential part of transformative justice pedagogy that needs attention.

The five key objectives of the symposium were achieved, as reflected in the following brief overview.

1) Review the *Social Justice and Law* short courses offered by the CSJ benchmarking same against comparable offerings on social justice and equality law.

Participants engaged with the presentation on the CSJ’s short courses and its offerings that are mainstreamed into undergraduate and graduate studies. The feedback included positive testimonials from participants who happened to be alumni of the CSJ’s social justice short courses and the co-founder and coordinator of the SU **Shared Humanity Course**, Dr Ruth Andrews. Dr Andrews expressed particular

¹⁶ XXXX

appreciated of the simulation performed with Shared Humanity students in 2023 to underscore the point that for justice to be realised in small spaces, all persons in those small places need to understand the meaning of justice, including social justice, their rights and responsibilities regarding the advancement of social justice in the spaces they inhabit.

2) **Sharing information on social justice and equality law courses**

Prof Madonsela outlined all short courses presented by the CSJ and Chair, including guest lectures undergraduate and graduate studies and reflected on what had worked and challenges encountered. Having presented a prospectus of all courses offered by the CSJ, she briefly outlined the key features of the transformative pedagogy behind course design and the praxis simulations employed to facilitate deeper concept appreciation and paradigm shifts.

Her innovative praxis examples included serious gaming, incorporating playing a game called “A rigged monopoly game” and combining multimedia, such as videos depicting discrimination with participant praxis, to deepen conceptual clarity regarding concepts such as justice, intersectionality, empathy, agency and social accountability.

She alluded to an exercise that challenges the justice consciousness of participants by picking on a student to establish if others will intervene. She then explains to them the Roosevelt logic of justice in small places being the key to giving life to the human rights enshrined in the UDHR, 75 years ago, domestic constitutions and other international human rights guardrails. She introduces them to her five levels justice consciousness theory, whose essence is justice beyond “just us” and the importance of all playing a role to advance justice.

Prof Madonsela briefly alluded to a tool referred to as the Social Justice Impact Assessment Matrix (SIAM) that her Chair had designed to help law, policy, and other decision-makers to predictively assess possible disparate impacts of planned policies on disadvantaged groups, thus exacerbating inequality and poverty. She further announced that the CSJ was collaborating with data scientists, engineers and gamers to digitalise the tool and add a gaming component to leverage edutainment to advance mainstreaming social justice in social policy design and law reform.

Participants presented own offerings on social justice and equality law, drawing parallels with and distinguishing features from the reach, content and approach of the CSJ's offerings. They also shared ideas, particularly on transformative pedagogy regarding what has worked for them.

- **Prof Anton Kok** presented an overview of his **LLB module on the Equality Act**, adding that due to the challenge of students battling with new concepts such as discrimination and unfair discrimination, it is difficult to go into transformative pedagogy simulations with undergraduates but that there was a lot of room, which he would like to explore, in the master's programme.
- **Dr Ruth Andrews** presented on her **Shared Humanity Course**, advising that it primarily addresses racial discrimination, diversity, equity and inclusion starting from getting participants to understand how racism is learned as a basis of appreciating how it can be unlearned. She indicated that the course, which has a major peer education dimension, integrated principles of ubuntu, design thinking and other elements of transformative pedagogy, while mainstreaming social justice thinking and agency. **Fanelesibonge Ndebele**, who had worked with Dr Andrews elaborated on the anchoring of the methodology in transformative pedagogy.
- **Prof Jan Marie Fritz** who joined from the US, presented on her **Social Justice in the City** masters' degree programme offered to town planners at the University of Cincinnati and similar lecturing she does at the University of Johannesburg in South Africa. Her presentation focused on methodology, which included enabling her students to interact with experts on various dimensions of social justice in town planning, mindful that the social justice considerations that apply to the city apply globally. She advised that to encourage empathy she got her students to find and read newspapers to share stories in class with a view to elicit the social justice issues arising therefrom.

