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AFRICAN LABOUR LAW SOCIETY

6TH CONFERENCE

SPEAKER BIOS AND SPEAKER INFORMATION

(in alphabetical order by first name)

Name:AWARAB ARVIN R

Organisation :University of Namibia

Job Title:Lecturer, School of Law

Name of Presentation :Exploratory study of the employer's rights in the post independent labour relations: A Namibian legal position

Abstract

The Namibian people, suffered a great deal in the hands of the colonial government. Unemployment and poverty were greatly experienced by the less privileged Namibians (know as people of South West Africa at the time). Employees where denied basic working conditions and where exposed to deplorable living conditions. Employers had an upper hand and where in charge before independence. They decided who to employ, set the working conditions and could deal with employees in any manner that seems pleasing to them. In fact, employees where treated as objects and could be bought and sold at the pleasure of their 'master'. However, after independence and with the adoption of the supreme constitution, the tables turn. Basic human rights such as the right to live, liberty, respect for human dignity and the freedom of occupation or trade was introduced by the constitution. Furthermore, the domestic labour legislation started to recognised rights such as minimum working conditions. Though the shift brought about by the constitution was in no doubt the correct move and commendable, one wonders whether the current employers are not suffering due to the injustices committed prior to independence by the colonial governments

and the employers of the day. Do the post-independent employers have work recognised rights? And, if so, are the employers given latitude to exercise these rights for their benefit and their entire workplace? These are some of the questions which this paper intends to investigate. In investigating these questions, the paper intends to look at the efficacy of the existing legislative and institutional framework in protecting and upholding employer rights.

Full Name: Barbara Surdykowska and Sławomir Adamczyk,

Organisation: NSZZ Solidarność trade union, Poland

Job Title:

Name of Presentation : Mandatory social due diligence in the supply chains of companies rooted in the EU as an impetus for global trade union cooperation. The case of the automotive industry in Central Europe and Africa.

Abstract

Corporate Social Responsibility (CSR) is a concept in which companies voluntarily choose to support activities for a better society and a cleaner environment. It is a process of managing relationships with the diverse stakeholder groups that influence the operation of a business. It is also understood as an ongoing commitment by businesses to behave ethically and to support economic development by improving the quality of life of employees and their families, as well as local communities and societies as a whole. The implementation of its principles contributes to achieving global sustainable development.

One of the topics raised regarding the development of CSR is its role in the supply chain. Business practitioners and theorists are looking for opportunities to use the principles of social responsibility to manage the supply chain and build sustainable and win-win partnerships. For trade unions, adherence to CSR in the supply chain is a guarantee of at least a minimum level of labour standards in subcontractors of transnational corporations originating from countries with high levels of business-labour relations, i.e. primarily the EU, especially its richer north-western part.

In recent years, work has been underway in the EU on the adoption of the Corporate Sustainability Due Diligence Directive (CSDD), which envisages the introduction of a due diligence obligation for certain groups of companies to counteract the negative impacts of corporate activities on respect for human rights and environmental issues. It means that:

- a duty of due diligence in respect of human rights and environmental issues will be introduced for specific groups of companies,
- responsibility and accountability of businesses for the negative consequences of their operations is to be enhanced,
- access to legal remedies for persons adversely affected by negative impacts on human rights and environmental matters arising from the activities of enterprises is to be improved,
- the provisions relating to companies' due diligence obligations in respect of human rights and environmental matters are to apply to their own activities, to the activities of their subsidiaries and to what is known as the "chain of activities" - a concept proposed in the "general approach" as a compromise between the "value chain" and the "supply chain",
- In addition, the draft directive also provides for liability (serious finance fines) for breach of due diligence obligations.

The directive is still under development, but some EU countries introduced their regulations yet, amongst them Germany. Lieferkettensorgfaltspflichtengesetz (LkSG), a law on supply

chain due diligence, has already come into force in Germany as of 1 January 2023. It applies to companies based in Germany with more than 3,000 employees and will apply to entities with 1,000 or more employees from January 2024.

The new bill defines a supply chain broadly to include all necessary stages of production or service performance – starting from raw material extraction to delivery to end customers in Germany or abroad. This means that a German company subject to the statutory obligations must demonstrate due care in monitoring compliance with human rights at all stages. This includes a diversified and extensive list of prohibitions of human rights violations. Among other things, the following are a no-go: disregard for the occupational safety and health rules; child labour; forced labour; violation of the freedom of association; unequal treatment in employment, e.g. due to nationality or ethnic origin, social status, health condition, disability, sexual orientation, age, sex, political opinion, religion or beliefs; remuneration below the minimum wage.

The entry into force of the German Supply Chain Act will undoubtedly change the conditions under which German companies cooperate with their foreign subcontractors. Especially as non-compliance with the requirements for sub-suppliers/subcontractors will result in high penalties - if obligations are breached; the company faces administrative fines of up to €8 million or 2 per cent of its annual worldwide turnover.

One economic sector that is globally dependent on supply chains is the automotive industry. Large corporations (including German ones) have been developing their production networks and subcontractors in low-cost CEE countries as well as in Africa over the past years. Now German companies will have to adapt their behavior abroad to the requirements of German law. In a short while, after the adoption of the EU directive, this will probably apply to all companies operating in the EU and with a certain turnover volume (more than 150 million euros).

