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Max du Plessis, John Oxenham, Isabel Goodman, Luke Kelly and 0=N=D -Q@EBJ Jones (eds)
Juta, 2017

This is the first edition of the book, and one is torn between whether it is long-overdue or it is premature. It is long overdue in that there has not been legislation to deal with the "how to" of class action, and this book provides the guidance that has been introduced by the Supreme Court of Appeal as well as our Constitutional Court. It is for the same reason that the book can be said to be premature: because there is no legislation, the practice is still fluid and might have undergone a number of changes with more recent jurisprudence by the time one reads the textbook. This, however, does not detract from its usefulness.

The textbook starts by giving the reader a short but necessary introduction to class actions in South Africa. In chapter 1 the genesis is explained as having been brought about by the interim Constitution in 1994, as prior thereto "the common law rules of standing stressed that in order for a litigant to bring a claim the litigant must have a direct interest in the subject matter of the proceedings". The interim Constitution (and the final Constitution) introduced a system where anyone acting as a member of, or in the interest of a group of class of persons had legal standing in relation to infringements of rights in the Bill of Rights.

The book's "modest aspirations" as set out at the end of the first chapter are to trace the developments in the class action journey thus far, to offer constructive criticism and reflection on the existing judgments, to highlight possible future practical challenges in litigating class actions and to identify and discuss lessons from leading foreign jurisdictions already ahead in the class action journey.

The book meets its aspirations, and this is mainly achieved in the way it is structured, as well as the insight of the authors of the various chapters. The sequence of the chapters is practical and makes for easy reading especially for someone that is unfamiliar with class action litigation.

Chapter 2 deals with the certification process, which is the necessary first step in class action litigation and involves an application for permission to pursue an action on behalf of an identified/identifiable class of persons. The certification requirement was introduced by the SCA in the Children's Resource Centre case[1] in 2012, while at the same time extending the ambit of class action claims to non-Bill of right cases. This judgment was written by Justice Malcolm Wallis, who also wrote the foreword to this book. The factors that the courts take into account in deciding whether or not to certify are dealt with extensively in this chapter.

Chapter 3 deals with specific causes of action that, by their nature, are more suited to class action, including competition claims, environmental claims and workplace injury claims, where damages are claimed. Chapter 4 deals with the Bill of Rights class actions and the importance of the entitlement to use of this constitutional vehicle. It discusses the first case, Ngxuza[2], in which class action was used to enforce constitutional rights. It also details the development of this kind of litigation, as well as the remedies that courts have granted in these claims.

Chapter 5 and 6 deal with settlement and distribution of damages respectively, with chapter 7 dealing with funding and costs involved in class actions; and chapter 8 detailing the practicalities of litigating class actions.

The remainder of the chapters are dedicated to the international experience, covering Australia, Canada, Europe, the United States and the United Kingdom, and the lessons we can learn from these experiences.

This book is all the more useful because, as the third chapter concludes, the contours of class action litigation in South Africa, both generally and in relation to specific causes of action, are likely to be shaped, as they have been thus far, by the courts.

Each chapter is written by a legal expert that has been involved in the cases discussed. It is written in clear and understandable language, and its style and layout make it a recommended publication for judges, practitioners, academics and students.

I look forward to the second edition.

Carol Sibiya
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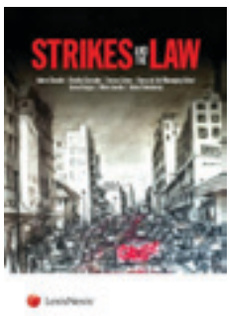
Endnotes

1 Children's Resource Centre Trust and Others v Pioneer food (Pty) Ltd and Others2013 (2) SA 213 (SCA)

2 Permanent Secretary, Department of Welfare, Eastern Cape and another Ngxuza and others2001 (1) SA 4 1184(SCA)



Strikes and the Law

H Cheadle, Bradley Conradie, Tammy Cohen, Darcy Du Toit, Ema Fergus, Mario Jacobs, Anton Steenkamp
LexisNexis

The right to strike is endemic within South African culture. It is a strategy created to counter the disparity in bargaining power between employers and employees which has existed for centuries. With the supremacy of the Constitution and a shift from parliamentary to constitutional sovereignty, the application and interpretation of rights has shifted over the last two decades. The Constitution recognises historical injustice and pledges to take steps to address these injustices.

