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CBE Focus



We would like to thank everyone who responded so enthusiastically to our first newsletter.

As we approach the festive season, we find the South African Indian community once again under attack by some elements within the broader community who in our view have limited or even no knowledge of the significant role that members of the community played in the freedom struggle and continue to play in the new democratic order to fight corruption and other evils in society,

Even some members of the newest generation of South African Indians sometimes do not know this history.

It is unfortunate that the actions of a few members of the Indian community lead to the entire community being painted with the same brush. This edition therefore features views by a few leading members of the community that are intended to dispel this view.

This year also marks the 160 years of the arrival of the first indentured labourers.

The trials and tribulations as well as the Indian contribution to the economy, politics, sports and not forgetting the strong heritage and fabulous culinary value that is now very much part of our South African Heritage cannot ever be underestimated.

This newsletter is produced by the Congress of Business and Economics
+2783 786 1960 | +2711 837 5728
yusuf@cbeonline.co.za
www.cbeonline.co.za
https://www.facebook.com/CBEconomicsSA

A Proud Political Heritage

By Dr. Ismail Vadi

Board Member Ahmed Kathrada Foundation
Former ANC MP and MEC for Transport

Historians have established three facts about Indian South Africans. A small number was brought to South Africa as slaves. Then between 1860 and 1911, thousands came as indentured labourers or 'free' Indians. As a result of their fierce opposition to the white government's policy of repatriation and their insistence on making this country their home, we have become an integral part of the South African nation.

Ours is a proud political heritage. Our ancestors in South Africa had established the Natal Indian Congress (1894); the Transvaal British Indian Association (1903), later renamed as the Transvaal Indian Congress, and the Colonial-Born and Settlers' Association (1932) to articulate their political grievances and aspirations.

Simultaneously, they had created a plethora of religious, cultural, charitable and educational organisations to advance their linguistic, educational, cultural, religious and material interests.

In the early years in the Transvaal for instance, community groups such as the Tamil Benefit Society, the Hamidia Islamic Society and the Sanatan Veda Dharma Sabha played roles in mobilising support for political struggles against racial discrimination and in improving the living conditions of Indian communities.

That early generation produced outstanding leaders such as Abdullah Haji Adam (Dada Abdullah), Haji Ojer Ally, Thambi and Veeramal Naidoo, Imam Abdul Kadir Bawazeer, Peter Moonlight Modliar, PK Naidoo, Ahmed Mahomed Cachalia, Advocate Albert Christopher, PR Pather, Advocate JW Godfrey and the young martyr of the early passive resistance movement, Valliamma Munuswami Mudaliar.

Already in 1924, when the inspirational President of the Indian National Congress, Sarojini Naidu visited South Africa, she planted the seeds of the South African-ness of Indians, putting paid to any idea of imperial (British) citizenship.

She called for political co-operation and unity of oppressed Indian, African and Coloured people in the country. In Johannesburg and Durban, she implored Indian women to become involved in politics and to join the struggles for the freedom of all oppressed peoples.

Some years later, charismatic leaders such as Drs Yusuf Dadoo, Monty Naicker and Gonarathnam Goonam, Cissy Gool, Naransamy Naidoo, Nana Sita, Molvis Ismail Cachalia and Ismail Saloojee, "Murvy" Thandray, Ismail and Fatima Meer and trade unionists such as HA Naidoo, MD Naidoo, MP Naicker and George Poonen led the Indian Congresses into an alliance with the African National Congress in a common struggle against apartheid. They painstakingly built a progressive trade union movement among the Indian working class and transformed the Indian Congresses into popular mass movements.

When the liberation movement was banned, a militant younger generation, including leaders such as Ahmed Kathrada, Billy Nair, Laloo "Isu" Chiba, Ebrahim Ismail Ebrahim, Shirish Nanabhai, Sonny Singh, Natvarlal "Natoo" Babenia and Mac Maharaj were among the first to embrace the armed struggle and serve long terms of imprisonment on Robben Island.

