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Unsilenced Employee Voice in South Africa: Social Media Misconduct Dismissals as Evidence of E-Voice**

Abstract

Social media has transformed various aspects of daily life, particularly influencing communication and interaction in both physical and digital spaces. The South African employment relationship is no exception. Social media also creates opportunities for the articulation of employee voice. Through the content analysis of 118 South African first-instance social media misconduct dismissal decisions, this paper argues that employees use social media as a mechanism to express dissenting employee voice. There is evidence of individual employee voice notwithstanding employers implementing rules and social media policies to curtail expressions of dissent. It also persists despite the dismissal of employees for expressing employee voice through social media. Significantly, employee voice in the form of racialised speech badmouthing and cyber-criticising employers continues in the digital realm despite the legislative prohibition of hate speech. Despite high power disparities, the sample reveals a perfusion of individual e-voice by South African employees.

Keywords: social media, labour law, individual employee voice, e-voice, South Africa
(JEL: K31, J52, O50)

Introduction

Social media has fundamentally transformed the way human beings connect, engage with and exchange information in contemporary societies (Nwabueze, 2019). It has similarly become a ubiquitous feature in the workplace and modern employment relationship (Nel, 2016; McDonald & Thompson, 2016; Reddy, 2018), with a considerable segment of online social media activity being identified as work-related (Holland et al., 2019; Johnson, 2015; Van Zoonen et al., 2016; Walker, 2020). This is particularly true of the South African experience (Phungula, 2020). More than 36% of all South African Internet users utilise social media for work-related purposes (Kemp, 2022a). Various scholars suggest that this online communication may be regarded as a "potent source of individual voice" (Thornthwaite et al., 2020, p. 510; Balnave et al., 2014; Conway et al., 2019; Walker, 2021).

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Voice, simply put, "denotes how employees express themselves in their workplaces" (Barry et al., 2014, p. 522). While employees may use social media 'constructively' to communicate, collaborate and share knowledge across the organisation (Martin et al., 2015), there is also a "negative," "destructive", or "dark side" of social media utilisation evident in the employment arena (Holland et al., 2016, p. 2624; Holland et al., 2019, p. 74) which includes employees badmouthing employers online (Townsend et al., 2022; Wilkinson et al., 2021; Thompson et al., 2020; Thornthwaite et al., 2020). Moreover, employees are motivated to express voice for various purposes (Dundon et al., 2004), and research suggests that a key motivation for "negative" or "dissensual" online communications may be attributed to the venting of frustrations (Brown-Devlin, 2022; Lee & Kim, 2020). Recent quantitative studies conducted by Holland et al. (2016, p. 2628) and Thompson et al. (2020, p. 641) indicate that between 16% and 18% of employees utilised social media to "voice concerns" or post "critical comments" online about their employer. This is all the more evident in workplace cultures where traditional employee voice is "silenced" or "withheld" for various reasons, which include managerial prerogatives, the inherent power imbalance, hierarchical organisational structures or "power distance" within the employment relationship (Van Dyn et al., 2003; Townsend & Loudoun, 2015; Townsend et al., 2022, pp. 285 – 287). In such instances, individual employees have utilised social media for the expression of "dissatisfaction and discontent" and for "venting increased frustration" in virtual spaces (Holland, 2020, p. 133; Thornthwaite et al., 2020, p. 510; Tangirala & Ramanujam, 2012).

Similarly, while some employers do embrace and encourage the expression of online employee voice, 'e-voice' has also been criticised as a "bomb waiting to explode with devastating impact" on the employer's brand and repute (Miles & Mangold, 2014, p. 401). Employers may react by implementing social media policies to "regulate" online "misbehaviour" and "protect" organisations from "inappropriate" employee "misuse" of social media (Banghart et al., 2018, p. 339; Thornthwaite, 2016, pp. 332 – 333; Wilkinson et al., 2021, p. 698), dismissing employees who publicly criticise and cause the employer reputational harm (Thompson et al., 2020; Thornthwaite et al., 2020; Thornthwaite, 2018; Thornthwaite, 2013). In Thompson et al.'s study (2020), 12.7% of the employees reported being disciplined or dismissed for their public social media criticism of the company. It is against this backdrop that first instance social media misconduct dismissals decisions were analysed as 'social records' to determine whether these legal texts evidenced 'negative' or 'dissenting' "Hirschmanian" voice in the South African context (Dundon et al., 2004).

While there is an "extensive" body of voice literature addressing employee voice in "Anglo-American economies" of the Global North (Freeman et al., 2007),[1] cur-

1 "Anglo-American" in this context include "the United States, Canada, the United Kingdom, Ireland, Australia and New Zealand" (Freeman et al., 2007, p. 1).

rent literature exploring employee voice in Global South nations is comparatively limited (Pyman et al., 2016, pp. ix-xiv). More particularly, comprehensive voice scholarship examining the online individual expression of employee voice in contemporary South African workplaces is notably absent. Historically, South Africa has been a nation with more restricted voice opportunities for a majority of the nation's employees. However, new technology-mediated communication channels may enhance the range of "voice opportunities" and facilitate voice (Knoll et al., 2021; Wilkinson et al., 2021, p. 697; Conway, 2019). This paper seeks to address the gap in the existing literature and responds directly to the research question: 'Do employees in South Africa, a Global South nation, use social media as voice channels to express individual dissatisfaction and dissenting employee voice?'

Using first instance social media misconduct dismissals decisions as 'social records' documenting employee voice, this paper argues that social media is utilised by employees as an emerging channel for the expression of racialised and individual dissatisfaction and dissenting voice, despite employers disciplining or dismissing employees for this expression of voice, and notwithstanding the nation's high unemployment rate.

Background

The Digital in South Africa

The African continent boasts one of the largest Internet, social media and mobile connectivity growth rates worldwide (Kemp, 2020; Mutsvairo & Karam, 2018).[2] More particularly, the digital landscape in the Sub Saharan is advancing exponentially, providing individuals with a digital voice (Tchamyou et al., 2019). Though classified as a developing nation,[3] South Africa has a high adoption rate of the Internet, connected mobile devices and social media (Kemp, 2022a). Recent research indicates that as of January 2022, there were 41.19 million Internet (68.2% of the total South African population) and 28.00 million active social media users in South Africa (46.4% of the total South African population) (Kemp, 2022a). Each South African user spent an average of 10 hours 46 minutes daily using the Internet (Kemp, 2022a, 2022b) and an average of 3 hours 43 minutes each day on social media (Kemp, 2022a, 2022b). Some of the main reasons for social media use included "keeping in touch with friends and family" (66.1%) and work-related activities (36.3%) (Kemp, 2022a, p. 53). Taken together, these factors contribute

2 An increase of 10% in Internet growth, 12% in social media growth and 5.6% in mobile connectivity in the 12 months between January 2019 and January 2020 (Kemp, 2020).

3 The United Nations (2020, p. 163) for analytical purposes classify countries into "one" of "three" distinct categories, namely "developed economies, economies in transition and developing economies." South Africa is classed an "upper-middle income" economy according to the World Bank (n.d.).

to South Africa presenting as an interesting and significant Global South nation to analyse as a case study.

The Historical Context and the Labour Law Framework in South Africa

The South African workplace must be seen in its specific racial and historical context. During apartheid, South African labour law was distinctly racially stratified (Le Roux, 2020), and discrimination against workers was legally permissible.[4] Black individuals were excluded from the statutory system (Maree, 2014; Du Toit et al., 2015, Maree, 2016), and their employee voice effectively "silenced." These individuals were barred from participating in principal collective bargaining structures known as industrial councils since their inception (Maree, 2014; Maree, 2016). Resultantly, white unions operated legitimately within the industrial relations system, and Black employee voice could only be expressed through joining unregistered trade unions outside the labour legislation (Maree, 2014; Du Toit et al., 2015). It was only in 1979 that Black Africans could legitimately belong to registered trade unions (Godfrey et al., 2010; Maree, 2016). Formal de-racialisation of the labour arena took place in the 1980s, and all employees, irrespective of race, fell within the ambit of labour legislation (Grogan, 2010; Maree, 2014).[5] Following the first non-racial, democratically elected government in 1994, the political dispensation of democratic constitutionalism guaranteed the rights of "everyone" to "fair labour practices"[6] and the "freedom of association."[7] Furthermore, "every worker" was also granted the rights to bargain collectively[8] guaranteed by the *Constitution of South Africa*[9] and the *Bill of Rights*[10] through the right to "form," "join", and "participate" in a trade union[11] and the "right to strike."[12] Labour legislation was subsequently enacted to give effect to these labour rights (Du Toit & Sirkhotte, 2019).[13] Notwithstanding the myriad of entrenched rights, "racism and the vestiges of a colonial and apartheid past persist in South African" workplaces (Botha, 2018; Khumalo, 2018; Cornish & Tranter, 2022, pp. 2267-2268). Moreover, racialised hate speech circulates in both the physical and digital spaces (Mbowa, 2020),

4 See *Mine and Workers Act* 12 of 1911; *Native Building Workers Act* 27 of 1951.

5 The *Industrial Conciliation Act* 28 of 1956 was amended and renamed the *Labour Relations Act* 28 of 1956.

6 *Constitution of the Republic of South Africa Act,* 1996, ch 2 s 23(1).

7 *Constitution of the Republic of South Africa Act,* 1996, ch 2 s 18.

8 *Constitution of the Republic of South Africa Act,* 1996, ch 2 s 23(5).

9 *Constitution of the Republic of South Africa Act,* 1996.

10 *Constitution of the Republic of South Africa Act,* 1996, ch 2.

11 *Constitution of the Republic of South Africa Act,* 1996, ch 2 s 23(2)(a) – (b).

12 *Constitution of the Republic of South Africa Act,* 1996, ch 2 s 23(2)(c).

13 *Labour Relations Act* 66 of 1995; *Basic Conditions of Employment Act* 75 of 1997. Du Toit and Sirkhotte (2019, p. 175) note that the *Employment Equity Act* 55 of 1998 was enacted to give effect to the "equality clause."

notwithstanding the prohibition of hate and unfair discrimination in the *Promotion of Equality and Prevention of Unfair Discrimination Act* (PEPUDA) 2000 and the *Employment Equity Act* 1998.[14]

South African employment law and dismissal provisions are codified in the *Labour Relations Act* of 1995[15] and various *Codes of Good Practice* (Grogan, 2010). In terms of the *Labour Relations Act* and the *Code of Good Practice: Dismissal*,[16] "employees"[17] may only be dismissed for a "fair reason"[18] (one of which includes misconduct)[19] and through a "fair procedure."[20] *The Code of Good Practice: Dismissal*[21] provides guidelines on whether a dismissal for misconduct is considered to be "unfair."[22] The *Labour Relations Act* further regulates that all disputes arising from unfair dismissal allegations, except where the parties specifically agree to have their disputes resolved through alternate private dispute resolution processes (Grogan, 2010). As noted by Cornish and Tranter (2022), employees can challenge social media misconduct dismissals in the Commission for Conciliation, Mediation and Arbitration (CCMA) or in the relevant bargaining councils[23] or private agencies accredited by the Commission.[24] It is the sample of contested first-instance dismissal decisions

14 *Promotion of Equality and Prevention of Unfair Discrimination Act* 4 of 2000 s 10 (1)(c); *Employment Equity Act* 55 of 1998.