Full Name: Bongani Luthuli

Name of Presentation: The Presumption Against Extra-Territorial Application of the South African Labour Court and the Jurisdiction of the Labour Court in international contracts outside of South Africa

Abstract

Does the Labour Court have jurisdiction to adjudicate disputes between a South African employer and a South African employee in a foreign country? This presentation will look at this question in light of globalization and the increase of South Africans working outside South Africa. The discussion will centre around *Kleynhans v Parmalat SA (Pty) Ltd* (2002) 9 BLLR 879 (LC) and *Parry v Astral Operations* (2005) 26 ILJ 1479 (LC). It will be submitted that the Labour Court in these decisions held that it did have jurisdiction to adjudicate disputes where the workplace is outside South Africa provided that certain requirements were met. In *Astral Operations Limited v Parry* (2008) 29 ILJ 2668 (LAC), the Labour Appeal overturned the decision of the Labour Court and reasoned that both the Labour Relations Act and the Basic Conditions of Employment Act do not have extra-territorial application in terms of the presumption against extraterritoriality and that the workplace was outside South Africa. The Labour Court which was created by these two acts, did not give it jurisdiction to adjudicate the matter. This paper will discuss these decisions and submit, with respect, that the Labour Appeal Court's decision was not in line with globalization and missed the opportunity to advance protection for employees working outside South Africa. The positions in European Union, the United Kingdom and Ontario, Canada. We will call for legislative reform for the abolishment of the presumption against extra-territorial application

of the Labour Relations Act in order to allow South African employers and employees to engage outside the borders of South Africa whilst enjoying the constitutional protection of the right to fair labour practices enshrined in Section 23 of the Constitution.

Full Name:Caleb Muccheche

Organisation:Calen Muccheche and Partners Law Chambers

Job Title:Head Senior Partner

Name of Presentation:Legal Analysis of Some Collective Bargaining Challenges for Employers, Labour Unions and Workers in Zimbabwe post Labour Amendment Act, 2023

Abstract

Labour Amendment Act No. 11 of 2023 (hereinafter referred to as “**Labour Amendment Act, 2023**”) passed as law by the Parliament of Zimbabwe on 14 June 2023 poses some challenges to the right to collective bargaining for a number of reasons like direct equal footing involvement of government Minister with the employer a party to the collective bargaining agreement at works council and employment council in relation to parastatals or government owned entities, criminalisation of an unlawful strike and watering down or dilution of the autonomy of parties at employment councils, among others. The aforesaid collective bargaining challenges may be a tell-tale sign that local labour legislation may be viewed by some analysts as being out of sync with **ILO Convention No. 98** covering Right to Organise and **ILO Collective Bargaining Convention No. 154**.

Full Name;Caroline Wanja

Name of Presentation:Whistleblowing dynamics in employment: Unraveling transparency, accountability, and ethical imperatives - A regulatory perspective

Bio

Caroline is a legal professional and an Advocate of the High Court of Kenya with over ten (10) years post-qualification experience. She is also a qualified Certified Secretary (CS) and an accredited Governance Auditor. She is currently a Senior Manager in PwC Kenya’s Legal Business Solutions unit.

Caroline has gained significant experience in legal and regulatory compliance, employment, corporate restructuring and transactions advisory, legal and governance audits, legal drafting and review, policies and commercial contracts, projects, corporate governance and general commercial law. She has special focus in the energy, mining, financial services and technology sectors.

Caroline has a proven track record of leading and managing legal teams across multiple regulatory assignments. She is passionate about delivering high-quality legal services. Prior to joining PwC, Caroline has worked at tier 1 law firms, has served as a lecturer at Strathmore University and has been a speaker and trainer in various events.

Abstract

The presentation will commence with an overview of the concept of employment whistleblowing and its significance in uncovering employment-related issues. It will explore the role whistleblowers play in promoting transparency and accountability in the workplace and the investigator’s role in navigating complex dynamics. It will then delve into the legal foundations of whistleblowing in employment, the frameworks that support and protect

whistleblowers and how these protections contribute to safeguarding worker rights. Kenyan legal provisions and statutes governing whistleblowing in employment will be highlighted. Key Kenyan and international cases where whistleblowing played a pivotal role in addressing employment issues will also be covered.

Full Name: Cosma Wetende

Name of Presentation: The Fourth Industrial Revolution – the Future of Labour Law

Abstract

It is anticipated that beyond the already remarkable changes in the way we live, relate and work, the revolution in technological advancement continues and is anticipated to extend well beyond our human imagination. Beyond our fears and apprehension, it is prudent to consider and prepare for the future in light of trends in automation, artificial intelligence, platform work, teleworking and the digitization of employment and dispute resolution procedures as well as the impact on the law, law firms and the courts.

The presentation will focus on a case study of our Kenyan experience including how labour law and practice has been impacted, the jurisprudence that has been developing beyond what we traditionally knew and understood as the basic fundamental requirements of the employment relationship and the enforcement mechanisms in place.

Full Name: Daniel Muniyithya Moses

Bio

Daniel is a dedicated student currently enrolled in the Bachelor of Arts program in International Studies at the University of Nairobi. His academic pursuits are driven by a passion for understanding global issues, with a particular focus on workers' rights. Daniel has in the past interned with the International Lawyers Assisting Workers (ILAW), where he engaged in a case centered on platform workers' rights. Through his academic endeavors and practical experiences, Daniel aspires to contribute meaningfully to the discourse surrounding labor rights and social justice on both local and international scales.

