

## **Labour rights as socio-economic rights in the 1996 South African Constitution**

The entrenchment of socio-economic rights as justiciable rights in the 1996 South African Constitution has received considerable attention in the literature to date. One issue that has thus far been overlooked, however, is the status of labour rights as socio-economic rights. In international law and comparative constitutional law there is little doubt that labour rights constitute an integral part of the group of rights collectively referred to under this heading. In South Africa, by contrast, the Constitutional Court's list of socio-economic rights in para 19 of the *Grootboom* case makes no reference to s 23 of the Constitution on labour relations. The tendency to omit labour rights from discussions of socio-economic rights is also detectable in South African legal academic writing. The research question that this dissertation seeks to address is whether this difference in conceptualisation has any impact on legislative and executive efforts to realise socio-economic rights in South Africa, and on the courts' adjudication of such issues. . This question will be examined by looking at the two main forms of interaction between social and economic rights:

- 1: Curtailment of labour rights in favour of social rights in certain instances, for example, the right of workers in essential services to strike.
- 2: Labour rights as a tool for delivering social rights, for example, the right to strike as an instrument to claim improved wages, thereby enabling the private provision of basic needs.