

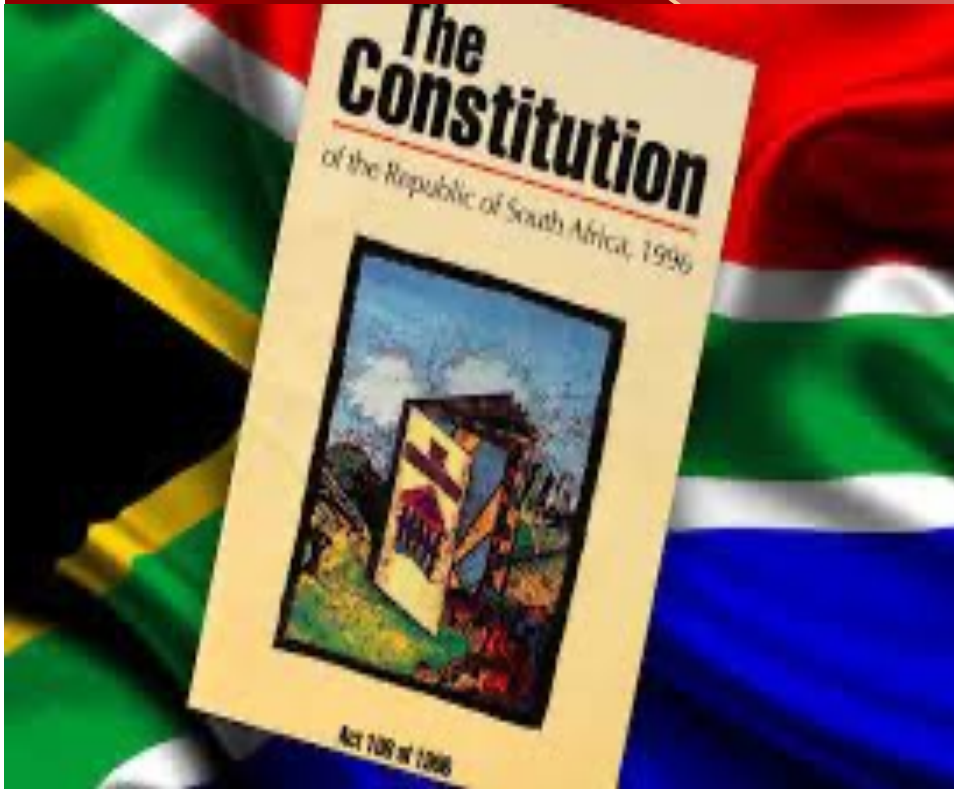


# SOCIAL JUSTICE AND THE CONSTITUTION: WHY SHOULD YOU CARE?

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1918 · 2018

*saam vorentoe  
masiye phambili  
forward together*



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**Law Trust Chair in Social Justice at Stellenbosch University and Thuma Foundation Founder**

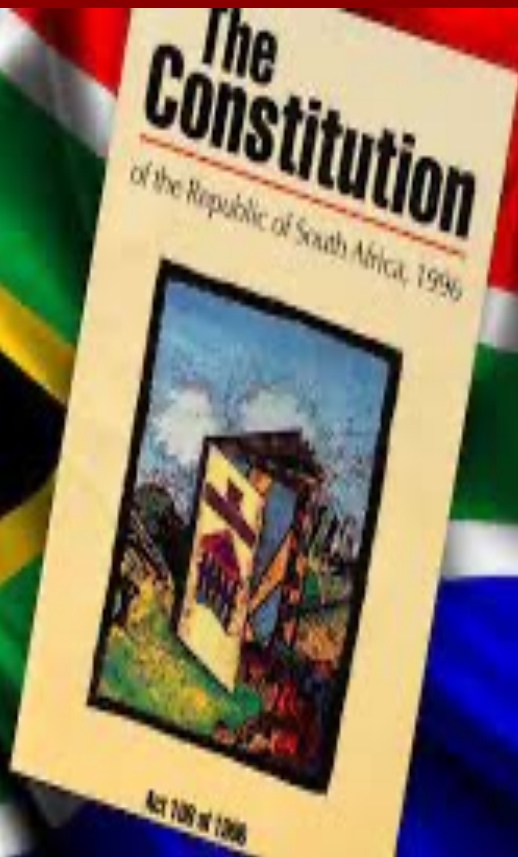
**UCT WINTER SCHOOL, 31 July 2021**

# A GLOBALLY CELEBRATED CONSTITUTION

*When asked if she would recommend the US Constitution for Egypt's constitutional reform in the aftermath of the Arab Spring, the late Justice Ruth Bader Ginsburg, famously known as RGB, said no, she would rather recommend the South African Constitution because it is one of the context attuned Constitutions of our time*



# A TRANSFORMATIVE BLUEPRINT WITH A CLEAR VISION OF SOCIETY



In the death penalty abolishing case, *S v Makwanjane*, Mahomed J reminded us that unlike most constitutions, our Constitution does not affirm the *status quo* but instead provides a blueprint for transforming a society inherited from past injustices to an egalitarian one. This view of the Constitution is affirmed by, among others, Moseneke J in *Minister of Finance v Van Heerden* and by Madlanga, J, Froneman J and Cameron J in the land rights case of *Daniels v Scribante*.