Full Name: Hon. Ofosu Asamoah

Name of Presentation: Title: "Equality at Work: Challenges and Opportunities for Women and LGBTQ Individuals in Ghana"

Bio

Hon. Ofosu Asamoah is a Ghanaian lawyer and former member of parliament who represented Kade constituency in the Eastern region of Ghana for four consecutive terms starting in January 2001. Born on November 25, 1969, in Kade, he obtained a Bachelor of Arts degree in Law and Political Science from the University of Ghana in 1994, followed by a Bachelor of Law from the Ghana School of Law in 1997 and a Masters in Labour Law in 2024. As a member of the New Patriotic Party, he served on the Constitution, Legal and Parliamentary, Subsidiary Legislation committee during his tenure as a member of parliament. Ofosu left office in January 2017 after being re-elected into office in the 2008 Ghanaian General Elections and serving in the 5th Parliament of the 4th Republic of Ghana.

Abstract

Despite constitutional safeguards and international commitments, LGBTQ individuals in Ghana face pervasive discrimination, including denial of job opportunities and unfair treatment. Proposed anti-LGBTQ legislation worsens the situation, violating constitutional principles and undermining Ghana's human rights obligations. Cultural norms and societal attitudes exacerbate marginalization, leading to job insecurity and mental health challenges. Addressing discrimination requires legal reforms, public awareness campaigns, and institutional interventions to foster inclusivity and equality in Ghanaian society. The article will compare the impact of Ghana's new laws on gender equality progress globally.

Full Name:Dr S'celo Walter Sibiyi

Organisation :University of Zululand.

Job Title:Senior Lecturer

Bio

Dr S'celo Walter Sibiyi is an admitted attorney of the High Court of South Africa and a senior lecturer at University of Zululand. He holds a Bachelor of Law, Master of Law (Labour Studies) both from the University of KwaZulu Natal. His highest qualification is a Doctor of Law obtained from the University of Zululand. His thesis focused on a knotty constitutional labour law issue relating to the application of derivative and team misconduct in the workplace vis-à-vis the right to remain silent and presumption of innocence. He lectures criminal procedure, labour law and administrative law. His research interests include labour law and related matters, administrative law and criminal procedure

Full Name:Khemila Narraidoo

Job Title:Barrister-at-law

Name of Presentation:The future of labour law when it comes to work from home, climate change and dispute resolution procedures.

Bio

Khemila Narraidoo was called to the Bar of England and Wales in 2010 at the Honourable Society of the Middle Temple and was, thereafter, called to the Bar of Mauritius in January 2012. Khemila holds an LLB Hons in English and French law as well as a "Maitrise en Droit International des Affaires". She did her Bar Vocational Course at the Inns of Court School of Law (City Law School) in London. Khemila is a Partner at Juristconsult Chambers and has been with the firm for 12 years. Khemila's practice covers all aspects of civil, corporate and commercial law with particular focus on employment, mediation, arbitration and insolvency. Besides advisory and transactional work, Khemila has considerable experience in contentious matters covering all forms of dispute resolution and in particular commercial and employment courts. She has appeared before various court levels in Mauritius in labour law matters and regularly before the Mediation Division of the Supreme Court. Khemila is also a member of the MCCI Arbitration & Mediation Centre and in 2023, she followed the Professional International Mediator Training Certification Court for Mauritius and became an accredited mediator with MCCI Arbitration & Mediation Centre.

Abstract:

The presentation will focus on recent and anticipated developments in Mauritian labour law in the context of the changing workplace. Although Mauritian workers' post-COVID return to physical offices has largely normalised, other long-term trends may continue to place WFH

and remote working arrangements under sharp legislative focus in years to come. One such is climate change: for instance, the introduction of a revamped section 32(6) of WRA 2019 in 2022 provides for a worker's remuneration when assigned duty while severe cyclone conditions prevail. The disastrous impact of a cyclone in Mauritius in early 2024, and the increasing urgency to consider virtual work arrangements during adverse weather events in years ahead, warrants the reinforcement of WFH legislative provisions going forward. Another aspect to consider in the forthcoming years is the importance which should be given to mediation as a dispute resolution.

Full Name: Lauren Salt

Organisation: ENSafrica

Job Title: Partner

Name of presentation: Women's discussion

Bio

Lauren Salt is a Partner in the Employment Department at ENS – Africa's Largest Law Firm. She specialises in advising local and international clients on, amongst other things, employment law compliance, labour dispute resolution, restructuring, employment equity and discrimination law, data privacy and corporate mobility. She has extensive experience in employment-related investigations and mediation of employee grievances. Lauren has BA, LLB and LLM (summa cum laude) degrees and is an admitted attorney and notary public.

Full name Louis Koen

Organisation:University of Johannesburg

Job Title:Lecturer

Name of Presentation:The African Continental Free Trade Agreement: An Opportunity To Address the Sexual Harassment of Female Informal Cross-Border Traders

Bio

Louis Koen is a Lecturer in the Department of Public Law. His research primarily focuses on the interaction between sustainable development, including attaining decent work, and international economic law. He focuses on how the branches of international economic law can contribute to or undermine the achievement of sustainable development, with a special focus on vulnerable groups such as informal economy workers. He has presented at various international and local conferences on sustainable development, labour and international economic law and publishes on these topics.

Abstract

Southern African labour markets are characterised by pervasive informality. This high incidence of informality also extends to intra-regional trade. It has been estimated that informal cross-border traders (ICBTs) conduct up to 40% of all intra-regional trade in the Southern African Development Community (SADC). Within the region, approximately 70% of ICBTs are women. These traders face a unique series of challenges, including onerous documentary requirements and delays at border posts. Women ICBTs also face various gender-specific challenges, including numerous instances of sexual harassment by border officials.