15 *Labour Relations Act* 66 of 1995.

16 *Labour Relations Act* 66 of 1995, Schedule 8.

17 *Labour Relations Act* 66 of 1995, s 213 defines an "employee" as "any person, excluding an independent contractor, who works for another person or for the state and who receives, or is entitled to receive, any remuneration; and any other person who in any manner assists in the carrying on or conducting the business of the employer."

18 *Labour Relations Act* 66 of 1995, s 188(1)(a); *Code of Good Practice*: *Dismissal*, Schedule 8, Item 2.

19 *Labour Relations Act* 66 of 1995, s 188(1)(a)(i).

20 *Labour Relations Act* 66 of 1995, s 188(1)(b); *Code of Good Practice: Dismissal*, Schedule 8, Item 4.

21 *Labour Relations Act* 66 of 1995, *Code of Good Practice: Dismissal*, Schedule 8.

22 Including "whether or not the employee contravened a rule regulating conduct in the workplace and if a rule was contravened, whether or not the rule was a valid or reasonable." Where the rule was contravened, was the employee "aware, or could reasonably be expected to have been aware of the rule;" was the rule "consistently applied by the employer" and lastly, was dismissal "an appropriate sanction for the contravention of the rule." See *Labour Relations Act* 66 of 1995, *Code of Good Practice: Dismissal*, Schedule 8, Item 7.

23 Bargain councils are established in terms of s 27 of the *Labour Relations Act* 66 of 1995. Budlender and Sadeck note that "bargaining councils are established when employer and employee bodies (unions) in a particular industrial sector and geographical area agree to come together to engage in collective bargaining" (2007, p. 5). In terms of s 28 of the *Labour Relations Act* 66 of 1995, the powers and functions of bargaining councils include the prevention and resolution of labour disputes.

24 *Labour Relations Act* 66 of 1995, s 127. For example, Tokiso Dispute Settlement (Pty) Ltd (1 Dec 2019 to 30 November 2022).

for badmouthing the employer, which forms the primary data source and 'social records' documenting instances of employee voice in the South African workplace.

Literature Review

This paper is located in the employee voice and, more particularly, 'e-voice' literature. This literature was located in academic handbooks and peer-reviewed articles using key search terms such as "employee voice," "e-voice" and "social media" across various trusted electronic databases.[25] What was noticeably limited in both the employee voice and e-voice literature was the comprehensive exploration of online employee voice in developing Global South economies such as South Africa. It is this gap which this paper seeks to address by contributing to the existing literature, particularly in a Global South context.

Traditional Employee Voice: History and Motivations of Dissenting Voice

Voice, as originally defined by Albert Hirschman (1970) in his Exit-Voice-Loyalty Theory, is "any attempt at all to change, rather than to escape from, an objectionable state of affairs, whether through individual or collective petition to management" (p. 30). The voice concept was later applied in the employment context by Farrell in 1983 and Freeman and Medoff in 1984 (Mowbray et al., 2019). While employee voice has morphed into a more "elastic term" which is conceptualised in "relative isolation" or within various "disciplinary siloes" (Wilkinson, Donaghey & Dundon, 2020, p. 3; Cassinger & Thelander, 2020, p. 197; Mowbray et al., 2019, p. 4; Kaufman, 2015), Wilkinson et al. (2021, p. 696) suggest a "broad definition." Accordingly, "employee voice" includes "the ways and means through which employees attempt to have a say, formally and/or informally, collectively and/or individually, potentially to influence organizational affairs relating to issues that affect their work, their interests, and the interests of managers and owners" (Wilkinson et al., 2021, p. 696; Wilkinson, Donaghey & Dundon, 2020, p. 5). Therefore, voice also encapsulates the "desire to speak up about one's conditions of work" (Walker, 2021, p. 777) and "employee interests" rather than the exclusive expression of ideas or opinions for the benefit of the organisation (Mowbray et al., 2022, p. 1054).

When articulating voice, Dundon et al. (2004) argue that employees are motivated to express voice to achieve different purposes using various "mechanisms" or "practices" (p.1152). The literature identified various intentions, including the "constructive" making of suggestions for the improvement of organisational functioning, quality or performance, "challenging the status quo", and the rectifying of problems which could lead to "more efficient and less harmful" workplace

25 These databases included JSTOR, SSRN (Social Science Research Library), Sage Journals, SpringerLink, EBSCOhost, HeinOnline, Kluwer Law Online, Sabinet Online Journals and Lexis Advance.

circumstances (Dundon et al., 2004, p. 1152; Morrison, 2011, p. 375; Gobind, 2015, p. 103; Boxall & Purcell, 2016; Wilkinson, Donaghey & Dundon, 2020, p. 6; Knoll et al., 2021, p. 621). However, Gobind (2015) notes that "employees want to be heard, and more so when they are unhappy" (p. 103). It is this "grievance" or "justice-orientated" voice (Klaas, 2020, p. 540; Townsend et al., 2022, p. 286) which is used to express "individual dissatisfaction," the airing and redressing of workplace grievances, the furthering of worker interests or the notion of a "fair deal" (Dundon et al., 2004, p. 1152; Wilkinson, Donaghey & Dundon, 2020, p. 3; Townsend et al., 2022, p. 286, Marchington & Dundon, 2017).

"Dissenting" voice has been described by Ravazzani and Mazzei (2018) as "something to defy or avoid", often plagued by "threats of destructive and opportunistic behaviours" (p. 178). It has also been viewed as "confrontational", according to Klaas et al. (2012). When employees express voice "using anger" or "negative" emotions such as "frustration" or "dissatisfaction," Burris (2012) notes that "more hostile outcomes" are more probable for employees (p. 870). Similarly, Grant (2013) notes that negative emotions are "pervasive in voice …expressions" (p. 1704) and describes voice as "a risky endeavour for employees" (p. 1703). The employer's response: discipline or dismissal (Thompson et al., 2020; Thornthwaite et al., 2020).

The Evolution of E-Voice

"E-voice" is a "sub-genre of the voice literature: voice expressed online" (Walker, 2021, p. 780). Although various organisational mechanisms enable employee voice in the workplace, the proliferation of digital communication has resulted in employees utilising virtual spaces as "digitally mediated mechanisms" to advance digital employee voice (e-voice) and to express "individual" discontent (Ellmer & Reichel, 2021, p. 260; Miles & Mangold, 2014, p. 401).

Early e-voice literature explored the potential of "cyberunions" and "a renaissance of unionism" in "cyberspace" (Shostak, 1999; Greer, 2002, p. 216; Diamond & Freeman, 2002, p. 593). However, while social media has provided the opportunity for the expression of union voice, research by Barnes et al. (2019) suggests that union member utilisation has been "limited". Various scholars have also considered "internal" social media applications or "enterprise social networks" (such as "wikis" and "blogs"), which enable employee collaboration, communication and knowledge sharing across the organisation (Vuori, 2012; Leonardi & Vaast, 2017; Estell et al., 2021). Wilkinson et al. (2021) suggest that these internal channels seemingly present the best opportunities for "constructive" voice, as employees can use these mediums for making suggestions or generating ideas for organisational improvement (Martin et al., 2015).

However, Walker (2021) notes that much of the extant 'e-voice' literature is centred on the online voice channel as a mechanism for "grievance-airing and resistance"

(p. 777). While traditional voice mechanisms are employer-created and controlled channels, Balnave et al. (2014) and Mennie (2015) observed that social media is, conversely, not directly within the organisation's exclusive control. Gossett and Kilker (2006, p. 64) found that employee-directed online discourse has enabled a variety of contemporary "voice mechanisms" such as cyber-venting, critical online posts and "counter-institutional" "gripe" or "sucks websites." These mediums facilitate online employee expression of dissatisfaction and dissent independent of the employer "sanctioned" voice channels (Thompson et al., 2020), traversing workplace discourse beyond the employer's bounds to a much broader audience (Conway, 2019; Wilkinson et al., 2021). Resultantly, Thornthwaite et al. (2020) argue that social media has the capacity to not only influence "how" employee voice is expressed but also "what" is expressed and to "whom" (p.510). In this context, Miles and Goldman (2014) note that within the workplace, employee voice is seen as "active dissent due to dissatisfaction," equating employee voice to a "virtual" "time bomb waiting to explode" (pp. 402-403). The proverbial "water-cooler" gripes which once took place on the shopfloor or in office passages have shifted to "kicking up a fuss" on online social media platforms, reaching a much broader audience (Hirschman, 1970, p. 30; Parry et al., 2019, p. 202; Miles & Mangold, 2014; Walker, 2021, p. 778). Resultantly, Holland et al. (2019) note that some employers have taken a more "reactive stance" on their employee's use of social media as voice channels (p. 74).

In this regard, a considerable scholarship explored the use of "work-related blogs" or "counter-institutional" "gripe sites" as forms of resistance, cynicism or dissent (Gossett & Kilker, 2006; Schoneboom, 2007; Richards, 2008; Richards & Kosmala, 2013; Schoneboom, 2011a); illustrating instances where employees were either successful (Courpasson, 2017) or were "dooced"[26] for articulating resistance or dissent (Cote, 2007). As work blogging dwindled, particularly owing to the increase in employee dismissals (Schoneboom, 2007, 2011a, 2011b) and the proliferation of social media platforms such as Facebook and Twitter (Thompson et al., 2020), the emergent literature focused on employee dismissal for expressing dissatisfaction and dissent on social media platforms (Caraway, 2016; Cohen & Richards, 2015; Wood, 2015; Cortini & Fantinelli, 2018; Parker et al., 2019). Recent contributions by Conway et al. (2019) examined how employees voice both positive and negative feelings about their workplaces on Twitter, while Holland et al. (2019) examined employees tweeting live about their retrenchment.

26 The term "dooced" means to be fired for comments posted online. See the case of Heather Armstrong, an American web designer who was dismissed for her comments about her colleagues and employer on her blog, Dooce.com (Whitmer & Gottschalk, 2014).

