THE IMPACT AND CONSTITUTIONALITY OF THE RIGHT TO STRIKE WITH REGARDS TO ESSENTIAL SERVICES – A COMPARATIVE STUDY

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Abstract

This article critically considers the application of and necessity for the right to strike, especially regarding employees that are employed in an essential service. The South African position is examined and compared to other countries around the world, but the focus is mainly on the United Kingdom.

The article shows that South Africa's current labour legislation (especially regarding essential services) is in theory good, but that it is applied and enforced poorly in spite of the provisions contained in the *Labour Relations Act*[1] and the *Constitution of the Republic of South Africa* 1996. This became evident in the 2007 public workers' strike in which many essential services employees took part.

The United Kingdom, Australia, New Zealand, Canada, India, France and Kenya all have different ways of dealing with strikes and essential services. Some of these countries' approaches are similar to South Africa's, but in each there is some difference that could be useful in the South African situation. Through these comparisons it becomes clear that the right to strike is important in many countries around the world, but that each country's essential services (or services that can be classified as essential) are equally important. Every country places at the very least some limitation on the right of essential services employees to strike.

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1　　Act 66 of 1995.

In conclusion this article states that the South African Labour Law is not perfect and can be improved by means of comparison. This improvement is of vital importance to the lives, health and personal safety of every individual in the country.