

Promoting Access to Justice through the Broadcasting of Legal Proceedings

KB Mufamadi* and LJ Koen**

Online ISSN
1727-3781

P·E·R

Pioneer in peer-reviewed,
open access online law publications

Author

Kgomotoso Mufamadi
Louis Koen

Affiliation

University of Johannesburg,
South Africa

Email

kbmokoena@uj.ac.za
ljkoen@uj.ac.za

Date Submitted

2 April 2020

Date Revised

4 May 2022

Date Accepted

8 May 2022

Date published

3 June 2022

Editor Prof C Rautenbach

How to cite this article

Mufamadi KB and Koen LJ,
"Promoting Access to Justice
through the Broadcasting of Legal
Proceedings" *PER / PELJ* 2022(25)
- DOI
<http://dx.doi.org/10.17159/1727-3781/2022/v25i0a8122>

Copyright



DOI

<http://dx.doi.org/10.17159/1727-3781/2022/v25i0a8122>

Abstract

This article considers a lack of legal literacy as a barrier to access to justice. The article then considers the potential effectiveness of introducing media-based teaching tools to South African society in an attempt to increase the rights awareness of South Africans. In so doing, the article proposes ways in which this improved rights awareness can assist South Africans to engage with the law, their rights, and the judicial system as a whole in a manner which promotes improved access to justice. It considers television-based teaching tools already implemented in the country as well as possible future interventions. It draws on past television-based education initiatives in South Africa in an effort to consider how South Africans engage with television-based teaching tools. It further draws on the open justice principle to argue for the increased broadcasting of legal proceedings. The article then considers television in three other jurisdictions and undertakes an assessment of the effect of television on our cognitive and subliminal engagement with the law. The discussion on other jurisdictions includes how fictional legal programming, syndicated court programmes as well as other forms of "Court TV" have contributed both positively and negatively to the legal consciousness of those societies.

Keywords

Access to justice; rights awareness; broadcasting; constitutional rights.

.....

1 Introduction

Just over two decades ago South Africa rejected the deep inequalities which characterised the Apartheid regime. The feature of apartheid South Africa which most propped up its existence was an unjust and unequal legal system. The system of the day enforced the suppression of freedom of ideas and the physical movement of individuals, and most notably, punished dissent of any kind. In this regard, Hodgson¹ writes that:

... the law was also often perceived of and experienced as synonymous with the infamous apartheid police force and other vicious battle hounds in the apartheid governments' 'security' structures.

Access to justice is still a significant challenge for the poor for several reasons ranging from the cost of legal fees to a lack of rights awareness and education.² This contribution will consider the possible effectiveness of introducing media-based teaching tools to South African society in an attempt to increase the rights awareness of South Africans. In so doing, the article will propose ways in which this improved rights awareness could assist South Africans to engage with the law, their rights and the judicial system as a whole in a manner that promotes improved access to justice. This article will begin by considering the meaning of the concept of "access to justice" and a lack of legal knowledge as a barrier to justice. It will then proceed to consider the legal challenges surrounding the broadcasting of court proceedings and the positive contribution such broadcasting may make to improved rights awareness.

The article will then shift focus to television-based teaching tools already implemented in the country and possible future interventions. This section will briefly consider the effectiveness of the extensive television campaigns run by the South African Department of Health over the last 20 years in decreasing the rate of new HIV infections. This assessment is made in an effort to consider how South Africans engage with television-based teaching tools. Further, this article will extensively consider television in the United States of America and assess the effect of television on our cognitive and subliminal engagement with the law. This discussion will include how

* Kgomotso Busisiwe Mufamadi. BA, LLB, LLM (Wits). Lecturer, University of Johannesburg, South Africa. E-mail: kbmokoena@uj.ac.za. ORCID iD: <https://orcid.org/0000-0002-2707-243X>

** Louis Koen. LLB, LLM, LLD candidate (UJ). Assistant lecturer, University of Johannesburg, South Africa. E-mail: ljkoen@uj.ac.za. ORCID iD: <https://orcid.org/0000-0001-6953-4789>

¹ Hodgson 2015 *Acta Juridica* 189.

² Holness 2020 *PELJ* 1.

fictional legal programming, syndicated court programmes as well as other forms of "Court TV" have contributed, both positively and negatively, to the rights awareness of American society. While it is acknowledged that there are substantial differences between the broadcasting of actual legal proceedings and syndicated court programmes, there is a paucity of research on how the broadcasting of legal proceedings affects rights awareness.³ In this context the availability of studies on the effect of syndicated court programmes offers valuable insight into the extent to which television could shape perceptions of the law and rights awareness more generally.

2 Access to justice and rights awareness

Formally the concept of access to justice involves the right to a hearing before an independent and impartial court or tribunal,⁴ but the concept of access to justice has evolved significantly from this traditional narrow idea to include a range of factors beyond the formal functioning of the justice system.⁵ There is increased recognition that the definition of the concept of access to justice cannot be limited to the functioning of institutions that resolve disputes and legal processes.⁶ It must instead be defined in the context of the socio-economic settings of the prospective users of these institutions.⁷

Nyenti⁸ has therefore opined that "any measures adopted to enhance access to justice will include measures aimed at empowering users in using the systems established." This contribution adopts this broader concept of access to justice with a particular focus on the role of knowledge of the law in promoting access to justice.

2.1 *Inadequate knowledge of the law as a barrier to justice*

In South Africa more than 50% of the population live on an income below the upper-bound poverty line.⁹ The greatest prevalence of poverty is found among "black South Africans, women, rural people and those with little education."¹⁰ These persons are generally "unaware of or poorly informed

³ See Xu and Liu 2020 *Frontiers in Psychology* 10.

⁴ Greenbaum 2020 *De Jure* 250.

⁵ Nyenti 2013 *De Jure* 902.

⁶ Nyenti 2013 *De Jure* 902; Genn 2019 *CLP* 160.

⁷ Bodenstein *In Search of Advice* 16.

⁸ Nyenti 2013 *De Jure* 905.

⁹ StatsSA 2019 <http://www.statssa.gov.za/?p=12075>.

¹⁰ Greenbaum 2020 *De Jure* 250.

about their legal rights."¹¹ An interesting study conducted by South Africa's Department of Justice and Constitutional Development¹² considered several barriers to South Africans' ability to access justice. The study surveyed 4 200 South Africans from different parts of the country about their knowledge of their rights and their ability to access justice. 54% of those surveyed admitted not having any knowledge of the *Constitution of the Republic of South Africa, 1996* (hereafter the Constitution) or its Bill of Rights.¹³ The most common source of information on the law accessed by the participants was television.¹⁴

The courts have long recognised a lack of legal knowledge as a potential barrier to access to justice.¹⁵ Former Chief Justice Ngcobo¹⁶ of the South African Constitutional Court also considered this in saying that:

... there is a barrier that prevents many from coming to court even before they face obstacles like time and cost. I am talking about the lack of knowledge of legal rights and remedies. If a woman doesn't know her rights, how can she enforce them in court?

