



Institute of Development & Labour Law

ANNUAL REPORT 2006

UCT Faculty of Law



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MESSAGE FROM THE ACTING DIRECTOR

The year 2006 proved to be extremely busy and productive for the Institute. The previous Director's message indicated that the Institute would be externally reviewed in 2006 and that the Institute may undergo a name change as a result. Happily, no such name change was suggested as an outcome of the review.

Highlights of the year for the Institute include the URC external review, the 19th Annual Labour Law Conference, and the recognition of the Labour and Enterprise Project's (LEP) research by the University's Social Responsiveness Committee.

The external review process took place in November 2006. The findings and recommendations of the reviewers are useful in 'taking stock' of the Institute's standing, and what it should aim to achieve in the future. The findings and recommendations of the reviewers may be summarised as follows:

- *The Appropriateness of the nomenclature used to describe the Institute*

The reviewers found that the term 'Institute' was appropriate to describe the IDLL in view of its formal management structure, its broad cross-disciplinary mandate and the considerable and innovative contribution made by the IDLL to research and training nationally and internationally. It was noted that the Institute has a well developed collaborative network and that it carries the highest load of supervision of master's dissertations and doctoral theses in the Faculty of Law.

- *Quality of research activities*

The reviewers found that publications emanating from the research activities of the Institute are considerable and are mostly in the form of peer-reviewed articles in accredited journals that enjoy good academic standing. Other publications include books and chapters in books published by reputable publishers, such as LexisNexis Butterworths and Cambridge University Press.

The reviewers recommended that the Institute strive to increase its publication record in international journals in order to reach a wider readership and to enhance its international standing. It was also recommended that members of the Institute submit themselves for NRF rating as, currently, only the Director of the Institute is a rated researcher. These are matters which the Institute will engage with, and report on, over the coming years.

- *Linkages to other research groupings or networks*

The reviewers found that the Institute has strong collaborative research networks both nationally and internationally. Mention was made of the Institute's links with reputable international institutions and organisations such as the Hagen Resource International, the International Labour Organisation, the Institute for International Labour Studies, and the Centre of Employment and Labour Law Relations at the University of Melbourne. It was also noted that, in the field of social security law, the Institute has collaborative links with the SADC Core Group on Social Security and the Centre for Comparative and International Labour Law and Social Security of the University of Johannesburg, and the Graduate School of Public and Development Management of the University of Witwatersrand. In addition, the Labour and Enterprise Project has built strong networks with several research units both within and outside of UCT, including research units at the University of KwaZulu-Natal, Nelson Mandela Metropolitan University, and the HRSC in the labour law and enterprise fields.

- *Financial model and its sustainability*

The reviewers noted that funding for research activities, and LEP staff, is generally secured on a project-by-project basis and that the Institute's operational costs are funded by the profits from the Annual Labour Law Conference, training courses and the proceeds from the sale of monographs. It was also noted that the Dutch Trade Union Federation, (FNV), an important source of funding for LEP, is scaling down their South African operations. LEP are currently funded at 40% of its budget by FNV until the end of 2008 and there is no guarantee of further funding from FNV after 2008.

It was recommended by the reviewers that the University assist with fundraising, which might include payment to LEP of the Department of Education subsidy for accredited articles authored by LEP, and should consider making available additional financial support with a view to developing capacity among researchers from historically disadvantaged groups.

- *Capacity-building*

The reviewers acknowledged that the programmes being taught by the Institute are contributing to building capacity not only in South Africa but in Africa and the SADC region in particular. However, concern was expressed that there may be a gap in respect of capacity building of persons from historically disadvantaged groups and that more needs to be done to promote gender and racial diversity among Institute staff. The reviewers urged the University to fund such transformation. The Institute is committed to such transformation and hopes to be able to give positive feedback in this regard in the coming years.

- *Future focus and direction*

The reviewers pointed out that the future and direction of the Institute is closely linked with funding; and that, although funding for research is a challenge, it is clear that the Institute remains sustainable. This is so, given its commitment to the Annual Labour Law Conference, the certificate courses and the sale of monographs, which are all important social responsiveness activities and which provide meaningful platforms for interaction with stakeholders, and to promote the public profile of the Institute.

The reviewers added that the current full-time members of the Institute and the staff members of LEP appear stretched to almost beyond their capacity and that staff should be increased to ensure optimum operation of the Institute.

- *Governance and succession*

The reviewers were satisfied with the current governance structure of the Institute and the Director's plans for succession. Succession planning will of course be mindful of the employment equity imperatives of the Institute.

The reviewers ultimately concluded that the Institute is a successful entity that is fulfilling its mission, and is sustainable over a long-term period with appropriate support.

On a final note, the remaining highlights of 2006 include our on-going involvement with the successful LexisNexis Butterworths Annual Labour Law Conference which, in 2006, was titled 'Labour Law in the Next Decade: Time for Change?' and again attracted a record number of delegates; and the due recognition awarded to LEP by the University. LEP was identified as being one of the University's 'exemplars of good practice' by Professor Martin Hall in the University of Cape Town's Social Responsiveness Report 2006.

Debbie Collier
ACTING DIRECTOR, 2007

HISTORY OF THE INSTITUTE

The original component of the Institute started as the Labour Law Unit, set up in 1987 with a grant from the Ford Foundation. Its brief then was to assist emerging democratic forces, in particular the labour movement and other NGO's, with capacity-building and applied research in the area of labour rights and labour market reform. In particular, the Unit contributed to the struggle for labour rights through training (mainly of trade union paralegals), applied research and involvement in litigation on behalf of trade unions.

