



Institute of Development & Labour Law

ANNUAL REPORT 2009

UCT Faculty of Law



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MESSAGE FROM THE DEPUTY DIRECTOR

As the pages of the 2009 Annual Report will show, the core activities of the Institute culminate around teaching responsibilities in the Faculty and the conducting of research that primarily generates peer reviewed publications.

On the teaching front, 2009 saw the successful launch of a post-graduate programme in Social Justice. The introduction of two courses on Social Justice: Social Justice, Development and Law, and Social Justice in Practice, makes it possible for students to qualify for an LLM / an MPhil or a Postgraduate Diploma in Social Justice. The courses are housed in the Institute's stable and are convened by Marlese von Broembsen. The courses were well received and proved popular among students (so much so that numbers had to be capped).

In addition to the conventional teaching offered by the Institute, numerous training programmes aimed broadly at capacity building in labour law were conducted under the auspices of the Institute. The Institute co-convened the popular Annual Labour Law Conference (now in its 22nd year) held at Sandton, 12-14 August 2009 and was well represented at the conference, with papers being presented by Prof Alan Rycroft (*Corporate bullying and vindictive managerialism*), Debbie Collier (*Protecting your identity – misuse and theft of personal data*), Jan Theron (*A wasted opportunity? Jobs in waste management and recycling, and the question of decent work*), Prof Rochelle le Loux and Sufia Singlee (*Sexual harassment law update*), and Sarah Christie and Randall van Voore (*In the firing line – you ask the arbitrator*). In addition, Prof Paul Benjamin co-presented, with Prof Haroon Bhorat, a plenary session on *The global economic crisis and the SA labour market: economic and legal perspectives*.

In so far as research is concerned, the research output of the Institute remains high. In addition to articles in peer reviewed journals, the list of publications in the annual report reflects that members of the Institute contribute research on a number of levels. Publications of books and book chapters and contributions to conferences and workshops remain popular mechanisms for the dissemination of research.

In addition to teaching and research, members of the Institute are involved in a number of related activities and maintain a number of collaborations to sustain their work. Notably, in 2009 Prof Kalula was a member of a three-member ILO commission of inquiry appointed to investigate complaints of non-observance of freedom of association by Zimbabwe. Further details of various activities and collaborations are contained in the pages of the annual report.

The view from the Deputy-Director's chair reveals a productive cohort of individuals whose knowledge and work can make a significant contribution to the law and policy and capacity-building needs that arise

out of the many developmental problems faced by our society. The challenge for IDLL is to harness the opportunities that this presents.

On a final note, the Institute is, as always, greatly indebted to the calm and efficient office of Ms Faldielah Khan.

A handwritten signature consisting of several overlapping loops, followed by a comma.

Debbie Collier

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) 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.

In 2006 the Institute along with other research entities within the Faculty of Law underwent a process of external review under the auspices of the University Research Committee (URC). The report of the external reviewers reflected positively on the work of the Institute and the Institute was extremely encouraged by the outcome.

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.

Since the two units merged, and particularly 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 2009

Prof PJ Schwikkard (Chair)
Prof ER Kalula (Director)
Ms D Collier (Deputy Director)
Prof H Mostert
A/Prof R le Roux
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

STAFF AND ASSOCIATES 2009

Teaching Staff 2009:

Professor Evance Kalula:

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

Associate Professor Rochelle Le Roux:

Associate Professor and Deputy Director of the Institute (2002 –
2008)
employment discrimination; sports law

Debbie Collier:

Deputy Director of the Institute (from 2008)
labour market regulation, inequality, intellectual property and
development

Professor Paul Benjamin:

Collective bargaining and strike law; health and safety; minimum
labour standards; regulatory framework

Professor Halton Cheadle (Department of Public Law):

Constitutional law, labour law and legal writing

Randall van Voore:

LLB, LLM and PGDip programmes and Certificate Courses
collective bargaining and strike law

Professor Alan Rycroft:

Conciliation and arbitration

Marlese von Broembsen:

Social justice

Faculty of Law Academic Staff Associated with the Institute:

Professor Danie Visser:

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

Professor Hanri Mostert:

Director of Research (CLEAR)

Research Staff:

Shane Godfrey:

Senior Researcher, Labour and Enterprise Project

bargaining councils; industrial sociology

Jan Theron:

Co-ordinator of the Labour and Enterprise Policy Research Group
(LEP)
labour rights; small and medium enterprise

Ms Margareet Visser:

