



Institute of Development & Labour Law

ANNUAL REPORT 2010/2011

UCT Faculty of Law



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MESSAGE FROM THE DEPUTY DIRECTOR

For some time now changes have been afoot at the Institute, and we are pleased to be able to report on these changes at the same time as we release the Annual Report for 2010 and 2011.

The exciting news is that Professor Rochelle le Roux has returned to take up a management position in the Institute. As most of you will recall, Professor le Roux served as Deputy Director of the Institute from 2002 until 2008. In 2008 Professor le Roux resigned as Deputy Director when she was called to take up the position of Head of Department in the Department of Commercial Law, following the untimely death of Professor Mike Larkin.

In 2011, Professor le Roux, having completed her term of office as Head of Department, agreed to take over the reins as Director of the Institute from Professor Evance Kalula. Professor Kalula, who served as Director of the Institute from 1996, has, in the past few years, become integral to the University, and Faculty, vision of internationalization, and his portfolio in this regard has grown exponentially and become more demanding of his time. Fortunately though, Professor Kalula is not lost to the Institute, as he will continue to be involved in the research and teaching activities of the Institute.

From a research perspective, 2010 and 2011 meant business as usual for the Institute; as this report will attest to. The output of the Institute remained high: 7 books / monographs; 18 peer-reviewed articles; and 18 book chapters were authored or co-authored during this period. During this period the Institute continued its involvement with the Annual Labour Law Conference, co-hosted with the University of Kwa-Zulu Natal and the Centre for Applied Legal Studies at the University of Witwatersrand. In August 2010 the 23rd Annual Labour Law Conference, titled 'New Challenges: Shifting Power in Uncertain Times,' took place in the Sandton Convention Centre, and, in the same venue, the 24th Annual Labour Law Conference, titled 'Reconciling Workplace Interests,' was hosted in June/July 2011. The event remains a popular staple on the calendar of labour market stakeholders; it provides a forum for debating burning issues in South Africa and attracts close to 1 000 delegates annually. Delegates are addressed annually by the Judge President of the Labour Appeal Court and by the Minister of Labour and have the opportunity to engage with representatives from the key labour market institutions in South Africa: the Department of Labour and the CCMA.

The year 2011 was a particularly busy one for the Institute and for the Labour and Enterprise Policy Research Group (LEP) in terms of workshops and seminars. LEP kicked off early in the year (31 January – 4 February) when they hosted a very productive Capturing the Gains (CtG) Sub-Saharan Africa Regional Workshop. LEP is a partner in CtG, a prominent international research network, whose goal is to understand

the impact of global production chains in a number of developing countries.

In May 2011 the Institute played host to a group of labour law scholars who met for a two-day colloquium at Mont Fleur, near Stellenbosch, to present and refine their contributions to the 2012 edition of *Acta Juridica*, titled, *Reinventing Labour Law: Reflecting on the first 15 years of the LRA and future challenges* due to be published in mid-2012. And also in May, LEP hosted a timely and well-attended workshop titled 'Labour at the Cross-roads: Inequality and the workplace' at which Theron, Godfrey and Visser's insightful monograph, *Keywords for a 21st Century Workplace*, was launched.

In June 2011 the Institute hosted an ILO sponsored, two-day, seminar at the Graduate School of Business on Public Sector Labour Relations, with a particular focus on the challenges facing the future of collective bargaining, given the economic pressures facing most economies, exacerbated by the global economic climate.

In October, the Institute partnered with the South African Institute for Drug-free Sport (SAIDS) as hosts of a training workshop on anti-doping in sport; and in November, along with several partners, the Institute hosted a SADC Law Seminar which coincided with the launch of the SADC Law Journal, an exciting development with the potential to foster greater regional cooperation.

Looking into the future, exciting developments at the Institute include ongoing revision of the Institute website – see <http://www.idll.uct.ac.za/> - which has been updated to include electronic copies of recent publications in the Institute's monograph series and also includes a page for student research, a project spearheaded by Marlese Von Broembsen, which will showcase the work of promising student scholarship in the area of law and development.