In 1992, when transition to democracy was clearly underway, a Development Law Unit was established as a Human Sciences Research Council project. Its focus was on development law issues such as land, housing, small and medium enterprise, and other socio-economic issues. In 1996 the two Units merged to form the Institute of Development and Labour Law. Since then the Institute has worked to consolidate research, training and education projects in both these areas of work: in labour law and labour rights, and in the area of development law.

In later years the Institute, as a result of the need to re-stimulate academic debate on labour issues and labour market regulation, has taken a leading role in setting up a fora for such debate.

MISSION AND GOALS OF THE INSTITUTE

The Institute is a policy research, training and extension services centre situated in the Faculty of Law of the University of Cape Town. Its broad mission is to assist with capacity building to enhance democratic governance through applied research, training, and extension services in South Africa and the broader SADC region. It focuses on development, labour law and social policy issues. As part of this mission, it provides educational and advisory services, produces and disseminates publications, and convenes conferences, seminars and workshops. It also fosters links and networks, thus providing a reference point for policy and scholarship. Its work is driven by public interest and human rights considerations. It adopts a 'law-in-context' approach, which reflects the interdisciplinary nature of its work.

Although the Institute is a constituent part of the Faculty of Law at the University of Cape Town, it operates autonomously with its own advisory board but is ultimately accountable to the Faculty's Research and Social Responsiveness Committee. It is also a research entity of the University Research Committee.

Activities in the Region

In 1992, the Labour Law Unit's work extended to most of what is now the Southern African Development Community (SADC) region. Apart from trade union capacity-building work, the scope of its work was expanded to include intervention in social policy issues, in particular to help develop social partnership (of government agencies, trade unions and employer interests) in the formulation of social policy. Since then the Institute has been involved in tripartite training and labour law reform to promote democratic governance in the context of regional integration.

In the last few years the Institute has become more active in regional activities. We have strengthened our relationship with SADC countries and structures, especially with the then SADC's Employment and Labour Sector (ELS), through research and educational activities in the region. Funding received from the National Research Foundation (NRF) contributed to our research activities on regional labour market regulation, harmonisation of labour laws and social security policy. These projects and other work have allowed us to develop stronger links with other universities, research centres, NGOs, and unions in the region. The most recent work in the region is set out below under *Research and Research Related activities*.

ADVISORY BOARD

Prof HM Corder (Chair)
Prof ER Kalula (Director)
Ms R le Roux (Deputy Director)
Prof Judge D Davis
Prof Darcy du Toit
Mr Naleen Jeram
Dr Taki Madima
Prof JGB Maree
Ms T Orleyn-Sekete
Ms Sahra Ryklief
Dr M Sienaert
Mr J Theron
Prof DP Visser

STAFF AND ASSOCIATES

Teaching Staff:

Professor Evance Kalula:

Director of the Institute (since 1996)
international and comparative labour law; labour market
regulation; social security

Rochelle Le Roux:

Associate Professor and Deputy Director of the Institute (since 2002)
employment discrimination; sports law

Professor Halton Cheadle (Department of Public Law):

Constitutional law, labour law and legal writing

Professor Neville Rubin:

Honorary Research Associate
international labour standards; law and development

Professor Clive Thompson:

Founding director of the Labour Law Unit (1987) (resigned in 2002, now adjunct professor in the Faculty)
collective bargaining; international labour law

Randall van Voore (Department of Commercial Law):

lectures on the LLB, PGDip programmes and Certificate Courses
employment equity

Faculty of Law Academic Staff Associated with the Institute:

Debbie Collier (Department of Commercial Law):

lectures on the LLB, PGDip programmes and Certificate Courses
e-privacy in the workplace and labour law

Professor Danie Visser:

Founding Director, Institute of Development Law (1992)
Unjustified enrichment; legal history; structure of legal systems

Research Staff:

Shane Godfrey:

Senior Researcher, Labour and Enterprise Project
bargaining councils; industrial sociology

Jan Theron:

Co-ordinator of the Labour and Enterprise Project
labour rights; small and medium enterprise

Ms Margareet Visser:

Researcher (from September 2006)

Administrative Staff:

Ms Mishinga Seyuba:
Programme Assistant January 2006

Ms Janine Willey (January – September 2006):
Programme Assistant, Labour and Enterprise Project

Ms Sue Wright:
Administrator

Honorary Professor:

Sir Bob Hepple:
Master Emeritus, Clare College, Cambridge

Honorary Research Associate:

Professor Neville Rubin:
International labour standards; law and development

Adjunct Professors:

Paul Benjamin:
Health and safety; minimum labour standards; regulatory
framework

Charles Nupen :
Dispute resolution; social dialogue

Thandi Orleyn:
Dispute resolution

Clive Thompson:
Collective bargaining; international labour law

Honorary Staff:

Professor Danie Visser:
Unjustified enrichment; legal history; structure of legal systems

Associates of the Institute:

Ms Rachel Banda
Mr Craig Bosch
Mr Andrew Breetzke
Ms Sarah Christie
Dr Marlea Clarke
Mr Colin Fenwick

Dr Simona Gallo
Mr Graham Giles
Mr Henry Hagen
Ms Isabel Manley
Ms Mothepa Ndumo
Prof Bonaventure Rutinwa
Mr David Woolfrey

Research Students:

Ms Tulia Ackson
Ms Mpfariseni Budeli
Mr Knowledge Chirenje (co-supervised by Prof Kalula)
Mr Mudiwa Gwisai
Mr Kananelo Everrit Mosito
Ms Yondela Ndema (co-supervised by Prof Kalula)
Mr Emmanuel M Ntummy
Ms Anne Scheithauer

PROGRAMMES OF THE INSTITUTE

1. RESEARCH AND RESEARCH RELATED ACTIVITIES

1.1 Labour Market Regulation in South Africa and the SADC Region

1.1.1 SADC labour market regulation

This project, which is NRF supported, is concerned with legal and other aspects of labour market regulation in the various countries of the SADC region, including South Africa. The research focuses on such aspects as labour law reform and the prospects of developing common approaches towards labour market regulation in the framework of SADC regional integration. The project seeks to derive comparative lessons from similar developments in South East Asia. The project is being conducted in collaboration with the Centre of Employment and Labour Relations Law at the University of Melbourne, Australia.

