

## **Structural Challenges, the Forgotten Elephant in the Quest of Access to Justice: The Case of the South African Labour and Labour Appeal Courts**

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**Abstract :** This paper intends to refrain from debating the different meanings of justice, such as its social or moral meaning, nor to discuss the different theories of justice. This paper focuses on the legal understanding of access to justice to mean access to the court. Using the Labour and Labour Appeal Courts as a case study, this paper investigates whether the composition of the bench, the personnel and state mechanisms to promote access to court offer ideal conditions to access to court. The investigation is benchmarked against the South African new constitutional order underpinned by the concept of social justice to eradicate past injustices. To provide justice to all, the Constitution of the Republic of South Africa 1996 guarantees the right to access to the court. The question that takes centre stage in this paper is whether litigants are denied the right to access the Labour and Labour Appeal Courts. The paper argues that factors such as the status of the Labour and Labour Appeal Courts, the number of judges, and the building structure prevent litigants from accessing these courts. The paper advocates for a legislative overhaul of the Labour and Labour Appeal Courts structure so that litigants may access the courts. Until such time, the paper argues that the right to access the Labour and Labour Appeal Courts would remain far from the reach of many litigants.

**Keywords :** access to justice, access to court, labour court, labour appeal court

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