Ngcobo¹⁷ adds that if residents are not aware of the rights enshrined in the Constitution then the latter are of little value. The significant barrier that a lack of knowledge of the law poses emphasises the need to strengthen societal legal consciousness. Legal consciousness is the way in which people make sense of and give meaning to the law and legal system.¹⁸ The term encompasses how and what we understand of legal processes, our rights and how to enforce those rights.¹⁹

3 The debate surrounding the broadcasting of trials and open justice

In the light of the wide accessibility of television, this contribution considers the potential broadcasting of court proceedings on television and its

¹¹ *Mtokonya v Minister of Police* 2017 11 BCLR 1443 (CC) para 118; *Mohlomi v Minister of Defence* 1996 12 BCLR 1559 (CC) para 14.

¹² AJPCR 2017 http://fhr.org.za/files/2114/0340/AJPCR_Baseline_Report_Final_1.pdf.

¹³ AJPCR 2017 http://fhr.org.za/files/2114/0340/AJPCR_Baseline_Report_Final_1.pdf.

¹⁴ AJPCR 2017 http://fhr.org.za/files/2114/0340/AJPCR_Baseline_Report_Final_1.pdf.

¹⁵ These concerns have been emphasised by the courts since they were first discussed in *Mohlomi v Minister of Defence* 1996 12 BCLR 1559 (CC) para 14.

¹⁶ AJPCR 2017 http://fhr.org.za/files/2114/0340/AJPCR_Baseline_Report_Final_1.pdf.

¹⁷ AJPCR 2017 http://fhr.org.za/files/2114/0340/AJPCR_Baseline_Report_Final_1.pdf.

¹⁸ Hoffman 2003 *Law and Social Inquiry* 692-693.

¹⁹ Hoffman 2003 *Law and Social Inquiry* 693.

potential contribution to promoting increased legal consciousness. The question regarding the public broadcasting of judicial proceedings has evoked significant debate in legal circles both domestically and internationally.²⁰ In applying to the Gauteng Division for permission to broadcast the Oscar Pistorius murder trial, several media houses jointly argued, among other points, that the broadcasting of the trial would be of educational benefit to the public on the workings of the South African justice system and that such coverage would give effect to the open justice principle.²¹ In *S v Mamabolo*²² the Constitutional Court explained that:

... the business of adjudication concerns not only the immediate litigants but is a matter of public concern which, for its credibility, is done in the open where all can see. Of course this openness seeks to ensure that the citizenry know what is happening, such knowledge in turn being a means towards the next objective: so that the people can discuss, endorse, criticize, applaud or castigate the conduct of their courts. And, ultimately, such free and frank debate about judicial proceedings serves more than one vital public purpose. Self-evidently such informed and vocal public scrutiny promotes impartiality, accessibility and effectiveness, three of the important attributes prescribed for the judiciary by the Constitution.

However, the constitutional nature of the concept of open justice in South Africa is fairly new, drawing from the constitutional right to access to courts.²³ This right in theory enshrines the right to open justice, but the limitations of this section and what it means have not yet been widely and creatively tested in academic writing.²⁴ Nevertheless, the dictum from *S v Mamabolo* provides an important context for the rationale behind the open justice principle.²⁵ Understanding the purpose of the principle will be essential in protecting an accused's right to a fair trial, should the accused object to such broadcasting. This must also be considered against the backdrop of a remark made by the Constitutional Court in *SABC v National Director of Public Prosecutions* wherein it was said that:

Ordinarily, it will not be in the interests of justice for trial proceedings to be subjected to live broadcasts.²⁶

²⁰ James 2017 *PELJ* 1.

²¹ James 2017 *PELJ* 3.

²² *S v Mamabolo* 2001 3 SA 409 (CC) para 29.

²³ Section 34 of the *Constitution of the Republic of South Africa*, 1996 (the Constitution).

²⁴ It must be acknowledged that there have been some valuable contributions concerning the media and open justice. However, these contributions have generally been limited to very specific areas such as the public's right to have access to the proceedings of the Refugee Appeal Board. See Milo and Winks 2013 *JML* 306.

²⁵ James 2017 *PELJ* 16.

²⁶ *SABC v National Director of Public Prosecutions* 2007 1 SA 523 (CC) para 33 (hereafter the *SABC* case).

Importantly, this judgment delivered more than a decade ago came about at a time when court proceedings were not frequently broadcasted locally or abroad. Nevertheless, there has been academic criticism of the High Court's perceived failure to address this remark made by the Constitutional Court in its judgment regarding the broadcasting of the Pistorius trial.²⁷ Notwithstanding these concerns, the court clearly engaged in an extensive balancing exercise and considered the *SABC* judgment or at least those parts considered binding.²⁸ Mlambo JP²⁹ warned that if the request to broadcast were to be denied the denial could perpetuate the situation whereby only the minority who have access to tools such as Twitter are "able to be kept informed about what happens in court rooms". He also noted that several misconceptions around the efficiency of the justice system continue to be held by a large segment of the population, particularly the poor and vulnerable, who have struggled to access the justice system.³⁰

In *Van Breda v Media 24*³¹ the SCA also considered the *SABC* case and emphasised that the judgment in that case ought to be seen in its proper context. The court noted that the *SABC* judgment was handed down more than a decade ago at a time when court proceedings were infrequently broadcast in South Africa.³² The SCA went on to explain that the majority in the *SABC* case also indicated that the time had come for courts to embrace the open justice principle, which might necessitate a different approach towards the broadcasting of court proceedings.³³ Accordingly, the SCA concluded that the *SABC* case must yield to the new reality of the time, including an increased local and international trend whereby the broadcasting of court proceedings is allowed.³⁴

Strictly speaking, the *SABC* case was also not concerned with whether or not court proceedings could be broadcast.³⁵ It focussed instead on whether the SCA had reasonably exercised its discretion in denying the request to broadcast its proceedings in that case.³⁶ Therefore, the *SABC* case does

²⁷ James 2017 *PELJ* 16.

²⁸ *Multichoice (Proprietary) Limited v National Prosecuting Authority, In Re; S v Pistorius, In Re; Media 24 Limited v Director of Public Prosecutions North Gauteng* 2014 2 All SA 446 (GP) paras 10 and 15-16 (hereafter the *Multichoice* case).

²⁹ The *Multichoice* case para 21.

³⁰ The *Multichoice* case para 21.

³¹ *Van Breda v Media 24* 2017 2 SACR 491 (SCA) para 63 (hereafter the *Van Breda* case).

³² The *Van Breda* case para 63.

³³ The *Van Breda* case para 63.

³⁴ The *Van Breda* case paras 63-64.

³⁵ The *SABC* case para 33.

³⁶ The *SABC* case para 33.

not represent authority for the proposition that the broadcasting of court proceedings should not be permitted. In terms of the *Van Breda* case, the default position in respect of criminal court proceedings is that counsel's address and all rulings and judgments delivered in open court can generally be broadcast on television. The authors nevertheless agree with the SCA that in certain instances, such as proceedings involving child witnesses, it may be in the interest of justices to limit the extent to which the proceedings are broadcast on television.