In 2012 I am fortunate enough to be on sabbatical and have stepped down from my position in the Institute. I will be using the opportunity to work on several research projects, which will be reflected in future Institute reports. I would like to take this opportunity both to welcome Professor le Roux, who has the support of all in the Institute, and to express appreciation and thanks to Professor Kalula for his tremendous contribution toward ensuring the sustainability of the Institute at a time when many cognate institutes have not survived, and to say that we look forward to many years of his continued involvement with the Institute.



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 2010/2011

Prof PJ Schwikkard (Chair)
Prof ER Kalula (Director)
Dr D Collier (Deputy Director)
Prof H Mostert
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
Dr M Sienaert
Mr J Theron

STAFF AND ASSOCIATES 2010/2011

Teaching Staff 2010/2011:

Professor Evance Kalula:

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

Professor Rochelle Le Roux:

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

Associate Professor 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 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)

Professor Halton Cheadle (Department of Public Law):

Constitutional law, labour law and legal writing

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:

Dr Pamhidzai Bamu

Mr Ashimizo Afadameh-Adeyemi

Ms Juliana Masabo

Mr Fritz Nghiishililwa

Mr Offah Obale

Ms Sylvia Hammond

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 ongoing research for the purposes of their engagement in a number of ILO related activities. Professor Cheadle is a member of the committee of experts appointed to review government reports on ratified conventions. 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.

Professor Kalula and David Woolfrey, an associate of the Institute, were commissioned by the ILO to draft an initial policy which formed the basis of the proposed new ILO Recommendation on HIV and AIDS.

Professor Kalula is also a member the reference group which is 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. The Institute is currently developing a research and capacity building project in association with the South African Institute for Drug-free Sport.

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

Research and teaching under the banner of development continued to gain momentum in 2010 and 2011, in particular with the efforts of Marlese Von Broembsen, who has recently orchestrated a Student Research Series that will showcase outstanding student scholarship in aspects of social justice and development. Other exiting projects in this area include the publication of a monograph on development in 2010 and the launch of the SADC Law Journal in November 2011.

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

2.1 Introduction

Since its inception (as the Small Enterprise Project) twenty one years ago LEP has operated with a degree of autonomy from 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. To cope with its workload it is envisaged that LEP will employ research assistants in 2012.

Since the previous AGM of the Institute there have been discussions regarding the institutional relationship between LEP and IDLL with both the previous and current Director, amongst others, and agreement has been reached in principle that LEP's activities should be more closely integrated within the IDLL, where it will be regarded as the research arm of the Institute, with a focus on socio-legal research.

However it is still necessary to give effect to this agreement by reconstituting IDLL, and particularly the Board of IDLL, to reflect the inter-disciplinary nature of LEP's research, and the ongoing involvement of the Department of Sociology in LEP.

2.2 Objectives

The focus of LEP's socio-legal research in recent years has been on the process of industrial restructuring that has been taking place since the 1990s, both in South Africa and globally, and its impact on employment and labour relations.

LEP has made a number of recommendations regarding the reform of labour legislation over recent years, and many of these recommendations have now been taken up in the draft bills (the Labour Relations and Basic Conditions of Employment Amendment Bills). At the same time LEP has also cautioned against a misplaced belief that it is possible to modify economic behaviour through legislation.

2.3 Core Activities

2.3.1 Inequality in the workplace and Decent Work

FNV, the Dutch trade union federation, has funded LEP since its inception, although not to the full extent of what it costs to run LEP. In November 2009 we entered into a new contract with FNV on the overarching theme of inequality in the workplace. This contract expired in 2011.

One of the outputs of this contract was a highly successful workshop held at the GSB campus in July 2011, attended by trade unionists, civil society bodies, government representatives and others. A booklet entitled “Keywords for a 21st Century Workplace” was launched there, encapsulating some of the conceptual work with which LEP has been engaged over the last ten years.

At the end of 2011 LEP entered into a further contract with FNV which expires at the end of 2012. This project, which to some extent represents a continuation of the previous project, focuses on the application of the ILO’s concept of decent work in three sectors of the economy that are regarded as having the potential to create jobs.