The Global North Focus of Voice

In the literature on traditional employee voice, the context is usually on developed Global North economies (Freeman et al., 2007; Morrison, 2014). Wilkinson, Sun and Mowbray (2020) note that as employee voice is shaped by "institutional factors as well as national cultural factors," voice structures entrenched in "institutional contexts that have deep historical and cultural roots" are arguably dissimilar to western developed economies which already have a rich voice literature (pp. 471-472). Kwon and Farndale (2020) have specifically noted that despite employers not functioning within a "contextual vacuum," voice structures have largely fallen short of considering the impact of cultural values on employee voice (p. 1). However, while the 'e-voice' literature is limited recent scholarship has begun to explore traditional employee voice in developing economies (Pyman et al., 2016; Wilkinson, Sun & Mowbray, 2020; Knoll et al., 2021).

Huang et al. (2003) note that the withholding of employee voice is dependent on "national cultural factors" (p. K5). They suggest that in nations with a high "power distance" culture,[27] employees tend to remain silent and "are less likely to voice their concerns", thereby deliberately withholding voice (Huang et al., 2005, p. 475; Pyman et al., 2016, p. ix). Wood (2010) and Jackson (2002) echo the view that lower levels of employee participation are evident in nations with a significant inequity of power between employer and employee. Likewise, research conducted by Knoll et al. (2021) suggested that "employee silence motives" were linked to "power distance" (Knoll et al., 2021, p. 636; Wilkinson et al., 2021, p. 701). However, they also noted that the relationship between "silence" and "cultural dimensions" was "more complex than previously believed" (Knoll et al., 2021, p. 636). Similarly, Taylor and Bain (2005, p. 273) observed that hierarchical workplaces in India with little or no union recognition results in the "absence of employee voice", which "denies …workers opportunities to channel grievances and improve working conditions" (Pyman et al., 2016, p. ix). In a more recent comparative study of employee voice in Korea and the United States, Park and Kim (2016) also advanced the notion that cultural values impact employee voice behaviours and posit that employee voice should be explored through diverse lenses, not just across collective bargaining trade union actions.

Conversely, in exploring the formal and expanding informal voice mechanisms in Argentina, Atzeni (2016) argues that employee voice has not been "silenced". Rather, there is a unique expression of collective voice emerging in periods of economic crises (Atzeni, 2016). Voice is shaped as a "social struggle" through the

27 "Power distance" refers to Hofstede's study of cultural dimensions. Hofstede defines power distance as "the extent to which the less powerful members of organizations and institutions accept and expect that power is distributed unequally" (Hofstede, 2011, p. 11). In high power distance cultures, "inequality is seen as the basis of societal order" (Hofstede, Hofstede & Minkov, 2010, p. 97). See also Hofstede (1980) and Wood (2010, pp. 557-558).

"real and noisy expression of anger of working people rebelling" (Atzeni, 2016, p. 9). He argues that employee voice in Global South economies should be viewed through a "class or agency lens" as a "socially and politically mediated process, through which formal and informal voice channels can be alternatively created, destroyed and recreated" in the employment relationship (Atzeni, 2016, pp. 1, 15).

While individual 'e-voice' is seemingly absent in the Sub-Saharan context, a small number of scholars have examined non-digital employee voice in Africa. Maree (2016) and Klerck (2016) explore the development of traditional employee voice in South Africa and Namibia, respectively. Klerck (2016) notes that employee voice is "inextricably tied to broader struggles for justice and freedom" in the Namibian context (p. 216). Maree (2016) argues that "Black employee voice in South Africa" has moved from a "culture of silence" to a "culture of insurgence" (pp. 145-146, 163-182). While this "culture of insurgence" has "waxed and waned" over time, according to Maree (2016, p. 159), it emerged as a result of the nation's "socio-political and economic history" (p. 183). This "culture of insurgence" developed as part of the struggle and participation in political life these employees had been denied (Maree, 2016, p. 142). This finding is the antithesis of Huang et al.'s (2005) stance that employees in countries with large "power distance" cultures are "less likely to voice their concerns" to management as they are "socialized to avoid… and to uncritically receive and obey orders from their bosses" (p. 461). Hofstede (n.d.),[28] Huang et al. (2005) and the GLOBE Cultural Study (Carl et al., 2004; GLOBE, n.d.)[29] indicate that South Africa demonstrated a relatively high "power distance" score. Maree (2016) established that instead of a culture of subservience, a "culture of insurgence" developed in the South African context (p. 144).

More recently, Emelifeonwu and Valk (2019)[30] and Machokoto and Dzvimbo (2020)[31] examined employee voice through structured interviews in Nigeria and Zimbabwe, respectively. In Nigeria, also a nation with a high "power distance" culture, the authors found the "fear of victimisation", the current labour market and a high "power distance" culture contributed to employee silence (Emelifeonwu & Valk, 2019, pp. 243-244). Similarly, Machokoto and Dzvimbo (2020) explored

28 "Power distance" score of 49 on Hofstede's Power Distance Index (Hofstede Insights, n.d.; Hofstede, n.d.).

29 The GLOBE Power Distance Society Practice (as is) Score for the White South African sample was relatively high at 5.16, while the score for the Black South African sample was medium at 4.11 (Carl et al., 2004). See also the South African cultural visualisations (Global Leadership and Organizational Behavior Effectiveness [GLOBE], n.d.). For further Cultural studies, see Schwartz's Cultural Value Orientations (Schwartz, 2004, 2006, 2009, 2013). Schwartz's cultural value orientation score for South Africa was 2.59 (hierarchy) and 4.52 (egalitarianism) (Schwartz, 2008).

30 In-depth interviews of 30 employees in 3 mobile telecommunications organisations were conducted.

31 The sample comprised of the structured interviews of 30 volunteers, and the data was collective via WhatsApp.

employee voice behaviours in Zimbabwean workplaces. They noted that while employee voice in the sample was "constructive" rather than "destructive" in nature, employee voice behaviour remained "elusive" and that "more work [was] needed to develop the variations on Voice/Exit in the African Context" (pp. 130–133).

The existing literature on traditional employee voice in the Global South suggests that "novel forms and channels of informal employee voice" seemingly emerge and that the "deeply entrenched relationship between cultural norms, socio-political systems, historical legacies and employee behaviours" are clear (Pyman et al., 2016, pp. ix-xiii). The historical institutional influences of colonialism, Bantu Education and apartheid coupled with enduring white monopoly capitalism, vastly heterogenous cultural dynamics and employers implementing social media policies regulating online communications in South Africa offer a unique Afro-centric Global South perspective on dissenting employee voice expressed in virtual spaces using social media voice channels.

Methodology

There is a growing body of literature that uses content analysis of reports and awards of first-instance decision-makers to gain an understanding of the ways in which "social" and "legal" considerations shape and give rise to legal disputes (Cornish & Tranter, 2019, p. 20). According to Sleep and Tranter (2018), Cornish and Tranter (2019, p. 20; 2022, p. 2268) and Sia et al. (2021, p. 204), this methodological approach examines the decisions as "social records" or "archives" as opposed to records of the black letter law so that the wider context of a dispute can be uncovered and considered beyond the law in the statutes.

This approach comprises two distinct steps (Cornish & Tranter, 2019, p. 20). The first step entails the "identification" of the sample of first-instance decisions by using a wide selection of keywords and several searches across pertinent digital archives and repositories (Cornish & Tranter, 2019, p. 20). This "identification" involves a "first-order of analysis" in assessing the dismissal cases located to exclude any "false positives" (Cornish & Tranter, 2019, p. 20). Following the systematic identification of the sample, the second step entails the "analysis" of the sample. This "analysis" observes classic "content analysis techniques", which comprise several readings of the decisions to "identify major themes," followed by the subsequent "extraction" of relevant data from the decisions "coded" according to these themes (Cornish & Tranter, 2019, p. 20; Cornish & Tranter, 2022, p. 2272).

The sample for this paper are decisions located through database searches of the written awards of the Commission for Conciliation, Mediation and Arbitration

(CCMA)[32] and various Bargaining Council decisions archived on fee-for-service and publicly available repositories.[33] The various search terms used include "social network," "social network platform", or "social media" in conjunction with the words "work," "employment," "labour law," "employment law," and "discipline" to limit cases to social media misconduct in the employment law context. The initial search identified 743 decisions wherein employees were "disciplined" for social media misconduct. "Discipline" includes progressive disciplinary action "short of dismissals" such as suspension, demotion or written warnings.[34] The sample was further refined by limiting the decisions only to "dismissals" for social media misconduct, which resulted in 684 cases being distinguished from the initial sample.[35] To further narrow the selection criteria, the names of specific social media platforms such as "Facebook,"[36] "LinkedIn,"[37] "Twitter",[38] and social messenger applications with "group chat" functions such as "WhatsApp" and "Facebook Messenger" were used to further refine the results. This sample was revised again for any false positives,[39] resulting in a sample of 435 cases. Finally, all erroneously duplicated decisions were disregarded, resulting in the final South African sample of 400 contested social media misconduct dismissal decisions between June 2010 and June 2021.

The sample was analysed employing systematic content analysis utilising NVivo.[40] Using coding stripes, these criteria were developed as a combination of deductive

32 The decisions of the CCMA are "final and legally binding" between the employer and employee parties to the dismissal dispute, however, these awards "are not binding legal precedent for the Courts" (Cornish & Tranter, 2019, p. 21).

33 See World Legal Information Institute (WorldLII) at http://www.worldlii.org; Southern African Legal Information Institute (SAFLII) at http://www.saflii.org and Sabinet at http://www sabinet.co.za. This methodological approach using the same search terms across the same digital repositories using the same deductive codes has been used by Cornish and Tranter (2019, 2022) and Sia, Cornish and Tranter (2021) for different timespans.

34 See *Labour Relations Act* 66 of 1995, *The Code of Good Practice: Dismissal* Schedule 8, Item 3.

35 See *BEMAWU obo Msimang, Thulani v SABC*, KNDB14983-16; *Papo v Octodec Investments Limited*, GATW2029-18; Scott v CNA, ECPE1051-20.

36 Facebook "connects billions of people around the world" according to Facebook Culture (Facebook, n.d.).

37 According to LinkedIn Help, "LinkedIn is the world's largest professional network on the internet." It can be used "to find the right job or internship, connect and strengthen professional relationships, and learn the skills you need to succeed in your career" (LinkedIn, n.d.).

38 The slogan on Twitter's "About" page reads, "Twitter is what's happening and what people are talking about right now" (Twitter, n.d.).

39 See *Beukes v Checkers*, WECT7737-19; *Brown v Snazzi Solutions*, KNDB16394-19; *Gova v Department of Health – Gauteng*, PSHS431-16/17.