Fostering Community Co-operation

Fakir Hassen's books aim to promote social cohesion

A new book by prolific author and CBE associate Fakir Hassen continues the vision that he and co-publisher Sammy Naidoo of the Apple Group of Companies have of preserving the contemporary history of the South African Indian community while also promoting social cohesion among all citizens in the country.

'160 Years of Inspirations' – Tribulation to Triumph' was launched on 16 November 2020, to commemorate the arrival of the first Indian indentured labourers for the sugar cane plantations of the then Natal province.

The South Africans descended from them, the shiploads of others who arrived in the ensuing decades and those who paid their own way here to seek new lives as traders, now number some 1.4 million.



Sammy Naidoo (L) of the Apple Group of Companies and Fakir Hassen with the first copies.

The book reflects in stories and pictures how this community has endured and overcome the many hurdles that the white minority apartheid government put in their path, but also how they have entrenched themselves in the broader South African community.

The book follows up on two similar coffee table books titled 'A Thousand Inspirations' (2012) and 'Milestones Inside 25 Years of Democracy' (2019).

"All these books include stories of amazing examples of social cohesion in our unique society of South Africans, more often in cultural situations where the politics of the past do not have anyone batting an eyelid," Hassen said as he cited a few examples.

"Two white Afrikaner sisters singing a song in fluent Hindi at a venue that was previously off-limits to the Indian community; Zulu monarch Goodwill Zwelithini hosting Diwali celebrations; Gauteng Premier David Makhura lauding the Tamil community for the charity work that they do in all communities; and the amazing work that that Imitiaz Sooliman and his Gift of the Givers teams do to alleviate the suffering of the poor in especially rural areas are just a few such cases.

Naidoo explained why he and his son Shumarlan readily adopted the ideas suggested by Hassen for his 23 diverse books that they have partnered in for the past decade.

"Fakir's idea of finding sponsors in a non-profit venture who can subsidise books to place free of charge in public, school and university libraries for future generations of people to read and have a better understanding of the community is something we bought into immediately.

This is particularly important in the current milieu, where we find the Indian community under attack form a generation of fellow South Africans who do not know the role that our forefathers played in the struggle to establish the democracy that we are all so proud of," Naidoo said.

We invite you to become a member of the CBE.

Please email yusuf@cbeonline.co.za for membership details.

Or call Yusuf on 083 786 1960 for more information

CBE holds Strategic Planning Meeting

The value of the CBE in South Africa today must be carried forward and strengthened, said international business consultant, Ahmed Seedat, who addressed the CBE annual Strategic Planning Workshop in November.

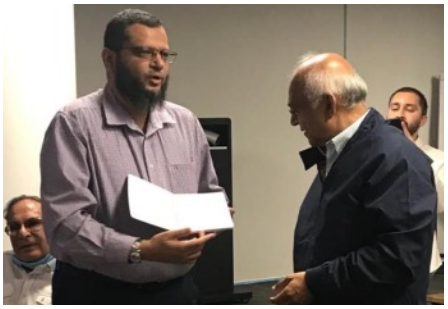
Seedat emphasised the importance and benefits of self-sustainability by the CBE, and encouraged involvement in advocacy to pursue influencing outcomes, including public policy and resource allocation decisions within the political, economic and social systems and institutions that directly affect people's current lives.

Seedat also highlighted some strengths of the CBE:

- A rich history in the anti-apartheid struggle.
- Recognition and lauding of its work, including by some struggle heroes.
- A track record of being successful in delivering its work.
- Being a powerful platform that has already been established.
- Unquestioned credibility
- People of distinction have served on CBE structures, including the current board.

Krish Naidoo, a member of the CBE Panel of Experts, suggested that the CBE could address matters affecting minorities.

- *Keynote Speaker Ahmed Seedat handing a gift to CBE President Jay Pema.*
- *The CBE Board and Standing Commiittee members who attended the StratPlan Meeting*





Time for Indian community to reconnect



Article submitted by
Krish Naidoo

Consultant to the ANC. Krish is a member of the CBE Panel of Experts

From time to time one hears the lament from members of the Indian community that they have been sidelined in the new South Africa whereas during the heady days of apartheid, they stood side by side with the African majority to overthrow apartheid.