One of the outputs of this project will be a workshop on 19 October 2012, attended amongst others by stakeholders in the sectors concerned, as well as, we hope, researchers from four countries in the SADC region whom we hope to engage in the questions we will be raising there.

It now appears LEP together with other projects supported by FNV will be eligible for renewed funding from FNV from 2013 for a maximum of four years, ie until 2016.

2.3.2 Capturing the Gains

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

Since then LEP has become the leading research body in sub-Saharan Africa undertaking this research, which is focused on four sectors. Fieldwork was undertaken in a number of countries in the region during the course of 2011 and the research will be written up in 2012. It is also possible LEP will be granted funding to produce a book on this research.

2.3.3 Right to Work Booklet

LEP has been commissioned by Amnesty International to write a booklet for the use of NGOs and others in Africa on the right to work, as part of a series of booklets on socio-economic rights. This is an opportunity for LEP to explore the relationship between human rights and labour law.

2.3.4 Other research projects

Where smaller projects coincide with our area of expertise or research interests LEP has also undertaken smaller projects, which although not necessarily remunerative, contribute towards maintaining our profile. These have included projects for the ILO and ILO Better Work Lesotho Programme Project, Phuhlisani consultancy and the Southern Africa Trade Hub.

2.4 Other Activities: Teaching

Shane Godfrey has continued to be involved in teaching at the Honours and Master's level at the Sociology Department, and will now be receiving a part-time salary for his teaching in the Department, which will be paid to LEP.

2.5 Staff and Administration

As indicated, LEP staff comprises one full-time senior researcher (Shane Godfrey) and two part-time staff members (Jan Theron and Margaret Visser, both at 60% of a full salary).

Although LEP staff is now regarded as academic staff of the University, there has been a significant gap between the academic pay scales and LEP salaries, which is progressively being closed. It should be possible, with effect from the next round of salary increases, to close this gap entirely.

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 2010 – 2011

Research Output

4.1 Monographs and Occasional Papers published by the Institute

Ramcharan, BG. 2010. 'The Right to Development in Comparative Law: The Pressing Need for National Implementation'. Cape Town: Institute of Development and Labour Law, Development and Labour Monograph Series, 1-2010, 1-76. ISBN 978-0-7992-2362-0

Theron, J. with Godfrey, S. and Visser, M. 2011. 'Keywords for a 21st Century Workplace'. Cape Town: Institute of Development and Labour Law, Development and Labour Monograph Series, 1-80. ISBN 978 0 7992 2483 2.

Visser, M. 2010. 'Farm Worker Equity Schemes in South Africa: Aspects of Land Reform in the Western Cape'. Cape Town: Institute of Development and Labour Law, Development and Labour Monograph Series, 2-2010, 1-. ISBN 978 0 7992 2463 4

4.2 Articles in peer reviewed journals

Afadameh-Adeyemi, A. and Barrat, A. 2011. Indigenous peoples and the right to culture: the potential significance for African indigenous communities of the Committee on Economic Social and Cultural Rights' General Comment. *African Human Rights Law Journal*, Vol 11 No 2: 560-587.

Benjamin, P., Bhorat, H.I. and Cheadle, M.H. 2010. The cost of "doing business" and labour regulation: the case of South Africa. *International Labour Review*, 149(1): 73-91.

Benjamin, P. 2011. Decent work and non-standard employees: Options for Legislative reform in South Africa: A Discussion document. *Industrial Law Journal Including Industrial Law Reports*, 31: 845-871.

Benjamin, P. 2011. Enforcement and sanctions to Promote Compliance with South African Labour Legislation. *Industrial Law Journal Including Industrial Law Reports*, 32: 805-833.

Collier, D. 2010. If the unfair failure to promote is ongoing, should the Employee's Claim Prescribe? *Industrial Law Journal Including Industrial Law Reports*, 31: 1575-1579

Collier, D., Idensohn, K. and Adkins, J. 2010. Income inequality and executive remuneration: assessing the role of law and policy in the pursuit of equality. *South African Journal of Labour Relations*, 34(2): 84-109.