In recent years, some African regional trade blocs have made significant progress towards addressing these challenges. The Common Market of East and Southern Africa (COMESA), for example, has contributed positively to SDG 16 by creating an environment for greater

accountability of border officials through confidential complaint mechanisms at the border. This has contributed to reduced opportunities for violence directed towards these traders and greater accountability when such violence is reported. However, this model has not been followed throughout the region, and many other institutions may draw important lessons from the COMESA initiative

This study reflects on the role of regional trading blocs in addressing the sexual harassment of ICBTs at border posts. It draws on the initiatives by COMESA as a potential model for extension to the entire African Continental Free Trade Area. It reflects on what greater accountability of border officials means for attaining several SDGs, including gender equality, decent work and the elimination of violence under target 16.1.

Full name:MaryAnne Kimani

Job Title:Advocate

Name of Presentation:'Artificial Intelligence in the Workplace & Unraveling the Pitfalls in Labor Law Practices'

Bio

MaryAnne Kimani is an advocate of the High Court of Kenya. She holds a Master of Laws in International Trade & Investment Law and a Bachelor of Laws (LLB) both from the University of Nairobi. Additionally, she is a Court annexed Mediator at the High Court of Kenya where she deals mainly with employment disputes. As the Managing Partner at Nyakiringa & Co. Advocates, she heads the Corporate Commercial Department with a focus on employment matters.

Abstract

The presentation shall elaborate the developments made in the age of automation with a specific focus on its benefits in the workplace. It shall then delve into a general overview of the spheres of labour law that are bound to be affected by the growth of artificial intelligence. The presentation shall conclude by highlighting how to navigate the future.

Full Name:Kgomotso Mufamadi and Katleho Letsiri

Name of Presentation:"Cultivating mental wellness at work: an analysis of the mental health framework in South African labour law".

Abstract

Employers have a duty in terms of the Occupational Health and Safety Act 85 of 1993 to provide and maintain a working environment that is without risk to the health of the employee. While psychological health and safety is not specifically mentioned, prioritising mental health at work is crucial for fostering a productive and supportive environment.

In 2022, approximately 25.7% of South Africans were said to be suffering from depression, while the South African Depression and Anxiety Group (SADAG) states that employees often take sick leave due to depression but are reluctant to disclose same. Our case law also reflects a trend of employees abusing sick leave.

Another consideration that our law may not take into account is the possibility of mental illness being a direct cause of a workplace or as a result of workplace bullying. The question for the writers is whether an employer may be held accountable for mental illness caused or exacerbated by the working environment.

This paper therefore seeks to consider the framework for mental illness in our labour law by analysing its classification by the courts; the extent to which mental wellness is encompassed in the employer's general duty; psychological abuse at work as a form of harassment and the preventative measures an employer may utilise; as well as the basis upon which compensation may be claimed for mental illness occurring in the workplace.

Full Name : Munya Gwisai

Organisation: University of Zimbabwe & Matika, Gwisai and Partners Legal Practitioners

Job Title: Academic and Legal Practitioner

Name of Presentation: Social justice and retrenchment law in Zimbabwe in the context of international labour standards

Bio

Munya Gwisai is an academic and legal practitioner in Harare, Zimbabwe. He is a holder of an LLBS (UZ, Harare) and LLMS (Columbia University, NY). Munya is a Senior Lecturer with the University of Zimbabwe, Faculty of Law since 1994 where he specialises in Labour Law, Labour Relations and Legal History. Gwisai has published extensively on labour law in Zimbabwe. He is an author of a leading labour law textbook, Labour and Employment Law in Zimbabwe (2006). Munya is also the chairperson of the Zimbabwe Labour Centre, a registered vocational training centre offering certificates in para—legal studies, political economy and labour law. Munya is the Senior Partner at Matika, Gwisai and Partners Legal Practitioners established in 2014. He has twenty-nine (29) years of legal experience and has argued some of the leading cases on labour law before the Labour Court and superior courts in Zimbabwe.

Abstract

The Labour Act [CAP 28:01] and Constitution (2013) provide for the right to protection from unfair dismissal, realisation of social justice and to fair labour standards, respectively. The presentation explores the possible impact of these principles, inspired from ILO C158 [1982] on Zimbabwean retrenchment law. The approach of courts has been inconsistent and contradictory on areas like the duty to justify retrenchment, consult workers representatives, appropriate retrenchment package and on special measures. A critical area in the wake of unprecedented economic crisis after 2000 and mass retrenchments. It will be instructive to share with colleagues on comparative jurisprudence.

Full Name: Nqaba Dube

Bio

I am a PHD student at UCT. My research centres around the impact of the Fourth Industrial Revolution on employment laws with specific reference to how it has changed the life of an

employee. In my research I am tracing this development from recruitment stage to retirement or retrenchment and everything in between.

Full Name: Olumide

Organisation :University of Portsmouth and the University of Mancheste

Job Title:Lecturer

Name of Presentation:Handling Sensitive Personal Data in The Workplace: Reviewing the African Approach

Bio

Olumide teaches law at the University of Portsmouth and the University of Manchester in the United Kingdom. He is a passionate digital rights, privacy and data protection lawyer in Nigeria. He holds a Masters' degree in International Commercial Law with ICT & Commerce from the University of Reading, United Kingdom and is currently a PhD candidate at the University of Portsmouth, United Kingdom.