- **Dr Yvette Basson** outlined the approach taken in mainstreaming disability equality considerations in the teaching of business skills and her engagements with corporate leaders to facilitate disability related workplace transformation. She lamented inadequate attention on disability concerns and needs, including asserting that persons with disabilities tend to be left behind or inadequately factored into policy design considerations because of an empathy deficit. She emphasised the importance of transformative pedagogy that fosters direct engagement with persons with disabilities.
- **Dr Choice Makhetha** weighed in on the importance of cultivating empathy, particularly on matters of disability, hunger and other basic wants that are primarily a legacy of past legalised discrimination. She further shared good practices on simulations that are guaranteed to cultivate empathy, that were implemented in her previous institution. The focus of these was to get executives to simulate a disability experience, which yielded better disability responsive policies.
- **Prof Robert D. Dinerstein** supported the call for greater attention to disability, disclosing that his teaching focussed on the Convention on the Rights of Persons with Disabilities (CRPD). However, he warned about the importance of striking a balance between helpfulness and fostering agency. In his supplementary submission, Prof Dinerstein further offered to collaborate regarding the design or review of education materials on the ICPD.
- **Ms Qaqamba Mdaka** also supported the emphasis on empathy, which she highlighted as critical in her work as a Case coordinator, Anti-discrimination, and Harassment at Stellenbosch University's Equality Unit. She invited participants to partner with her unit on legal aspects of the Equality Unit's work as understanding the law is important, in matters of anti-discrimination, and harassment based on gender, race, sexual orientation and other diversity markers. She also supported the call for demarginalization of disability in social justice pedagogy.

- **Ms Nomaswazi Dlamini** indicated that as the LPC and SAWLA they had discovered that many lawyers needed levelling up in the area of social justice and equality law and had begun providing relevant education. She further extended a partnership invitation to deepen and scale the education initiative.

Several participants also disclosed inadequate familiarity with the concept of social justice, its etymology and jurisprudence, thanked the CSJ for the exposure and expressed a need for continued sharing of information.

3) Identification and reflection on overlaps and gaps.

Participants identified various common ground factors among them an understanding that the law is important and has enormous transformative potency regarding the advancement of social justice, but it is not enough. The importance of cultivating empathy among students, policy makers and lawyers including the judiciary, became a recurring theme. A related observation was the need to integrate pedagogical content that demarginalizes and destigmatises the experiences of people with disabilities, including people with invisible disabilities such as neurodivergences.

Participants reported that they had learned a lot from the engagements during the symposium and called for more opportunities for such engagements. Some reiterated their positive feedback regarding their take-away from the symposium and commitment to remain engaged and to collaborate in e-mails after the symposium.

4) Perspectives on the future of social justice and equality law pedagogy

There was a resounding agreement that there is a lot of room for improvement in teaching and learning on social justice and equality law, both from the point of view of transforming human behaviour in all spaces. Improvement was also considered essential regarding capacitating policy makers to tailor their decisions in ways that meet all social groups where they are, while reducing historical power and socio-economic asymmetries through laws and policies, where possible.

It was agreed that there was enormous room for collaboration, particularly in the design of innovative pedagogical approaches and tools. The meeting concluded with an agreement that the modalities of collaboration would be fleshed out, through the agreed coordinating mechanism in the coming year.

5) Establish a Social Justice and Equality Law Educators Association (SOJELEA)

The symposium concluded with a vote on a resolution that the group constitutes itself as a professional association called the **Social Justice and Equality Law Educators' Association (SOJELEA)**. The purpose of SOJELEA is to operate as a specialist network platform for learning and growing together as social justice and equality law educators and practitioners. A coordinating committee that would develop a constitution, expand membership and organise the next symposium, was agreed to. It was also agreed that SOJELEA will serve as a platform to facilitate collaboration on levelling up on social justice and equality law pedagogy to catalyze progress in the advancement of social justice and contributing to the achievement of relevant aspects of the Sustainable Development Goals (SDG) agenda by 2030, including the pursuit of climate change reversal and peace.

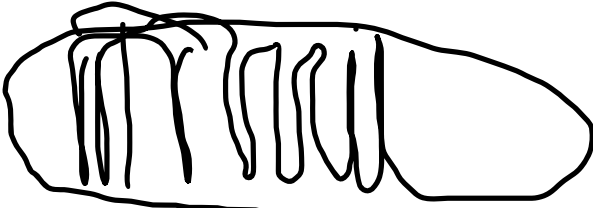
6. CONCLUSION AND NEXT STEPS

“The people of South Africa are committed to the attainment of social justice and the improvement of the quality of life for everyone.”

Yacoob J in *Government of the Republic of South Africa v Grootboom*.¹⁷

The symposium concluded with an agreement that the coordinating committee would develop a professional association constitution for SOJELEA, formalize symposium agreements, coordinate the planning of the next symposium and other future collaborative events.

PREPARED BY



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¹⁷ *Government of the Republic of South Africa v Grootboom* 2001 (1) SA 46; 2000, para 1