1.1.2 Labour law reform in Lesotho and Malawi

The Institute, through Professor Evance Kalula and David Woolfrey, are currently advising the ILO/ILSSA project on labour law review in Malawi. Professors Paul Benjamin and Evance Kalula also undertook a review of, and the drafting of, labour legislation in the Kingdom of Lesotho. Proposed new bills to reform labour legislation in both countries are nearing completion.

1.1.3 SADC Core Group

Professor Kalula serves on the SADC Core Group on Social Security whose objectives include research and policy development in social security and social protection. Activities of the group include research, training and advising different governments and institutions in SADC. On 12 October 2006, Professor Kalula attended a workshop in Maseru, Lesotho, on "Social security policy development" for the Lesotho Ministry of Employment and Labour. He was the workshop co-ordinator and presenter. The sponsoring organisation was the Friedrich Ebert Stiftung (FES) and the NRF SADC Labour Market Regulation Project. The work of the Core Group on SADC Social Security consisted of assisting SADC governments with the development and implementation of policies. The participants included Ministry of Employment and Labour Officials (including the Minister), and employer and trade union representatives. Participants were familiarised with best practice norms and approaches on social security. It was generally agreed that this was a successful start of policy familiarisation and review.

1.2 Sports Law

The Institute continued its close association with the Sports Law Association of South Africa (SLASA) and hosted a number of events on their behalf (see details of the Sports Law Conference in § 3.9 below).

1.3 Social Security

This project is a joint one with a number of SADC universities and agencies. The Institute, jointly with the Centre for Comparative and International Labour Law and Social Security (CICLASS) (University of Johannesburg) and the Graduate School of Public and Development Management (University of the Witwatersrand) spearhead the project and its activities.

This project aims to develop and research social security in South Africa and other countries in the Southern African Development Community (SADC). This has culminated in the submission of a draft Code to the Integrated Committee of Ministers for consideration. Other activities under this project include research workshops and publications.

In September 2006, Professor Kalula gave a presentation on Social Security to NEDLAC in Johannesburg.

2. THE LABOUR AND ENTERPRISE PROJECT (LEP)

The Labour and Enterprise Project (LEP), a research group located within the Institute of Development and Labour Law, in the Faculty of Law, was identified as one of the 'exemplars of good practice' by Professor Martin Hall in the University of Cape Town's Social Responsiveness Report 2006.

The research conducted by LEP is undertaken predominantly by Jan Theron and Shane Godfrey who have been engaged in social and economic research under the banner of LEP since 1999. LEP's current research agenda pursues the notion of decent work, such as that explored by the International Labour Organisation (ILO), and is particularly relevant in the unsatisfactory climate of high unemployment in South Africa and the increasing non-standard forms of employment and the informalisation of labour, with its attendant socio-economic problems.

LEP's work is a necessary component in the search for appropriate strategies, legal and otherwise, for the provision of decent work in South Africa specifically, and developing countries generally. LEP has established a reputation as one of the leading institutions doing research into the growth of non-standard employment and informalisation in South Africa, and its research output plays an important role in shaping government and trade union policy. The work of LEP is highly regarded, often influential in the Department of Labour's policy formulation (for

example LEP's work on the dispute resolution system), and frequently cited by academics in the field.

Theron and Godfrey are frequently requested to present papers and to participate in events related to their research areas and have developed strong collaborative research networks, both nationally and internationally. LEP has undertaken a number of projects for the International Labour Organisation (ILO) and is currently part of a consortium, led by the Human Sciences Research Council (HSRC), undertaking research for the Department of Labour.

Although located in the Law Faculty, LEP is self-funded. Currently, and until the end of 2008, 40% of LEP's costs are covered by funding which they receive from the Federatie Nederlandse Vakbeweging (FNV), a Dutch trade union federation. The remainder of LEP's costs are funded by contract-based research, occasional research grants from the URC and the Law Faculty, and a portion of subsidies received for accredited publications. The core funding from FNV is vital in ensuring that LEP is able to maintain its independence and to pursue the critical research that it does.

LEP's work, reflected below, is an integral part of the University of Cape Town's commitment to addressing the challenges facing our society.

2.1. Projects documenting the erosion of decent work

Department of Labour Research

A research programme for the Department of Labour, for which LEP had tendered in 2005, together with a number of other organisations, finally came to fruition at the end of 2006. LEP, together with Professor Halton Cheadle, has undertaken to do a major empirical and conceptual study on the state of collective bargaining in South Africa. This builds on previous research undertaken by LEP on bargaining councils.

The second project being undertaken for the Department of Labour concerns the measurement and comparison of labour market regulation, in which LEP considers and critiques the influential "Doing Business" survey by the World Bank. Professor Paul Benjamin is co-authoring the study, which is entitled "Costing, comparing and competing".

International Institute for Labour Studies

In 2006, LEP undertook a study for the International Institute of Labour Studies (IILS) in Geneva on the impact of trade liberalisation on labour standards, taking two sectors (agriculture and clothing manufacture) as case studies. In November 2006, Theron presented this paper at a workshop in Geneva hosted by the IILS on *'The effectiveness of labour law to provide social goals in low income settings'*. A number of researchers from other countries attended this workshop and the paper has subsequently been accepted for publication by the IILS.

NALEDI Collaboration

In December 2006, LEP was approached by NALEDI, the research arm of COSATU, to tender jointly to the Office of the Presidency to undertake an ambitious study on non-standard employment. Although NALEDI is managing the project, LEP has played a key role in conceptualising the project which is entitled *'What kind of jobs? Creating opportunities for decent work'*.