40 A Computer-assisted Qualitative Data Analysis software (CAQDAS).

and inductive processes.[41] The deductive codes were provided by formal legal considerations capturing the legal dimensions of the decision (such as case name, date, applicable legislation, rights-based defences of privacy or freedom of expression raised by employees, social media policy and the decision-maker's award). Other deductive codes related to the social and technological contextual factors (such as the social media platform, when and where the misconduct occurred, the *nexus* of conduct to the employment relationship, reasons for dismissal, the form and offensiveness of the conduct, whether the names of either the employer or employees were disclosed, whether privacy settings were implemented, the size of the potential audience, the extent of comment distribution, and how the posts were accessed) were also noted (Cornish & Tranter, 2019, pp. 20–21; Sia et al., 2021, pp. 215–216). Through examining the sample with these deductive codes, emergent themes were revealed. This led to the development and refining of inductive codes to track and chart these themes. The themes which emerged included South African employees using social media to circulate sexual and gendered harassment, hate speech and cyber violence (Cornish & Tranter, 2022, p. 2272). The theme of badmouthing employers online was evident in almost 30% (118/400) of the decisions and formed the sample for this research.

Overview of Sample

This section of the paper presents an overview of the sample. Digital dissent and dissatisfaction expressed on social media were evident in 29.5% (118/400) of all contested social media dismissal decisions between June 2010 and June 2021 (See Appendix 1). This suggests that e-voice is burgeoning in South African workplaces.

Employees utilised various social media platforms as voice channels to voice dissatisfaction and dissent. Figure 1 below illustrates the proportion of social media platforms used presented as a percentage of the sample. What stands out in this diagram is that Facebook and WhatsApp were the two most predominantly utilised social media platforms in the sample. Facebook was used significantly more by employees: exclusively in 69% (81/118), or together with the second platform

41 To ensure that the coding frame was reliable, intercoder reliability was incorporated into the analysis. To establish intercoder reliability, a second independent coder was included to code a random sample of 10% of the sample which was used as a subset to double code. As the first coder, the coding frame was developed and applied to the sample in NVivo. The data was segmented into "data units" and labelled with the relevant codes according to the coding frame. Once the subset was coded, the coded document was saved and the coded file was then duplicated with all coding labels removed. The file was forwarded to the second independent coder, still displaying the specific "data units" but without containing the codes assigned. The independent coder then, using the coding frame, coded the delineated "data units" marked on the clean file. In this instance, the more common method of a simple percentage calculation based on how many data segments coded were in agreement was implementing which resulted in a 87.5% agreement percentage which was deemed a satisfactory reliability threshold.

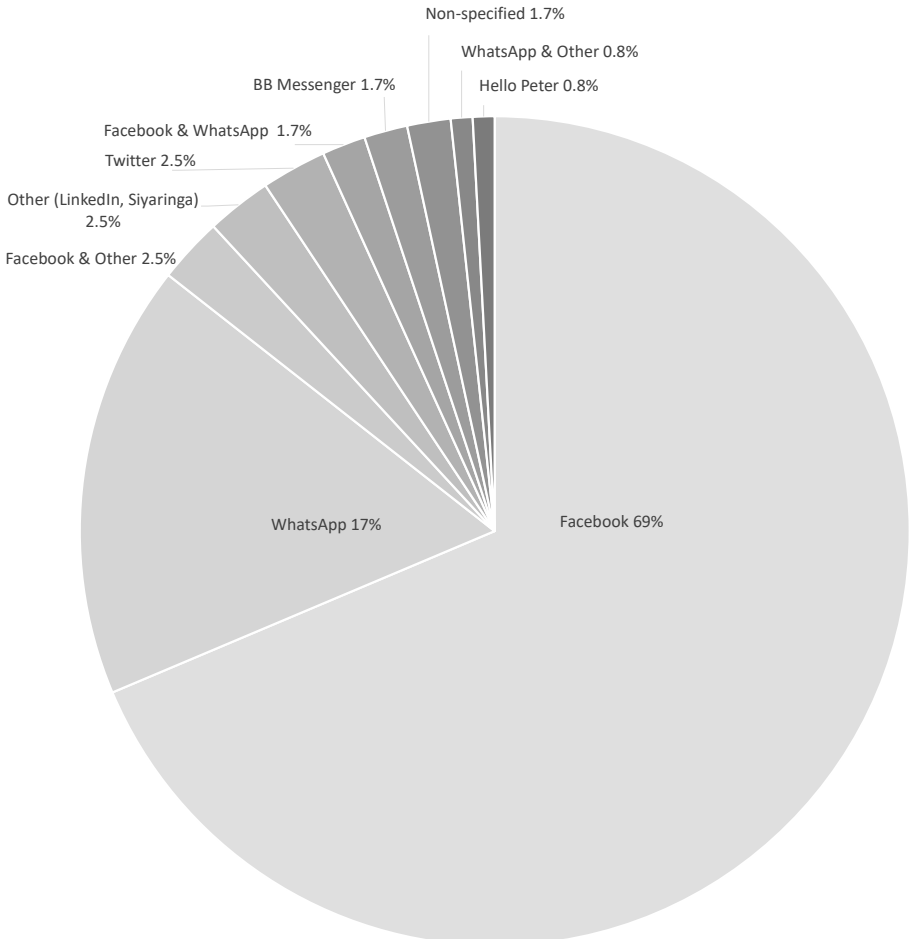
in 4% (5/118). Similarly, WhatsApp was used exclusively by 17% (20/118) or together with the second platform by 2.5% (3/118). Interestingly, this observation, to some extent, correlates with recent data, which indicates that WhatsApp and Facebook were the two most used social media platforms in South Africa as of January 2022 (Kemp, 2022a, p. 54): 95.4% of Internet users use WhatsApp each month, followed by 86.8% of users using Facebook each month; 36.8% of users stating that WhatsApp was their preferred platform, followed by 19.7% of users selecting Facebook as their "favourite" platform.

It is also clear from the diagram that the infrequently used platforms included only Twitter in 2.5% (3/118), BlackBerry Messenger in 1.7% (2/118) and the complaint site Hello Peter (1/118). These platforms were only used together with the second platform in 3.4% (4/118). The final combined 2.5% of the sample included the singular use of a Blog (1/118), LinkedIn (1/118) and the internal social media application, Siyaringa (1/118).

Within the sample, decision-makers upheld a vast majority of dismissals for dissenting e-voice. Of the 118 decisions, contested dismissals were found substantively fair, the sanction appropriate, and the dismissal, therefore, upheld in 79% (93/118). These decisions included instances where the dissenting voice and derogatory comments were untrue (*Shiba-Dlamini v Nestle*, 2016; *Mokgehle v Imvula Quality Protection*, 2017), where virtual venting caused damage (*Mofokeng and Protea Fax and Copies,* 2020*; Makhubela v Shoprite,* 2020) or severed the trust relationship. This is consistent with international trends where dismissals have been upheld where social media misconduct brought the employer's name into disrepute or caused harm to the employer's business resulting in financial loss (Lam, 2016; O'Rouke et al., 2018; Thornthwaite et al., 2020; Thompson et al., 2020; Sia et al., 2021). However, Thornthwaite et al. (2020) also note that there is a growing body of emerging international case law in which, in certain instances, the expression of online criticism towards an employer or management or cyber venting may "garner legal protection" (p. 514).

In the remaining 21% (25/118), dismissals were held to be substantively unfair. Examples included instances where there was no "impact" (*Du Prezz v Sterkinikor*, 2011 [16]) or "actual" reputational damage or harm (*Roux v SBV Services*, 2017 [54]), no "quantifiable negative consequences" (*Bango v Alpha Pharm*, 2018 [79]) or "financial loss" (*Mabe v DMF Stores*, 2019 [50]) suffered by the employer. In the three instances (3/118) where employees vented their dissatisfaction and dissent by masquerading as "customers" complaining via online forums, the dismissals were sustained.

Figure 1. Percentage of E-voice on Specific Social Media Platforms



Other (LinkedIn, Siyaringa	3/118	Facebook	81/118
BB Messenger	2/118	WhatsApp	20/118
Hello Peter	1/118	Facebook & WhatsApp	2/118
Non – specified	2/118	WhatsApp & Other (Twitter)	1/118
Twitter	3/118	Facebook & Other	3/118

Results

This section puts forward the three findings evidenced by the sample. The first was employees justifying badmouthing their employer as "venting" and the vocalisation of negative emotions. The second was that employers and decision-makers noted that employees were obliged to use "sanctioned" voice channels to air their

dissatisfactions. The third significant finding to emerge from the analysis was that employees used racialised speech to badmouth their employers online.

Venting Frustrations

The first significant finding was that employees channelled the expression of individual voice through social media platforms to vent their frustrations and to vocalise emotions such as anger, irritation or unhappiness. Concomitantly, decision-makers emphasised the existence of more appropriate avenues for voicing dissatisfaction and dissent available to employees.

Employees Venting Frustrations

To "vent" means the expression of negative feelings,[42] and the noun "frustration" refers to the feeling of being upset or annoyed.[43] In 12% of cases (14/118), employees justified their social media criticism as "venting," and in 8% (9/118), the "voicing" of "frustrations" about workplace issues. Employees specifically used the words "feelings" or "emotions" in their criticisms of their employer in *Members v Sea Harvest* (2017, [19], [22]), *Haliwell v Holiday Inn Sandton* (2011, [4.2.14]) and *Boois v Sanlam* (2012, [7]). The particular negative feelings expressly mentioned by employees included being "angry," "annoyed," "irritated", or "fed up" in 8% (9/118) and "unhappy" in 4% (5/118) of the sample.

The employees in both *Ugoeze v Stewarts & Lloyds* (2017, [31]) and *Sitole & Holloway v Tosas* (2019, [10]) specifically testified that they were unhappy. In *Naysmith v Merchant SA* (2015), the employee was described as manifesting "complete anger and frustration" [20],[36]. Further emotional rationalisations for the online behaviour articulated by the employees included "not thinking straight" (*Gumede v Mutual & Federal*, GAJB9817-14 [71]) or simply "lashing out" (*Booysen v Namaqua Wines*, 2019 [12]). The employees in *Kimani v Cape Peninsula University of Technology* (2017, [16]) and *McCarthy v Intergritron* (2017, [25]) testified they "lost it" and posted their dissatisfactions online. This finding is strongly aligned with the literature, which notes that a key reason employees express individual voice is to "vent" a grievance or challenge existing workplace conditions (Wilkinson & Barry, 2016; Tangirala & Ramanujam, 2012).

