

NEWSLETTER

MESSAGE FROM THE PRESIDENT



Welcome to the December issue of the LERASA Newsletter, a publication that includes information highlighting important information relevant to LERASA

In this edition we have included IRASA AGM & Conference, the 8th ILERA Africa Regional Congress and recent Case Law updates.

Please feel free to share this newsletter within your organisations. If you have any suggestions please forward it to admin@lerasa.org.za or info@lerasa.org.za.

We wish you a joyous festive season.

The Editorial Team

IRASA CONFERENCE & AGM

On the 12th of March 2018, the Industrial Relations Association of South Africa (IRASA) held a conference and AGM. The Conference was held under the theme "Contemporary Challenges Facing South African Labour and Employment Relations" and attracted over 100 delegates.

There were 3 sessions held consisting of 3 speakers in each:

- Session 1: Gender and Work
- Session 2: Future of Work
- Session 3: Migration and Precarious Work

The Conference proved to be a great success, with attendance having reached the envisioned capacity, the presenters gave thought provoking presentations which were interrogated by the audience which showed a keen interest in the presentations. There was extremely positive feedback given by various delegates upon departure.

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LABOUR AND EMPLOYMENT RELATIONS ASSOCIATION OF SOUTH AFRICA

The AGM was held after the conference. As mandated by the IRASA Constitution after a quorum was met, members discussed issues as contained within the Agenda. One of the pertinent issues discussed was the Name & Logo change, the Steering Committee reported that after many engagements, it was agreed that Industrial Relations Association of South Africa would be changed and called Labour and Employment Relations Association of South Africa (LERASA) as of the 12th of March 2018.

The Constitution makes provision for an Executive Committee, consisting of LERASA members who will be appointed & hold office for a period of three years. The individuals listed below were elected into office:

- | | |
|------------------------------------|-----------------------|
| 1. President | Mr Frikkie De Bruin |
| 2. Deputy-President | Prof Malehoko Tsoaedi |
| 3. Treasurer | Mr Wandile Mghobhozi |
| 4. Additional Member (EXCO) | Mrs Sharlaine Oodit |
| 5. Additional Member (EXCO) | Prof Marius Olivier |
| 6. Additional Member (EXCO) | Ms Hameeda Deedat |
| 7. Additional Member (EXCO) | Prof Grace Khonou |



LABOUR AND EMPLOYMENT RELATIONS ASSOCIATION OF SOUTH AFRICA

8TH ILERA AFRICA REGIONAL CONGRESS

The Labour and Employment Relations Association of South Africa (LERASA), was tasked to convene the African 8th International Labour and Employment Association (ILERA) Congress from 7 to 9 May 2018 in the Republic of Mauritius. The Organising Committee was led by the President of LERASA, Mr Frikkie de Bruin, and the Scientific Committee led by EXCO Member Prof Marius Olivier.



The Congress theme was "Challenges facing the Future of Work: African Perspectives and Experiences", which attracted scholars and practitioners across the labour and employment fraternity. The Congress was attended by 150 delegates from 8 countries across Africa.

Over the three days of the Congress, the latest trends in collective bargaining, trade union strength, working conditions, industrial conflict, gender and work, social integration and protection, migrancy, human resource management and skills development in different countries and regions of the continent were deliberated on.

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LABOUR AND EMPLOYMENT RELATIONS ASSOCIATION OF SOUTH AFRICA

8TH ILERA AFRICA REGIONAL CONGRESS

The ILERA President, Prof Dong-One Kim from Korea attended and participated in the Congress. His attendance gave valuable input to the Congress prior to the World Congress scheduled for July 2018 in Seoul, Korea.

The Congress was privileged to have The Honourable Minister of Social Integration and Economic Empowerment, Marine Roland Alain Yong Yen Cheong, The Honourable Minister of Civil Service and Administrative Reforms, Eddy Boissezon and The Honourable Minister of Labour, Industrial Relations and Employment, Soodesh Callichum from the Government of Mauritius in attendance. The Ministers attendance, together with attendance of senior officials of the key social partners in the host country added great value to the Congress.



The Congress furthermore hosted two special sessions – a special plenary workshop on recent experiences in Mauritius on poverty eradication and equality, and a separate workshop on the shaping of social protection for the future of work, particularly in a Southern African context.