Temporary Employment Agencies

Throughout the first part of 2006, Theron has been in communication with a German economist based at the University of Mannheim, about a study on temporary employment agencies; comparing the position in South Africa and Germany.

Bargaining Councils

Over the past years Godfrey in particular has been conducting ongoing research into bargaining councils. Bargaining councils are the pre-eminent forum for collective bargaining in South Africa, but they have been considerably weakened as a consequence of the growth of non-standard employment and informalisation. Nevertheless, certain councils have adopted innovative responses to informalisation, and provide an important means of safeguarding standards that preserve decent work.

Two articles on bargaining councils have been published in the *Industrial Law Journal*, and a considerable amount of work has also been done on a book length publication.

2.2 Projects promoting decent work options

EPWPS Research Project

The government's main programme to address chronic unemployment and provide decent work is the so-called Expanded Public Works Programme (EPWPs). In June 2006 LEP was asked by the Labour Research Services (LRS) to undertake research on EPWPs, as part of an international survey being undertaken by the NGO Solidar. LRS indicated that it did not have the capacity or expertise to do the work itself.

LEP interviewed government officials and workers in a number of projects, and produced a report. This was well received, and the LRS plans to publish it.

Co-operatives

LEP is engaged in ongoing research on co-operatives. As democratically controlled enterprises co-operatives are able to provide decent work opportunities in a number of sectors. The object of the research has been to document case studies of successful co-operatives. With limited funding from the University's Research Committee, LEP have thus far only been able to focus on the Western Cape. However, the DGRV (the German Co-operative Federation) has agreed to fund an extension of the research into the Eastern Cape.

Theron presented a paper to the conference of the Nordic-Africa Institute encapsulating the research on Western Cape co-operatives. Once the Eastern Cape study is complete, the aim is to produce a monograph.

2.3 Other, related projects

Microfinance Project

Initiated with funding from the URC, the project has examined the National Credit Bill (and subsequent Act) and the institutional framework for the provision of credit. Empirical research was done in 2006 on micro-lenders and small and micro business borrowers, which research will be written up for publication in 2007.

3. PUBLICATIONS (Research Output)

3.1 Articles in peer reviewed journals

Benjamin, P. 2006. Beyond lean social democracy: labour law and the challenge of social protection. *Transformation*, 60: 32-57.

Collier, D. 2006. Access to and Control over Plant Genetic Resources for Food and Agriculture in South and Southern Africa: How Many Wrongs Before a Right? *Minnesota Journal of Law, Science & Technology*, 7(2): 529-564.

Godfrey, S.D. 2006. Key labour market institutions: emerging trends. *Current Labour Law*, 2006(1): 117-137.

Godfrey, S.D., Maree, J.G.B. and Theron, J.P. 2006. Flexibility in Bargaining Councils: The role of exemptions. *Industrial Law Journal, Including Industrial Law Reports*, 27(July): 1368-1386.

Godfrey, S.D., Maree, J.G.B. and Theron, J.P. 2006. Regulating the labour market: the role of Bargaining Councils. *Industrial Law Journal, Including Industrial Law Reports*, 27(April): 731-752.

Le Roux, R. 2006. Labour law in South African Sport: A season of expectations? *The International Sports Law Journal*, 1-2: 56-59.

Le Roux, R. 2006. Section 60 of the Employment Equity Act 1998: will a comparative approach shake this joker out of the pack? *Obiter*, 27(3): 411-428.

Le Roux, R. 2006. Sexual harassment in the workplace: a matter of more questions than answers or do we simply know less the more we find out? *Law, Democracy and Development*, 10(1): 49-67.

Le Roux, R. 2006. The Anatomy of a Benefit: A Labyrinthine Enquiry. *Industrial Law Journal, Including Industrial Law Reports*, 27(March): 53-66.

Le Roux, R. 2006. The law, sexual harassment and the best way to go. *SA Labour Bulletin*, 29(6): 38-40.

Thompson, C.R. 2006. Bargaining over business imperatives: the music of the spheres after Fry's Metals. *Industrial Law Journal, Including Industrial Law Reports*, 27 (April): 704-730.

3.2 Books

Du Toit, D., Bosch, D., Woolfrey, D., Godfrey, S.D., Cooper, C., Giles, G., Bosch, C. and Rossouw, J. 2006. Labour Relations Law: A comprehensive guide. (5th edition): 1-800. Durban: LexisNexis Butterworths.

Du Toit, D., Cohen, T., Everett, W., Fouche, M., Godfrey, S.D., Steenkamp, A., Taylor, M. and Van Staden, P. 2006. Labour Law Through the Cases (Service Issues 7 and 8): Loose Leaf Update. Durban, South Africa: LexisNexis Butterworths.

Giles, G., Du Toit, D. and Godfrey, S.D. 2006. Labour Law Through the Cases: Loose leaf. Durban: LexisNexis Butterworths.

Heslop, E. and Manley, I. 2006. Employment Tribunals - A practical guide: 1-336. London WC2A 1 PL: Law Society, 113 Chancery lane.

3.3 Chapters in Books

Benjamin, P. 2006. Beyond the boundaries: prospects for expanding labour market regulation in South Africa, G. Davidov and B. Langille (eds) The Boundaries and Frontiers of Labour Law: Goals and Means in the Regulation of Work: 181-204. United Kingdom: Hart Publishing.

Collier, D. 2006. 4. Breach of Contract and remedies 5. Variation, transfer and termination of contract 9. Agency 11. The Contract of Employment 17. Intellectual Property 20. Electronic Commerce , D. Collier and K. Lehmann (eds) Basic Principles of Business Law: 107-119; 121-133; 193-210; 241. Durban: LexisNexis Butterworths.