Questions have arisen from these cases such as whether or not the public should be permitted to broadcast court proceedings through live streaming.³⁷ Justice Dikgang Moseneke³⁸ noted that the question of livestreaming court proceedings should be considered against the backdrop of the increased use of technology in the courtroom. Moseneke draws examples from the United Kingdom, such as the bail proceedings of Julian Assange, the founder of WikiLeaks, in which reporters were permitted to live tweet from the courtroom.³⁹ It is in line with these developments and the open justice principle that he suggests that there is no reason in principle why, as a default, social media communication from inside the courtroom should not be allowed.⁴⁰ He further states that:

... as for letting TV cameras into the courtroom, in the Constitutional Court, media houses do not need special permission to televise our proceedings live or delayed. One must, however, be careful here. There is a big difference between appellate proceedings where only seasoned advocates appear before appeal courts and trial proceedings where live testimony is heard from witnesses. It is indeed arguable that unmitigated publicity, particularly in relation to lay witnesses, may undermine the fairness of a trial. The search for the truth may fall victim to the 'you are on camera' syndrome.⁴¹

It is precisely because of these concerns that the courts have seemingly adopted an approach whereby the testimony of expert witnesses can usually be broadcast while that of objecting lay witnesses would often be excluded.⁴² In balancing these interests, controversy is bound to arise, but the adoption of this approach by the courts does act to alleviate these concerns somewhat. It is also important that where live streaming by the public is permitted, similar constraints, to balance competing interests be in place.

³⁷ Moseneke 2018 *Int JLC* 498.

³⁸ Moseneke 2018 *Int JLC* 499.

³⁹ Moseneke 2018 *Int JLC* 499.

⁴⁰ Moseneke 2018 *Int JLC* 499.

⁴¹ Moseneke 2018 *Int JLC* 499.

⁴² The *Van Breda* case para 72.

The question regarding the permissibility of livestreaming court proceedings by any person was clarified earlier in 2019 by a three-judge bench of the High Court. In the case of *National Director of Public Prosecutions v Fields of Green for All NPC*⁴³ the court held that the default position enunciated in the *Van Breda* case applies equally in respect of civil cases and requests to livestream. The position in respect of both criminal and civil court proceedings is now, therefore, if counsel's address and all rulings and judgments delivered in open court should generally be allowed to be broadcast on television or livestreamed by any person applying for such permission.⁴⁴

We have seen the broadcast of a number of high profile cases such as the Oscar Pistorius murder trial⁴⁵ and several high profile Constitutional Court cases where the limits of state executive power were tested,⁴⁶ but because these matters were heard relatively recently, we know little of the effect these cases have had on persons' rights awareness and their perceptions of their own ability to engage with the law, especially because the types of matters broadcast are those in which the majority of citizens will never engage, being murder trials and matters involving the exercise and abuse of the executive powers of the President or his cabinet. In any event, there are the only examples of televised engagement with legal proceedings in South Africa, as opposed to the more varied examples from the United States, which this chapter will consider.

The livestreaming of court proceedings could also bring about an increase in the number and range of court proceedings that are broadcast to the public. This is so particularly as the media has seemingly focussed only on high profile matters and not those affecting ordinary citizens in their daily lives. However, it is submitted that the livestreaming of court proceedings and making these videos available on streaming platforms such as YouTube would in many instances not reach the most vulnerable members of society. Mlambo JP's⁴⁷ warning in respect thereof that open justice should not be limited to those who have access to tools such as Twitter in part

⁴³ *National Director of Public Prosecutions v Fields of Green for All NPC* 2019 2 SACR 564 (GP) para 38 (hereafter the *Fields of Green* case).

⁴⁴ The *Fields of Green* case para 33 and the *Van Breda* case para 72.

⁴⁵ In 2013 South African Paralympian Oscar Pistorius was charged with and tried for the murder of his partner, Reeva Steenkamp. The trial was broadcast on several South African television channels.

⁴⁶ See *Economic Freedom Fighters v Speaker of the National Assembly; Democratic Alliance v Speaker of the National Assembly* 2016 5 BCLR 618 (CC) as well as *Black Sash Trust v Minister of Social Development* 2017 5 BCLR 543 (CC). Both matters were broadcast live on South African television in their entirety.

⁴⁷ The *Multichoice* case para 21.

alludes to this fact. It is well known that the cost of mobile data is very high in South Africa, wherefore it would not be practical to expect the poor to increase their awareness of legal proceedings through the use of such streaming services.

4 Television as a teaching tool and the South African Departments of Health and Basic Education

It becomes evident that the South African state has used television as a teaching tool before when one considers the extensive television campaigns run by the Department of Health in curbing the scourge of HIV and AIDS through programmes such as Soul City.⁴⁸ Research indicates that television campaigns have had a positive effect on educating citizens and reducing the rate of new infections particularly amongst young people. This indicates that generally South Africans respond well and actively to television-based teaching tools and social interventions.⁴⁹

In 2012 the National Communication Survey on HIV/AIDS found that communications programmes were having a positive effect, especially on young people aged 15 to 24. The survey showed an increase in condom use, testing and counselling (also referred to as HTC) and male circumcision as a preventative measure. The main HIV/AIDS campaigns in the country all make use of television.⁵⁰

"LoveLife" is an ongoing media campaign that since 1999 has used a wide range of media tools to reduce HIV infections amongst the youth in South Africa.⁵¹ Similarly, "Soul City" and "Soul Buddyz" were two television programmes sponsored by the South African government. Soul City reached 70% of South Africans over the age of 16, including 65% of people living in rural areas and 50% of people with no formal education.⁵² The programme led to a significant increase in HIV knowledge and encouraged positive sexual behaviours. "Soul Buddyz" was one of the most successful

⁴⁸ Avert 2015 <https://www.avert.org/professionals/hiv-around-world/sub-saharan-africa/south-africa>.

⁴⁹ Avert 2015 <https://www.avert.org/professionals/hiv-around-world/sub-saharan-africa/south-africa>.

⁵⁰ Avert 2015 <https://www.avert.org/professionals/hiv-around-world/sub-saharan-africa/south-africa>.

⁵¹ LoveLife *Annual Report 2019* 4.

⁵² World Bank "Soul Buddyz" 115.

programmes on South African television, reaching 67% of 8 to 12 year old children.⁵³

In 2016 South Africa began funding the production of season 5 of MTV's "Suga", another programme aimed at encouraging safe and positive sexual practices amongst young people. The programme has been shown by 169 broadcasters worldwide despite its being based in Africa. It has reached more than 719 million households.⁵⁴

5 The effect of television on legal consciousness in America

The basis of this research is at least partially embedded in the significant cultural influence that the United States has on the rest of the world, often through its media.

American television is arguably the most pervasive in the world, and it has significant cultural and societal influence on all the countries where it is broadcast. As demonstrative of this, US film and television exports earned \$16.2 billion in 2012 in comparison to British exports which amounted to about \$1.2 billion.⁵⁵ This is before its increased popularity airing from the ability to livestream American television programmes made popular by broadcasters such as Netflix. Domestically US television has a market of about 300 million people, and globally a market of approximately two billion English speakers worldwide.⁵⁶ When considering America's influence on societies worldwide, Goldfarb adds "through culture, education and diplomatic outreach programmes, the US still influences 'the street' globally."⁵⁷

Considering the same phenomenon, Francesco Sisci⁵⁸ writes:

The US has won it all, so much so that there is not even any real resistance against soft war, despite some botched attempts to create competing cultural industries. Hollywood and its US clones dominate the cultural industry ... The whole information industry is dominated by Anglo-American news. No TV network or newswire is as comprehensive and persuasive as the Anglo-

⁵³ World Bank "Soul Buddyz" 127.

⁵⁴ Avert 2015 <https://www.avert.org/professionals/hiv-around-world/sub-saharan-africa/south-africa>.