## In part, the preamble states:

“We, the people of South Africa recognise the injustices of our past; ... believe that South Africa belongs to all 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.”

## The Constitution further defines:

Citizen entitlements: Bill of Rights ( Note ss 25, 27, 28 , 29 and the equality duty in s 9(2) and 7(2)

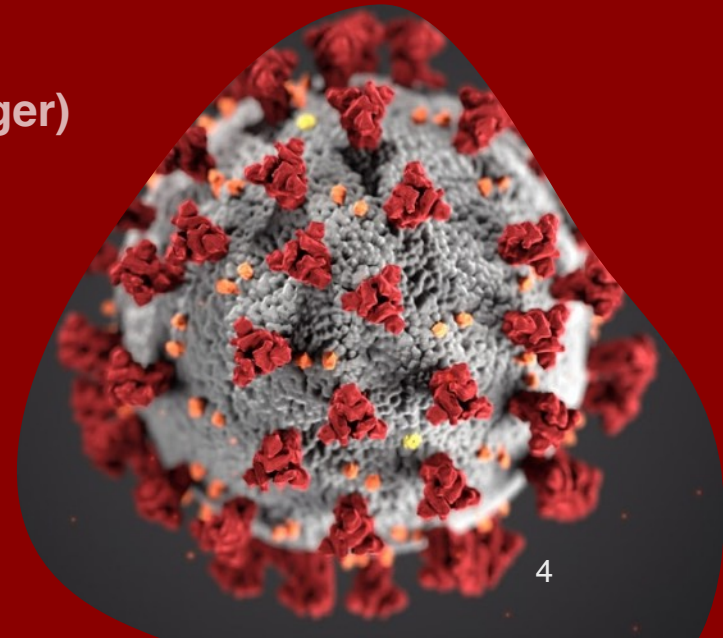
The structure of the state ensuring polycentric power sharing and accountability

The character of the state ( ss 96, 136, 195 and 237)



## WHO MOVED OUR CHEESE

- Covid-19
- Zuma riots
- Youth unemployment rate at over 70%
- Poverty at 55.5 %, 64.2% and above 70% before Covid-19
- Hope disrupted - Disruption of patronage pathways to wealth in an economy skewed in favour of beneficiaries of apartheid and patriarchal dispossession (Monopoly game example)
- Political entrepreneurship (My June note to a friend about ripe conditions for a pseudo revolution – Loss of patronage plus hanger)
- Biko Warning about the emptiness of political change without economic restructuring: See p XiX of *No Fear Expressed* (2017)



# WHY SHOULD YOU AND I CARE?



*Justice is the glue that holds the fabric of society together and social justice is the most pressing form of justice in plural societies (Adam Smith, Fernando Reimers and Keith Benson)*

*Leaving no one behind is also an economic investment (see Social Justice and Economy in Parsons)*



# WHAT CAN WE DO? REBUILD BETTER TOGETHER



- *Covid-19 reset moment*

- *Social Justice M-Plan*

## 1. *Social Justice Conscious Policies and Laws*

*Social justice impacts conscious and systems thinking-driven policy and legislation design through leveraging disaggregated data to predict likely impact.*

## 2. *Social accountability and social cohesion*

*Cultivating active citizenship for social accountability and social cohesion*

## 3. *Resource mobilisation*

*Integrated civil society investment in levelling opportunities in education and supporting self empowerment in disadvantaged communities*

## 4 *Attuned leadership and capable state*

*Encourage Leadership among all and contribute to a capable state*

# FIVE STRATEGIC IMPACT AREAS TO MOVE NEEDLE IN AND THROUGH EDUCATION

1

*Agree on legacy and need for reset and stop denialism*

2

*Connect lights and reach all municipal wards*

3

*Level the 4IR playing field*

4

*Transform culture/attitudes*

5

*Align policy and legislation design*



*As long as there injustice somewhere, democracy and peace cannot be sustained*

# A GLIMMER OF HOPE

## Reset Opportunity

*Failure can be a great teacher and cultivator of wisdom. The challenge of justice between groups is a twenty-first century reality and so is the need for context aligned and agile thinking and action anchored in the pursuit of social justice and peace. What is heartening is that wise leaders are awakening to these realities.*

*“When spider webs combine, they can tie up a lion”*

Ethiopian Proverb





# GRATITUDE



- *Thank you*
- ***Dankie***
- ***E Nkosi***