

LERASA NEWSLETTER



Webinar on Relevant Case Law

On 18 November, LERASA hosted its first virtual webinar on Relevant Cases that came through the labour court in 2020. This webinar was open to anyone interested in attending. LERASA members as well as trade union representatives and other relevant individuals were in attendance.

The programme was facilitated by PSCBC Resident Panelist Adv. Mbulaheni Netshifhefhe who gave an insightful presentation on the topic. The webinar was well attended with delegates eager to participate in the day's proceedings.

The webinar covered the following Case Law:

- POPCRU OBO AGNES NKUNA v SSSBC(2020) ZALCJHB 183 8 SEPTEMBER 2020 INTERPRETATION AND APPLICATION OF COLLECTIVE AGREEMENT, SECTION 24 OF THE LRA
- PSA OBO WC GERNANDT V DEPARTMENT OF JUSTICE (UNREPORTED) INTERPRETATION OF COLLECTIVE AGREEMENT, SECTION 24 OF THE LRA
- DEPARTMENT OF RURAL DEVELOPMENT AND AGRARIAN REFORM EC (PA3/18 [2020] ZALAC 24 UNFAIR LABOUR PRACTICE, SECTION 191 READ WITH 186 (2) (a) OF THE LRA
- LYTTYLTON DOLOMITE v CCMA (JR 288/18 [2020] ZALCJHB 132 UNFAIR DISMISSAL, SECTION 191 READ WITH 188 (1)(a) OF THE LRA

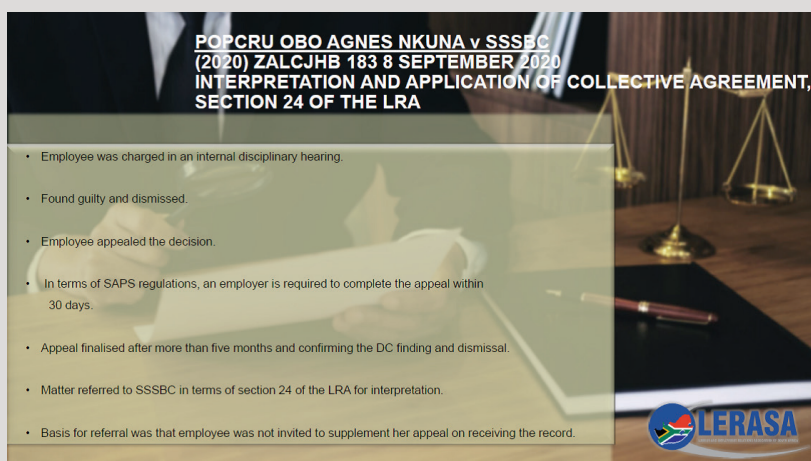
WHAT'S INSIDE:

Welcome to the festive edition of LERASA's Newsletter for 2020, a publication that includes information highlighting important information relevant to Labour and Employment Relations in South Africa.



Attendees were encouraged to interact and participate throughout the day.

LERASA's first webinar proved to be extremely beneficial to all in attendance. We look forward to hosting and welcoming you to future LERASA webinars.



*“Learning never exhausts
the mind.”*

The Fourth Industrial Revolution is the future – is South Africa ready?



When it comes to strategising to reinvigorate South Africa's economy, there are multiple discussions on how to implement the future-forward ways of the Fourth Industrial Revolution. It's a shiny prospect for the country. But is South Africa ready for this widespread overhaul and fundamental shift, and will human dignity always be prioritised?

"Future" and "revolution": two words that strike fear in the hearts and minds of many. The former leaves a bitter aftertaste of uncertainty and the latter conjures up images of conflict. However, for others, these words instil hope, and provide the opportunity to transform countries on social and economic levels.

There is often a misconception that the Fourth Industrial Revolution's (4IR's) focus on tech-driven change will result in a dystopian future devoid of a people-first system. But there is a growing school of thought that believes in the opposite. By harnessing the power of converging technologies, all key players in a society will be empowered to build an inclusive, human-centred future.

Reading a recent Gazette, I was not only relieved to see the government proclaim its support for the 4IR but, crucially, mandate itself as the custodian, too. More importantly, there was a strong understanding of the 4IR's goal in our local context. That is, to not merely implement various sophisticated technologies across economic sectors, but also to ensure the outcomes lend themselves to transforming South African communities and improving the livelihoods of people. Ultimately, as Minister of Communications Stella Ndabeni-Abrahams maintained, it's about creating an "inclusive, economically vibrant

society".