Researcher (from September 2006)

Administrative Staff:

Ms Faldielah Khan:

Administrative Assistant

Honorary Research Associate:

Professor Neville Rubin:

International labour standards; law and development

Adjunct Professors:

Charles Nupen:

Dispute resolution; social dialogue

Thandi Orleyn:

Dispute resolution

Clive Thompson:

Collective bargaining; international labour law

Naleen Jeram:

Social Security

Taki Madima:

Collective Bargaining

Associates of the Institute:

Ms Rachel Banda

Mr Craig Bosch

Mr Andrew Breetzke

Ms Sarah Christie

Dr Marlea Clarke

Prof Darcy du Toit

Mr Colin Fenwick

Dr Simona Gallo

Mr Graham Giles

Mr Henry Hagen
Ms Isabel Manley
Ms Mothepa Ndumo
Prof Bonaventure Rutinwa
Mr David Woolfrey

Post-doctoral Fellow:

Dr Ada Okoye Ordor

Research Students:

Mr Knowledge Chirenje
Mr Munyaradzi Gwisai
Mr Kananelo Everrit Mosito
Mr Emmanuel M Ntumy
Ms Pamhidzai Bamu
Mr Fritz Nghiishililwa
Mr Offah Obale
Ms Sylvia Hammond

DOCTORAL GRADUATIONS 2009

K.E. Mosito

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 review of and 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.

1.2 ILO related activities

Professors Kalula, Cheadle and Benjamin are involved in research for the purposes of their engagement in numerous ILO related activities. Professor Cheadle is a member of the committee of experts appointed to review government reports on ratified conventions. In 2007 Professor Benjamin served as the ILO resource person in a workshop on the Labour Contracts Act and the draft Mediation and Arbitration of Labour Disputes Act in Beijing and as a member of the Experts Group on Employment Relationship, appointed to prepare the Guide to ILO Employment Relationship Recommendation 198 of 2006 (2006 / 2007).

In 2007, Professor Kalula and David Woolfrey, an associate of the Institute, were commissioned by the ILO to draft an initial policy which

would form the basis of the proposed new ILO Recommendation on HIV and AIDS. The draft was duly completed and submitted in January, 2008.

Professor Kalula is also a member the reference group which developing a programme on Employment and Labour Studies commissioned by the African Regional Labour Administration Centre (ARLAC), a policy and training agency of the ILO for English speaking African countries. The programme is a postgraduate and masters' degree course for labour officials in the twenty ARLAC countries.

1.3 Sports Law

The Institute maintains an interest in Sports Law through the Sports Law Certificate Course offered by the Law Faculty's Law@work: Professional Development Project and through publication of relevant articles by Rochelle le Roux.

1.4 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.

1.5 Development

Debbie Collier is increasingly becoming involved in research, under the banner of development, in the agricultural sector and is seeking to make strategic links in this regard. The research goes beyond employment issues looking more broadly at the impact of law and policy on agriculture with a focus on property rights and property rights in plant genetic resources.

2. RESEARCH CONDUCTED BY THE LABOUR AND ENTERPRISE POLICY RESEARCH GROUP (LEP)

2.1 Introduction

Since its inception (as the Small Enterprise Project) nearly twenty years ago LEP has operated autonomously to a large degree of the Institute of Development and Labour Law, while nevertheless contributing substantially to the research output of the Institute, and the development of labour law as a discipline. LEP has also grown from its admittedly small staff complement of two part-time staff to one full-time and two part-time staff, at a time when other bodies involved in labour research have been in decline.

Although the question of the institutional relationship of between LEP and IDLL continues to be discussed from time to time there has been no progress in resolving it satisfactorily. One obstacle has been the interdisciplinary nature of LEP, and the involvement of the Department of Sociology. The establishment of CLEAR has also not contributed to a resolution.

The reason it is more important to address this question is because although LEP has thus far been able to sustain itself, it has in fact had a hand to mouth existence, without the backing of a major funder, and without any involvement on the part of the University or IDLL in raising the funds necessary to cover its expenses. We cannot be sure that LEP will be able to continue in this way indefinitely. At the same time the present co-ordinator is approaching retirement age.

This is not to discount the contribution IDLL and the University does make to LEP currently: a contribution toward the salary of the IDLL administrator; an incentive for publications published by LEP in accredited journals; the waiver of research levies in certain cases; by means of research grants for specific LEP research projects. The University also provides LEP with an office, access to telephone and the internet, and administrative assistance, although LEP also contributes to these costs.