There is a measure of truth in what is being said. But it is only half the story. The other half of the story is that because of their contribution to the liberation struggle, there is a window of opportunity for the Indian community. Like everyone else, the Indian community must actively take the next step into the new South Africa and reap the dividends of freedom. In short, it is time for the Indian community to re-connect.

…. there are human interest stories of the contribution of Indians we should proudly talk about for fear of losing them…

Beyond the role of the Natal and Transvaal Indian Congresses and the participation of the Indian community under the leadership of the United Democratic Front in the 1980s, there are human interest stories of the contribution of Indians we should proudly talk about for fear of losing them. I know of three.

During the height of the State of Emergency in 1985, a group of Indian activists attended a community meeting in the mining town of Carletonville. At that meeting we were told that the Indian doctors from Lenasia who had their surgeries in Carletonville, gave bursaries to needy African students every year.

The same story was heard in all the small towns in the then Transvaal. During the consumer boycott in Queenstown in the Eastern Cape also in the 80s, the supermarket owned by the Pillay family was the only store patronised by the African community because of the family's proximity to Africans in the town. The security police forcibly closed the supermarket at the demand of White businesses and charged the family criminally.

The third example is about the Indian businessmen of Pietermaritzburg. When Cassim Saloojee, Paul David, Albertina Sisulu, Essop Jassat and other UDF leaders were given bail in their treason trial on a Friday afternoon, after months of incarceration, Indian businessmen of Pietermaritzburg arrived at court with carrier bags full of cash to free our leaders.

The rich history on involvement of the Indian community is well documented and will be preserved in posterity. It is this history that we should use to reconnect with the dynamic political, social and economic change that is underway in our country. If we don't take this opportunity, it will pass us by and the Indian community will be the poorer.

We are fortunate that we have strong religious and cultural associations that held the community together after 1994 and are interacting with and participating in interfaith meetings on a regular basis. We are also fortunate to have business groups like the Congress of Business and Economics and other business chambers which have the ability to lead Indian businessmen and businesswomen into the mainstream economy.

"The absence of political leadership in the Indian community is cause for concern. But there is sufficient gravitas among the existing formations to represent the aspirations of the Indian community…"

At the national level, organisations such as the Kathrada Foundation are articulating the abhorrence of the Indian community against the rampant corruption in the country. In the field of sport, many leaders such as Sam Ramsamy, Ebrahim Patel, Ashwin Trikamjee and Rama Reddy have proved their mettle and there is a crop of secondary leaders such as Imtiaz Abdulla who are ready to lead the sports fraternity.

The absence of political leadership in the Indian community is cause for concern. But there is sufficient gravitas among the existing formations listed above to represent the aspirations of the Indian community in the spheres of education, business, culture, religion and sport and integrate us into the new South African nation so that we take our rightful place side by side again with the African majority, to build our country and reap the opportunities and benefits of a better life which we fought for.

In 2019, CBE honoured Dr. A.B. Xuma, president of the African National Congress (ANC); Dr. G.M. Naicker, president of the Natal Indian Congress (NIC) and Dr. Y.M. Dadoo, president of the Transvaal Indian Congress. In 1947, the three leaders signed an agreement popularly known as the Three Doctors' Pact. The agreement was for unity in the fight against apartheid and was the precursor for the milestone Congress of the People in Kliptown in 1955. The historic Freedom Charter was drafted there.

Former defence chief lauds Indian struggle leaders



Former Defence Chief General SIphiwe Nyanda has lauded the role of leaders of the South African Indian community in the freedom struggle.

He was speaking at a function on 9 November 2020 where memorial stones in remembrance of South African Indian-origin freedom fighters Shirish Nanabhai, Reggie Vandeyar and Indres Naidoo were unveiled by the Ahmed Kathrada Foundation (AKF) at the grave site of their long-time comrade Laloo.