Olumide's pioneering litigious work around privacy and data protection has seen him litigate the subject up to the Supreme Court of Nigeria and the Community Court of Justice (ECOWAS). In demonstrating his knowledge and expertise in data protection, he handled the first Court of Appeal decision on data protection in the case between Digital Rights Lawyers Initiative and National Identity Management Commission (2021) LPELR – 55623(CA) where the court extensively identified the nexus between data protection and right to privacy under the Nigerian Constitution.

Olumide has 7 published law books to his credit including Casebook on Data Protection (2020); Privacy and Data Protection Law in Nigeria (2021); Digital Rights in Nigeria: Through the Cases (2022); Emerging Jurisprudence on Privacy and Data Protection in Nigeria (2023). He has authored many academic articles published by international and local peer-reviewed journals.

Abstract

The Malabo Convention defines sensitive personal data as "personal data relating to religious, philosophical, political and trade-union opinions and activities, as well as to sex life or race, health, social measures, legal proceedings and penal or administrative sanctions."

In addition to the obligation of State parties to establish national data protection authorities (DPA), the Convention empowers such DPAs to regulate the processing of sensitive personal data. This presentation briefly discusses the various national approaches to the processing of personal data in selected African countries. The presentation will particularly focus on the prohibition of processing, legal bases and statutory safeguards (if any). The presentation will then recommend the contemporary approach to processing sensitive personal data on the continent.

Full Name: OMONO BLESSING OMAGHOMI

Organisation: Streamsowers & Kohn

Job Title : Associate Partner

Bio

Omono Blessing Omaghomi is a Partner in the Dispute Resolution Group at Streamsowers & Köhn where she heads the Employment and Labour Law Practice. She has dealt extensively on issues of employment and labour law, various arbitration proceedings, banking, aviation claims, debt recovery, real estate, insolvency, and enforcement of local and foreign judgments. She advises both foreign and local companies on industrial relations, pension reforms, and various forms of terminal benefits as it relates to employee and employers' relationship. She is a Fellow of the National Labour Institute, a member of the International Bar Association, the Chartered Institute of Arbitrators (UK), the International Federation of Women Lawyers, and the Employment and Labour Lawyers Association of Nigeria.

Mrs. Omaghomi is a prolific writer and has authored several legal articles. She co-authored "Enforcement of Foreign Judgments in Nigeria", a legal publication by Lexology, a web-based provider of legal updates and insights. She also authored the article "Termination of Employment: The Effect of the ILO Convention on Contracts of Employment- November 2022."

Mrs. Omaghomi holds a Bachelor of Law degree from the University of Benin, a Master's degree in law from the University of Lagos as well as an advanced certification in industrial and labour relations from Michael Imoudu National Institute of Labour Studies, Kwara State.

Name: Dr Pratima Sambajee

Organisation: University of Strathclyde, Scotland

Job Title: lecturer/researcher

Name Of Presentation: Can academic research support the goals of labour law? Evidence from Mauritius

Bio

Dr Pratima Sambajee is a lecturer/researcher at Strathclyde Business School, Scotland. She is of Mauritian origin and has lived and worked in the UK for 22 years. Her research and teaching interests span several areas of work, employment and migration, particularly those situated in the global south and in non-regulated sectors. She has held investigator roles on several projects funded by the Carnegie Trust, HORIZON2020 and UKRI. She is currently principal investigator on a project on 'Decent work in the face of climate change: understanding the experiences of fishing communities', funded by The Royal Society of Edinburgh. Her research is impact driven and she has worked with trade unions, NGOs and labour policymakers in Mauritius, Kenya, Bangladesh, India and Uzbekistan.

Abstract

In this presentation, the author shares how evidence from a research project on the workers' rights act 2019 in Mauritius, is being used to transform the way labour law is communicated. It starts with an introduction of the project and lays out key findings and recommendations. It then shows how knowledge exchange activities with key stakeholders are used to implement the recommendation on *improving the communication of labour law to workers*. The aim is to show that academic research can play an important role in supporting policy and practice in achieving the goals of labour law in an African context.

Full Name:Sibusiso Dube

Organisation:Bowmans South Africa

Job Title :Admittted Attorney and Partner

Name of Presentation: Collective Bargaining: Where are we now? (A South African Perspective)

Bio

Sibusiso Dube is an admitted attorney of the High Court and a partner in the Dispute Resolution Department at Bowmans and is part of the Employment Practice Group.

Sibusiso's practice is focused on providing advisory and litigation services to public and private entities in respect of a range of employment law issues including, but not limited to, unfair dismissals; unfair employment practices including unfair discrimination on any grounds; collective labour law; employment equity; transfers of businesses; retrenchment processes; restraints of trade; incapacity and incompatibility in the workplace; lifestyle audits; and management of senior employees.

In addition, Sibusiso conducts investigations into, among others, misconduct; allegations of racism; sexual harassment; bullying and intimidation; unfair discrimination; mismanagement of employer funds; and irregular/fruitless and wasteful expenditure.

Sibusiso holds B Com Law and LLB degrees from the University of Johannesburg.