Collier, D. and Gutuza, T.L. 2006. 19. Black economic empowerment, employment equity and skills development, D. Collier and K. Lehmann (eds) Basic Principles of Business Law: 411-424. Durban: LexisNexis Butterworths.

Godfrey, S.D. 2006. Labour Market Institutions Emerging Trends, M. H. Cheadle, P. Le Roux, C. R. Thompson and A. A. Van Niekerk (eds) Current Labour Law: 117-137. Durban: LexisNexis Butterworths.

Godfrey, S.D. 2006. Partnerships and networks in new materials development, G. Kruss (ed.) Creating Knowledge Networks: 94-126. Cape Town: HSRC Press.

Thompson and A. A. Van Niekerk (eds) Current Labour Law: 43-58. Durban: LexisNexis Butterworths.

Thompson, C.R. 2006. Operational requirements - dismissal South African Labour Law. ISBN 13:978 07021 32643; loose leave AA1-K3-3/6. AA1-463-AA1-520, Juta, Cape Town.

Thompson, C.R. 2006. Restructuring and Retrenchment, M. H. Cheadle, P. Le Roux, C. R. Thompson and A. A. Van Niekerk (eds) Current Labour Law: 59-76. Durban: LexisNexis Butterworths.

Thompson, C.R. 2006. Unfair Dismissal: the operational requirements dismissal, C. R. Thompson and P. Benjamin (eds) South African Labour Law Vol 1 & 2: AA1-463-AA1-520. Cape Town: Juta.

3.4 Peer Reviewed Published Conference Proceedings

Olivier, M. and Kalula, E.R. 2006. The need for modalities of developing an integrated social protection for economic development approach in a globalised context. Proceedings of Social Actors, Work Organisation and New Technologies in the 21st Century. IIRA 14th World Congress, September 2006, Lima, Peru, 449-470. ISBN 2006-6625.

3.5 Non Peer Reviewed Published Conference Proceedings

Breetzke, A. 2006. Managing absenteeism. Proceedings of LexisNexis Butterworths 19th Annual Labour Law Conference, Sandton Convention Centre, CD Rom.

Christie, S. 2006. Critical issues in arbitration. Proceedings of Continuous Professor Development Seminar, Gauteng, CD Rom.

Christie, S. 2006. Harmonisation of Working Conditions - Labour Law Challenges after Mergers and Acquisitions. Proceedings of Society of Labour Law Annual Conference (SASLAW), Sandton, Johannesburg, CD Rom.

Christie, S. 2006. The death of mediation culture in South Africa. Proceedings of LexisNexis Butterworths 19th Annual Labour Law Conference, Sandton Convention Centre, Johannesburg, CD Rom.

Collier, D. 2006. Modern biotechnology: Communicate ... and regulate. Proceedings of African Science Communication Conference: Science in Society 4-7 December, NMMU, Port Elizabeth, 27.

Godfrey, S.D. and Smith, A. 2006. Labour market regulation and small business: Redefining the role of Bargaining Councils. Proceedings of LexisNexis Butterworths 19th Annual Labour Law Conference, Sandton Convention Centre, Johannesburg, CD Rom.

Jeram, N. 2006. Pension funds: Trends from the Pension Fund Adjudicator's Office. Proceedings of LexisNexis Butterworths 19th Annual

Labour Law Conference, Sandton Convention Centre, Johannesburg, CD Rom.

Kalula, E.R. 2006. Decent Work and Social Policy in Africa: some critical issues. Proceedings of Keynote address, Conference on Critical Imperatives, Decent Work and Social Policy. International Institute for Labour Studies, ILO Geneva December 2006, CD Rom.

Kalula, E.R., Fenwick, C. and Landau, I. 2006. Labour Law: a Southern African Perspective. Proceedings of Workshop on the Impact of Labour Law in Developing Countries, International Institute for Labour Studies, Geneva, 24 November 2006., ILO, Geneva, Switzerland, CD Rom.

Le Grange, R. and Van Voore, R. 2006. Changing working conditions: legal compliance. Proceedings of LexisNexis Butterworths 19th Annual Labour Law Conference, Sandton Convention Centre, Johannesburg, CD Rom.

Le Roux, R. 2006. Managing racism in the workplace: Lessons from the Old Mutual judgment. Proceedings of LexisNexis Butterworths 19th Annual Labour Law Conference, Sandton Convention Centre, Johannesburg, CD Rom.

3.6 LLM / Post Graduate Diploma Dissertations Passed for Higher Degrees

Agonzibwa, C. 2006. Legal and Policy Implications of Uganda's Social Security Law: 1-78. LLM, University of Cape Town.

Bamu, P. 2006. An analysis for South Africa's SSME Credit Policy and Legal Environment: Does it Encourage the Provision of Credit to Unbanked Micro and Small Enterprises?. 1-89 LLM, University of Cape Town.

Bruhin, R. 2006. Termination of the employment relationship by the employer and the employees duties thereafter: 1-86. LLM, University of Cape Town.

Buga, H. 2006. Reflections on disability: perspectives on South Africa, India and the United States of America: 1-71. LLM, University of Cape Town.

Dlamini, B.S. 2006. A comparison of the South African and Swaziland's labour market regulatory systems in dispute resolution: 1-65. LLM, University of Cape Town.

Jin, L. 2006. Towards the improvement of Chinese labour law - a comparative analysis of Chinese and South African collective labour law: 1-74. LLM, University of Cape Town.

Kamala, P. 2006. Industrial relations law in Tanzania: past experience and prospects under the new labour legislation: 1-79. LLM, University of Cape Town.

Kellerman, M. 2006. A commentary on and an analysis of the sectoral determination for the agricultural industry: 1-44. PG Diploma in Employment Law, University of Cape Town.