2.2 Objectives

The objective of LEP is to undertake and disseminate research regarding the process of industrial restructuring that has been taking place since the 1990s, which has changed (and is still changing) the way in which employment and work is understood, in South Africa and globally, and the policy questions this give rise to.

One of the important policy questions LEP is engaged with concerns the growth of inequality in the workplace, notwithstanding employment equity legislation.

LEP has made a number of recommendations regarding the reform of labour legislation, and over about a decade has been advocating changes in the regulation of temporary employment agencies, which has now become a major political issue.

At the same time LEP has always emphasised that it is not appropriate to rely only on labour regulation to address changes in the labour market, and increased informalisation. In this regard it has advocated a review of enterprise policy, with particular regard to the cooperative form of enterprise.

2.3 Core Activities

2.3.1 Inequality in the (extended) workplace

FNV, the Dutch trade union federation, has funded LEP since its inception, although for about the past ten years this funding has only amounted to about forty percent of what it costs to run LEP. In November 2009 we entered into a new contract with FNV for a period of three years, on the over-arching theme of inequality in the workplace.

In terms of this proposal, we have undertaken to do research and a number of topics related to this over-arching theme, and produce six papers and a booklet. The proposed booklet will be in the format of a glossary of 'keywords' necessary to understand the process of industrial restructuring referred to, and the changes that have taken place in the sphere of employment and work.

The final output of this project is due in 2011. LEP may apply for renewed funding from FNV from 2012, but due to political uncertainties it is unsure whether we will get it.

2.3.2 Capturing the Gains

In the course of 2009 LEP was approached to become part of an international research network funded by DFID and administered by the University of Manchester, which aims to understand the impact of global production chains in a number of developing countries. The network includes some internationally prominent academics as well as researchers from Brazil, India and China, amongst others.

Shane attended workshops during 2009 at Duke university and in Agra, India, and is now part of the committee in overall charge of managing the project.

2.3.3 Collective Bargaining

Work continued throughout 2009 on a long standing aim of LEP to publish a book on collective bargaining, consolidating the work it has done in this area over the years. Three members of LEP (Shane, Jan and Johann) together with Professor Darcy Du Toit of University of Western Cape. A draft of this book has been submitted to Juta in 2009, and has since been published under the title “Collective bargaining in South Africa- Past, present and future?”

LEP was also commissioned by the CCMA to conduct research on ways of supporting bargaining councils and centralised bargaining. It is conducting the research with NALEDI. This research was finalised in 2010, by the production of a substantial report (of some 170 pages).

2.3.4 Cooperatives

The promotion of cooperatives as a form of enterprise remains a focus area, and is the subject of one of our papers for the current FNV project. A monograph entitled “Remember me when your ship comes in” was produced, partly based on research undertaken with support of the University’s URC.

2.4 Other Activities : Teaching

Shane continues to be involved in teaching an honours course on regulated flexibility in the Sociology Department.

2.5 Staff and Administration

As indicated, LEP staff comprise one full-time senior researcher (Shane) and two part-time staff (Jan and Margareet, both at 60% of a full salary). LEP also employed Pamhidzai as a research assistant on a fixed term contract. LEP staff are now regarded as academic staff of the University, however there continued to be a significant disparity between academic pay scales and LEP salaries.

During 2009 Shane took unpaid leave from LEP to work on his PhD. This was made possible by means of a private bursary.

2.6 Conclusion

We also believe that LEP’s research remains relevant to the University’s objective of being socially responsive, as well as the academic output of the faculty. Hopefully the Institute and the University will take steps to ensure that LEP can continue with this work on a sustainable basis.

3. POST-DOCTORAL DEVELOPMENT

In 2007 the Institute appointed a post-doctoral researcher, Dr Ada Ordor Okoye. Dr Okoye's research is in the area of legal regulation of civil society particularly non-governmental organizations. Her post-doctoral work is an extension of her doctoral research which focused on Nigeria and South Africa.

4. PUBLICATIONS

Research Output

4.1 Monographs and Occasional Papers published by the Institute

Theron, J, Visser, M, 2009. 'Remember me when your ship comes in': Cooperatives and the need to shift from a wage culture. Cape Town: Institute of Development and Labour Law, Development and Labour Monograph Series, 1-2009, 1-51. ISBN 978 0 7992 2351 4.

Le Roux, R, 2009. The world of work: Forms of engagement in South Africa. Cape Town: Institute of Development and Labour Law, Development and Labour Monograph Series, 2-2009, 1- 87. ISBN 978 0 7992 2354 5.