Abstract

Content: the presentation will focus on the development of collective bargaining and why it was important for South Africa to establish organizational rights in the workplace post-apartheid. The critical roles played by unions will be considered, including the objectives behind collective bargaining. We will then consider how collective bargaining has developed over the years, what organizational rights are, the challenges faced, including the impact of Marikana where miners were shot down. Further, we will consider the violent nature of strikes and the impact on the economy and rate of employment in South Africa. Finally, we will consider whether the current state of collective bargaining still meets the objectives which it was aimed for at inception.

Full name:Samantha Smit

Name of Presentation:Waste Pickers: Unlawful occupier or vulnerable worker?

Bio

Samantha is a researcher at the University of Johannesburg who is passionate about advocating for vulnerable workers. Her research primarily focuses on the protection of vulnerable workers and expanding environmental protection. Since a young age, she has been captivated by the legal system and its potential to effect positive change in society. Samantha's keen interest lies in expanding the law to better protect those who are often

overlooked or exploited, such as waste pickers. Driven by a strong desire to make a meaningful difference, Samantha is dedicated to using her legal knowledge and skills to champion the rights of those who need it most.

Abstract

Informal economy workers, such as waste pickers, contribute significantly to South Africa's economy despite not receiving the same level of protection as people working in the formal economy. However, for the most part they are invisible and with limited to no social and labour protection. Thus, waste pickers are vulnerable members of our society and where existing rights such as the right to access landfills, which in turn affects their right to earn a livelihood, should be protected.

In this presentation, two main points will be discussed. How the right to life includes the right to livelihood, and how such a right should be protected even when property rights are present. Especially where it concerns vulnerable members of society. Secondly, how the Court in *Turnover Trading v Moshela* erred in their decision by evicting waste pickers and depriving them of their right to human dignity and life, or livelihood.

Full name:Dr. Santosh Kumar Mishra (Ph. D.)

Name of Presentation: Researching into Contributing Factors for Gender Gaps in Labour Market in African Region and Need for Reform in Labour Law

Bio

Dr. Santosh Kumar Mishra (he/his), is Independent Researcher (Scholar), having retired from Population Education Resource Centre, Department of Lifelong Learning & Extension, S.N.D.T. Women's University, Mumbai, India. He underwent training in demography, with award of Government of India Fellowship, during 1986-1987, & acquired Ph. D. from University of Patna in 1999. His areas of expertise include sustainable development, labour law, migration, gender issues & allied subjects. He has authored 5 booklets, 4 books, 23 book chapters, 97 journal articles, 2 monographs, 7 research studies, & 56 papers for national & international conferences (some with bursary/travel scholarship). He has been awarded with **Certificate of Excellence in Reviewing** for 2017, 2018, 2021 & 2022. He has been conferred with **Excellence of Research Award** for outstanding contribution & recognition in the field of agriculture in 2021. Besides contributing to over 221 e-discussions, he served as Judge for the 2021 IHA Health Literacy Awards.

Abstract

Although sustainable development depends on better gender equality, women in the Africa are confronted with persistent challenges to get decent jobs. According to estimates by the ILO in 2016, 60% of working women in sub-Saharan Africa remain in agriculture, with concentration in time and labour-intensive activities that are unpaid or poorly remunerated. This paper aims to investigate into factors behind gender gaps in labour market in Africa, and need for labour law reform. Secondary data (*'qualitative'*) have been used. Method of data analysis is *'descriptive'*. The paper concludes that there are challenges women continue to face in finding decent jobs.

Full Name: Morris Bevin Sibanda

Job Title: Doctor of laws (LLD) candidate and researcher, Faculty of Law,

Organisation: University of the Western Cape (UWC)

Name of Presentation: The impact of COVID-19 on the definition of 'workplace' in South African labour law.

Abstract:

According to section 213 of the Labour Relations Act (LRA), a workplace is 'the place or places where the employees of an employer work'. The Occupational Health and Safety Act (OHS) provides that it is the employer's duty to provide a safe working environment at the workplace for their employees. Therefore, section 8(1) of the OHS stipulates that an employer 'must provide and maintain, as far as is reasonably practicable, a working environment that is safe and without risk to the health of his employees'. However, with the sudden and unforeseen COVID-19 pandemic, that resulted in a national lock down on 26 March 2020, employees started working from home. This means, arguably, that 'home' qualifies as a 'workplace'. The same policies that applied to the 'workplace' as we know it, must apply to 'home' as a workplace. The objective of this research is to define the concept of 'workplace' post the COVID-19 pandemic, particularly as most employees now fulfil their duties from home. Additionally, I aim to explore the legal implications stemming from this shift in work arrangements

Full Name: Titilola Olatunde-Fasogbon

Organisation

Job Title

Name of Presentation: Fundamental Principles and Rights at Work and the Nigerian Perceptive – Laws & Implementation

Bio

Titilola Olatunde-Fasogbon is a seasoned Nigerian Legal Practitioner with over a decade of Post Qualification Experience (PQE). She earned her LLB from Obafemi Awolowo University, Ile-Ife, Osun State in 2008, followed by her BL from the Nigerian Law School in 2009. Her commitment to legal excellence led her to the University of Lagos, Akoka, where she successfully obtained her LLM.

She is currently a Senior Associate and integral member of the dispute resolution and employment teams at Udo Udoma and Belo-Osagie. Titilola's expertise spans diverse areas of general civil litigation. Her proficiency extends to handling contentious disputes arising from employment & labour dispute, trade union disputes, commercial transactions, insurance and tax disputes, and real estate & construction disputes. Since joining the firm, Titilola has actively engaged in a wide spectrum of matters, including providing general corporate advisory services and litigation representation. Her involvement also extends to

participating in employment due diligence and compliance exercises for target companies in the context of investment, mergers, and acquisitions.