Loeschhorn, S. 2006. Business transfers in Germany and their implications for pension rights with reference to South Africa: 1-83. LLM, University of Cape Town.

Mkono, W.S. 2006. The protection of employees' rights in the event of transfer of undertakings: a comparative study of South Africa and the United Kingdom: 1-63. LLM, University of Cape Town.

Moehring, D.L. 2006. A study in the field of labour law, on the question of whether it is possible to confront globalisation of markets with the globalisation of workers' rights: 1-66. M Phil, University of Cape Town.

Mtimtema, Z. 2006. Strike law in South Africa and Zimbabwe: A comparative study with international labor law principles: 1-73. M Phil, University of Cape Town.

Nel, P. 2006. Investigating the effects of continuous rotational shifts on employees in a manufacturing environment: 1-52. PG Dip in Law, University of Cape Town.

Ms Ada Okoye (**PhD Thesis**) - 2006 The role of law in the development of the non-profit sector in Nigeria and South Africa.

3.7 Unrefereed Works of a Popular Nature and Policy Documents

Benjamin, P. and Gruen, C. 2006. The regulatory efficiency of the CCMA. DPRU Working Paper 06/110 06 (110).

Godfrey, S.D., Maree, J.G.B. and Theron, J.P. 2006. Conditions of Employment and Small Business: Coverage, Compliance and Exemptions. DPRU Working Paper 06/106.

Benjamin, P. 2006. Code of Good Practice: who is an employee published in terms of Labour Relations Act (GN R 1774 OF 1 December 2006). South African Government. Department of Labour.

3.8 International Conferences and Workshops Attended

Tulia Ackson (PhD Student) attended and participated in the XVIII World Congress on Labour and Social Security Law. This was held from the 5th – 9th September 2006 in Paris, France. It was hosted by the International Society for Labour and Social Security Law and was sponsored by USHEPiA and UCT. Participation was mainly in the form of workshops which were tailored around labour law and social security law and their impact on globalisation. The target audience was primarily for academics in the labour law, IR and HR fields.

Jan Theron attended a follow-up research conference held in Addis Ababa, Ethiopia 13th -15th March 2006. The conference was organised by the ILO and was titled “Cooperating Out of Poverty (COOP)”. The objective of the conference was to provide an opportunity for researchers, as well as African cooperative representatives and their development partners, to discuss research findings and the proposed Cooperative Facility. In particular, the purpose of the Facility, its activities, institutional arrangements, delivery modalities and financing were discussed.

Sarah Christie attended a Seminar of the Supranational Administration Working Group of the International Institute of Administrative Sciences (IIAS) in Vienna, 4th -5th May, 2006. The theme of the seminar was the internal justice systems of international organisations.

Evance Kalula co-presented a paper entitled “The need for and modalities of developing an integrated social protection/economic development approach in a globalised context” presented with Professor M Olivier, University of Johannesburg, at the International Industrial Relations Association (IIRA) 14th World Congress, Lima, Peru, September 2006.

3.9 National Conferences, Seminars and Workshops

Debbie Collier presented a paper titled ‘Biotechnology and public engagement: regulating and communicating agricultural biotechnology in Africa’ at the SASTA African Science Communication Conference in Port Elizabeth in December 2006.

Professor Lucy Vickers from Oxford Brookes University presented a seminar at UCT on 20th September 2006 entitled “Whistleblowing, Freespeech and Employment”.

In conjunction with the University of Stellenbosch, the Institute, under the auspices of SLASA, co-convened a Sports Law Conference at the Faculty of Law, Stellenbosch from 14th -15th September 2006. The main focus areas of dedicated sessions were developments in the governance of South African Sport; demarcation of the role and interests of different stakeholders in professional sport and issues around transformation in SA sport. The conference was attended by approximately 100 delegates.

The keynote address was delivered by Dr Ali Bacher and a number of experts and eminent persons involved in sport participated.

4. MISCELLANEOUS ACTIVITIES

4.1 Intern

From 6th –26th March 2006, the Institute hosted Mr Ivan Pechorin, a candidate for the LL.M in Human Rights at the Legal Studies Department, Central European University, Budapest, Hungary. His thesis topic is entitled “Protection of the labour rights of the HIV positive workers in Africa”. This topic required a comparative legal analysis of the legislation of various southern African countries.

4.2 Book Launch

The Institute, in conjunction with Cambridge University Press, hosted a cocktail function to celebrate the launch of *The Code of International Labour Law: Law, Practice and Jurisprudence* (2 volumes). This prestigious work edited by Professor Neville Ruben in consultation with Professors Evance Kalula and Bob Hepple is the first work to bring together a coherent sequence of the entire range of materials relating to international law, as adopted by the International Labour Conference and the Governing Body of the International Labour Office. It also includes all relevant authoritative commentary on these measures by official organs of the ILO.

5. SOCIAL RESPONSIVENESS AND CONSULTATION SERVICES

5.1 Institute Conferences, Seminars and Workshops

5.1.1 Labour Market Regulation in the SADC Region Workshop

In collaboration with the University of Melbourne, the Institute hosted a research workshop entitled “Labour market regulation in the SADC region” in January 2006 in the Oliver Tambo Moot Court. The event was sponsored by the NRF, URC and the Centre for Employment and Labour Relations Law, University of Melbourne. The workshop formed part of research on the labour market regulation project. Professor Kalula presented a paper entitled “Labour market regulation in Zambia: policies and their implementation”. Among the delegates were academic researchers, policy makers and legal practitioners (including several labour court judges). There were approximately 25 delegates and a total of 18 papers were presented. Proceedings of the workshop, consisting of papers on eleven SADC countries will be published in an accredited peer-reviewed book. Two ILO officials participated at the event and commended the relevance of the workshop to the work of the ILO in the SADC region.