4.2 Articles in peer reviewed journals

Benjamin, P. 2009. Braamfontein versus Bloemfontein: the SCA and Constitutional Court's approaches to labour law. *Industrial Law Journal Including Industrial Law Reports*, 30: 757-771.

Benjamin, P. 2009. Conciliation, arbitration and enforcement: the CCMA's achievements and challenges. *Industrial Law Journal Including Industrial Law Reports*, 30: 26-48.

Benjamin, P. 2009. Occupational health and safety prevention and compensation laws: pieces of the same puzzle. *Occupational Health Southern Africa*, 15: 43-47.

Benjamin, P. and Theron, J.P. 2009. Costing, comparing and competing: the World Bank's "Doing Business" Survey and the bench-marking of labour regulation. *Acta Juridica*, (2009): 204-236.

Collier, D. and Moitui, C. 2009. Africa's regulatory approach to biotechnology in agriculture: an opportunity to seize socio-economic concerns. *African Journal of International and Comparative Law/Revue Africaine de Droit International et Compare*, 17(1): 29-56.

Godfrey, S.D. 2009. Bargaining council system: problems and challenges. *South African Labour Bulletin*, 33(4): 25-27.

Godfrey, S.D. 2009. Bargaining council system: what developments? *South African Labour Bulletin*, 33(3): 15-18.

Godfrey, S.D. 2009. The legal profession: transformation and skills. *South African Law Journal*. 126(1): 91-123.

Godfrey, S.D. and Bamu, P.H. 2009. Flexibility and precariousness: exploring labour broking in the construction industry in South Africa. *Bargaining Indicators*, 13: 119-158.

Godfrey, S.D. with du Toit, D (Ed.), Cohen, T., Everett, W., Fouche, M., Giles, G., Steenkamp, A., Taylo, M. and van Staden, P. 2009. *Labour Law Through Cases (Service Issue 13)*. Durban: LexisNexis Butterworths.

Godfrey, S.D. with du Toit, D (Ed.), Cohen, T., Everett, W., Fouche, M., Giles, G., Steenkamp, A., Taylo, M. and van Staden, P. 2009. *Labour Law Through Cases (Service Issue 14)*. Durban: LexisNexis Butterworths.

Jeram, N. 2009. The power of withholding a pension benefit confirmed by Supreme Court of Appeal. *Industrial Law Journal Including Industrial Law Reports*, 30: 804-813.

Le Roux, R. 2009. The meaning of 'worker' and the road towards diversification: reflecting on discovery, SITA and 'Kylie'. *Industrial Law Journal Including Industrial Law Reports*, 30: 49-65.

Nghiishililwa, F. 2009. The banning of labour hire in Namibia: how realistic is it? *Namibian Law Journal*, 1(2): 87-94.

Rycroft, A. 2009. Blurring the lines between incapacity, misconduct and operational requirements: *Zillo V Maletswai Municipality*. *South African Mercantile Law Journal*, 21(3): 426-432.

Rycroft, A. 2009. Workplace bullying: unfair discrimination, dignity violation or unfair labour practice. *Industrial Law Journal Including Industrial Law Reports*, 30: 1431-1450.

Theron, J.P. 2009. Indecent employment: what is to be done about labour broking? *Bargaining Monitor*, 23(171): 19-22.

Theron, J.P. 2009. Space for organisation: trade unions in South Africa and the prospects for renewal. *Bargaining Indicators*, 13: 171-184.

Theron, J.P. and Govindjee, A. 2009. Unlocking labour laws. *South African Labour Bulletin*, 33(4): 18-19.

4.3 Books

Kalula, E.R. and Zulu, D. 2009. *Zambia: International Encyclopedia of Laws*. 2009. Netherlands: Kluwer International Publishers. 64pp. ISBN 988 8 00 1865.

4.4 Edited Books

Cheadle, M.H., Thompson, C.R. and Le Roux, P.A.K. (eds.) 2009. Current Labour Law 2009. 110pp. Durban, South Africa: LexisNexis Butterworths. ISBN 078 0 40 904791 2.

Kalula, E.R., Jordaan, B. and (eds.) 2009. Juta's Pocket Companions: Understanding Broad-Based Black Economic Empowerment. 171pp. Cape Town: Juta & Co. ISBN 978 0 70 218187 0.