Titilola Olatunde-Fasogbon is a proud member of several professional organisations, including the Nigerian Bar Association, Associate at Negotiation and Conflict Management Group International (NCMG), Associate Member of the Chartered Institute of Arbitrators UK (Nigeria Branch), the Employment and Labour Lawyers Association of Nigeria, the Section of the Business Law of the Nigerian Bar Association, and the ICC Nigerian Commission on Arbitration.

Her dedication to continuous professional development and commitment to excellence underscores her standing in the legal community. Titilola's multifaceted experience and affiliations exemplify her comprehensive understanding of the legal landscape, making her an invaluable asset to her team, associations and affiliates.

Abstract

Human rights form the basis of many international treaties and the ILO Fundamental Convention, specifically designed for the world of work. The adoption of these conventions by member states, national legislation, and legal interpretation of labour principles and laws have helped shape Nigeria's labour standards, which aim to achieve the best international practices due to the shortcomings in labour laws.

This presentation will focus on the Declaration on Fundamental Principles and Rights at Work, which applies to both formal and informal sectors, and how Nigerian lawyers have incorporated these principles into draft employment contracts and company policies, as well as the National Industrial Court of Nigeria's unwavering mandate to enforce international best practices.

Despite the courts' efforts, Nigerian legislation has yet to keep up with current trends, and the court's ability to entrench international best practices is limited in cases where contracts and policies are unfavourable, depending on the case's circumstances presented before the court.

Human rights are the foundation of equitable and just societies and serve as the starting point for a virtuous circle of effective social dialogue, better working conditions, increased enterprise productivity, higher consumer demand, more jobs, and social protection, and for formalising the informal economy.

Name :Unathi Dlamini

Organisation:Shepstone & Wylie Attorneys.

Job Title:Associate

Name of Presentation:Moms, Dads and the BCEA – what the developments in leave provisions could mean for 'parent employees' and employers in South African workplaces.

Bio

Unathi Dlamini is an Associate in the Employment Law Department of Shepstone & Wylie Attorneys. She has experience with, inter alia, drafting and reviewing employment contracts, drafting legal opinions, appearances in the CCMA and Bargaining Councils, assisting with Labour Court proceedings, conducting disciplinary hearings, conducting training sessions for

corporate clients, advising clients on POPIA and FICA compliance, advising clients on matters relating to social media and cybercrimes. Unathi has authored a number of articles which have been published in a range of newspapers. She has also provided commentary for the Clicks ClubCard Magazine, Inanda FM (in collaboration with Probono.Org) and Voice of Wits FM

.In addition to her professional pursuits, Unathi is passionate about corporate social responsibility, and she is an active Board Member of Wylie House Child and Youth Centre. On the academic front, Unathi is enrolled in the Advanced Program in Labour Law, through the University of Pretoria.

Abstract

- i. A discussion of the judgment of Van Wyk and Others v Minister of Employment and Labour [2023] ZAGPJHC 1213.
- ii. The practical impact of the judgment on parenting roles, vis-à-vis, how Courts historically viewed parenting roles.
- iii. The impact of the judgment on gender roles and bias in workplaces.
- iv. The misuse of parental leave and possible recourse for employers.
- v. The impact of the judgment on employers who provide paid maternity leave and the influence of the increased Minimum Wage, effective 1 March 2024.
- vi. The administrative challenges of the UIF and the impact of these challenges on employees.

Full Name:TAFADZWA MAZONDE AND VIOLET MUDZIMBA

Organisation:ZINARA

Job Title:Legal and Governance professional,Human Resources Services Manager

Name of Presentation: Mental health- key tenet of workplace safety

Bio

Violet is a renowned human resource professional with 17 years of experience in different sectors in Zimbabwe. She is the current Human Resources Services Manager for ZINARA since 2021. She is also a non- executive Board member for the National Prosecuting Authority of Zimbabwe and chairs the Board's HR Committee. She holds an MBA (MSU), Bsc Honours Sociology (UZ), Bachelor of Laws (LLB)(UNISA), Post-Grad Diploma in Law- Conciliation and Arbitration (UZ), HND HR Management (IPMZ), amongst other several qualifications. She is currently studying for a Doctor of Strategic Management Degree with CUT Graduate Business School. She has received HR and leadership accolades from various Institutions. Outstanding Public Service Leader of the Year (2021), Best HR Manager of the Year - Public Sector (2021), Outstanding Human Capital Leader of the Year (2017), Female Manager of the Year (2016), Outstanding HR Professional in the Government Allied Sector (Platinum Winner) 2022, Zimbabwe Top Manager (Gold Winner) 2022.

Tafadzwa Mazonde is a registered Legal Practitioner and an active member of Law Society of Zimbabwe. He holds a Bachelor of Laws (Hons), a Master of Laws and Master of Commerce Strategic Management & Corporate Governance degrees amongst other qualifications.

Tafadzwa is a Legal and Governance professional with over 10 years' experience corporate and commercial law practice. He handled several consultancies for the International Labour Organization in respect of the Empowerment for Women and Youth (4WAYS) Project that aims at establishing and structuring of women and youth companies. He has made several presentations and written articles on Labour legislation including review of organizational policies and codes of conduct. He has been a panelist on a number of Labour law and Commercial law discussion panels on a number of topics that affect the Labour ecosystem. Currently he is the Board Chairperson for Matthew Rusike College in Epworth, Harare and sits on the Boards of Care Mining (Pvt).