Vandeyar (84) died in 2015, while Nanabhai (78) and Indres Naidoo (80) passed on a year later.

The four deceased leaders (who had all been cremated after their deaths) spent a decade on Robben Island after they were betrayed by a member of their unit in opposing the draconian apartheid-era white minority government, including using dynamite to blow up infrastructure as part of the plan to bring the government to its knees.

"Comrade Laloo Chiba's was the first voice among the veterans at the time for President Jacob Zuma to step down and he initiated what would later become a project of the veterans of our movement, commonly known as the 101, who wrote messages to President Jacob Zuma at the time to ask him to step down because they felt he no longer represented the value system of our liberation movement," Nyanda said, as he called for the education system to incorporate the rich history of cooperation between the different communities in the freedom struggle.

"We have to read about how we drew together the different peoples of our country in one struggle that defeated perhaps one of the most brutal and strongest regimes ever on the continent of Africa, who practiced a diabolical kind of system," Nyanda said.

He also commented on anti-Indian and xenophobic remarks on social media.

"On the streets of Durban, they utter inflammatory words. There is just an incendiary mood that makes one wonder where the politics of the ANC has gone to. There is just everything wrong about what you see on the streets.

"I don't think Comrade Laloo Chiba would identify with what is happening today. It is totally, totally unbecoming. It is not in the spirit of these pioneers. It is their sacrifices – people like Laloo Chiba, and these Comrades, Reggie, Shirish and Indres, who inspired us, but today we are forgetting their contribution and it is incumbent upon us to teach the young people that what we see outside there is not what we in MK support.

"We look to their lives of service. They are our yardstick for revolutionary values for service and sacrifice for the common good and not of self; for the people of the country and not for narrow political interests. They struggled for non-racialism and a united South Africa. It is our task to continue in their example. It is our task to fight against disunity. To fight the current divisions in our ranks."

Nyanda said the country was today divided along racial lines "which we should have worked tirelessly to ensure against; which is in our guiding documents for a democratic, united, non-racial, non-sexist and prosperous South Africa."

"It seems that that vision is dissipating and we cannot afford to do that. MK veterans will always align with the values that Laloo Chiba, Shirish Indres and Reggie lived for and still died holding dear to,. Nyanda concluded.

In Memoriam

… CBE Awardees and friends who have passed on



Veteran activist Ahmed Kathrada, after whom the CBE Ahmed Kathrada Excellence in Leadership Awards are named, often stated in his public addresses that the thing he missed most during his almost three decades in prison was the smile of a child. The smile on his own face when little Aaliya Moosajee handed over the flowers held by CBE member Salim Aziz says it all.



Prof Bongani Mayosi accepted an award from CBE Standing Committee member Fakir Hassen on behalf of his other team members - Maryam Fish, Gasnat Shaboodien and Sarah Kraus – for their pioneering work in the heart attack gene at the University of Cape Town. Looking on is fellow Committee member Hassen Mohamed.



Sadly, the CBE 2019 Awards became the last public function attended by veteran activist Ben Turok, as he passed on just a few days after receiving his CBE Ahmed Kathrada Excellence in Leadership Award from CBE Board member Sayed Mia. On the left is fellow awardee Judge Albie Sachs and on the right the Chairperson of the Board of the Ahmed Kathrada Foundation, Derek Hanekom.



A long time friend of the CBE and renowned activist Dr Rashid 'RAM' Salojee passed on just as this newsletter was being finalised. He is surrounded here by CBE members fltr Yusuf Moosajee, Akhtar Thokan, Anees Loonat and Hassen Mohamed.

Independent Contractors in the workplace



This article - reproduced from the CCMA Info Sheet - was submitted by **Mahamed (Prof) Rajah** - a member of the CBE Panel of Experts

The protection provided by our employment law legislation extends to 'employees'. There are exceptions to this as will be discussed below. A distinction is drawn between employees and so-called independent contractors. In general terms the independent contractor is paid to render a particular result; is not subject to the control or direction of the client; may get someone else to do some of the work and is not part of the client's organisation. In essence, the independent contractor is doing the work as part of his or her own business.