Collier, D. 2011. Employer negligence in the promotion process: When should the Arbitrator intervene? *Industrial Law Journal Including Industrial Law Reports*, 32: 2378-2384.

Jeram, N. 2010. Jurisdiction of the pension funds adjudicator in respect of complaints by underwriting insurers. *Insurance and Tax*, 25(4): 3-11.

Le Roux, R. 2010. Dialogue concerning externalisation and multilateral employment. *De Jure*, 43(1): 129-148.

Le Roux, R. 2010. Droit du travail et de la securite sociale dans le sport Sud-Africain. *Bulletin de Droit Compar du Travail et de la Securit Sociale (France)*: 25.

Le Roux, R. 2010. The evolution of the contract of employment in South Africa. *Industrial Law Journal*, 39(2): 139-165.

Le Roux, R. 2010. The Protected Disclosure Act 26 of 2000. Is this as good as it is going to get for whistleblowers? A review of some recent jurisprudence. *Stellenbosch Law Review*, 21(3): 508-527.

Le Roux, R. 2011. Getting Clarity: The Difference between Compensation, Damages, Reinstatement and Backpay. *Industrial Law Journal Including Industrial Law Reports*, 32: 1520-1545.

Le Roux, R. and Bosch, C. 2011. Not letting them whistle: The Labour Appeal Court's approach to the Protected Disclosures Act and protecting Parliament's employees. *Obiter*, (2011) 3.

Okoye-Ordor, A. 2011. The South African Nonprofit Sector: Legal and Policy Environment. *Speculum Juris*, 2010(1): 118-135.

Theron, J.P. 2010. Informalization from above, informalization from below: the options for organization. *African Studies Quarterly: The Online Journal of African Studies*, 11(2&3): 87-105.

Theron, J.P. and Visser, M. 2010. Waste management and the workplace. *Law, Democracy and Development*, 14: 1-18. [Online]. http://www.ddd.org.za/index.php?option=com_zine&view=article&id=259:waste-management-and-the-workplace&Itemid=7.

Von Broembsen, M. 2010. Informal business and poverty in South Africa: rethinking the paradigm. *Law, Democracy and Development*, 14(3): 1-34. [Online]. http://www.ddd.org.za/index.php?option=com_zine&view=article&id=106.

4.3 Authored Books

Godfrey, S.D., Maree, J.G.B., Du Toit, D. and Theron, J.P. 2010. *Collective Bargaining in South Africa: Past, Present and Future?* Claremont: Juta & Co. Ltd. 248pp. ISBN 9780702184642.

Le Roux, R., Rycroft, A. and Orleyn, T. 2010. *Harassment in the Workplace: Law, Policies and Processes*. Cape Town: LexisNexis. 216pp. ISBN 97804090483353.

Ordor, Ada and Oniekoro, Francis, *Sourcebook on Drafting, Property Law and Practice in Nigeria*. Enugu, Nigeria: Snaap Publishers, 2011, Textbook 611 pages.

4.4 Edited Books

Collier, D. and Lehmann, K.H. (EDS) 2010. *Basic Principles of Business Law*. 561pp. Durban: LexisNexis Butterworths. ISBN 9780409019155.

Rutinwa, B., Kalula, ER. and Ackson, T, (eds) 2011. *The New Employment and Labour Relations Law in Tanzania*. Dar es Salaam, Tanzania: School of Law, University of Dar es Salaam. ISBN 9780799224795.

4.5 Chapters in Books

Afadameh-Adeyemi, A. and Kalula, ER. 2011. SADC at 30: Re-examining the Legal and Institutional Anatomy of the Southern African Development Community. In Bosl, A, du Pisani, A, Erasmus, G, Hartzenberg, T and Sandrey, R (eds), *Monitoring Regional Integration in Southern Africa*, pp 5-22. Cape Town, South Africa: Tralac: Trade Law Centre for Southern Africa. ISBN 9780981422190.

Benjamin, P. 2011. Ideas of Labour Law - A view from the South. In Davidov, G. and Langille, B. (eds), *The Idea of Labour Law*, pp 209-222. Oxford, United Kingdom, Oxford University Press. ISBN 9780199693610.