5.1.2 19th Annual Labour Law Conference

The conference titled “Labour Law in the Next Decade: Time for change?” was hosted by the Institute in conjunction with the University of KwaZulu-Natal and the Centre of Applied Legal Studies, University of Witwatersrand at the Sandton Convention Centre, 5th -7th July 2006. LexisNexis Butterworths sponsored the conference. The conference was attended by over 800 delegates and continues to be a popular forum for debating burning labour issues in South Africa. The welcome was rendered by Hon Mr Justice Ray Zondo, Judge President of the Labour Court and the opening address was delivered by The Hon Membathisi Mdladlana, Minister of Labour.

Staff and associates of the Institute that presented papers and participated at the conference include: Sarah Christie (‘The death of mediation culture in South Africa’); Rochelle Le Roux (‘Managing racism in the workplace: Lessons from the Old Mutual judgment’), Andrew Breetzke (‘Managing absenteeism’); Craig Bosch (‘Second generation transfers: Local and international trends’) and Randall van Voore (‘Changing working conditions: Legal compliance’).

5.1.3 Workers’ Day Seminar

To commemorate Workers’ Day, the Institute hosted a seminar on the 4th May, 2006 in the Oliver Tambo Moot Court. The guest speaker was Tony Ehrenreich, Regional Secretary of COSATU. His presentation entitled “Labour reflects on the issues of the day” was extremely well received.

5.1.4 Review of UKZN Faculty of Law

Professor Kalula was appointed a member of the review panel and visited UKZN from 20th -22nd November 2006. Their task was to review the UKZN Faculty in all key areas; teaching, research, social responsiveness, throughput etc. The initial input into the report has been completed and the draft report is to be completed in January 2007.

5.1.5 Decent Work Agenda and Social Policy

Professor Kalula attended the above conference at the International Labour Office in Geneva from 29th November – 1st December 2006. He gave a plenary presentation entitled “Research Methods on Decent Work Agenda and Social Policy: African Perspectives”. The presentation was well received and publication is forthcoming. The sponsoring organisation was the Institute for International Labour Studies, Geneva. The subject matter fell under the area of work on

the SADC labour market regulation project. The event was attended by leading scholars and international officials.

5.1.6 The Impact of Labour Law Workshop

A workshop entitled “The effectiveness of labour to promote social goals in low-income settings” was organised by the Institute for International Labour Studies, ILO Headquarters, Geneva from 25th -26th October 2006. Professor Kalula presented a paper on “The impact of labour and labour market regulation in Southern Africa”. The subject matter fell under the area of work on SADC labour market regulation. The delegates were leading scholars and the aim of the workshop was to assess the impact of labour law on labour markets in developing countries. A publication is forthcoming.

5.2 Social Responsiveness of IDLL Staff and Associates

5.2.1 Christie, Sarah

- Member of the World Bank Administrative Tribunal. First session in London, (May 2003 to date).
- Consultant (with Chris de Cooker) of the European Space Agency to the European Development Bank for Reconstruction and Development Bank. London, to conduct an assessment of its Grievance and Appeals Process, November 2005 – March 2006.
- Continues to arbitrate and compile training material for CCMA and bargaining council conciliators and arbitrators.
- Tokiso.
- Member of the following bargaining councils
 - Public Service Co-ordinating Bargaining Council.
 - General Public Service Sectoral Bargaining Council.
 - Public Health and Welfare sector Bargaining Council.
 - Safety & Security Sectoral Bargaining Council.
 - Education Labour Relations Council.
 - Motor Industry Bargaining Council.
 - National Bargaining Council for the Road Freight Industry.
 - Statutory Council for the Printing, Newspapers and Packaging Industry.
- Committee member IRASA.
- Trustee Centre for Rural Legal Studies.
- Chair of Board of Directors of Gqwesa, a section 21 company trading as Headstart College, Salt River.

5.2.2 Collier, Debbie

- Report for Environmental NGO on “Opportunities for public participation: Maximising public influence”.
- Participant at the Cape Town (Provincial) consultation workshop on the “Bioprospecting, Access and Benefit-Sharing Regulations”.
- Associate of the Labour and Enterprise Project.
- Editorial board of the IDLL Monograph Series.

5.2.3 Godfrey, Shane

- Member, Editorial Committee, *Law, Democracy & Development Journal*.

5.2.4 Kalula, Evance

- Chair, South African Employment Conditions Commission.
- Consultant to the ILO/Swiss Project to Advance Social Partnership in Promoting Labour Peace in Southern Africa.
- Member and Chair, Editorial Committee, *Acta Juridica*.
- Member, Editorial Committee, *South African Journal of Labour Relations*.
- ILO Expert, Zanzibar Labour Law Reform Committee
- Member, SADC Social Security Code Drafting Team
- Member, Editorial Board, *Industrial Journal of Discrimination and the Law*.
- Member, Editorial Committee, *Law, Democracy & Development Journal*.
- Member, Editorial Committee, *Social Dynamics*.
- Member, Advisory Reference Group, Employment Equity in the Tertiary Education Sector Project, Centre for International and Comparative Labour and Social Security Law, University of Stellenbosch.
- Member, Executive Committee, International Industrial Relations Association.
- NRF Chair and Panellist.
- Member, African Regional Labour Administration Centre (ARLAC) Reference Group, Employment and Labour Studies Programme.

5.2.5 Le Roux, Rochelle

- Convenor, Certificate Course in Labour Law.
- Secretary, Sports Law Association of South Africa.
- Convenor, Annual Labour Law Conference (LexisNexis Butterworths).
- Editorial Board – *International Sports Law Journal*.