Kalula, E.R., Jordaan, B. and Strydom, E. (eds.) 2009. Juta's Pocket Companions: Understanding Social Security. 219pp. Cape Town: Juta & Co. ISBN 978 0 70 218165 8.

Strydom, E., Jordaan, B. and Kalula, E.R., (eds.) 2009. Juta's Pocket Companions: Understanding the Basic Conditions of Employment Act. 202pp. Cape Town: Juta & Co. ISBN 978 0 70 218162 7.

Kalula, E.R., Jordaan, B. and Strydom, E. (eds.) 2009. Juta's Pocket Companions: Understanding the Employment Equity Act. 155pp. Cape Town: Juta & Co. ISBN 978 0 70 218163 4.

Jordaan, B., Kalula, E.R., and Strydom, E. (eds.) 2009. Juta's Pocket Companions: the Labour Relations Act. 229pp. Cape Town: Juta & Co. ISBN 978 0 70 218161 0.

4.5 Chapters in Books

Benjamin, P. and Du Plessis, M. 2009. Commentary on Compensation for Occupational Injury and Diseases Act (Revision Service 51, February 2009). In Thompson, C. and Benjamin, P. (eds.), South African Labour Law. Revision Service 51 of 2009. Cape Town: Juta & Co Limited. ISBN 070 2 10067 6.

Benjamin, P. 2009. Commentary on Occupational Health and Safety (Revision Service 51, May 2009). In Thompson, C. and Benjamin, P. (eds.), South African Labour Law. Revision Service 51 of 2009. Cape Town: Juta & Co Limited. ISBN 070 2 10067 6.

Benjamin, P. 2009. South Africa: Labour law and industrial relations under apartheid. In Bronstein, A. (ed.), International and Comparative Labour Law: Current Challenges, pp 240-255. United Kingdom: Palgrave Macmillan. ISBN 978 9 22 121202 7.

Clarke, M. 2009. Incorporating or marginalizing casual workers? Ten years of labour market reforms under the ANC. In Jeeves, A. and Cuthbertson, G. (eds.), Fragile Freedom: South African Democracy 1994-2004, pp 64-78. Pretoria, South Africa: UNISA Press. ISBN 978 1 86 888410 0.

Collier, D. 2009. Electronic evidence and related matters. In Schwikkard, P.J. and van der Merwe, C. (eds.), Principles of Evidence, pp 410-420. Third Edition. Cape Town: Juta. ISBN 978 0 70 217950 1.

Godfrey, S.D. 2009. Law professionals. In Erasmus, J. and Breier, M. (eds.), Skills Shortages in South Africa: Case Studies of Key Professions, pp 152-176. Cape Town, South Africa: HSRC Press. ISBN 978 0 79 692266 3.

Godfrey, S.D. with Lundall, P and Maree, J. 2009. Metals Beneficiation. In Sectors and Skills: The Need for Policy Alignment (Ed.) A Kraak. HSRC Press: Pretoria.

Godfrey, S.D. 2009. The Legal Profession. In Skills Shortages in South Africa: Case Studies of Key Professions (Eds.) J Erasmus and M Breier. HSRC Press: Pretoria.

Jeram, N. 2009. Disposition of death benefits: Section 37C. In Marx, G.L. and Hanekom, K. (eds.), The Manual on South African Retirement Funds and Other Employee Benefits, pp 178-238. Durban: Butterworths LexisNexis. ISBN 978 0 40 902335.

Le Roux, R. 2009. Unfair dismissal and unfair labour practice. In Jordaan, B., Kalula, E.R. and Strydom, E. (eds.), Juta's Pocket Companions: Understanding the Labour Relations Act, pp 150-218. Cape Town: Juta Law. ISBN 9780702181610.

Le Roux, R. and Jordaan, B. 2009. Contract of employment. In C. Thompson, C. and Benjamin, P. (eds.), South African Labour Law. E1:1-49 - E2:1-12. Revision Service 51 of 2009. Cape Town: Juta & Co Limited. ISBN 0702100676.

Thompson, C.R. 2009. Collective bargaining. In H.M. Cheadle, H.M., Le Roux, P.A.K. and Thompson, C.R. (eds.), Current Labour Law 2009, pp 43-51. Durban, South Africa: LexisNexis Butterworths. ISBN 9780409047912.

Thompson, C.R. 2009. Restructuring and retrenchment. In Cheadle, H.M., Le Roux, P.A.K. and Thompson, C.R. (eds.), Current Labour Law 2009, pp. 53-92. Durban, South Africa: LexisNexis Butterworths. ISBN 9780409047912.