The Attributing of Negative Emotions

However, employers and decision-makers also attributed negative feelings or emotions to the employees. In 2.5% (3/118) of the sample, the employer specifically testified that the venting of feelings, frustrations, anger or unhappiness was the motivation behind the employee's social media misconduct, notwithstanding the

42 The term "vent" means "to express a negative emotion forcefully" (Cambridge, n.d.).

43 The Oxford Dictionary of English defines the term "frustration" as "the feeling of being upset or annoyed as a result of being unable to change or achieve something" (Oxford, n.d.).

employee not articulating such (*Shee v Greystone Trading*, 2012 [20]; *Khumalo v Woolworths,* 2016 [4.24]; *Mavundla v Merchants SA,* 2019 [16]). Similarly, decision-makers also attributed the "venting" of negative feelings or emotions to employees in 2% (2/118) of decisions, even when the employees themselves did not use those words. In *Members v Sea Harvest* (2017), the decision-maker went as far as stating that the employee "was not in a normal frame of mind at the time at all" [34].

Unsanctioned Voice Channels

Censure of Unsanctioned Voice Channels: Decision-Makers

Another important finding was that both decision-makers and employers emphasised that employees were obliged to use formal voice channels. In 30% of the sample (35/118), decision-makers noted that "sanctioned" employee voice channels such as approaching trade union representatives or pursuing formal grievances through relevant internal procedures were the "appropriate" mechanisms to express dissatisfaction and dissent (*Ngxwana v Red Alert Cleaning & Security*, 2016, [23], [26]; *Moodley v Midlands Medical Centre*, 2013 [68]; *Naysmith v Merchant SA*, 2015 [63]).

The obligation to use the employer's "internal" voice channels was specifically referenced in *Mabe v DMF Stores* (2019, [49]) and *Mabele v SGRP Meridian* (2016, [24]). Decision-makers noted that in some instances, no grievances were raised with the employer at all (*Ugoeze v Stewarts & Lloyds*, 2017). It was expected that employees, at the very least, would bring their dissatisfaction to the attention of the employer before "resorting to such desperate measures as social media to communicate workplace grievances" (*Sitole & Holloway v Tosas,* 2019 [18]).

The sample also revealed that employees had a number of legal recourses available to address their concerns in instances where all "internal" or "sanctioned" processes and procedures had already been exhausted. Decision-makers noted that the expression of frustration and dissatisfaction on social media platforms could not be seen as "the last resort" redress mechanism (*Ngxwana v Red Alert Cleaning & Security*, 2016 [32.2]) and emphasised that complaints could still be referred to the relevant union (*Mthabela v Arcelor Mittal SA*, 2007, [37]), the Department of Labour, the CCMA (*Booi v Wonderstone Limited*, 2013 [27]; *Ngwenya v Tintswalo Safari Lodge*, 2016 [74]) or canvassed "…through various processes…provided for by the Labour Relations Act" (*Buqwana & Moeti v Fair Price Furnishers,* 2017, [15]). However, one decision went against this trend. In *Mokoena v Naicker* (2017), an employee had explored all internal voice channels before voicing her dissatisfaction on social media. The decision-maker acknowledged the employee's efforts and seemingly condoned the comments, as she had "tried everything in her power to try and resolve the problem she was facing" ([16]-[17]).

The sample further revealed that decision-makers considered the expression of dissenting voice on social media could not appropriately resolve the employees' dissatisfactions. The decision-maker in *Beaurain v Martin* (2014) noted that "publishing the allegations on the Internet was unlikely to solve the perceived problems" and that it was "unnecessary to publish" the allegations online to "the international community," as they "could do little to help" [33]. Similarly, in *Koetaan v Spectrum Alert* (2019), the decision-maker noted that if the employee felt "aggrieved or ill-treated, he should have lodged a grievance – not tell the outside world that he was mistreated" [25]. Furthermore, decision-makers also emphasised that not all online communications were regarded as voicing a "legitimate" grievance. Sending messages in a language that the employer did not understand "clearly indicated" that the employee's "intention" was not to "communicate" a grievance or to "problem solve" (*Members v Sea Harvest Corporation,* 2017, [12], [36]).

However, one decision was an outlier. In *Ballim v North West Province* (2013), the decision-maker deviated from the overarching sentiment of sanctioned voice channels over unsanctioned social media venting. The decision-maker noted that "it is common-place for most employees to be aggrieved at the conduct of their employers" and that they "constantly would complain against what they perceive to be ill-treatment or heavy-handedness by their employers" [9]. In this instance, the decision-maker found the employee voicing online dissent amounted to "nothing more than just a gripe by an employee against the conduct of her employer" and that the sanction of dismissal was not appropriate [11]).

Censure of Unsanctioned Voice Channels: Employers

The sample further revealed that employers unambiguously referred to the desirability of formal voice channels. In 10% (12/118) cases, the employer specifically testified that the employee should have used "other," "sanctioned," "proper", or "internal communication", and "grievance procedures" to resolve grievances. Employers further argued that employees were precluded from using the "wrong" procedure and voicing dissent on social media (*Ketse v Department of Social Development*, 2018 [9]; *Makhubela v Shoprite*, 2020, [14], [28]).

Employers likewise voiced their disapproval in instances where employees purposefully disregarded the company's agreed internal processes to air discontent (*Makhubela v Shoprite*, 2020 [13], [28]; *Mthabela v Arcelor Mittal SA,* 2017, [3]). In *Mcunukelwa v Metrorail* (2013), "none" of the employee's social media posted grievances had been formally lodged but instead, the employees "completely ignored" the employer's "internal grievance procedure" [17]-[18]. Similarly, in *Kimani v Cape Peninsula University of Technology* (2017), the employer explicitly noted that not only had the employee neglected to use the "proper" internal mechanisms, but she also had failed to use "any" internal voice channels [11].

In summary, the sections above set out two findings from the sample. The first is that employees justified badmouthing their employer using online voice channels as the vocalisation of emotions, and the second, is that decision-makers and employers expressed the need for employees to use 'sanctioned' voice channels rather than venting or airing grievances on 'unsanctioned' channels, namely social media. The section that follows examines employees' use of racialised speech to badmouth employers on social media and online accusations of employer racism.

Badmouthing through Racialised Speech and Accusations of Racism

The third significant finding identified from the sample was that employees used racialised e-voice to vilify their employers in 23% (27/118) of decisions. In this regard, it is necessary to acknowledge that South Africa has an extensive history of racial prejudice, oppression, inequality and discrimination shaped by colonialism and the apartheid era (Collier, 2018; Khumalo, 2018; Maqutu & Motloung, 2018). Given this context, the use of racialised speech to voice dissent and dissatisfaction via social media was an unsurprising theme, particularly considering that the bastions of racial categorisation, institutionalised racism, and racialised hate speech still endure in "all spheres of society", including contemporary South African workplaces (Dlamini, 2015; Botha, 2018; Brassey, 2019; Khumalo, 2018; Mbowa, 2020; Resane, 2021, p. 1). Notwithstanding the constitutionally entrenched right to the "freedom of expression" as enshrined in the South African Constitution,[44] any expression that advocates "hatred that is based on race, ethnicity, gender or religion, and that constitutes incitement to cause harm" is excluded from constitutional protection.[45] This prohibition is echoed in various legislative provisions,[46] yet as the sample clearly demonstrates, racialised speech endures in the South African workplace, particularly expressed on social media voice channels.

Racialised Speech

Online racialised speech which brings the employer's name into disrepute or causes actual harm is regarded as a serious disciplinary offence. In 85% (23/27) of racialised e-voice decisions, the decision-makers held that racialised comments articulated by employees that tarnished the organisation's reputation were substantively fair reasons for dismissal.

44 *Constitution of the Republic of South Africa*, Act of 1996, s 16(1).

45 *Constitution of the Republic of South Africa*, Act of 1996, s 16(2).

46 See *Equality Act (Promotion of Equality and Prevention of Unfair Discrimination Act* 4 of 2000*)* s 10(1) – also known as PEPUDA. See also *The Prevention and Combating of Hate Crimes and Hate Speech Bill* (which, if passed, will make "hate speech" a crime) and the common law crime of *crimen iniuria.* See further Mukheibir (2020). South Africa is also a party to various international laws and agreements, see specifically *The Universal Declaration on Human Rights* and the *International Covenant on Civil and Political Rights* which also regulate or restrict hate speech.

The decisions which documented racialised voice include instances wherein the employee used derogatory racialised terminology, racial classifications or expressions of historically denigrating language on social media to vilify the employer (*Booysen v Namaqua Wines*, 2019; *Gumede v Mutual & Federal*, 2014; *Ntshangase v MCFI International SA*, 2015). Further examples included decisions in which the employee specifically named the employer in the racialised post (*Kobo v Truworths*, 2018; *Booi v Wonderstone*, 2013; *Godloza v Harmony 2 Shaft*, 2012) or where the derogatory comments were made on the employer's social media page (*Mavimbela v Brinant Security Services*, 2018). Moreover, decisions where the employee falsely labelled or insinuated that the employer was a racist, had a racist culture or was not committed to employment equity transformation were also deemed serious misconduct warranting dismissal (*Sam v Zikhethele Terminal Services*, 2012; *Harting v Container World*, 2015; *Gumede v Mutual & Federal*, 2014).

In the remaining four decisions of the racialised voice sample (15%), decision-makers held the dismissal was unfair in instances where the criticism was either not directed towards or linked to the employer (*Alexander v Ebesa Architects*, 2015; *Maja v Glencore Lion Smelter*, 2016), had no bearing on the employer's interests, or the company's name was not brought into disrepute (*Mavimbela v Brinant Security Services*, 2018).

Racialised Speech: Contextual Considerations

Racial descriptors are context-dependent. Specific words in the South African lexicon, which, even though *prima facie* appear to be racially neutral, "bear historical or cultural associations that qualify them as hate speech" (*Makhanya v St Gobain* [2019]; Geldenhuys & Kelly-Louw, 2020a, p. 26; Cornish & Tranter, 2022, p. 2283). Dehumanising and animalising Black Africans by referring to individuals as "baboons" or "monkeys" demonstrates "racialised animality discourse" in South Africa (*State v Sparrow*, 2016; *ANC v Sparrow*, 2016; Geldenhuys & Kelly-Louw, 2020a; Cornish & Tranter, 2022, p. 2276).[47] The term "boer"[48] in reference to White South Africans has also had derogatory connotations (*Makhanya v St Gobain*, 2019; *Freedom Front v South African Human Rights Commission*, 2003), and its use has justified dismissal.[49] Of the 27 dismissal decisions manifesting racialised

47 On dehumanising, animalising and animality discourse, see generally Haslam et al. (2011).

48 The term "boer" is "a South African of Dutch, German, or Huguenot descent, especially one of the early settlers of the Transvaal and the Orange Free State. Today, descendants of the Boers are commonly referred to as Afrikaners" (Britannica, n.d.). See also the definition of "Boer" and "boer" in Odendal et al. (1992) which means "Afrikaner" or "farmer."