Only once this jurisprudential foundation is understood, can the substantive law be implemented. As simple as this logic seems, it is a formula that works. And it is a formula that is followed by the authors, who have extensive experience in labour law both in academia and in practice. This book considers the Constitution both as a legal document and a "normative system". This leads to a sociological analysis of strikes and the shift in the public perception and political arena on how we deal with strikes. Once this lens is created it comfortably takes you through a step-by-step journey on dismissals, protected strikes, unprotected strikes and lock-outs which ends with an analysis of possible remedies.

Apart from the well-researched and well-documented nature of the book, there are two further striking features. It is written in plain, digestible language and is welcoming to any reader that would like to be introduced to this area of law or needs a base camp to begin research from. Yes, that means this is a book for the practitioner—even the practitioner who opened this book for the first time. But what about the experienced practitioner?

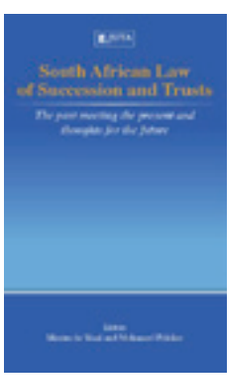
The first cautionary note is that this book is not intended to be a procedural manual on how to formulate strike interdicts or the opposition thereto. It does however provide considered and pragmatic commentary on the current statutory provisions regulating the right to strike which serve as an important starting point for any person involved in the practice of employment law. The second cautionary note is that the Labour Relations Amendment Bill, 2017 was published shortly before the book went to print. The proposed amendments may in due course have some effect on the statutory provisions discussed in the book.

The value of the book lies in the diversity of perspectives which the authors bring to important and often contentious issues. The varied perspectives of the authors lend a unique quality to the analysis of the current strike provisions and how effectively they are applied.

The content covers a broad spectrum of topics associated with strikes. The book analyses the legal framework against the backdrop of the socio-economic factors which often trigger strike action. It touches on the balancing act that Courts must perform when adjudicating disputes about the protected nature of strikes. The book also contains a comprehensive analysis of the important cases which have shaped the law relating to strikes.

The book provides an insightful and holistic account from all perspectives which highlights the delicate balancing of rights on both sides of the employment relationship. It is a valuable addition to any practitioner's library.

Lynette Naidoo and Muhammad Zakaria Suleman



South African Law of Succession and Trusts: The past meeting the present and thoughts for the future

Marius de Waal and Mohamed Paleker
Juta, (first published as Acta Juridica in 2014)

The publication is a far cry from what its title suggests. It is a collection of 12 papers delivered at a conference held in 2012 that was dedicated to the law of succession and trusts.

Chief Justice Corbett's contribution towards the development of the law of succession cannot be overstated. The publication is dedicated to his memory and his invaluable contribution to this field of law and is as such a worthy publication.

The papers on selected topics delivered by eminent legal scholars are unquestionably well-researched and of considerable academic value. The papers *inter alia* highlight the recent developments in the law of succession and trusts and the positive effect that the advent of our constitutional democracy has had on the rights of previously marginalised sectors of our community. The rights under customary law and the laws of Islam are poignantly juxtaposed with the rights protected under our Constitution.

The publication, given the limited scope of the field of law it strives to cover, will however have very little value to legal practitioners and law students that are not involved in its specialised field. The inclusion of a paper on the very important aspect of amendments to trust instruments, not in English, also detracts from the value of the work. A

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