Creating technological artefacts and digital systems is not the sole objective of the 4IR; it's more about injecting those assets, systems and solutions into various economic sectors and giving South Africa a much-needed financial edge. The 4IR can become a scaffold for a better future for all.

The use of automation, robotics, artificial intelligence and a digitally enabled workforce will, for example, change the mining sector radically. There will be a vast increase in mineral wealth, thanks to the maximisation of mineral extraction, reduction of mining hazards, enhancement of safety for workers and accuracy of data collection. When it comes to accessing the remaining mineral reserves, which are too deep in the ground for humans to extract safely, robotics can be deployed. The use of automation and digital rock face mapping can determine which rocks are mineral-rich and just how much can be mined from them.

Similarly, the agricultural sector will undergo a significant overhaul. For example, the combination of artificial intelligence and big data will allow for "precision agriculture", resulting in better crop health monitoring, harvest time diagnosis and soil moisture measurement, to name but a few. To preserve seed and plant resilience, biotechnology and agro-informatics will come into play and directly enhance food production, quality and security (all benefits for current and future generations). Then, of course, on the always-important topic of water conservation, automated monitors and sensors will help ensure only the required amount of water is used for growing crops.

Speaking of water usage, the health and sanitation sector will benefit from the 4IR, thanks to the introduction of smart meters that will give detailed and accurate info regarding use. Furthermore, intelligent solutions could be implemented to provide safe drinking water for communities in South Africa.

With all of this in mind, it is also easy to envision how 4IR technologies can help improve service delivery within government spheres, using artificial intelligence and data analytics. This will be of service to the health sector, environmental sector and education sector to deliver optimum results.

Finally, in the manufacturing sector, 4IR tech-

nologies and processes can help this shrinking industry by driving prices down, lowering production costs and increasing product output. This will help rebuild the industry so that it can compete with global alternatives. The manufacturing industry can boom if there is state-led research, which incorporates advanced technology and building of new material.

Of course, it would be remiss to not adopt a critical lens and consider everything in a uniquely South African context. We don't have to look too far to encounter a few speed bumps on the road to the revolution. After all, any radical overhaul needs a solid base to build upon. Is our country ready?

Right out of the gate, there is the issue of a lack of coherent and consistent policy regarding the adoption and implementation of 4IR processes. This means acquiring permits for future-forward construction or development will be challenging and potentially off-putting. What's more, from a legislative perspective, the provisions often seem to be at odds, so anyone looking for clarity regarding the road ahead might be left scratching their head in confusion. Uncertainty is never an ideal building block.

Second, the absence of skills and increasing unemployment are significant hurdles for the expediting of the implementation of the 4IR in South Africa. Elementary or unskilled workers comprise the largest share of the country's workforce, which necessitates widespread upskilling or reskilling. Not to mention, the South African labour market is a cause of concern, as 4IR requires skilled workers, technicians and professionals, particularly in science, technology, engineering and mathematics. Without the necessary skilled labour force, any mention of the 4IR would be all talk and no action, and no action equals low productivity and increased economic strain.

Third, there is an infrastructure and innovation shortfall. Key industry players continue to implement antiquated approaches and methodologies to run their businesses, and the same can be said about the government. What's clear is that we also need to see the connection between the reluctance to embrace innovative, tech-driven strategies and methods and fragile and old-fashioned infrastructure. A shift in mindset is essential for the elimination of high operating costs, ineffective administrative and management processes, ageing equipment and outdated machinery.

In preparing to embrace the 4IR, the government set up a Presidential Commission to report on how South Africa can forge forward in light of 4IR. These are some of the critical recommendations that stood out for me:

To participate fully in the 4IR, there is a need to invest in human capital. Learners must be thoroughly equipped to acquire knowledge, considering the speed of accreditation, flexibility and mobility of learners and remote delivery of content. New skills need to be introduced at primary, secondary and tertiary level in subjects such as science, technology engineering, robotics, programming, and artificial intelligence data analytics.

Furthermore, South Africa needs to prepare for future jobs that may not even exist currently. However, this is only possible if there is an extensive application of futuristic thinking in the corporate, government and education sectors.

But this futuristic thinking will stagnate if there isn't a support system around it. Therefore, South Africa needs to accelerate building infrastructure that is in line with the digital space and way forward. Central to access and participation of citizens in 4IR is access to the internet. This is now considered an essential service. The goal is to have 100% accessible broadband connectivity that meets the needs of the country in terms of cost, speed and quality.