⁵⁵ Goldfarb 2014 <http://www.raconteur.net/culture/american-culture-rules-the-world>.

⁵⁶ Goldfarb 2014 <http://www.raconteur.net/culture/american-culture-rules-the-world>.

⁵⁷ Goldfarb 2014 <http://www.raconteur.net/culture/american-culture-rules-the-world>.

⁵⁸ Haugen *et al* *America's Global Influence* 15.

American ones ... America is so successful that everybody would like to become American.

5.1 The effects of "syndi-court" television and fictional legal dramas on American legal consciousness

Considerable research has been done in the United States to ascertain the possible psychological effects of television on the legal consciousness of American citizens. Kiberlianne Podlas of the University of North Carolina is one of the leading voices in this regard and this contribution will extensively consider and critique her findings and those of other similar researchers.

Podlas' particular focus has been on what have been termed "syndi-courts"⁵⁹ as well as fictional television programmes such as "Law and Order". Drawing from the challenges created by these types of portrayals of the justice system, one can more effectively consider what an improved or more useful teaching model may in fact look like.

5.1.1 Pop culture and legal consciousness

Podlas⁶⁰ begins her research by considering extensively the effects that pop culture have on people's understanding of the law. In this discussion she explains that pop culture shapes the norms of society and informs people about the normative bounds of litigation.⁶¹ In other words, pop culture has the potential to shape our view of whether litigation, as an example of a way in which we engage with the law, is bad or good as well as when it is appropriate. This then influences our propensity to turn to the law to solve problems.⁶²

Podlas specifically considers what she calls "syndi-courts". These are programmes that depict a dramatised version of legal proceedings presided over by a judge or an arbitrator. An example of these would be programmes such as "Judge Judy" or "Judge Mathis", both of which happen to air on South African television. The programmes have considerable potential to teach citizens about the law but also present some clear challenges in terms of creating an unrealistic understanding of law.

⁵⁹ Podlas 2003 *Judicature* 38.

⁶⁰ Podlas 2011 *Seton Hall J Sports & Ent L* 295.

⁶¹ Podlas 2006 *Cardozo Arts & Ent LJ* 469; Podlas 2011 *Seton Hall J Sports & Ent L* 290.

⁶² Podlas 2006 *Cardozo Arts & Ent LJ* 469.

5.1.2 *How do we make legal decisions?*

If we consider first how an individual may decide to litigate we may better understand how pop culture and syndi-courts may have an impact on the decision-making process. Sloan and Hsieh⁶³ indicate that litigation is not generally a dispassionate process for ordinary people. Instead, it is underscored by factors outside of the facts of the matter or economic rationality.⁶⁴ Potential litigants may be guided by various non-pecuniary motives such as their feelings about the law, past experiences of it, and perceptions of it.⁶⁵

For the most part, ordinary citizens usually do not know the legal rules pertaining to their problems.⁶⁶ As a result, individuals will often rely on heuristics to simplify decision-making.⁶⁷ A heuristic is a mental shortcut which people use to make complex decisions. But this process can sometimes lead to making irrational decisions.⁶⁸ In legal decision-making, a person may rely on a comparison of their case with another which may, because of nuanced differences that they may not comprehend, lead to irrational choices being made.

The media, including television, are primary sources of heuristic knowledge.⁶⁹ Such cultural factors influence our propensity to avoid or pursue litigation. There are, of course, structural and economic factors that affect our choices in this regard as well, but cultural factors are amongst the most pervasive.⁷⁰ Legal culture in this sense is comprised of social norms. Podlas⁷¹ tells us that these norms in essence

... define social expectations of how to act. They inform us of what others deem right and wrong and what reactions are 'normal'. Consequently, norms also guide responses and actions toward law. Norms guide our 'willingness to turn to legal institutions for the management of private conflict,' therefore structuring our expectations regarding disputing.

The media are a primary conduit of normative information. Irrespective of their truth or falsity, the stories we see on television shape our beliefs –

⁶³ Sloan *et al* 1995 *Law & Society Review* 413.

⁶⁴ Sloan *et al* 1995 *Law & Society Review* 413.

⁶⁵ Sloan *et al* 1995 *Law & Society Review* 413.

⁶⁶ Korobkin *et al* 2000 *CLR* 1084.

⁶⁷ Gigerenzer and Gaissmaeier 2011 *Annual Review of Psychology* 454; Korobkin *et al* 2000 *CLR* 1084. =

⁶⁸ Korobkin *et al* 2000 *CLR* 1084.

⁶⁹ Podlas "Potential Impact of Television on Jurors".

⁷⁰ Podlas 2006 *Cardozo Arts & Ent LJ* 478

⁷¹ Podlas 2006 *Cardozo Arts & Ent LJ* 479.

including our beliefs about the law.⁷² In the South African context, it is interesting to note the research of Woo *et al*,⁷³ which demonstrates that international students in the United States who are frequent viewers of daytime talk shows hold beliefs consistent with the reality of American culture. Thus South Africans are unlikely to be able to escape the norms created by American television, which may shape their views on the law and justice. At least partially, our heuristics are shaped by American culture as reflected on American television.

5.1.3 Podlas' survey on the effects of syndi-courts on legal consciousness

Podlas ran an interesting survey which considered the effects of syndi-court programmes on frequent viewers and non-frequent viewers of the same. She found that syndi-court programmes create a cultural environment in which litigation is normal and may even advocate litigation as a way of addressing disputes.⁷⁴ They subliminally if not overtly normalise litigation as a way of settling disputes.

Frequent viewers of syndi-court programming indicated that they looked to syndi-court programming to learn about the justice system. Many of those surveyed also indicated that they were prepared to represent themselves in a court case as opposed to using lawyers and felt confident that they could do so.⁷⁵

There are positive aspects to the effect of syndi-courts on the consciousness of viewers. We know that there are considerable societal gatekeepers to litigation such as the cost as well as the cultural stigma of being involved in litigation. Podlas⁷⁶ research indicates that:

... as fewer people are actively deterred from litigious behaviours, and as more people are encouraged to adopt this behavioral paradigm as appropriate, more people are likely to enter the legal system.

Second:

... by demonstrating that *pro se* representation is a reasonable alternative to paid counsel and something that anyone can handle, syndi-court circumvents the hurdles of attorney expense ... this transforms litigants into individuals who would otherwise be economically barred or thwarted by a frivolous claim.⁷⁷

⁷² Simpson-Wood 2016 *Revista Forumul Judecatorilor* 111.

⁷³ Woo *et al* 2003 *Journalism & Mass Communication Quarterly* 112.

⁷⁴ Podlas 2006 *Cardozo Arts & Ent LJ* 494

⁷⁵ Podlas 2006 *Cardozo Arts & Ent LJ* 494; Wood 2018 *Int JLC* 583.

⁷⁶ Podlas 2006 *Cardozo Arts & Ent LJ* 495.

⁷⁷ Podlas 2006 *Cardozo Arts & Ent LJ* 495.

This could be a good or a bad outcome, and part of this contribution hopes to ascertain the level at which South Africans should be engaging with the law and whether that engagement needs to always include litigation. It asks the question as to whether a more litigiously conscious society is preferable to a merely litigious society. Again, it makes reference to how we make our decisions about the ways in which we choose to engage with the law, what heuristics and norms come into play during that decision-making process, and how television may have an impact therein.

