

THE BEST-LAW GROUP

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**ENSURING COMPLIANCE, PEACE OF MIND AS WELL AS PROVIDING
SERVICES AS MEDIATORS AND ALTERNATIVE DISPUTE RESOLUTION
PRACTITIONERS**

PRESENTATION ON:

- A nation-building programme of **Thuma Mina**
- Benefits to citizens of South Africa - Those most vulnerable
- Recommendations to be made to help government and governance

INTRODUCTION AND UNDERSTANDING:

In the publication The Daily Maverick (22 February 2018) the presentation “***The deep roots of Ramaphosa’s ‘Thuma Mina’***” By **Tinyiko Maluleke**• where he unpacks the full import of Ramaphosa's quotation, caused numerous sceptics and pessimist to change their thoughts of the prospects imbedded in the leadership of the new president of this beautiful country. I for the lack of time just would like to quote two paragraphs from the referred publication:

The speech contained several titillating ideas but it was (President) Ramaphosa’s quotation of the words of Hugh Masekela’s song, Thuma Mina/Send Me at the end of his speech that appears to have been particularly inspirational. So much so that – as he told Parliament in his reply to the debate on his speech – many South Africans sent him messages consisting of only two words: “Send Me.”

The song Send Me is the title track from Hugh Masekela’s album of the same name. By quoting his song, (President) Ramaphosa achieved two goals at the same time – honouring the memory of the late Masekela, who died in January 2018, and using his words to inspire the nation. [words in (...) was added by me]

Well I did not send a message in 2018 but I do it now since I now see and understand the Presidents policy and I almost wants to call it philosophy – so *The Honourable Mr President* “*Send Me – Thuma Mina*”. I will walk the mile with you for the better good of all the people of this country for a better tomorrow for all.

MY SUBMISSIONS:

Important for this presentation is to acknowledge and understand that the challenges prevailing in the complexity of the present Medical Negligence and Medico Legal Industry, must be approached holistically with specific outcomes that will benefit all role players including the those most vulnerable. The peremptory provision however remains the recognising and protection of the Constitutional rights of each citizen of this country.

With my personal knowledge and experience I can only deal with the Employment Relations of all active in the unique field of Medico Legal environment and the expectancy of proper conduct and performance as dealt with in the present Labour Legislation BUT also of importance with the above is the effective Dispute Resolution mechanisms and forums for the speedily addressing and resolving of disputes whether it is for

- the ACCOUNTABILITY of the party responsible
and or
- the ADJUDICATING of fair compensation of the wronged.

ACCOUNTABILITY

as a firm supporter and believer in the qualities and values of the South African Labour Legislation I am convinced that through mutual and collective discussions with all role players amicable and reasonable processes and methodology could be establish to address this mammoth challenge.

In this a Multi-Disciplined and Multi-Departmental task team should deal with the establishing of criteria and methodology of ensuring that the specific party responsible for the cause of the suffering be held accountable. This will include in no specific order:

- ✓ An official centralised Council and Dispute Resolution Forum with specific powers including ARBITRATING powers under the auspices of the CCMA.
- ✓ Establish specific Codes in a collectively established Code of Conduct with at all times recognising the rule of Natural Justice.
- ✓ Criteria of assessment and evaluation of individuals and combined groups of individuals in all disciplines for establishing the route cause.
- ✓ Corrective measures and consequences for the individual and or combined group of individuals and thus sanctioning through progressive discipline or not.

ADJUDICATING

The essence of the principal of "*Justice delayed is Justice denied*" where the vulnerable is prejudiced due to Clinical Negligence and the excessive time and unreasonable technical procedures to find amicable adjudication and Compensation for Consequent Harm. In this the essentials of establishing the forums and methodology within the frameworks of the legal structures to be able to mediate but most of all Arbitrate cases comes to mind and with discussion with existing Accredited and mandated Private Arbitration agents the benefits are listed and numerous.

In short the process would be as per existing structures and legislated authority where the Vulnerable and Harmed would be represented and would submit the request for adjudication. Once this has been exhausted the aggrieved would present the situation to a representative panel for mediation and when still no fair and reasonable outcome are achieved it to be Arbitrated by a panel of qualified and informed Arbitrators. This Arbitration Award would then be enforceable and execution able.

This is no new process and is well established in the Labour Law.

I thank you and confirm again Send Me / Thuma Mina