49 In *Makhanya v St Gobain* [2019] 7 BALR 720 (NBCCI), the decision maker found the that "boer" carries similar derogatory connotations to the "k-word" and dismissed an application for unfair dismissal which arose when an African employee used the word. However, see also *Duncanmec (Pty) Limited v Gaylard* 2018 6 SA 335 (CC) [37] in which case the decision-maker found that the term "boer" was not racially offensive. See further Geldenhuys and Kelly-Louw (2020a) and Cornish and Tranter (2022).

voice on social media, 11% (3/27) of employees made specific reference to the employer using the term "boer" (*Booysen v Namaqua Wine*s, 2019; *Paulse v JD Kirsten Boerdery*, 2018; *Mosala v Fidelity Security Services*, 2018).

In *Booysen v Namaqua Wines* (2019), the decision-maker pointed out that there was "no justification" for the employee voicing racist utterances, notwithstanding his frustrations [20]. Moreover, it was noted that "racist comments and vulgar language cannot be tolerated in the workplace" nor "in society as a whole" (*Booysen v Namaqua Wines,* 2019 [20]). Likewise, the decision-maker in *Mosala v Fidelity Security Services* (2018) dismissed the application where the employee used racialised voice labelling the company's site manager as "a white boer" [4.1.4]). Badmouthing the employer using similarly offensive animal metaphors to express racialised voice, such as branding the employer as "bloody snakes" (*Jikela v Smit Amandla Marine*, 2012 [57]) or "inja"[50] (*Ntshangase v MCFI International SA*, 2015 [18]) were documented in the legal texts, and by the same token, deemed 'serious' misconducts.

Racialised Speech: Enduring Racial Classifications

Racial classification was the bureaucratic cornerstone of the apartheid regime (Bowker & Star, 1999; Cornish & Tranter, 2022). The *Population Registration Act*[51] and the *Group Areas Act*[52] were two key laws that created the racialised regime that registered persons at birth as "Bantu,"[53] "Coloured,"[54] "white,"[55] and "other,"[56] and supported racial segregation (Beinart & Dubow, 1995). Racial segregation legislation determined where individuals were permitted to live and work (Bowker & Star, 1999).[57] Racial classification still persists post-apartheid (Brassey, 2019; Maqutu &

50 "Inja" is "deeply disrespectful and offensive in Zulu culture." It means "dog." (*Ntshangase v MCFI International SA Pty Ltd*, KNDB10251-15 [20].

51 *Population Registration Act* 30 of 1950.

52 *Group Areas Act* 41 of 1950.

53 *Population Registration Act* 30 of 1950 s 5(1); *Group Areas Act* 41 of 1950, s 2(1)(b).

54 *Population Registration Act* 30 of 1950 s 5(1*); Group Areas Act* 41 of 1950, s 2(1)(c).

55 *Population Registration Act* 30 of 1950 s 5(1); *Group Areas Act* 41 of 1950, s 2(1)(c). In terms of s1(xv) of the *Population Registration Act* 30 of 1950 and s2(1)(a) *Group Areas Act* 41 of 1950, an individual was classified as white if they were "in appearance obviously is, or who is generally accepted as a white person, but does not include a person who, although in appearance obviously a white person, is generally accepted as a coloured person" and in terms of s2(2) of the *Group Areas Act* 41 of 1950 "or a member of any other group."

56 *Group Areas Act* 41 of 1950, s 2(1)(d).

57 For examples of further racial segregation legislation, see, e.g., the *Reservation of Separate Amenities Act* 49 of 1953 which governed the use of certain public areas, vehicles and services specifically for the use of particular races; the *Immorality Act* 23 of 1957 which prohibited sexual intercourse between individuals who were "white" and "non-white"; and the *Prohibition of Mixed Marriages Act* 55 of 1949 which prohibited the marriage between individuals who were "white" and "non-white."

Motloung, 2018).[58] It is the "stubborn survival of racial categories [which] attests to the enduring power of the old race paradigm" in South Africa (Dubow, 1995, p. 109). Consistent with this notion, the sample demonstrated that 22% (6/27) of the decisions wherein employees badmouthed the employer through racialised e-voice used racial classification labels such as "white," "black", or "coloured."

Decisions evidencing this *genus* of racialised e-voice included a reference to the employer being "a white person entrapped in a black man [*sic*] skin" (*Mosala v Fidelity Security Services*, 2018, [4.1.4], [4.1.10]), a derogatory comment that the "white boss" was "a dog" (*Ntshangase v MCFI International SA*, 2015, [18]) and the racial stereotyping of management using racial classification labels and 'othering' language such as all "white people" were "wicked" (*Gumede v Mutual & Fed*eral, 2014 [114]) or "whites" still oppressed "them" because "they" held "all the money" (*Ntshangase v MCFI International SA*, 2015 [23]). Moreover, even when the employee did not consider their online utterances as "derogatory, disrespectful, inflammatory," "racist", or constituting racialised hate speech, the decision-maker nevertheless found the employee to have used "abusive words" when calling his employer "*inja*" (dog) in *Ntshangase v MCFI International SA* (2015, [30]).

As demonstrated above, dismissal decisions in the sample also demonstrated the use of racialised voice by employees on social media to badmouth employers. The following section examines the use of digital voice to accuse employers of racism, unfair discrimination or non-transformation.

Voice as Accusations of Employer Racism, Unfair Discrimination and Non-Transformation

Following South Africa's passage from "a racist autocracy to a constitutional democracy," the Constitution guarantees a myriad of fundamental human rights,[59] including "everyone is equal before the law"[60] (Du Toit & Sirkhotte, 2019, p. 170; Collier, 2018). Furthermore, the *Bill of Rights* prohibits "unfair discrimination" based on a number of grounds, including "race"[61] (Geldenhuys & Kelly-Louw, 2020b, p. 5; Collier, 2018). The *Promotion of Equality and Prevention of Unfair Discrimination Act* (PEPUDA) defines "discrimination" as "any act or omission…which either directly or indirectly imposes burdens or obligations" or "withholds benefits, oppor-

58 Racial classification is still used in the *Employment Equity Act* 55 of 1998 and *Broad-Based Black Economic Empowerment Act* 53 of 2003 for determination of redress of past injustice. See also Brassey (2019).

59 *Constitution of the Republic of South Africa Act,* 1996, ch 2.

60 *Constitution of the Republic of South Africa Act,* 1996, s 9(1).

61 *Constitution of the Republic of South Africa Act*, 1996, s 9(3) which reads: "The state may not unfairly discriminate directly or indirectly against anyone on one or more grounds, including race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth."

tunities" or "advantages any person on one or more of the prohibited grounds."[62] "Race" is included as a "prohibited ground."[63] Notwithstanding various "regulatory regimes,"[64] anti-discrimination law does have "limitations" (Collier, 2018, pp. 435, 455). "Racism", according to Khumalo (2018), "persists" (p. 377).

Employees voiced being treated "differently" or "unfairly" based on race in 18% (5/27) of the sample (*Kobo v Truworths*, 2018, [17]); *Ngwenya v Tintswalo Safari Lodge*, 2016, [30]; *Mjekula v Lewis Stores*, 2019 [26]). Further examples of voice suggesting that had the employees been "white" or "a coloured," they would have been treated "differently," or that "first preferences" were always given "to coloured" individuals and questioning the lack of "non-black" management were documented in *Harting v Container World* (2015, [3]) and *Ndobela v Foschini* (2018, [4-1(ii)], [5-3]).

The systemic racism which was legitimised by the apartheid regime endures in the contemporary South African workplace (Khumalo, 2018). In the *locus classicus* Labour Appeal Court decision of *Crown Chickens v Kapp* (2002), the decision-maker noted that "racism is a plague and a cancer in our society which must be rooted out" [24]. Moreover, he characterised employees using racial slurs "in the workplace" as an "anathema to sound industrial relations and a severe and degrading attack on the dignity of the employee in question" [24]. In the sample, employees had been dismissed for voicing inflammatory racist language, branding the employer or its management as "racists," insinuating that the employer was "racist" or "falsely" accused the employer of being racist (*Khumalo v Gooderson Drakensburg Gardens*, 2015 [4]; *Sam v Zikhethele Terminal Services*, 2012, [13]-[14]; *Kobo v Truworths*, 2018, [65]; *Dickens v Flow Electronics*, 2021, [25], [27]; *Moloto v DA* (2017, [31]). Significantly, decision-makers pointed out that contrary to the employee's beliefs that they could openly call "people racists" and refer to them in derogatory terms, this conduct was "unacceptable" (*Sam v Zikhethele Terminal Services*, 2012, [28],[40], [42]).

Some dismissal decisions evidenced employees badmouthing and accusing employers of "manipulating" Broad-Based Black Economic Empowerment (B-BBEE) "transformation scores", which was deemed 'serious' misconduct (*Gumede v Mutual & Federal*, 2014, [115]; *Ndobela v Foschini*, 2018 [4-1(ii)]). The *Broad-Based Black Economic Empowerment Act* seeks to redress past injustices perpetrated under the auspices of apartheid through the promotion of "economic transformation"[65] and

62 *The Promotion of Equality and Prevention of Unfair Discrimination Act* 4 of 2000 (PEPUDA), s 1.

63 *The Promotion of Equality and Prevention of Unfair Discrimination Act* 4 of 2000 (PEPUDA), s 1.

64 See, e.g., *Employment Equity Act* 55 of 1998, s 6(1); *The Promotion of Equality and Prevention of Unfair Discrimination Act* 4 of 2000 (PEPUDA), s 10(1).

65 *Broad-Based Black Economic Empowerment Act* 53 of 2003, s 2(a).

"economic empowerment of all black people" in "South Africa's economy."[66] A company's compliance with the elements of empowerment and development is determined through a points system,[67] with possible access to state funding and public sector tender opportunities for high-scoring businesses. A "fronting practice" includes an arrangement which involves "tokenism" or "window dressing"[68] (Gerber & Curlewis, 2018, p. 356), whereby black individuals or black companies have superficial involvement solely to enhance scores[69] (Warikandwa & Osode, 2017). As these "circumvention practices" or "disguised or deceiving B-BBEE initiatives" have been criminalised[70] (Gerber & Curlewis, 2018, p. 356), any allegations of misrepresentation or deceptive practices are viewed seriously, as are false allegations of "fronting." However, in employers dismissing potential whistleblowers and decision-makers upholding dismissal for employees possibly whistle-blowing on *Broad-Based Black Economic Empowerment Act* fronting, this seems to cut across the very purpose of that Act, "chilling" legitimate employee voice.