5.1.4 *Fictional legal television*

"Law and Order", one of the longest running television series in the US, also airs on South African television screens. Podlas⁷⁸ considers the significance of these programmes in explaining that:

Though most of us think of culture as the society in which we live, it is also the basic medium from which we learn. Through immersion in culture, we become familiar with society's stories. These stories or narratives function as the texts that encapsulate our cultural knowledge. Indeed, they are among culture's primary pedagogical tools. Moreover, because we think in terms of narratives, they are a natural mode of understanding ... they help us understand the world.

Studies show that frequent viewers of these types of programmes are affected in a myriad of ways. Firstly viewers do not necessarily pick up specific legal rules from these programmes, however realistic or frequently repeated they may be.⁷⁹ However, programmes of this nature may have a broader attitudinal or normative effect on viewers.⁸⁰ For example Podlas' study on the effect of "Law and Order" on viewers revealed that the programme reinforced the view that law is the best way to achieve justice. It also added to the endorsement of crime control models of justice, which see the main purpose of the criminal justice system as suppressing criminal behaviour.⁸¹ This is as opposed to the due process model, which relies on the presumption of legal innocence and is concerned with limiting the power of the state over individuals.⁸² This is also consistent with the portrayal of prosecutors in "Law and Order" as "guardians of justice" as against defence attorneys, who are rarely associated with justice and are in fact portrayed as complicit in the denial of justice.

⁷⁸ Podlas 2008 *Seton Hall J Sports & Ent L* 1.

⁷⁹ Podlas 2006 *Tex Wesleyan L Rev* 38.

⁸⁰ Podlas 2008 *Seton Hall J Sports & Ent L* 26.

⁸¹ Podlas 2008 *Seton Hall J Sports & Ent L* 31

⁸² Aranella 1983 *Geo LJ* 210.

Berti⁸³ notes that although there is considerable speculation in relation to audience perceptions of syndi-courts and whether their perceptions and understandings of justice are shaped by the same, there is little actual research in this regard. This research becomes critical when one considers the reality that television is usually the primary avenue through which most people learn about the legal system.⁸⁴ Berti's research on audience responses to "Judge Judy" is another more recent study that is useful in assessing the possible value of syndi-courts on legal consciousness. She conducted interviews with groups of American citizens of various backgrounds and ages. The participants gave useful descriptions of their interpretation of these types of programmes.

A number of the participants stated that they watched the programme to learn more about the justice system with one participant noting that she watched to learn and that she believed that is why other people watched. She further noted interestingly that she believed that the behaviour of the presiding officer was unrealistic and that she did not give the impression that she knew the law, nor did she make any attempt to explain the law to the litigants.⁸⁵ For the purposes of this research, this reaction also demonstrates the value of broadcasting real-life scenarios rather than fictional ones. Also to this point, other participants noted that fictional programmes or syndi-court programmes are a "double-edged sword" in that people may watch them to learn but then walk away with an unrealistic and incorrect view of the justice system.⁸⁶

In the section that follows, the authors consider the Chinese experience of the broadcasting of legal proceedings. While there is more limited research on the impact of such broadcasting in a Chinese context, the available research links more directly to the broadcasting of real legal proceedings. This may address some of the aforementioned concerns surrounding a potentially unrealistic view of the justice system obtained through fictional legal television.

6 The effect of television on legal consciousness in China

It is acknowledged in this contribution that there are substantial differences between the Chinese and South African legal systems. However, China has been chosen as a comparator largely due to its unique legal programming

⁸³ Berti *Confessions in the Courtroom* 56.

⁸⁴ Sherwin *When the Law Goes Pop* 38.

⁸⁵ Berti *Confessions in the Courtroom* 276

⁸⁶ Berti *Confessions in the Courtroom* 278.

designed specifically for its local context.⁸⁷ In many instances Chinese legal programming is also designed with rural inhabitants in mind. China and South Africa both have large rural communities that may face legal challenges different from those of their urban counterparts.⁸⁸

Starting in the late 1970s the Chinese government initiated legal awareness programmes.⁸⁹ They regarded awareness of the law as an essential element of the rule of law, which from the Chinese perspective was meant to ensure that citizens and party members alike complied with the law.⁹⁰ As Den Xiaoping's reforms also introduced a more market-based economy, the law became increasingly more important in protecting ordinary citizens. Nowhere was this need considered to be more pronounced than in the sphere of labour law.⁹¹ The dissemination of information regarding labour law was thus increasingly regarded as a priority. In China television has played a significant role in the dissemination of information regarding the law and legal processes.⁹²

The first Chinese legal TV show, known as "Law and Morality", aired on Shanghai Television in 1985.⁹³ The programme was aimed at the dissemination of legal knowledge by reporting on legal developments and cases as well as hosting interviews with legal experts.⁹⁴ This programme proved to be well received and in 1994 China Central Television followed with its own legal programme known as "Social Longitude and Latitude". This programme similarly focussed on legal education by discussing court cases.⁹⁵ From there, China Central launched a new programme ("Legal Report") which became one of the most popular television programmes in the history of China. Since the 1990s legal programmes have come to be consistently ranked as the third most popular category of television

⁸⁷ See Lei *Contentious Public Sphere* 64 with respect to China's unique local programming aimed at rural inhabitants in particular.

⁸⁸ In South Africa approximately 34% of the population resides in rural areas compared to around 39% in China. See World Bank 2018 <https://data.worldbank.org/indicator/SP.RUR.TOTL.ZS?locations=ZA>.

⁸⁹ Lei *Contentious Public Sphere* 55.

⁹⁰ Lei *Contentious Public Sphere* 55.

⁹¹ Stockmann *Media Commercialization and Authoritarian Rule in China* 16. The purpose of this article is not to comment on the content of these legal rules nor to express an opinion on China's human rights record or its political system. The discussion in respect of China is strictly confined to the impact of television-based media on Chinese persons' legal consciousness.

⁹² Choukron 2016 *IJSL* 795; Stockmann *Media Commercialization and Authoritarian Rule in China* 16

⁹³ Lei *Contentious Public Sphere* 63.

⁹⁴ Lei *Contentious Public Sphere* 63.

⁹⁵ Lei *Contentious Public Sphere* 63.

programmes.⁹⁶ There are now more than 300 provincial and city legal programmes airing in China.

The popularity of legal programming in China makes it an interesting case study on the extent to which legal programming can shape a society's legal consciousness. The fact that most of the programming in China is locally made also reduces the risk of persons viewing their own legal system through the prism of concepts that are foreign to it. In comparison, South Africa has very few broadly accessible legal television programmes designed specifically to reflect the realities of our own legal system.⁹⁷ This is likely to result in American TV programmes having a greater influence on South Africans' heuristics than on that of Chinese nationals.

In China the focus of legal television programmes has been on those issues affecting ordinary people in their everyday lives. "Talking about Law on the Spot", the flagship legal programme hosted on Nanjing Television, would appear to be a good example of a legal programme aimed at addressing the legal problems of ordinary citizens.⁹⁸ This programme has remained one of the five most popular programmes in Nanjing since its launch in 2000. The show is divided into several components. It has a section wherein judges analyse court cases, aimed at the dissemination of legal knowledge.⁹⁹ In its other component, lawyers teach the public "rights defence" by making use of concrete examples.¹⁰⁰

Surveys have also indicated that legal programmes of this nature are often best received by the most vulnerable members of society. A survey in the rural village of Jiansu Suining has for example found that 62.5% of the villagers frequently watch legal television programmes, whilst a further 29.2% occasionally watch legal programmes.¹⁰¹ The distribution of legal programmes among the poor in China is therefore particularly impressive. Similar surveys have also indicated that people who watch these

⁹⁶ Lei *Contentious Public Sphere* 63.