4.6 Non Peer Reviewed Published Conference Proceedings

Benjamin, P. and Bhorat, H. 2009. The Global Economic Crisis and the SA Labour Market: Economic and Legal Perspectives. Presentation at the LexisNexis Butterworths 22nd Annual Labour Law Conference, Sandton Convention Centre. 12-14 August 2009.

Rycroft, A. 2009. Corporate bullying and vindictive managerialism. Presentation at the LexisNexis Butterworths 22nd Annual Labour Law Conference, Sandton Convention Centre. 12-14 August 2009.

Collier, D. 2009. Protecting your identity – Misuse and theft of personal data. Presentation at the LexisNexis Butterworths 22nd Annual Labour Law Conference, Sandton Convention Centre. 12-14 August 2009.

Godfrey, S.D with Bamu, P. 2009. An analysis of collective bargaining arrangements in the construction industry. Report for the Labour Research Service.

Godfrey, S.D with Bamu, P. 2009. Exploring labour broking in the construction industry. Report for the Labour Research Service.

Kalula, E and Okorafor, N, Legal empowerment of the poor in the informal economy: Towards an effective regulatory framework for labour rights and social protection in Southern Africa. Paper presented at ANLEP Workshop, 'Legal Empowerment of the Poor in the Informal Economy: Labour and Business Rights' 17 - 18 September 2009 Kampala, Uganda.

Theron, J. 2009. A wasted opportunity? Jobs in waste management and recycling, and the question of decent work. Presentation at the LexisNexis Butterworths 22nd Annual Labour Law Conference, Sandton Convention Centre. 12-14 August 2009.

Le Roux, R. and Singlee, S. 2009. Sexual harassment law update (including Sexual Offences Bill). Presentation at the LexisNexis Butterworths 22nd Annual Labour Law Conference, Sandton Convention Centre. 12-14 August 2009.

Christie, S. and van Voore, R. 2009. In the firing line – You ask the arbitrator. Presentation at the LexisNexis Butterworths 22nd Annual Labour Law Conference, Sandton Convention Centre. 12-14 August 2009.

4.7 PhD / LLM / Post Graduate Diploma Dissertations Passed for Higher Degrees

4.7.1 PhD

Mosito, K.E. 2009. Towards a comprehensive social security system for Lesotho: legal and policy perspectives. 1-302. Supervised by E.R. Kalula and Professor M.P. Olivier.

4.7.2 LLM and Post Graduate Diploma Dissertations

Foncha, Michael 'The impact of South African Labour Market Regulation on Foreign Migrant Workers: An assessment of Legislative Protection.' (2009)

Gatsinzi, Philip 'Implementing the African Economic Community Treaty: The role of Regional Economic Communities in Africa's trade and Market integration' (2009)

Kamukunde, Godfrey 'The Case for modifying Rwanda's social security with particular emphasis on occupational safety and health laws' (2009)

Mdee, Aziza 'Economic Partnership Agreements and the Regional integration: A case study of the Southern Africa customs union and the Southern African development community' (2009)

Nankunda, Jackie 'The impact of trade and investment policies on the labour standards in the Mauritian and Namibian export processing zones: Lessons for Rwandan' (2009)

Ndunga, Medard 'The effectiveness of the Pan-African parliament in promoting regional integration in Africa: A comparative perspective' (2009)

Possi, Ally 'Integrating Human Rights in the context of African Regional Integration" (2009)

Rapatsa, Mashele 'Child labour: with specific emphasis on the worst forms' (2009)

Temba, Ferdinand 'Assessment of access to health care systems in Tanzania with emphasis on social health insurance and micro-insurance schemes' (2009)

4.8 International Conferences and Workshops Attended

Benjamin, P. The Infernal Triangle: Regulatory and Organisational Responses to Triangular Employment. Invited speaker, World Labour Law Congress, Sydney, Australia, 1 to 4 September 2009

Benjamin, P. Untangling the triangle: The regulatory challenges of triangular employment. Conference on Regulating for decent work: Innovative labour regulation in a turbulent world, Geneva, Switzerland, 8-10 July 2009

Le Roux, R. The world of work: forms of engagement in South Africa. Paper presented at the IIRA 2009 Congress, Sydney, Australia

4.9 National Research Conferences, Seminars and Workshops

Benjamin, P. Occupational health and safety prevention and compensation laws: pieces of the same puzzle. Key note address to the 29th International Congress on Occupational Health, Cape Town, March 2009

Benjamin, P. The implication of decent work for employers. Talk to SASLAW (Cape Town), August 2009

Collier, D. Introduction to patent law. Main concepts and principles' WHO, UNDP Training Course on Intellectual Property Rights and Public Health: Towards an Intellectual Property Regime that Protects Public Health, A Course Directed at Policy Makers in the WHO African Region (Course director: Carlos M Correa), Cape Town (22-26 June 2009).