A cocktail evening was hosted in the evening of the first day of the Congress, with a twofold purpose, namely, the launch of a Juta pocket book on 'Understanding Employment Law and Remuneration Orders in Mauritius' authored by Prof Prakash Torul, and for networking purposes.

Overall the Congress was a resounding success with compliments echoed from local and international delegates alike.



LABOUR AND EMPLOYMENT RELATIONS ASSOCIATION OF SOUTH AFRICA

ASSIGN SERVICES (PTY) LIMITED V NATIONAL UNION OF METALWORKERS OF SOUTH AFRICA AND OTHERS [2018] ZACC 22

Coram: Zondo DCJ, Cachalia AJ, Dlodlo AJ, Froneman J, Goliath AJ, Jafta J, Khampepe J, Madlanga J, Petse AJ and Theron J

Judgments: Dlodlo AJ (majority): [1] to [85]

Cachalia AJ (dissenting): [86] to [109]

Heard on: 22 February 2018

Decided on: 26 July 2018

Summary: Labour Relations Act 66 of 1995 — section 198A(3)(b) — temporary employment services — placed workers deemed employees of the client — section supports the sole employer interpretation.

This application for leave to appeal against a judgment of the Labour Appeal Court enjoins this Court to finally determine the correct interpretation of section 198A(3)(b) of the Labour Relations Act [1] (LRA). Section 198A(3)(b) provides that an employee who earns less than the stipulated threshold and is contracted through a temporary employment service (TES) to a client for more than three months is deemed to be employed by that client.

The temporary employment service and the client are jointly and severally liable if the temporary employment service, in respect of any employee who provides services to that client, does not comply with this Act or a sectoral determination. If the legislature intended the client to become a joint or co-employer together with the TES, it could easily have provided for the client to 'also' be the employer."

<http://www.saflii.org/za/cases/ZACC/2018/22.html>



LABOUR AND EMPLOYMENT RELATIONS ASSOCIATION OF SOUTH AFRICA

RUSTENBURG PLATINUM MINE V SAEWA OBO BESTER AND OTHERS [2018] ZACC 13

Coram: Zondo ACJ, Cameron J, Froneman J, Jaffa J, Kollapen AJ, Madlanga J, Mhlantla J, Theron J and Zondi AJ

Judgment: Theron J (unanimous)

Heard on: 9 November 2017

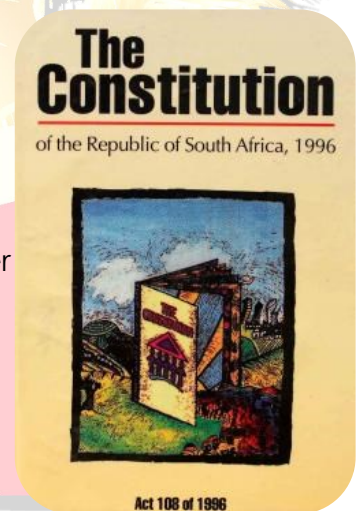
Decided on: 17 May 2018

Summary: Referring to a fellow employee as a “swart man” — test for whether words are derogatory and racist is objective — starting point must take into account the history of apartheid

Lack of remorse and no acknowledgment of wrongdoing — no possibility of rehabilitation — dismissal is an appropriate sanction.

This Court must determine whether referring to a fellow employee as a “swart man” (black man), within the context of this case, was racist and derogatory and whether it was unreasonable for a commissioner, appointed by the Commission for Conciliation, Mediation and Arbitration (CCMA), to conduct arbitration proceedings and find that the use of the term was racially innocuous. If it is found to be racist and derogatory the further enquiry is whether the sanction imposed by the employer, namely dismissal, was appropriate.

Mr Bester has not learnt to conduct himself in a manner that respects the dignity of his black co-workers. By his actions he has shown that he has not made a break with the apartheid past and embraced the new democratic order where the principles of equality, justice and non-racialism reign supreme. This Court is satisfied that dismissal was an appropriate sanction under the circumstances.



LABOUR AND EMPLOYMENT RELATIONS ASSOCIATION OF SOUTH AFRICA

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.

Equity



*In this past year, we have
enjoyed many successes,
thank you for being a
part of a successful year
thus far.*

**LERASA President, Vice-
President & EXCO**



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