Duplication of infrastructure in business and government must be eradicated. It is of interest to restructure the information communication and technology governing bodies to align with new technological trends. Additionally, industries must be modernised to accommodate a sophisticated network between different economic sectors.

Of course, all this "big" thinking shouldn't alienate the smaller critical players in the economy. Government needs to establish hubs for SMMEs and entrepreneurs to make use of digital resources to enhance their businesses. Furthermore, they must incentivise the use of 4IR by rewarding tax breaks, providing tech hubs and technological platforms. With all of this in place, it will streamline business and inspire others to become active participants in the economy.

But what about the people? We are pursuing a "human-centred" future that prioritises the well-being and dignity of citizens, after all. Well, the

establishment of policy labs that allow public participation to develop a fully comprehensive policy that is inclusive and reflective of a democratic state in relation to 4IR will assist in that regard. The onus will be on government to partner with the private sector, academia, civil society and other stakeholders to ensure that all the needs of the citizens are identified and that 4IR has a positive impact on the economy and wellbeing of the citizens.

As South Africa embraces the 4IR, one of the key elements to consider is the need to change policy and regulation to be in line with the new environment – intellectual laws, property laws, investment laws, financial laws and other relevant laws. These laws should be reformed accordingly to create an enabling environment for 4IR. Policies must be drafted with South African entrepreneurs in mind, including innovators and investors. Therefore, the policy must be inclusive, agile and flexible in its approach.

Policymakers must remain versatile and flexible as new technology becomes available, in the event of future changes. While policy must leverage technological advancements, artificial intelligence and the Internet of Things, policies must ultimately help reach the developmental and transformational goals, such as eradication of poverty.

Considering the incredible impact technology can have in various sectors and the government's willingness to embrace it, I am optimistic about the implementation of 4IR in South Africa.

However, care must be taken to ensure that the inequality gap does not widen. No one must be left behind in participating in the 4IR. The goal of 4IR is wealth creation and prosperity. Prosperity entails restoring human dignity so that every community has access to infrastructure and facilities. The benefits of 4IR must lead to fair and even distribution of wealth. Failure to incorporate 4IR will be detrimental to the people of South Africa, due to the collapse of industry since the world will be forging ahead.

We cannot be left in the dust, because our collective future hangs in the balance.

BY: JACKIE NAGTEGAAL



"As South Africa embraces the 4IR, one of the key elements to consider is the need to change policy and regulation to be in line with the new environment – intellectual laws, property laws, investment laws, financial laws and other relevant laws. "

New research reveals future work trends for South African organisations



Almost nine out of ten leaders (88 percent) at large enterprises in South Africa expect they will adopt a more hybrid way of working permanently. This is according to Microsoft's newly launched Work Reworked research conducted together with Boston Consulting Group, KRC Research and Dr. Michael Parke of the Wharton School. The study found that flexible ways of working are here to stay with many leaders focused on driving a culture of innovation.

While South African employees still see value in working from a main office at least some of the time; findings show that on average, people would now like to spend just less than half (42 percent) of their time outside of the traditional office setting. In fact, people still see time spent in the office as a powerful way to maintain bonds with their colleagues.

A more permanent change around ways of working is already evident, with a healthy majority (82 percent) of companies now having a set remote work policy in place. Senior executives see the opportunity to maintain productivity gains they've experienced while, at the same time, improving employee engagement. The research found that 76 percent reported equal or increased productivity with remote working, and a high majority see it as a powerful way to help retain their best workers.

Maintaining company culture is a challenge

The challenge around increased remote working has not been related to business continuity or productivity. Rather, the issue is around ensuring teams continue feeling tight-knit and connected to the pulse of a company's culture. In fact, more than a third of South African business leaders admit to struggling with creating a strong and unified team culture as remote work has become more common.

"When people are physically together five days a week, it's easy to bond – whether it's sharing a joke at the watercooler, having a casual team lunch, or hunkering down together to meet a deadline. In an office setting, it's also easy for senior staff to 'walk the halls' and talk with employees in a more informal way. All of these seemingly little things add up and have a big impact on the health of a business and team culture," says Colin Erasmus, Modern Workplace Business Group Lead at Microsoft South Africa.

The potential knock-on effect of a less cohesive company culture is significant – not only when it comes to employee engagement and retention, but also future innovation. This is because it's difficult for new ideas to thrive in an environment where people feel more disconnected from their employer and their teams.