In summary, this section advanced that some decisions within the sample documented employees' use of racialised speech, derogatory racialised terminology, racial classifications or expressions of historically denigrating language to vilify employers via social media. It shows a profusion of e-voice occurring through social media in South Africa. The next part discusses the findings.

Discussion

Drawing on the content analysis of 118 first-instance dismissal decisions, the sample suggests that South African employee voice is not 'silenced.' Employee voice, and more particularly e-voice, seemingly persists, documented in the legal texts of social media misconduct decisions. Voice scholars note that employees in archetypal Global South nations with high "power distance" (Hofstede, 2011; Hofstede, Hofstede & Minkov, 2010; Wood, 2010) generally withhold or 'silence' employee voice (Huang et al., 2003; Huang et al., 2005; Pyman et al., 2016). According to Hofstede's original study, South Africa's power distance score suggests "that people to a larger extent accept a hierarchical order in which everybody has a place…hierarchy in an organization is seen as reflecting inherent inequalities, centralization is popular, subordinates expect to be told what to do and the ideal

66 *Broad-Based Black Economic Empowerment Act* 53 of 2003, Preamble; s 1 Definition of Broad-Based Black Economic Empowerment [10].

67 See the Generic Scorecard issued under s 9 of the *Broad-Based Black Economic Empowerment Act* 53 of 2003, General Notice 1019 of 2013 para 8 issued in the Government Gazette No. 36928 dated 11 October 2013.

68 *Codes of Good Practice*, Statement 001. Fronting practices and other misrepresentation of BEE Status published in Government Gazette 28351 of 20 December 2005.

69 See the *Broad-Based Black Economic Empowerment Act* 53 of 2003 as amended by Act 46 of 2013, s 1 Definition of "fronting practice."

70 13O(1)(d) of the *Broad-Based Black Economic Empowerment Act* 53 of 2003.

boss is a benevolent autocrat" (Hofstede Insights, n.d., Power Distance section). Maree (2016) notes that "it is remarkable to what extent the research findings of Hofstede…have missed the mark for South Africa" (p. 144). However, Hofstede Insights notes the Hofstede score presents the findings for "the white population of South Africa…the majority of the population is Black African, and their scores may be very different" (Hofstede Insights, n.d., Note section). Oppong (2013) posits that notwithstanding the demographics of the original Hofstede sample, the study "could apply to South Africa with a high level of acceptability due to the shift from Western domination to increased indigenous participation in the world of work despite the sample being white during the apartheid regime" (p. 204). The empirical findings of the GLOBE (Global Leadership and Organizational Behaviour Effectiveness) project do distinguish between a "White" and "Black" sample and note the "Society Practice (As Is)" and "Society Values (Should Be)" scores for each demographic (Carl et al., 2004, pp. 539–540).[71] The overall GLOBE findings on societal power distance practices reported "power distance" "to be the least desirable, but most the most prominent" feature in countries worldwide (Carl et al., 2004, p. 539). The "White sample" scored higher on societal "practice," but lower on society "value" of power distance, whereas the "Black sample" scored lower on power distance "practice," but greater on the "should be" society values score (pp. 539–540). The GLOBE Sub-Saharan Africa cluster, which included the South African "Black sample," found that these societies collectively reflected a relatively high "Group Practice Score" (5.24) on the dimension of "power distance" and a relatively low score of 2.86 on the "Group Value Score" (GLOBE, n.d. Results Sub-Saharan Africa Culture Visualization section). Furthermore, the principal characteristics of the cluster "encompass societal practices that embody an unequal distribution of power, authority and status" (GLOBE, n.d., Results Sub-Saharan Africa section, para. 2).[72]

"Insurgence" culture is contrary to the Hofstede and GLOBE view that less powerful individuals in countries with hierarchical relationship structures and high "power distance" cultures "accept and expect that power is distributed unequally" (Hofstede, 2011, p. 9) and "endorses authority, power differences, and status privileges" (Carl et al., 2004, p. 539). However, the sample evidenced that out of the original 400 first-instance decisions, almost 30% (118/400) of all contested social media dismissal cases before the CCMA or Bargaining Councils in South Africa between

71 The GLOBE Power Distance Society Practice (As Is) Score for the South African (White sample) was relatively high at 5.16, while the score for the South African (As Is) (Black sample) exceeded the midpoint at 4.11. In the Power Distance Society Values (Should Be) findings, the South African (Black sample) scored highest of 62 countries, with a score of 3.65, while the South African (White sample) scored lower at 2.64. The South African GLOBE Culture Visualization study results scores for both samples can also be found at GLOBE (n.d., Results South Africa section).

72 The Sub-Saharan Africa cluster comprised Namibia, Nigeria, South Africa, Zambia, Zimbabwe.

2010 and mid-2021 revealed employees were expressing dissenting voice on social media. Notwithstanding the dismissal by employers and decision-makers upholding 79% (93/118) of these contested dismissals, e-voice is seemingly burgeoning in South Africa. Moreover, e-voice is seemingly burgeoning, notwithstanding the high "official" unemployment rate of 33.9%[73] (or 44.1% according to the "expanded" definition of unemployment) (Statistics South Africa, 2022).[74] The findings of this qualitative research support Maree's argument that Black employee voice has moved from a "culture of silence" to a "culture of insurgence" in the South African context and is unapologetically burgeoning on social media voice channels (2016, p. 182).

Furthermore, the findings of this sample suggest that digital individual employee voice in the South African context exemplifies "active dissent due to dissatisfaction" (Miles & Mangold, 2014, p. 403) rather than being "promotive" of the employer's interests. Moreover, the sample further reveals that South African employees do use social media platforms as "individual voice" channels to vent their grievances and "express dissatisfaction and discontent" as noted by Thornthwaite et al. (2020, p. 510), Barry and Wilkinson (2016) and Tangirala and Ramanujam (2012). More particularly, this digital dissenting voice involves the deployment of racialised speech to vilify employers through 'unsanctioned' social media voice channels.

Limitations, Significance and Future Research

The contributions of this research should be qualified in terms of its potential limitations. First, establishing the extent of positive e-voice engagement and voice as an expression of a collective organisation (e-unions) in South African workplaces is beyond the scope of this paper. Second, while this paper presents the findings of individual employee use of social media to express individual dissenting voice and the resultant employer response to that expression, the analysis is largely limited in its focus to the decisions of statutory dispute resolution bodies. Employers do, however, regularly incorporate that as a term and condition of employment, disputes

73 The official definition of "unemployment" are those individuals aged between 15 – 64 who "were not employed in the reference week; and actively looked for work or tried to start a business in the four weeks preceding the survey interview; and were available for work, i.e. would have been able to start work or a business in the reference week; or had not actively looked for work in the past four weeks, but had a job or business to start at a definite date in the future and were available" (Statistics South Africa, 2022, p. 20). These are statistics for the second quarter of 2022 which were down 0.6% from 34.5% in the first quarter of 2022.

74 The "expanded" definition of "unemployment" includes individuals who "searched and were available" but are "discouraged work-seekers" (Statistics South Africa, 2022, p. 20). A "discouraged work-seeker" is an individual who "was not employed during the reference period, wanted to work, was available to work/start a business but did not take active steps to find work during the last four weeks, provided that the main reason given for not seeking work was any of the following: no jobs available in the area; unable to find work requiring his/her skills; lost hope of finding any kind of work" (Statistics South Africa, 2022, p. 19). These are statistics for the second quarter of 2022 which decreased by 1.4% from 45.5% in the first quarter of 2022.

must be resolved through private dispute resolution processes. This is particularly true for "professional" and "high-level" employees (Bendeman, 2007, p. 153). In such instances, statutory dispute resolution bodies lack the jurisdiction to resolve these workplace disputes, and these must be adjudicated by the appropriate private bodies. As the awards of private dispute resolution decision-makers are generally not publicly available, such awards do not form part of the current sample for analysis. Arguably, the generalisability of the findings of this sample may resultantly not be representative of awards by private dispute resolution decision-makers. Third, the global Covid-19 health pandemic disrupted the operation of various dispute resolution bodies worldwide, and the Commission for Conciliation, Mediation and Arbitration (CCMA) was no exception. The CCMA temporarily suspended user walk-in referrals and introduced digital case referral offerings as an alternative (Commission for Conciliation, Mediation and Arbitration [CCMA], 2022).[75] According to the CCMA Annual Report 2021/2022, case referrals recorded for both the 2020/2021 and 2021/2022 financial years were substantially fewer than the 2019/2020 financial year (CCMA, 2022).[76] These referral numbers were also the lowest over a five-year case referral period (CCMA, 2022). This sharp decline in referrals over this period may potentially have impacted the sample available for analysis.

Notwithstanding these limitations, this paper contributes to the existing body of 'e-voice' literature, extending and 'de-Westernising' the scholarship in the Global South context. Using legal texts (the records of decisions) as 'social records' evidencing employee voice as opposed to documenting the pure black-letter law, this methodological approach provides insight into the law-in-action and explores how employees in South Africa are using social media as voice channels to express 'dissatisfaction' and 'dissent' in contemporary workplaces. In doing so, the analysis contributes to a deeper understanding of South African employees' use of voice as the individual articulation of dissent in online spaces, and the wider context of the dismissal dispute is revealed and considered beyond the doctrinal law in the statutes. Restricting the focus of social media and its effects on employment relations exclusively to Global North nations disregards "the substantial diffusion of digital communication into the Global South and ignores how these technologies are shaping and disrupting these societies, economies and cultures" (Cornish & Tranter, 2019, p. 18). Moreover, as the digital is both enduring yet fleetingly transient, the analysis of primary source materials archived on digital repositories casts a lens on first-instance decision as digital ephemera: electronic documents as archived records which reflect the cultural and social milieu of a nation. The current proliferation in mobile connectivity, cheaper mobile devices and the upsurge

75 Between 30 July 2020 and 1 May 2022.

76 The CCMA recorded 154 143 referrals (2020/2021 financial year) and 156 777 referrals in the 2021/2022 financial year which was a substantial "decline" from the 221 547 case referrals for the 2019/2020 financial year.

in social media usage in Sub-Saharan Africa during the Covid-19 health pandemic make this contribution both timely and significant.