Benjamin, P. 2011. Subordination Parasubordination and Self-Employment: A Comparative Study of selected African countries. In Casale, G. (ed), *The Employment Relationship: A Comparative Overview*, pp 95-136. Geneva, Switzerland: International Labour Organization. ISBN 9789221233022.

Collier, D. 2010. Agency. In D. Collier and K.H. Lehmann (eds), *Basic Principles of Business Law*, pp. 273-290. Durban: LexisNexis Butterworths. ISBN 9780409019155.

Collier, D. 2010. Breach of Contract and Remedies. In D. Collier and K.H. Lehmann (eds), *Basic Principles Of Business Law*, Pp. 111-127. Durban: Lexisnexis Butterworths. ISBN 9780409019155.

Collier, D. and Schonwetter, T. 2010. Intellectual Property. In D. Collier and K.H. Lehmann (eds), *Basic Principles Of Business Law*, Pp. 457–487. Durban: Lexisnexis Butterworths. ISBN 9780409019155.

Collier, D. 2010. Other Applicable Law. In D. Collier and K.H. Lehmann (eds), *Basic Principles Of Business Law*, Pp. 557–561. Durban: Lexisnexis Butterworths. ISBN 9780409019155.

Collier, D. 2010. The Contract of Employment. In D. Collier and K.H. Lehmann (Eds), *Basic Principles Of Business Law*, Pp. 309–331. Durban: Lexisnexis Butterworths. ISBN 9780409019155.

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4.6 Non Peer Reviewed Papers and Conference Proceedings

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Christie, S. and Mudely, E. 2011. Update on harassment law. Presentation at the LexisNexis Butterworths 24th Annual Labour Law Conference, Sandton Convention Centre. 29 June – 1 July 2011.

Collier, D. and Idensohn, K. 2010. Income inequality: Executive salaries and Pay discrimination. Presentation at the LexisNexis Butterworths 23rd Annual Labour Law Conference, Sandton Convention Centre. 11-13 August 2010.

Collier, D. and Bamu, P. 2011. When is the employer's decision about promotion reviewable? Rethinking the Noonan judgment. Presentation at the LexisNexis Butterworths 24th Annual Labour Law Conference, Sandton Convention Centre. 29 June – 1 July 2011.

Fergus, E. 2011. Reviewing CCMA decisions: the evolving function of the Labour Court. Presentation at the LexisNexis Butterworths 24th Annual Labour Law Conference, Sandton Convention Centre. 29 June – 1 July 2011.

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

4.7.1 PhD

Bamu, P.H. 2011. Contracting work out to self-employed workers: Does South African law adequately recognised and regulate this practice? Supervised by E.R. Kalula.

Collier, D.W. 2010. Agriculture, modern biotechnology, and the law: An examination of the property paradigm in the context of plant genetic resources.

4.7.2 LLM and Post Graduate Diploma Dissertations

Chipazi, Anthony 'Workers participation in Zimbabwe and Germany: a comparative analysis' (2011).

Gweshe, Rufaro 'Collective Bargaining in a globalised era: a change in approach' (2011).

Hulme, Reynard 'A reasonable strike: justifying secondary industrial action in terms of alw and policy' (2011).

Miller, Kristina Claire 'An evaluation of work-life legislation in South Africa' (2011).

Simoos, Caroline Gale 'Freedom of speech, the right to privacy, defamation or misconduct: what rights do employees have when making work related statements on social networking websites, and what of the rights of the employer' (2011).

Van Der Watt, Gerhardus 'The Protected Disclosures Act: reflecting on the jurisprudence of the last 10 years and challenges ahead' (2011).