Godfrey, S.D. Collective Bargaining institutions in construction and Labour broking and the construction sector. Presented at the Building & Wood Workers International/Labour Research Service Construction Union Negotiators Conference in Johannesburg, 19 to 21 May.

Le Roux, R. Research and publishing in law – no need for a Big Bang. Paper presented at the Association of South African Law Teachers Conference, Pietermaritzburg. (With Dr Lyn Holness)

Le Roux, R. Protected Disclosures – the picture emerging from the case law. Paper presented at ODAC workshop on the Protected Disclosures Act, Johannesburg

6. SOCIAL RESPONSIVENESS AND CONSULTATION SERVICES

6.1 Institute Conferences, Seminars and Workshops

6.1.1 22nd Annual Labour Law Conference

The conference titled “New Challenges: shifting power in uncertain times” 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, 12-14 August 2009. 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.

6.2 Social Responsiveness of IDLL Staff and Associates

6.2.1 Benjamin, Paul

- Extensive ILO activities including resource person in ILO workshops in Beijing, China on changes to Chinese labour law.
- Involved in legislative development and drafting in Lesotho.
- Drafter: Regulations on Child Labour under Basic Conditions of Employment Act and Occupational Health and Safety Act
- Advisor: Commission for Conciliation, Mediation and Arbitration (CCMA) on enhancing quality of decision –making in arbitration processes
- Facilitator: National Economic, Development and Labour Council (NEDLAC): Restructuring of Labour Courts and changes to Cooperatives Act.
- Consultant (labour rights in SA) to UN Commission for Legal Empowerment of the Poor
- Member of Editorial Board *Industrial Law Journal (ILJ)*.

6.2.2 Cheadle, Halton

- Member of the ILO Committee of Experts on the Application of Conventions and Recommendations.
- Lecture on the incorporation of international standards in common law systems at annual ILO training course for judges and arbitrators, ILO Training Centre, Turin
- Special advisor to the Minister of Justice (October 2008 to April 2009)
- Acting Judge in the Labour Court
- Member of Editorial Board *Industrial Law Journal (ILJ)*.

6.2.3 Christie, Sarah

- Member European Bank for Reconstruction and Development Administrative Tribunal (2008 to date).
- Past member of the World Bank Administrative Tribunal (2002 – 2009).
- Deputy Member - EUMETSAT Appeals Board (European Organisation for the Exploitation of Meteorological Satellites) 2007 to date.
- Part time senior commissioner CCMA
- Conducts training for CCMA and bargaining council conciliators and arbitrators.
- Conducts training in employment law and dispute resolution practice for LexisNexis Butterworths clients
- Member Tokiso and IR Change private dispute resolution agencies.
- Member of the dispute resolution panels of the following bargaining councils
 - Public Service Co-ordinating Bargaining Council
 - Education Labour Relations Council
 - Motor Industry Bargaining Council
 - Metal and Engineering Industries Bargaining Council
- Presentation to the national annual conference of the South African Society of Labour Law (SASLAW) What do Arbitrators expect of Practitioners?” Johannesburg, October 2009
- Committee member Alliance Française

6.2.4 Collier, Debbie

- Associate of the Labour and Enterprise Project
- Co-convenor, Annual Labour Law Conference (LexisNexis Butterworths)
- Editorial board of the IDLL Monograph Series
- Engaged on Project 25 for the purposes of statutory law revision of the legislation administered by the Department of Agriculture.
- Advisory Board member, Abalimi Bezekhaya
- Advisory Board member, Entrust Management Academy

6.2.5 Godfrey, Shane

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

6.2.6 Kalula, Evance

- Appointed a member of the South African Law Reform Commission project 25 on statutory law revision of the legislation administered by the Department of Labour.