Abstract

Mental health in general is an emerging but mostly trivialised phenomenon. The sustainability of organisations is anchored on the mental wellness of its employees. Unlike traditional workplace hazards, mental health does not respect organisational ranks or roles. It affects from the top director to the shopfloor worker. A stable and healthy mind must therefore accompany the service that employees render at all levels. Mental health is a key emerging phenomenon and threat to workplace safety that must be understood now to allow for proper interventions to be made. Are our laws and policies in line with this emerging workplace hazard, to what extent are organisational policies and practices aligned to managing this emerging problem. The presentation will among other things focus on:

- Challenges of mental health and wellness in the current world of work- how organisations can help the individual employee and society in general for economic stability.
- A review of the existing legislative framework in as far as it addresses the present challenges of mental health as a workplace hazards.
- Wellness as part of individual health and how and why organisations must come up with programmes that ensure wellness of employees as part of strategic leadership.
- The risk factors linked to mental health - poor communication, inflexible working hours, poor management practices, unclear tasks, work induced stress and workplace harassment.
- The discussion will centre on what has been done and what we are doing as a fraternity to push for the establishment of laws and policies that promote and protect sound mental health.
- Sharing of experiences on mental health issues at the various workplaces
- A case study of a success story on mental health and how we can all learn from it.
- The importance of proactive vs reactive engagements on mental health issues.
- Sustainability of organisations in the face of mental health problems.

Full Name:Bashman Mohammed

Organisation :Solidarity Center Nigeria Field Office

Job Title Senior :Program Officer

Bio

Bashman Mohammed is a Senior Program Officer in the Solidarity Center Nigeria Field Office since 2020. He has successfully implemented numerous donor-funded programs and currently oversees the platform workers project in Nigeria and the DOL Project on elevating women participation in the workplace in Nigeria and Liberia. Before joining the SC, Bashman worked with the Trade Union Congress (TUC) of Nigeria where he built experience in union organizing, policy analysis and advocacy and helped identify and prepare cases of public

interest for litigation. Bashman joined the labour movement from student union activism. Bashman holds a Master of Laws from the University of London. He is currently a distant learning researcher, conducting doctoral research within the framework of worker participation in corporate governance at the University of Aberdeen, United Kingdom

Jacqueline Wambui Wamai is a dedicated advocate for workers' rights and an experienced labor lawyer with over nine years of expertise. She serves as the Regional Coordinator for Sub-Saharan Africa at the International Lawyers Assisting Workers (ILAW) Network, actively championing the cause of workers in the region. With a Master's degree in Labour Policies and Globalisation, a Bachelor's Degree in Law, and a Post-Graduate Diploma in Law, Wamai possesses a comprehensive understanding of labor-related issues. Her research interests cover supply chains, violence and harassment, the informal economy, and the platform economy. Through her work, Wamai aims to bring about positive change and empower workers to achieve fair and just working conditions

Full Name: Moderator: Marlese von Broembsen

Speakers: Victoria Kanyoka, International Domestic Workers' Federation Nelly Kahua, Namibia Domestic and Allied Workers Union Pamhidzai Bamu, WIEGO

Organisation : WIEGO Panel

Name of Presentation: Bringing home the gains from international labour conventions: How are African domestic workers' organisation contributing to the implementation ILO Convention 189

Abstract:

16 June 2011 was a momentous day for domestic workers around the globe. After a long, worker-led struggle, the International Labour Organization (ILO) finally adopted the Domestic Workers Convention 2011 (No. 189). Domestic workers celebrated their recognition as workers who are entitled to labour rights and protections by in the international community.

The Convention requires Member States to take legal, policy, and other measures to protect domestic workers. It extends basic rights to domestic workers, including workplace safety, health and social protection, and protection against discrimination and forced labour. It also requires states to legislate that employers must provide domestic workers with employment contracts and extends protection to migrant domestic workers. Importantly, Member States must strike a balance between extending the same protections to domestic workers as to other workers on the one hand, and tailoring some interventions to suit the special characteristics of the sector on the other hand.

When C189 was adopted, domestic workers at the Conference broke into song and unfurled a banner with a next-steps message: "C189 – Congratulations! Now comes the domestic work for governments: Ratify – Implement!" This message served as a reminder that with the victory in the international arena, the battle would now be fought on the national front. ILO Member States commit to implementing the Convention by ratifying it. Member States that have not ratified the Convention are also free to adopt laws and policies and to take practical measures in line with it.

Thirteen years on, 37 ILO Member States have ratified C189 and are at various stages of implementation. Six countries - Guinea, Namibia, South Africa, Mauritius, Madagascar and Sierra Leone - have ratified the Convention.

This panel will demonstrate the role that workers' organisations must play in promoting the implementation of international labour conventions. The speakers will share strategies that domestic workers' organisations in Africa have gone beyond invoking Convention 189 in engagements about legal and policy reforms, but have also used it as a shield and as a sword in their interactions with employers and other officials. The presenters will demonstrate that legal empowerment for domestic workers means more than knowing about their rights and includes shifting their mindset about their work and building their confidence in themselves and the work that they do. This is necessary to subvert the power dynamics that often lead to their characterization as (at best) recipients of the benevolent acts of their employers and the state or powerless, voiceless individuals who cannot speak truth to power. Empowering domestic workers is not about giving them power, but enabling them to reclaim the power that has always been within them.