5. MISCELLANEOUS ACTIVITIES AND EVENTS

5.1 LEP Workshop: 31 January – 4 February 2011

LEP hosted the Capturing the Gains (CtG) Sub-Saharan Africa (SSA) Regional Workshop from 31 January to 4 February 2011. The workshop had three main parts. The first day was a dedicated session for the CtG Agrofood researchers. This group took advantage of the fact that a number of its researchers would be at the SSA regional workshop and planned a day for discussing the various research projects taking place in the sector, primarily in SSA but also in other parts of the world via conference calls. The second part of the workshop comprised the stakeholder day. Business people, trade unions, government officials and NGOs in the four sectors being studied by CtG were invited for this day. This was a particularly important endeavour that had a number of objectives. The third part of the workshop, which followed over the next two-and-a-half days, was for CtG researchers only and aimed to convey a lot of the discussion, decision-making and planning that had taken place at the Manchester, Agra and Duke workshops to researchers at the regional level.

This was the first regional workshop of the Capturing the Gains programme and it was therefore the first time that LEP were able to translate the very in-depth discussions that had taken place at the Manchester, Agra and Duke workshops to the regional level. It was found to be an essential and very useful exercise.

5.2 Colloquium: 3 & 4 May 2011

During May 2011 the Institute hosted a two-day colloquium at Mont Fleur where authors contributing to the 2012 volume of the *Acta Juridica* had an opportunity to present and refine their respective papers. The theme of the colloquium was *Re-Inventing Labour Law: Reflecting on the first 15 years of the LRA and future challenges*. It is hoped that the 2012 *Acta Juridica*, which is also published in book form will be ready for publication by May 2012.

The event was an initiative of the Institute, the Center for Advanced Legal Studies (CALS) at the University of the Witwatersrand and the Faculty of Law at the University of KwaZulu-Natal which are also the three co-hosts of the Annual Labour Law Conference. Contributors were mostly from one of these universities, but several colleagues and friends from other universities, from practice and the bench also contributed.

5.3 Public Sector Labour Relations Seminar: 27 & 28 June 2011

The Institute with the kind sponsorship of the ILO hosted a two day seminar at the Graduate School of Business. The main aim of the workshop was to evaluate the impact of the global financial crisis on

public sector labour relations and explore the interventions required to address existing challenges, with a particular focus on the state of collective bargaining. It was intended to kick-start a high level discussion on the current state of labour relations in the public sector. This was conceived against the backdrop of deteriorating economic conditions which have placed pressure on labour relations and collective bargaining in some countries, leading to a rise in disputes.

5.4 LEP Workshop: 4 & 5 July 2011

The workshop entitled 'Labour at the Cross-roads: Inequality and the workplace' took place on 4 and 5 May 2011. It was well attended by a variety of trade unions, including representatives of the three trade union federations, representatives of various organisations of civil society, researchers and academics from a number of universities, and representatives of both the national and provincial offices of the Department of Labour.

It took the form of a series of debates between speakers representing diverse viewpoints, on themes that illustrated how the workplace has changed over the last twenty years, and the need for labour regulation to adapt to a new reality. It was also the occasion for launching the booklet which now appears under the title "Keywords for a 21st century workplace", which encapsulates much of the conceptual framework LEP has been developing.

The workshop was particularly timely, in the light of the publication of draft bills amending labour legislation, which were subsequently withdrawn. Perspectives highlighted at the workshop have likely influenced the bills that have been published in 2012. Extremely positive feedback was received in response to both to the workshop and the booklet.

5.5 Sports Law Seminar: Anti-Doping – 28 & 29 October 2011

In 2011 the South African Institute for Drug-free Sport (SAIDS) approached the Institute for assistance with the development of a research agenda regarding the regulation of anti-doping in sport and also with the drafting of new legislation on the issue. In pursuance of this, the Institute and SAIDS co-hosted training workshops in Cape Town and Johannesburg aimed at informing sports administrators and officials of the challenges and pitfalls of the anti-doping agenda. It is hoped that this association will be formalized in 2012 and that the Institute will be actively involved with driving research and training in this relatively niche area.

5.6 SADC Law Seminar: 17 & 18 November 2011

The Institute hosted a SADC Law Seminar, which is a collaborative effort between the Regional African Law and Human Security project (North-West University, Potchefstroom Campus) and the Institute. The primary purpose of the seminar was to facilitate discourse concerning various aspects of SADC law in the context of regional integration. The seminar will provide an opportunity to dissect SADC law in a critical manner in order to determine inter alia its contribution to continental integration. Furthermore, conference proceedings will be published in a special edition of the SADC Law Journal.