⁹⁷ The authors acknowledge the existence of a limited number of TV programmes dealing with the law in some way, such as "Speak Out", which is broadcast on SABC 2. "Speak Out" claims that it "undertakes to stand and speak for the voiceless and at the same time educate them about consumer rights". See SABC 2021 <https://www.sabc2.co.za/sabc2/tv-show/speak-out/>.

⁹⁸ Lei *Contentious Public Sphere* 63.

⁹⁹ Lei *Contentious Public Sphere* 63.

¹⁰⁰ Lei *Contentious Public Sphere* 64.

¹⁰¹ Lei *Contentious Public Sphere* 64.

programmes are more likely to follow some legal procedure to defend their rights in instances where they have been violated.¹⁰²

Stockman¹⁰³ conducted an extensive survey on Chinese nationals in order to determine the extent to which exposure to the media has shaped their perception of the National Labour Law. She surveyed 4 112 respondents and applied regression analysis to exclude persons whose legal consciousness may have been influenced by other factors such as previously being involved in a labour dispute.¹⁰⁴ Her results indicated that around 18% of all respondents had never heard of the National Labour Law.¹⁰⁵ At first glance this may lead to the impression that the media have not yet adequately contributed to legal consciousness. Although these concerns are valid, the figure of 18% is significantly lower than the 54% of persons in South Africa who aren't aware of the Constitution.

Her survey indicated that the more people were exposed to labour law in the mass media the more likely they were to hold a positive view of the effectiveness thereof.¹⁰⁶ This exposure to the mass media is also believed to have contributed to the rapid rise in the number of labour disputes brought to arbitration. The number of arbitrated labour disputes rose from 33 000 in 2006 to 447 000 by 2011, with an average increase of more than 25% per annum.¹⁰⁷ In a more general setting (i.e. outside of labour law) it has also been said that the marked increase in legal consciousness has been a key contributor to the sharp rise in litigation, petitioning, and protests and demonstrations.¹⁰⁸

7 TV Justiça (Brazilian Court TV) as a possible model

The South African and Brazilian socio-economic and political environment enjoys substantial similarities.¹⁰⁹ It is for this reason that the writers see value in considering how Brazil has addressed issues around legal

¹⁰² Lei Contentious Public Sphere 64.

¹⁰³ Stockmann *Media Commercialization and Authoritarian Rule in China* 208. It is perhaps worth noting that in measuring the impact of the media on Chinese legal consciousness, Stockman's research was not confined to television but considered other media modes such as newspapers as well.

¹⁰⁴ To account for these factors, she "added variables indicating years of education and whether a person had experienced a labor dispute, had received information provided at a work unit, held an urban residence permit, or was a worker."

¹⁰⁵ Stockmann *Media Commercialization and Authoritarian Rule in China* 208.

¹⁰⁶ Stockmann *Media Commercialization and Authoritarian Rule in China* 208.

¹⁰⁷ Gallagher and Wang "Users and Non-users" 204.

¹⁰⁸ Gallagher 2006 *Law & Society Review* 784.

¹⁰⁹ Mufamadi and Koen 2021 *SAJHR* 295.

consciousness. It has been noted that both are multi-racial, industrialised democracies beset by problems of poverty, post-colonial inequality and new political institutions. Both countries have emerged as regional leaders, punching above their weight in world trade talks despite their disadvantages.¹¹⁰ Nevertheless, these two countries are considered to be two of the most unequal societies in the world.¹¹¹

Because of their shared experience with social rights constitutionalism, South Africa and Brazil are well suited for legal comparison. After periods of tumultuous, authoritarian rule, their current constitutions went into effect within a few years of one another. Both founding documents were conceptualised as "people's constitutions".¹¹² Rosevear¹¹³ notes that both constitutions:

... were also intended to be symbolic and substantive transformation[s] and to foster stable, inclusive democracies. In doing so they emphasised the importance of holding state actors accountable and defending individuals via the inclusion of extensive bills of rights and assigning their protection to strong, independent judicial branches.

We can see from this that the legal systems in South Africa and Brazil are based on very similar constitutional values.

TV Justiça was introduced by Federal Statute nº 10.461 in Brazil in 2002. Co-ordinated by the Brazilian Supreme Court, it is a non-profit public TV channel developed to increase and improve public understanding of the court system by showing various matters to the public.¹¹⁴ The channel is split into three sections, namely journalism, live court transmission and institutional programmes. The journalism section produces two daily programmes covering the judicial events of the day and taking advantage of the channel's proximity to relevant sources, such as clerks and judges.¹¹⁵ This section is also important to explain carefully the facts of cases and legal issues and jargon. So then, journalism is used not only for reporting but also as a pedagogical tool for viewers to assist them in deciphering court

¹¹⁰ Africa Research Institute 2007 <https://media.africaportal.org/documents/South-Africa-The-Brazil-of-Africa.pdf>.

¹¹¹ Patel 2012 <https://www.dailymaverick.co.za/article/2012-08-15-brazil-and-south-africa-united-in-inequality/>.

¹¹² Rosevear 2018 *Revista de Investigações Constitucionais* 149.

¹¹³ Rosevear 2018 *Revista de Investigações Constitucionais* 149.

¹¹⁴ Filho 2010 <https://legalinformatics.wordpress.com/2010/05/22/fragile-filho-on-increasing-judicial-transparency-when-brazilian-court-tv-officially-meets-youtube/amp/>.

¹¹⁵ Filho 2010 <https://legalinformatics.wordpress.com/2010/05/22/fragile-filho-on-increasing-judicial-transparency-when-brazilian-court-tv-officially-meets-youtube/amp/>.

processes and facts relating to the profession as a whole. Filho¹¹⁶ notes that by making the process more transparent the channel can act as both a scrutineer and an educator in relation to the legal system.

The institutional programming section, which takes up about two thirds of the daily broadcasting time, is produced with the input of judges' associations, regional and state courts, the Brazilian Bar Association and law schools.¹¹⁷ These programmes explain the function of the profession and have legal academics debating and discussing important legal developments. They include, for example, a programme dedicated to the reproduction of a law school classroom.¹¹⁸ It therefore becomes apparent that in order for these programmes to be successful the participation of legal professionals is a fundamental prerequisite. In a South African context, if we were therefore to adopt a similar model it would be imperative that legal academics teach their students the importance of contributing to the legal education of the public.

At a conference in Moscow, Gilmar Mendes,¹¹⁹ the former Chief Justice of the Brazilian Supreme Court, commented that on *TV Justiça* everything

... from public hearings, official report[s] and oral arguments to deliberations – is televised. *TV Justiça* contributes extensively to the dissemination of court decisions, reaching, according to some surveys, up to 12 million Brazilians.

