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**PUBLIC SERVANTS' RIGHT TO STRIKE IN LESOTHO, BOTSWANA AND  
SOUTH AFRICA – A COMPARATIVE STUDY**

**T COHEN\***  
**L MATEE\*\***

**SUMMARY**

Restrictions on the rights of public officers to strike are permitted by the *Constitutions* of Lesotho, Botswana and South Africa, where such limitations are reasonable, necessary and justifiable in a democratic society. The limitation of this right in the context of public servants is endorsed by the ILO in the Freedom of Association Digest of Decisions and Principles which holds that "[t]he right to strike can be restricted or even prohibited in the public service or in essential services in so far as a strike there could cause serious hardship to the national community and provided that these limitations are accompanied by certain compensatory guarantees".<sup>1</sup>

Public officers in Lesotho are deprived of the right to join trade unions or to strike, without exception or justification. Furthermore in Lesotho no dispute resolution mechanism exists to effectively facilitate the final resolution of disputes of interest in the public sector.

This paper considers whether the limitations imposed on the freedom and right to strike of public officers in Lesotho are in breach of international obligations and are reasonable and justifiable in a free and democratic society committed to the rule of law. In so doing a comparative analysis of the jurisdictions of South Africa and Botswana is undertaken. It concludes that Lesotho is in breach of its obligations as a member state of the ILO and its constitutional commitment to freedom of association and needs to be urgently addressed.

**KEYWORDS:** Freedom of association; right to strike; public officers; Lesotho; comparative analysis; Botswana; South Africa

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\* Tamara Cohen. BA LLB (UND) LLM (UND) PhD (UKZN). Associate-Professor, School of Law University of Kwa-Zulu Natal. E-mail: cohen@ukzn.ac.za.

\*\* Lehlohonolo Matee. LLM Student, University of KwaZulu-Natal. Email:l.matee@live.com

<sup>1</sup> ILO *Digest of Decisions* 5<sup>th</sup> ed para 573.