- Chair, South African Employment Conditions Commission.
- Member, Reviewers Panel, South African Journal of Labour Relations.
- Member, Editorial Board, Industrial Journal of Discrimination and the Law.
- Member, Editorial Committee, *Law, Democracy & Development Journal*.
- Member, Editorial Committee, *Social Dynamics*.
- Member, Executive Committee, International Industrial Relations Association.
- Member, African Regional Labour Administration Centre (ARLAC) Reference Group, Employment and Labour Studies Programme.
- Involved with research for the purposes of domestic law reform under the auspices of the South African Law Reform Commission, Project 25 on statutory law revision of the legislation administered by the Department of Labour.
- Appointed member of the ILO Commission of Inquiry on Zimbabwe, November 2008 to March 2010.
- Member, International Advisory board, Malawi Law Journal
- Member, SADC Core Group of Social Security Specialists.
- Chair, Advisory Board, ENTRUST Academy.
- Member, Advisory Board, European Labour Law Journal.
- President – Elect, International Industrial Relations Association (IIRA).
- External examinerships at the following universities:
 - UKZN (PhD)
 - Limpopo
 - Midlands State University, Zimbabwe
 - North-West (PhD)
 - UWC (PhD)
 - Zambia
 - Fort Hare (PhD)

6.2.7 Le Roux, Rochelle

- Appointed a member of the South African Law Reform Commission project 25 on statutory law revision of the legislation administered by the Department of Labour.
- Convenor, Annual Labour Law Conference (LexisNexis Butterworths).
- Editorial Board – *International Sports Law Journal*.
- Curriculum development.

6.2.8 Theron, Jan

- Board member, Cooperative Banks Development Agency
- Consultant, International Labour Office, Dar es Salaam regional office on cooperative law and policy.

- 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.

6.2.9 Visser, Margareet

- Presentation at ANLEP workshop: 'Legal Empowerment of the Poor in the Informal Economy: Labour and Business Rights' in Kampala 17-18 September 2009.
- Presentation at 'Working on the Margins': Addressing structural poverty and exclusion in South Africa" conference , 25-27 March 2009.
- Social auditing on South African farms to verify compliance with standards set by ethical trade initiatives such as Fairtrade International and WIETA (the Wine and Agricultural Ethical Trade Initiative), a local multi-stakeholder organisation. The standards of these bodies are informed by the conventions of the International Labour Organisation, the base code of the Ethical Trade Initiative and country-specific labour, health and safety and environmental legislation.

7. TEACHING

7.1 General

The Institute was responsible for convening and teaching a number of courses in 2009.

Institute courses offered in the LLB programme include:

- CML 5013H – Labour Law (LLB)
- CML 5426H – Research Focus Group: Social Security
- CML 5429H – Research Focus Group: Law and Regional Integration in Africa

Institute courses offered by the School for Advanced Legal Studies (SALS) in 2009 include:

- CML 6013S – Collective Bargaining and Strike Law
- CML 6022S – Social Security Law
- CML 6031S – Conciliation and Arbitration
- CML 6051F – Individual Labour Law
- CML 6064F – Law and Regional Integration in Africa: Comparative Perspectives
- CML 6065F – Social Justice, Development and Law
- CML 6066S – Social Justice in Practice

7.2 Postgraduate Courses (School for Advanced Legal Studies)

The Institute is responsible for teaching and administering numerous courses (see § 7.1 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:

- Postgraduate Diploma in Law (Employment Law)
- Postgraduate Diploma in Law (Conciliation and Arbitration)
- Postgraduate Diploma in Law (Dispute resolution)

The institute intends to ensure the relevance of its postgraduate offerings by engaging in a rigorous internal review process of its courses in the coming year.

7.3 Undergraduate Teaching

Institute staff and associates involved in teaching courses in labour law on the LLB program in 2009 include Debbie Collier, Randall van Voore, Rochelle le Roux and Graham Giles.

7.4 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 2007 a decision was taken to run the certificate course in association with the Law Faculty's Law@work: Professional Development Project in order to take advantage of the administrative functions offered by the project. Two such certificate course programmes were successfully conducted in 2009.

7.4.1 Metrorail Training

The Institute in conjunction with Entrust Management Academy ran a 2 week long labour law certificate course for Metrorail's Senior Management. The training took place from 2 to 13 March 2009.

8. VISITORS TO THE INSTITUTE

Professor Ben Chigara

Director of Enterprise & International Affairs Brunel Law School,
Brunel University

9. FUNDING AND FINANCES

We are particularly grateful to the following funders for their support in 2009 and previous years:

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 Annual Labour Law Conference is the major sources. An account of IDLL income and expenditure for 2009 will be given at the Board Meeting in 2010.

10. HOW TO CONTACT US:

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