This once again distinguishes the Brazilian model from that in the United States and China. The broadcasting of judges' deliberations is very rare in any country. Broadcasting these deliberations is believed to assist the public significantly in understanding the way judges engage with the law and how they interpret the law. However, some have also argued that broadcasting these deliberations could undermine trust in the court's decisions in cases where judges engage in a "heated debate" with one another.¹²⁰ Nevertheless the broadcast of this aspect of the proceedings has undeniably contributed to an improved understanding among the public of how law is interpreted.

¹¹⁶ Filho 2010 <https://legalinformatics.wordpress.com/2010/05/22/fragile-filho-on-increasing-judicial-transparency-when-brazilian-court-tv-officially-meets-youtube/amp/>.

¹¹⁷ Filho "Courts on Screen" 116.

¹¹⁸ Filho "Courts on Screen" 116.

¹¹⁹ Filho "Courts on Screen" 116.

¹²⁰ Filho "Courts on Screen" 116.

8 Remarks in conclusion

This contribution suggests that South Africa needs to consider creating its own programming in which use is made of a very different type of overt and subliminal messaging - messaging which seeks to educate as opposed to only entertaining, as in the model used in programmes such as "Soul City" as previously discussed, where the aim is to reduce the rate of new HIV infections amongst the youth. Real matters in the courts and quasi-judicial institutions can be broadcast. In addition, such programming could be an opportunity to correct the existing norms which South Africans have adopted from American television. Such programming could include the occasional broadcasting of high-profile matters of interest.

This article proposes that more research should be undertaken to consider all of the challenges presented by existing television models, to incorporate what is known from South African examples of "edutainment", and to develop a programming model which would provide the requisite legal education to South Africans in a way which assists them to develop their understanding of the law and to improve their ability to access justice. From the Chinese and Brazilian models discussed above, it becomes clear that throughout this process the involvement of lawyers and legal academics will be required.

Several lessons can be drawn in a South African context from the Chinese and Brazilian experiences when considering the establishment of our own local legal television programming. Firstly, the Chinese example shows the value of tailoring legal television to the legal challenges most commonly encountered by ordinary citizens. In China, as demonstrated above, this has not only contributed to a greater popular reception of these programmes but also to greater efficiency from an access to justice perspective. Secondly, both the Chinese and Brazilian examples show the value of having legal professionals discuss the cases, rather than of simply broadcasting the cases, to assist lay persons to understand the law applied in these cases. This is of particular value in poorer communities, where a large segment of the population may not understand complex legal terms.

Bibliography

Literature

Aranella 1983 *Geo LJ*

Aranella P "Project: Thirteenth Annual Review of Criminal Procedure: United States Supreme Court and Courts of Appeals 1982-1983: Rethinking the Functions of Criminal Procedure: The Warren and Burger Courts' Competing Ideologies" 1983 *Geo LJ* 185-210

Bodenstein *In Search of Advice*

Bodenstein B *In Search of Advice: (Re)Defining Meaningful Access to Justice in the District Courts of Johannesburg* (MA-dissertation University of the Witwatersrand 2017)

Berti *Confessions in the Courtroom*

Berti SB *Confessions in the Courtroom: An Audience Research on Court Shows* (PhD-thesis University of Massachusetts-Amherst 2016)

Choukrone 2016 *IJSL*

Choukrone L "The Language of Rights and the Politics of Law: Perspectives on China's Last Legal Ditch Struggle" 2016 *IJSL* 779-803

Filho "Courts on Screen"

Filho R "Courts on Screen: E-government and the Increase of Judicial Transparency" in Manoharan A and Holzer M (eds) *E-governance and Civic Engagement: Factors and Determinants of E-Democracy* (Information Science Reference Hershey 2012) 112-127

Gallagher 2006 *Law & Society Review*

Gallagher ME "Mobilizing the Law in China: 'Informed Disenchantment' and the Development of Legal Consciousness" 2006 *Law & Society Review* 783-816

Gallagher and Wang "Users and Non-users"

Gallagher ME and Wang Y "Users and Non-users: Legal Experience and its Effect on Legal Consciousness" in Woo MYK and Gallagher ME (eds) *Chinese Justice: Civil Dispute Resolution in Contemporary China* (Cambridge University Press Cambridge 2011) 204-233

Genn 2019 *CLP*

Genn H "When Law is Good for Your Health: Mitigating the Social Determinants of Health through Access to Justice" 2019 *CLP* 159-202

Gigerenzer and Gaissmaeier 2011 *Annual Review of Psychology*
Gigerenzer G and Gaissmaeier W "Access to Justice for All: A Reality or Unfulfilled Expectations?" 2011 *Annual Review of Psychology* 451-482

Greenbaum 2020 *De Jure*

Greenbaum L "Access to Justice for All: A Reality or Unfulfilled Expectations?" 2020 *De Jure* 248-266

Haugen *et al America's Global Influence*

Haugen DM *et al America's Global Influence: Opposing Viewpoints* (Greenhaven Press New York 2007)

Hodgson 2015 *Acta Juridica*

Hodgson T "Bridging the Gap between People and the Law: Transformative Constitutionalism and the Right to Constitutional Literacy" 2015 *Acta Juridica* 189-212

Holness 2020 *PELJ*

Holness D "Improving Access to Justice through Law Graduate Post-study Community Service in South Africa" 2020 *PELJ* 1-25

James 2017 *PELJ*

James AAW "South Africa's Debut into Broadcasting Criminal Trials: The Legal Arguments in Televising the Oscar Pistorius Trial" 2017 *PELJ* 1-21

Korobkin *et al* 2000 *CLR*

Korobkin BR *et al* "Law and Behavioural Science: Removing the Rationality Assumption from Law and Economics" 2000 *CLR* 1051-1144

Lei *Contentious Public Sphere*

Lei W *The Contentious Public Sphere: Law, Media, and Authoritarian Rule in China* (Princeton University Press Princeton 2018)

LoveLife *Annual Report 2019*

LoveLife *Annual Report of the LoveLife Trust 2019* (LoveLife Trust Sandton 2020)

Milo and Winks 2013 *JML*

Milo D and Winks B "Homeland: The Development of the Principle of Open Justice to Protect South Africans from Abuse of their Asylum System" 2013 *JML* 306-321

Moseneke 2018 *Int JLC*

Moseneke D "The Courtroom as TV Studio: The Case of the Oscar Pistorius Trial" 2018 *Int JLC* 493-503

Mufamadi and Koen 2021 *SAJHR*

Mufamadi K and Koen L "Independent Contractors and Covid-19 Relief: Tax and Social Insurance Legislative Reform to Extend Protection to Independent Contractors" 2021 *SAJHR* 277-301

Nyenti 2013 *De Jure*

Nyenti MAT "Access to Justice in the South African Social Security System: Towards a Conceptual Approach" 2013 *De Jure* 901-916

Podlas 2003 *Judicature*

Podlas K "Should We Blame Judge Judy? The Messages TV Courtrooms Send Viewers" 2003 *Judicature* 38-40

Podlas 2006 *Cardozo Arts & Ent LJ*

Podlas K "Broadcast Litigiousness: Syndi-Court's Construction of Legal Consciousness" 2006 *Cardozo Arts & Ent LJ* 465-506

Podlas "Potential Impact of Television on Jurors"

Podlas K "The Potential Impact of Television on Jurors" Unpublished contribution delivered at the *Impression and Pattern Evidence Symposium* (5 August 2010 Washington DC)