The contract of employment is usually the starting point in the employment relationship. However, judgments indicate that the focus in determining whether a person is an employee or not, is more on the nature of the relationship rather than the wording of a contract. The written contract is one of the factors to consider and has more significance for those who earn above the threshold as set out in section 6 of the Basic Conditions of Employment Act 75 of 1997 (BCEA).

Job applicants

Job applicants who believe they have been subjected to unfair discrimination by their prospective employers, have the same rights as employees under the prohibition of unfair discrimination provisions of the Employment Equity Act 55 of 1998

"Workers"

The National Minimum, Wage Act, 2018, defines a "worker" to be "Any person who works for another and who receives, or is entitled to receive, any payment for that work whether in money or in kind" (excludes a volunteer).

These workers (and employees who earn below the BCEA threshold) are entitled to be paid a wage that is no less than the national minimum wage and to a daily wage payment whereby if they work for less than four hours a day on any day, they must be paid for four hours work on that day.

Categories of employees

Not all employees are the same. For example, an employment relationship may be on a casual, temporary or permanent basis. These terms mean nothing when it comes to determining whether a person is an employee for the purposes of labour legislation, but rather illustrate that employment comes in many different forms.

A **fixed-term** contract employee is someone who is employed for a fixed time period or for a specific task only – once that task is completed, the employment relationship ends. Such contracts must be in writing and are subject to certain conditions as per section 198B of the Labour Relations Act 66 of 1995.

A **part-time employee** is an employee who is remunerated wholly or partly by reference to the time that the employee works and who works fewer hours than a comparable full-time employee

A **full-time permanent employee** is someone who is employed with the intention of there being an ongoing employment relationship, or in other words, for an indefinite period. This permanent, ongoing relationship may be full-time or part-time. Some full-time employees do not work the same amount of hours as their colleagues (e.g. half-day contracts) and are remunerated wholly or partly by reference to the hours that they work.

PROTECTION OF VULNERABLE EMPLOYEES

Section 200A of the LRA (and section 83A of the BCEA) includes a rebuttable presumption relating to the existence of an employment relationship for employees earning below the BCEA threshold.

The LRA, as amended, states "[U]ntil the contrary is proved, for the purposes of *this Act*, any *employment law* and section 98A of the Insolvency Act, 1936 (Act No. 24 of 1936), a person who works for, or renders services to, any other person is presumed, regardless of the form of the contract, to be an *employee*, if any one or more of the following factors are present''

- the manner in which the person works is subject to the control or direction of another person;
- the person's hours of work are subject to the control or direction of another person;
- in the case of a person who works for an organisation, the person forms part of that organisation;
- the person has worked for that other person for an average of at least 40 hours per month over the last three months;
- the person is economically dependent on the other person for whom he or she renders services;
- the person is provided with tools of trade or work equipment by the other person; or
- the person only works for or renders services to one person.

It is important to remember that the presence of the above-mentioned criteria means that employment is presumed, unless the contrary is proved. The obligation to prove that the relationship was not one of employment then falls on the employer. Persons earning above the threshold will need to prove that there is an employment relationship.

Regardless of who has to prove whether there is or is not an employment relationship, it will be done with reference to the criteria set out in the presumption or any other relevant factors. The courts have recently indicated that the most important factors are –

- Whether the person forms part of the organisation where he or she renders services: that would be indicated by things such as whether the person has an office or uses the organisation's resources or is
- a member of the pension or provident fund or wears the organisation's uniform, etc.
- Whether the person is economically dependent on the other person that would be indicated by the extent to which the person does work for other people or is allowed to do work for other people, etc.
- Whether the person is subject to the direction and control of the other person: that would be indicated by the other person having the right (whether they actually do so or not) to dictate to the person how, when, where and for how long to work.