A natural progression of this research might include the analysis of employee use of social media as dissenting voice channels across a wider range of dispute resolution bodies in South Africa. More broadly, future cross-national research in Sub-Saharan Africa may be conducted to investigate and develop a deeper understanding of the expression of dissenting employee voice in various African nations and determine whether similar trends of "insurgent" voice prevail in nations with high "power distance" cultures.

Conclusion

This paper set out to determine whether employees in Global South nations utilise social media as individual voice channels as is experienced in the Global North and directly responded to the research question: 'Do employees in South Africa, a Global South nation, use social media as voice channels to express individual dissatisfaction and dissenting employee voice?' Through the content analysis of 118 South African first-instance social media misconduct dismissal decisions, this paper argued that employees do use social media as voice channels to articulate individual dissatisfaction and express dissenting employee voice.

The findings of this sample suggest that digital employee voice persists in South African workplaces despite employers responding to dissenting voice through the termination of the employment relationship by dismissal. The number of employee voice dismissals in the total sample (118/400) and the significant percentage (79%) of all the social media dismissal cases for badmouthing the employer which were upheld (93/118), demonstrates this persistence notwithstanding the high unemployment rates. Significantly, one of the findings to emerge from the analysis was that 'insurgent' voice persists through the expression of racialised speech, notwithstanding the various legislative prohibitions. The sample revealed that 23% of decisions concerned racialised e-voice despite the legislative prohibition of hate speech and discrimination. The utopian vision that anti-discrimination law would ameliorate all racial inequalities, discrimination and subjugation of the vast majority of people is not the lived reality of the South African workforce (Maqutu & Motloung, 2018). The zeitgeist of apartheid South Africa and post-1994 'rainbowism' have one undeniable commonality: deeply ingrained and persistent racism which permeates the South African workplace. It is this racialised employee voice which must be silenced.

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Appendix 1

Adendorff v The Leadership Development Institute, ECEL2327-10
Alexander v Ebesa Architects (Pty) Ltd, WECT19446-15
AMCU obo Mashala, L and 1 other v TSU Security, GAJB15238-14
Andrew v PnP, GAJB5317-14
Arelisky v Ocean Baskets, WECT16930-10
Augustus v Mass Discounters (Pty) Ltd, ECPE79-15
Bango v Alpha Pharm, ECPE5476-18
Beattie v Bizerba Southern Africa (Pty) Ltd, WECT408-18
Boois v Sanlam, WECT10902-12
Booysen v Namaqua Wines SA (Pty) Ltd, WECT24746-19
Brickhill v Ellerines, GAJB19322-12
Buqwana & Moeti v Fair Price Furnishers (Pty) Ltd, FAJA5852
Carolus v Cape Conference of Seventh-day Adventist, WEGE2097-15
Casten v Langenhoven Park Animal Clinic, FS4292-11
CEPPWAWU obo Dietlof v Frans Loots Penny Pinchers, ECPE7247-15
Conley v SA Reserve Bank, ECPE2284-14
Constance Hleza v Edgars, GAEK1469-14
Constance Kgosana obo Beaurain I.J v Department of Health – Western Cape, PSHS234-1011
De Beer v Vericred Debt Collectors, ECPE2358-16
De Wet v Hoekom Bloekom CC, FSBF3435-14
DETAWU obo Maquthu, Nkosinathi v NUR Manufactures (Pty) Ltd, KNPS39-19
Dewoonarain Prestige Car Sales (Pty) Ltd ta Hyundai Ladysmith [2013] 7 BALR 689 (MIBC)
Dickens v Flow Electronics (Pty) Ltd, GAEK195-21
Dladla v E SAT (E.TV), GAJB948-11
DOSAWU obo Ngwenya, Simon v Tintswalo Safari Lodge, LP7318-16
Du Prezz v Sterkinikor, GAJB26167-11
Eunice Mofokeng and Protea Fax and Copies, GAVL2099-20
FAWU obo Matlaila, Sammy v Tiger Brands Field Sales (Pty) Ltd, GAJB634-14
FAWU obo Members v Sea Harvest Corporation (Pty) Ltd, WECT4732-17
FOSAWU obo Koka, Daniel v Gold Reef City, GAJB15215-11
FOSAWU obo Njiva, Reuben v Gold Reef City Casino, GAJB18743-11
FOSAWU obo Sambokwe, S. v Montego Pet Nutrition, ECPE2130-15
Fredericks v Jo Barkett Fashions, GAJB11536-11
Gumede v Mutual & Federal, GAJB9817-14
Harting v Container World (Pty) Ltd, GAEK9537-15
Henniker v One and Only, WECT4369-17
Jikela v Smit Amandla Marine, WECT16547-12
Kathorus Community Radio, 31 Industrial Law Journal
Kerekere v Onelogix, KNDB9649-15
Kimani v Cape Peninsula University of Technology, WECT18824-17
Kobo v Truworths, WECT13962-18
Koetaan v Spectrum Alert, ECPE6230-19
Mabe v DMF Stores (Pty) Ltd, GAEK14945-19
Mabele v SGRP Meridian, WECT4669-16
Maboke and 1 Other v South African Legal Union, MPEM8421-19

Madisha v Sandton Plant Hire, GAJB10432-18
Maja v Glencore Lion Smelter, LP3649-16
Makgae v Council For Geoscience, GATW8970-17
Matiso v Nelson Mandela Tourism, ECPE2825-12
MATUSA obo Paulse v JD Kirsten Boerdery (EDMS) BPK, WECT17777-18
Mavundla v Merchants SA (Pty) Ltd a Dimension Data Company, GAJB7904-19
Mbhele v Shoprite, KNDB1959-15
McCarthy v Intergritron, GAJB26462-17
Mcunukelwa and 1 other v PRASA t-a Metrorail, WECT11305-13
Mokgehle v Imvula Quality Protection, GAJB24628-17
Mokoena v Naicker, MP8430-17
Mokoena v Prostaff Holdings (Pty) Ltd, GAJB14626-19
Molosankwe v Virgin Active (South Gate), GAJB24977-15
Moloto v Democratic Alliance (DA), LP1723-17
Moodley v Midlands Medical Centre Ltd, KNPM1883-13
Mosala v Fidelity Security Services (Pty) Ltd, FSBF3982-18
Motepu v Bibi Cash & Carry (Pty) Ltd, FSBF4907-15
Mthabela v Arcelor Mittal SA Ltd, MEKN9239
Muir v Neo Africa, GAJB7546-12
NASECGWU obo Gerald Lepekola Mohale and Route Management TA SA Truck Bodies, MINT72433
Nass v Little Green Beverages (PTY) LTD, ECEL2930-17
NASUWU obo Ngxwana, M v Red Alert Cleaning & Security, ECEL4931-16
Naysmith v Merchant SA (Pty) Ltd, GAJB8124-15
Ndlovu-Nzama v Ithala Development Finance Corporation, KNDB11884-11
Ndobela v Foschini, The Foshini Group Pty Ltd, WECT16047-18
Ndudzo v Studio 05 House of Fashion, GAJB28706-11
NEHAWU obo Dlamini, SC v Department of Social Development – Kwazulu Natal, PSHS901-18~19
NEHAWU obo Ketse, M v Department of Social Development – Western Cape, PSHS1273-17~18
NEHAWU obo Ntsoereng, Tsholofelo v University of Mpumalanga, MP2336-19
NEHAWU obo Obakeng V Tilodi v Department of Health – Western Cape, PSHS335-12/13
Ngwang v Eskom, FSBF2565-18
Nhlapo v Delta EMD, MP5131-13
Nonhlanhla Vinolia Khumalo v Woolworths, GAJB18878-16
*Nqani v Else Cole Brio*che, ECPE4540-15
NTM obo Ms C Ganger v BidAir, WECT1273-15
Ntshangase v MCFI International SA Pty Ltd, KNDB10251-15
NUM obo Booi and 1 other v Wonderstone Limited, NWKD963-13
NUM obo Godloza, Yalela S v Harmony 2 shaft, FS2022-12
NUMSA obo Komane, Mike v Middelburg Ferrochrome, MEMP351
NUMSA obo Mana, L and 2 others and Conti-Tech, ECPE2837-19
NUMSA obo Patterson, Eugene v PFG Building Glass, CHEM516-16~17
NUMSA obo Victor, Tracey Lee and 1 other v Trident Steel, MEPE1794
NUPSAW obo Paulse, M v Department of Health – Western Cape, PSHS10-17~18
Perrin v Jay-D Safe Movers (Pty) Ltd, GAEK1074-15
Peterson v The Motorland Group, MICT20834
Pittaway v Panama Jacks (Pty) Ltd, WECT6687-20
POPCRU obo Pietersen, S A v SA Police Service (SAPS), PSSS512-18-19
Pretorius v CIB, GAEK7885-13
Radebe v JD Group (Pty) Ltd, GAJB12297-14
Radebe v Wesbank Ltd, GAJB4883-20
Robertson v Value Logistics, RFBC35099
Roux v SBV Services, GATW8998-17

SACCAWU obo Haliwell, C v Extrabold t~a Holiday Inn Sandton, GAJB2664-11
SACCAWU obo Makhubela Elias v Shoprite, GATW13142-20
SACCAWU obo Mjekula, Zukile v Lewis Stores (Pty) Ltd, ECEL5854-19
SACCAWU obo Mmoso, T v Mount Amanzi Holiday Resort, GATW13332-14
SACCAWU obo Motshegoa, P.M. v Game Store, GAJB11646-13
SACSAAWU obo Mavimbela, S v Brinant Security Services Pty Ltd, GATW6631-18
SASSAWU obo Ballim, Yasmin v North West Province, NWKD2792-13
SATAWU obo Sam, B and 2 others v Zikhethele Terminal Services, WECT12982-12
Sedick and 1 Other v Krisray (Pty) Ltd, WECT13321-10
Shee v Greystone Trading, WECT2852-12
Shiba-Dlamini v Nestle South Africa (Pty) Ltd, GAJB9927-16
SHOWUSA obo Cable, Lyle v Feather Com, WECT2619-17
SOCRAWU obo E. Bibby v KSM Distributors, RFBC49968
Somo v LSC Hospitality, GAJB26014-20
TAWUSA obo Nelson Sitole and Grant Holloway v Tosas (Pty) Ltd, CCEI276-19
Turner v Welridge Academy CC, GAJB6655-15
UCIMESHAWU obo Khumalo, Muziwenhlanhla and 1 Other v Gooderson Drakensburg Gardens, KNPM2894-15
Ugoeze v Stewarts & Lloyds, GAJB18034-17
UNTU obo Ngidi, Christopher v Metrorail – Kwazulu Natal, KNDB4706-16
Zulu v South African Transport and Allied Workers Union, MP8164-15
Zungu v Suncoast Casino, KNDB866-12

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