- Curriculum development.
- Workshops on sexual harassment.
- Tasked by the Vice Chancellor to assess and make recommendations on UCT's current sexual harassment policies.

5.2.6 Theron, Jan

- Consultant to the Women on Farms Project (Stellenbosch) on labour rights of casual, seasonal and contract workers.
- Consultant to the Department of Trade and Industry on co-operative legislation.
- Consultant to the National Co-operative Association of SA on co-operative policy and legislation.
- Consultant to the Environmental Monitoring Group, Observatory, on co-operatives for disadvantaged small farmers.
- Consultant to WIEGO, an international research network on labour law and the informal economy.

6. TEACHING

6.1. General

The Institute was responsible for convening and teaching a number of courses in 2006.

Institute courses offered in the LLB program include:

- CML5013H – Labour Law (LLB)
- CML5002X – Research Focus Group. Law, Development, Labour & Social Policy
- CML5025X – Research Focus Group. Sports Law

Institute courses offered by the School for Advanced Legal Studies (SALS) include:

- CML6013S – Collective Bargaining and Strike Labour Law
- CML6016F – International and Comparative Labour Law
- CML6022S – Social Security
- CML6031S – Conciliation and Arbitration
- CML6051F – Individual Employment Law

6.2 Curriculum development

6.2.1 African Regional Labour Administration Centre (ARLAC), 16th -18th October 2006, Harare, Zimbabwe

The Institute is involved in curriculum planning and training programme for mediators and arbitrators. Professor Evance Kalula was hosted by and attended the ARLAC planning meeting for proposed employment and labour studies for English speaking African countries. He was author of the conceptual paper and lead discussant. The participants comprised of five leading academics drawn from ARLAC constituent countries. Good progress was made at this meeting and work will continue in 2007.

6.3 Postgraduate Courses (School for Advanced Legal Studies)

The Institute is responsible for teaching and administering numerous courses (see § 6.1 above) offered by the School for Advanced Legal Studies as credits toward the Masters in Law, Masters in Philosophy and Postgraduate Diploma in Law. The courses (depending on the combination of courses selected by the candidate) may lead to a degree / diploma without specialisation or to a degree with a specialisation in Labour Law. In addition, the Institute offers the following specialist Diplomas:

6.3.1 Postgraduate Diploma in Law (Employment Law)

Topics included in this course are: employment law in the changing world of work; labour law under the new Constitution; equality and discrimination in the workplace; collective bargaining; industrial action; dismissals; workplace co-operation and transformation; conciliating and arbitration at the CCMA and skills development.

6.3.2 Postgraduate Diploma in Law (Conciliation and Arbitration)

The course consists of two modules. Although the course was developed concurrently with the regional course (see below), the focus is on dispute resolution rather than broader labour law issues. Each module comprises evening lectures of approximately 3 hours once a week plus a Saturday morning workshop. The modules can also be taken as a course towards the LLM/M.Phil programme. The course has attracted a number of practitioners, including those in ADR, legal practice and human resources and industrial relations.

6.4 Postgraduate teaching external to UCT

In August 2006, Rochelle le Roux lectured on sexual harassment, at the Nelson Mandela Metropolitan University.

6.5 Undergraduate (LLB) Teaching

Institute staff are involved in teaching undergraduate and graduate courses in labour law and social security.

Rochelle Le Roux, Debbie Collier and Randall van Voore teach the LLB Labour Law (CML5013H). Associate Professor Rochelle le Roux also supervised 8 students registered for the LLB Research Focus Group in Commercial Law (Sports Law) (CML5025X). Professor Kalula supervised 8 students registered for the LLB Research Focus Group course on Development, Labour Law and Policy (CML5002X).

6.6 Labour Law Certificate Courses

This course, initiated in 1999, continues to attract many students, trade unionists, staff from the Department of Labour, and a range of practitioners. The focus is on core labour legislation: the Labour Relations Act, Basic Conditions of Employment Act, Employment Equity Act and the Skills Development Act. The course also covers various aspects of practical labour law application in the workplace, including dismissal, unfair labour practices, collective bargaining, industrial action, CCMA and Labour Court procedures, and drafting an employment equity plan.

In 2006, the certificate course was run once over a four day period in February with a total number of 15 students registering. During the latter half of 2006 and in conjunction with Prof Darcy Du Toit and Craig Bosch of UWC, it was decided to combine efforts, restructure the course and offer it jointly. Mr Nigel Holmes was commissioned to conduct market research in order to ensure the course remains appropriate and to align the course with expectations of potential participants.

7. VISITORS TO THE INSTITUTE

Professor Gopalan Balachandran

Graduate Institute of International Studies, Geneva

Mr Tony Ehrenreich

General Secretary, COSATU, Western Cape

Mr Colin Fenwick

Director, Centre for Employment Law, Melbourne Law School,
University of Melbourne, Australia.

Mr Naleen Jeram

Pension Fund Adjudicator's Office

Ms Isabel Manley

Solicitor, Chairperson Employment Tribunal, Charalambous
Culshaw Law, United Kingdom

Professor Marius Olivier

Director, Centre for International and Comparative Labour and
Social Security Law, University of Johannesburg

Professor Lucy Vickers

Professor, Oxford Brookes University, United Kingdom

8. FUNDING AND FINANCES

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Federatie Nederlandse Vakbeweging (FNV)
Friedrich Ebert Stiftung (FES)
National Research Foundation (NRF)
University Research Committee (UCT)
Department of Trade and Industry (DTI)
Department of Labour
International Labour Organisation (ILO)

Despite the above funding, the Institute remains responsible for raising its own operation capital. In this regard the certificate course in labour law (see above) and the Annual Labour Law Conference (see above) are the major sources.

An account of IDLL income and expenditure for 2006 will be given at the Board Meeting in 2008.

9. HOW TO CONTACT US:

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