6. SOCIAL RESPONSIVENESS AND CONSULTATION SERVICES

6.1 Institute Conferences, Seminars and Workshops

6.1.1 23rd Annual Labour Law Conference

The conference titled 'Justice on the Job' 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, 12-13 August 2010. LexisNexis Butterworths manages and administers the conference. The welcome was rendered by Hon Mr Justice Dunstan Mlambo, Judge President of the Labour Appeal Court and the opening address was delivered by The Hon Membathisi Mdladlana, Minister of Labour.

6.1.2 24th Annual Labour Law Conference

The conference titled 'Reconciling Workplace Interests' 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, 29 June - 1 July 2011. LexisNexis Butterworths manages and administers the conference. The welcome was rendered by The Hon. Mr. Justice Dunstan Mlambo, Judge President of the Labour Appeal Court and the opening address was delivered by The Hon. Mildred Oliphant, Minister of Labour.

Both conferences were attended by over 800 delegates and continues to be a popular forum for debating burning labour issues in South Africa.

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
- Acting Judge in the Labour Court from time to time

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

- Elected as a member of the Academy of Science of South Africa (ASSAf);
- Continues to serve as a member of the Ministerial Advisory Panel of the Economic Development Department (EDD);
- Editor-in-Chief, *SADC Law Journal*;
- Member, Editorial Committee of Social Dynamics;
- Member, Reviewers Panel, South African Journal of Labour Relations;
- Member, Editorial Advisory Board, *Law, Democracy & Development Journal*;
- Appointed Chair of the University of Lusaka Council, Zambia;
- Chair, Advisory Board, ENTRUST Academy;
- President-Elect, International Labour and Employment Relations Association (ILERA);
- Member, Executive Committee of the Industrial Relations Association of South Africa (IRASA);
- Member, Editorial Advisory Board, *Malawi Law Journal*;
- Member, Editorial Advisory Board, *European Labour Law Journal*;
- Member, Editorial Board, *International Journal of Discrimination and the Law*;
- Member, Editorial Advisory Board, *Zambia Law Journal*;
- External Examinerships: Brunel University (UK), University of Botswana, University of Namibia, University of Zambia, University of Johannesburg, University of the Free State, University of South Africa, Andhra University (India), University of the Western Cape, University of Limpopo, North-West University; University of Dar Es Salaam.

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.
- Non-Executive Director of the South African Reserve Bank.
- Member of the Board of the South African Institute for Drug-free Sport.

6.2.8 Theron, Jan

- Board member, Cooperative Banks Development Agency
- Consultant to WIEGO, an international research network on labour law and the informal economy.

6.2.9 Visser, Margareet

- Ethical trade auditor for the NGO Fairtrade, who aims to promote equitable trade and compliance with labour, health and safety and environmental legislation in agriculture.

7. TEACHING

7.1 General

The Institute was responsible for convening and teaching a number of courses in 2010 and 2011.

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 2010/2011 include:

- CML 6013S – Collective Labour Law
- CML 6022S – Pensions and Social Security Law
- CML 6031S – Conciliation and Arbitration
- CML 6051F – Individual Employment Law
- CML 6064F – Law and Regional Integration in Africa: Comparative Perspectives
- CML 6071F - Negotiation

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 is key in offering 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 2010 and 2011 include Debbie Collier, Randall van Voore, Rochelle le Roux, Sufia Singlee and Emma Fergus.

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. Certificate course programmes were successfully conducted in both 2010 and 2011.

8. FUNDING AND FINANCES

We are particularly grateful to the following funders for their support in 2010/2011 and previous years:

Federatie Nederlandse Vakbeweging (FNV)
 Friedrich Ebert Stiftung (FES)
 National Research Foundation (NRF)
 University Research Committee (UCT)
 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 source. An account of IDLL income and expenditure for the 2010/2011 period will be presented at the Board Meeting in 2012.

9. HOW TO CONTACT US:

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