It's perhaps not surprising then, when asked about their transformation priorities, 98 percent of leaders indicate it's important to change their firms' way of working to become more innovative and flexible.

Technologies like Microsoft Teams enables more collaboration and connection by bringing everything into a shared workspace where you can chat, meet, create, and make decisions as a team.

Key traits of innovative companies

Though this is a challenging environment for all businesses, there are companies that have been able to maintain an innovative culture. In fact, 28 percent of South African companies still consider themselves to be highly innovative in terms of products and services. This ultimately leaves them better poised to succeed in a hybrid world.

The research also revealed common traits among the country's innovation leaders.

For example, South African workers in more innovative companies are far more likely to feel empowered to make decisions and approach their jobs in a way that works best for them. In fact, 56 percent say they can make a decision without a manager's involvement – this compared with just 35 percent of those working in less innovative companies. They also feel it's okay to make mistakes (66 percent) compared with 47 percent in less innovative cultures.

According to the findings, promoting flow state is a powerful way to kick-start innovation. This describes a person's ability to devote their full attention to the task at hand, which ultimately leads to superior output.

In local businesses with innovative workplace cultures, 42 percent of the workforce say they are frequently able to get into such a flow state. Only 16 percent say so in less innovative companies

"One straightforward step to take to help people stay in a flow state is to ensure they have proper training on tools like Microsoft Teams, and are using features like 'do not disturb.' This helps people take control of their day and make time for the work that takes focus," says Erasmus

Ensuring managers are empowered in a remote setting

For many team managers, this year marked the first time they were responsible for leading people who were working remotely. In fact, the majority of South African managers (60 percent) said they feel they have not yet effectively learned how to delegate and empower virtual teams. The research makes it clear that successfully maximising the potential of a remote or hybrid team requires a different skill set, not only in terms of ensuring that core business objectives are met, but also that new ideas are encouraged, cultivated and implemented.

"The key takeaway from all of this is that the success of teamwork in a more hybrid world goes beyond just having the right technology tools. Innovation is fueled when people feel empowered to connect with colleagues, take smart risks and speak up when they have new ideas. Successful teams will be characterised by how productive they are as well as the sense of comradery, empathy and trust each team member feels. This is the very human key to innovation," concludes Erasmus.

About Work Reworked

Microsoft's Work Reworked research provides insight into how companies can best support and empower workers as remote and hybrid working becomes the 'new normal'. A survey of 610 leaders and employees in large enterprises within South Africa examined people's experience since the beginning of the pandemic as remote ways of working became common, and also asked about expectations around the future.

BY: JENNA DELPORT

19th ILERA World Congress, Lund, Sweden, 21–24 June 2021

“Making and Breaking Boundaries in Work and Employment Relations”.

About ILERA

The International Labour and Employment Relations Association (ILERA) was established in 1966 and its general purpose is to promote the study of labour and employment relations throughout the world in the relevant academic disciplines, by such means as:

- encouraging the establishment and development of national associations of labour and employment relations specialists;
- facilitating the spread of information about significant developments in research and education in the field of labour and employment relations;
- organizing worldwide and regional congresses; and
- promoting internationally planned research, by organizing study groups on particular topics.

On 21 - 24 June 2021 the International Labour and Employment Relations Association (ILERA) will be hosting its 19th World Congress in Lund, Sweden.

For more than 50 years, ILERA, has promoted the study of labour and employment relations throughout the world. The 19th ILERA World Congress will continue this impressive tradition and serve as a vital global platform, gathering scholars, social partners, policy-makers, and other stakeholders to exchange ideas and best practices.

The Congress will be hosted under the theme: “Making and Breaking Boundaries in Work and Employment Relations”. This will be the first ever virtual ILERA Congress! ILERASA invites you to join in for this prestigious Congress!



Call for Papers!

FINAL extension of deadline for submissions: 31 January 2021



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VISION

To become a vibrant Organisation enhancing Employment Relations through debate and dialogue.

MISSION

- To facilitate an ongoing forum for constructive relationship building
- To deal with themes of relevance to the South African Employment Relations community
- To enhance the understanding, knowledge and practices of Employment Relations at National, Regional and branch levels in South Africa

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*We send our
wishes for a
happy holiday
season!*

WE EXTEND OUR GRATITUDE FOR
YOUR LOYALTY AND SUPPORT FOR
OUR ASSOCIATION THROUGHOUT
2020.