Podlas 2006 *Tex Wesleyan L Rev*

Podlas K "The Power of Stories: Intersections of Law, Literature and Culture: The Tales Television Tells: Understanding the Nomos through Television" 2006 *Tex Wesleyan L Rev* 31-62

Podlas 2008 *Seton Hall J Sports & Ent L*

Podlas K "Guilty on All Accounts: Law & Order's Impact on Public Perception of Law and Order" 2008 *Seton Hall J Sports & Ent L* 1-48

Podlas 2011 *Seton Hall J Sports & Ent L*

Podlas K "Funny or No Laughing Matter? How Television Viewers Interpret Satires of Legal Themes" 2011 *Seton Hall J Sports & Ent L* 289-331

Rosevear 2018 *Revista de Investigações Constitucionais*

Rosevear E "Social Rights Interpretation in Brazil and South Africa" 2018 *Revista de Investigações Constitucionais* 149-183

Sherwin *When the Law Goes Pop*

Sherwin RK *When the Law Goes Pop: The Vanishing Line Between Law and Popular Culture* (University of Chicago Press Chicago 2000)

Simpson-Wood 2016 *Revista Forumul Judecatorilor*

Simpson-Wood T "The Rise and Fall of Bad Judge: Lady Justice is no Tramp" 2016 *Revista Forumul Judecatorilor* 110-141

Sloan *et al* 1995 *Law & Society Review*

Sloan FA *et al* "Injury, Liability, and the Decision to File a Medical Malpractice Claim" 1995 *Law & Society Review* 413-436

Stockmann *Media Commercialization and Authoritarian Rule in China*

Stockmann D *Media Commercialization and Authoritarian Rule in China* (Cambridge University Press New York 2013)

Woo *et al* 2003 *Journalism & Mass Communication Quarterly*

Woo H *et al* "Acculturation, Cultivation, and Daytime TV Talk Shows" 2003 *Journalism & Mass Communication Quarterly* 109-127

Wood 2018 *Int JLC*

Wood H "From Judge Judy to Judge Rinder and Judge Geordie: Humour, Emotion and 'Televisual Legal Consciousness'" 2018 *Int JLC* 581-595

World Bank "Soul Buddyz"

World Bank "Soul Buddyz: A Multimedia Edutainment Project for Children in South Africa" in World Bank *Education and HIV/AIDS: A Sourcebook of HIV/AIDS Prevention Programmes* (World Bank Washington DC 2004) 115-140

Xu and Liu 2020 *Frontiers in Psychology*

Xu J and Liu C "How Does Courtroom Broadcasting Influence Public Confidence in Justice? The Mediation Effect of Vicarious Interpersonal Treatment" 2020 *Frontiers in Psychology* 1-12

Case law

Black Sash Trust v Minister of Social Development 2017 5 BCLR 543 (CC)

Economic Freedom Fighters v Speaker of the National Assembly; Democratic Alliance v Speaker of the National Assembly 2016 5 BCLR 618 (CC)

Mtokonya v Minister of Police 2017 11 BCLR 1443 (CC)

Mohlomi v Minister of Defence 1996 12 BCLR 1559 (CC)

Multichoice (Proprietary) Limited v National Prosecuting Authority, In Re; S v Pistorius, In Re; Media 24 Limited v Director of Public Prosecutions North Gauteng 2014 2 All SA 446 (GP)

National Director of Public Prosecutions v Fields of Green for All NPC 2019 2 SACR 564 (GP)

SABC v National Director of Public Prosecutions 2007 1 SA 523 (CC)

S v Mamabolo 2001 3 SA 409 (CC)

Van Breda v Media 24 2017 2 SACR 491 (SCA)

Legislation

Constitution of the Republic of South Africa, 1996

Internet sources

Africa Research Institute 2007 <https://media.africaportal.org/documents/South-Africa-The-Brazil-of-Africa.pdf>

Africa Research Institute 2007 *South Africa: The Brazil of Africa* <https://media.africaportal.org/documents/South-Africa-The-Brazil-of-Africa.pdf> accessed 16 May 2022

AJPCR 2017 http://fhr.org.za/files/2114/0340/AJPCR_Baseline_Report_Final_1.pdf

Access to Justice and Promotion of Constitutional Rights Programme 2017 *Report of the AJPCR Baseline Survey on Awareness of, Attitude and Access to Constitutional Rights* http://fhr.org.za/files/2114/0340/AJPCR_Baseline_Report_Final_1.pdf accessed 31 October 2019

Avert 2015 <https://www.avert.org/professionals/hiv-around-world/sub-saharan-africa/south-africa>

Avert 2015 *At a Glance: HIV in South Africa* <https://www.avert.org/professionals/hiv-around-world/sub-saharan-africa/south-africa> accessed 1 April 2020

Filho 2010 <https://legalinformatics.wordpress.com/2010/05/22/fragile-filho-on-increasing-judicial-transparency-when-brazilian-court-tv-officially-meets-youtube/amp/>

Filho R 2010 *Increasing Judicial Transparency: When Brazilian Court TV Officially Meets YouTube* <https://legalinformatics.wordpress.com/2010/05/22/fragile-filho-on-increasing-judicial-transparency-when-brazilian-court-tv-officially-meets-youtube/amp/> accessed 31 October 2019

Goldfarb 2014 <http://www.raconteur.net/culture/american-culture-rules-the-world>

Goldfarb M 2014 *Soft Power: How American Culture Rules the World* <http://www.raconteur.net/culture/american-culture-rules-the-world> accessed 1 April 2020

Patel 2012 <https://www.dailymaverick.co.za/article/2012-08-15-brazil-and-south-africa-united-in-inequality/>

Patel K 2012 *Brazil and South Africa: United in Inequality* <https://www.dailymaverick.co.za/article/2012-08-15-brazil-and-south-africa-united-in-inequality/> accessed 16 May 2022

SABC 2021 <https://www.sabc2.co.za/sabc2/tv-show/speak-out/>

SABC 2021 *Speak Out Documentary, Factual* <https://www.sabc2.co.za/sabc2/tv-show/speak-out/> accessed 16 May 2022

StatsSA 2019 <http://www.statssa.gov.za/?p=12075>

StatsSA 2019 *Five Facts about Poverty in South Africa* <http://www.statssa.gov.za/?p=12075> accessed 16 May 2022

World Bank 2018 <https://data.worldbank.org/indicator/SP.RUR.TOTL.ZS?locations=ZA>

World Bank 2018 *Rural Population (% of Total Population)* <https://data.worldbank.org/indicator/SP.RUR.TOTL.ZS?locations=ZA> accessed 16 May 2022

List of Abbreviations

AJPCR	Access to Justice and Promotion of Constitutional Rights Programme
Cardozo Arts & Ent LJ	Cardozo Arts and Entertainment Law Journal
CLP	Current Legal Problems
CLR	California Law Review
Geo LJ	Georgetown Law Journal
IJSL	International Journal for the Semiotics of Law

Int JLC	International Journal of Law in Context
JML	Journal of Media Law
PELJ	Potchefstroom Electronic Law Journal
SAJHR	South African Journal on Human Rights
Seton Hall J Sports & Ent L	Seton Hall Journal of Sports and Entertainment Law
Tex Wesleyan L Rev	Texas Wesleyan Law Review