Relevant Legislation

- Labour Relations Act 66 of 1995, as amended
- Basic Conditions of Employment Act 75 of 1997, as amended
- Code of Good Practice: Who is an Employee? GN 1774 of 2006
- Insolvency Act 24 of 1936, as amended.
- National Minimum Wage Act, 2018



Sailing in a Storm



Yusuf Mahomedy

Imagine you are on a ship in January 2020. You are sailing through persistent, choppy waters. You look at the sky, where dark clouds are gathering. You notice the small holes. Slowly, the ship is taking on water. You wrap an old rag around wooden plugs and close the holes. You continue sailing.

Two months later, the storm arrives. While you have been through storms before, this time it is different. The waves are relentlessly pounding the ship, days become weeks, and weeks become months. The water comes over the balcony. There are too many holes and the plugs are too weak. There is water everywhere. The sharks are circling the ship. The ship is going down fast.

Before Covid-19, the country and the economy was already in dangerous waters. After a decade of poor leadership, widespread mismanagement and corruption, we did nott have lifejackets for a pandemic. As the pandemic unfolded, several contentious decisions had a devastating impact on the economy.

Unfortunately, entrepreneurs were left to go down with their ship. According to the 2020 SA SMME Covid-19 Impact Report by Finfind, of the 1,489 businesses surveyed, 42.7% closed in the first five months of the pandemic. Going through the numbers from Statistics SA, business liquidations have jumped by 20.8% over the past 12 months.

Many well-established businesses, that took decades to build, are simply no longer around or are a shadow of their former self. When a business closes, it is not only the entrepreneur that loses. Government coffers lose income tax, VAT and more. Suppliers lose a client. Staff lose their jobs.

Government measures

To date, government measures, including small business loan relief and Covid-19 Temporary Employee-Employer Relief Scheme (TERS) had limited impact. SMME's were unable to access the loans due to compliance and red tape. With TERS coming to an end, SMME's that are struggling to keep staff may accelerate their retrenchments in the months ahead. In some sectors, like tourism and hospitality, the extended lockdown and weak rescue efforts caused as much damage as the storm itself.

Planning for 2021

Throughout the world, countries are moving to repair and restore their economy. Unfortunately, in South Africa the storm is far from over. Local businesses are grappling with the lower sales, higher operating expenditure and tighter cash flows. Over the next 12 months SMME's that are still taking too much water on board will be unable to meet their obligations and sink.

Yet optimism remains on the horizon. Unlike a startup, an established business has considerable assets, expertise and networks to use in a storm.

Optimism

1. Firstly, forget about business going back to "normal". Rather acknowledge the reality and prepare to succeed in stormy waters. Connect with the shifts in your market, as there are opportunities emerging throughout the value chain.
2. Secondly, relook at the business for the next 12 months. Now is the time to have courageous conversations and make tough decisions. Identify the biggest risks in your business and proactively manage it. Go through each area of the business, focusing on strengths and efficiency.
3. Thirdly, during the pandemic, it was shocking to find established businesses not having the fundamentals in place. Now is the time to resolve outstanding compliance issues in your business so that you can access funding and support in future. Financial management, especially around asset utilisation, cost control and cash reserves can be the difference between sailing and sinking.

Finally, you do not have to go through the storm alone. Leverage the expertise of an accountant, legal advisor, business mentor and others in your network. It brings greater clarity and confidence to your sailing efforts.

As Jimmy Dean said, "I can't change the direction of the wind, but I can adjust my sails to always reach my destination."

* **Yusuf Mahomedy** (CA(SA), AdvTax), Chief Executive of the Association Executive Network of South Africa. He is an associate of the CBE. **www.chartyourpath.co.za**

"Do not focus on numbers. Focus on doing what you do best. It's about building a community who want to visit your site every day because you create value and offer expertise."
- Cassey Ho, Founder of Blogilates.com

"Don't get distracted. Never tell yourself that you need to be the biggest brand in the whole world. Start by working on what you need at the present moment and then what you need to do tomorrow. So, set yourself manageable targets." *-Jas Bagniewski, Co-Founder of Eve Sleep*