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# Contemporary SOCIAL SCIENCES

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Index Copernicus ICV : 62.45; NAAS Rating : 2.88; InfoBase Index : 3.64

Founder  
**S. S. Shashi**

Chief Editor  
**Dharam Vir**

Volume 29, Number 1 (January-March), 2020



**Research Foundation International, New Delhi**

Affiliated to United Nations Organization (UNO)

(Autonomous, Regd. Recognized Charitable Organization of  
Social Scientists, Authors, Journalists & Social Activists)

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Double-blind Reviewed, Indexed & Refereed Quarterly International Journal

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## **Journal of National Development**

### **Aims and Scope**

*The Journal of National Development (JND)* is an interdisciplinary bi-annual peer reviewed & refereed international journal committed to the ideals of a 'world community' and 'universal brotherhood'. The Journal is a joint effort of like-minded scholars in the field of social research. Its specific aims are to identify, to understand and to help the process of nation-building within the framework of a 'world community' and enhance research across the social sciences (Sociology, Anthropology, Political Science, Psychology, History, Geography, Education, Economics, Law, Communication, Linguistics) and related disciplines like all streams of Home Science, Management, Computer Science, Commerce as well as others like Food Technology, Agricultural Technology, Information Technology, Environmental Science, Dairy Science etc. having social focus/implications. It focuses on issues that are global and on local problems and policies that have international implications. By providing a forum for discussion on important issues with a global perspective, the *JND* is a part of unfolding world wide struggle for establishing a just and peaceful world order. Thus, the *JND* becomes a point of confluence for the rivulets from various disciplines to form a mighty mainstream gushing towards the formulation and propagation of a humanistic world- view.

### **Publication Schedule**

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## Constitutional Rights in South Africa : A Brief Study

*Prahlad Kumar Bairwa\* and  
Beena Banshiwal\*\**

*The natural rights of South Africans received no protection before the country became a constitutional democracy in 1994. Chapter 3 of the interim Constitution introduced legally protected fundamental rights to South Africa for the first time. Now fundamental human rights are entrenched in Chapter 2 - sections 7 to 39 - of the 1996 Constitution. The present paper is an attempt to analyze in detail the constitutional rights in South Africa. The Bill of Rights is a cornerstone of democracy in South Africa. It enshrines the rights of all people in the country and affirms the democratic values of human dignity, equality and freedom.*

[**Keywords** : Constitutional rights, Bill of Rights, Government of national unity, South Africa]

“... in the new South Africa there is nobody, not even the president, who is above the law; that the rule of law generally, and in particular the independence of the judiciary, should be respected”

*-Nelson Mandela*

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## **1. Introduction**

The Constitution of South Africa acquired the force of law in 1996. The important part which is Bill of Rights provides a variety of fundamental rights to which all South Africans are entitled. In a marked infringe with the past, the right to the citizens would no longer depend upon the color of their skin or other characteristic features.

After 22 years since its commencement, “the Constitution has acquired an almost mythical status, both at home and abroad. Yet, significantly, its primary impact has been on the nuts and bolts of people’s lives. It means that the death penalty is no longer a sentencing option, and gays and lesbians can get married and adopt. It affects directly the types of contracts and commercial arrangements the courts will countenance and on people’s rights to land. As such, it impacts on each and every South African’s daily life and shapes the country and society we live in” (Jean Meiring, 2017 : 5).

## **2. Basic Needs**

After the end of the first democratic election in South Africa in 1994, “President Mandela focused on the government of national unity (GNU) which means work in cooperation with other political organization and political parties to make South Africa stable and develop. Even former president F.W. de Klerk admitted that for the first couple of years the new cabinet functioned surprisingly smoothly” (F.W. de. Klerk, 1993, 344 : 199). During the apartheid years, South Africa had little experience of consensual decision making, and the GNU was important in providing a framework for defusing potential problems. The ANC had inherited a society that was characterized by deep socio-economic divides. Millions of people were victims of miserable poverty, and the overwhelming majority was black. The condition of their lives was defined by ‘joblessness, homelessness, landlessness with no access to education, health or opportunities for self-advancement’ (ANC, 1996 : 67). When the new democratic government assumed office, the basic needs in the country were formidable. Fifty years of economic policies that favored the white minority created an economy characterized by serious structural weakness. Therefore, the economy and society had to be transformed if, as the ANC asserted, the country was to achieve non-racialism, development, and equity.

John M. Mbaku stresses on the maximum participation of everyone in the national governance and development should have the focus of South African states in the new millennium (Mbaku, 1996 : 87). A good constitution should focus on defining the role of politicians and citizens in the process of national governance and development. Welsh count the good features of the interim constitution while treating it as a liberal-democratic document such as the supreme constitution, a bicameral parliamentary system based upon constitution, human rights and duties, a judiciary, an electoral system, and hybrid federal/unitary arrangements' (David Welsh, 1994 : 29).

In this way, we can say that the political actors should not have committed to their self-interests and they must believe and behave according to the constitution of country (Udogu, 1997a : 34). It is a common believe in the society that power decides everything in the society including the distribution of resources and the creation and implementation of national policies. For example, the National Party's policies from 1948 to early 1990s are good case. For instance, the 1983 constitution created a trilateral parliament for the colored, Indians, and whites (Collier's Encyclopedia : 269).

The blacks were treated as persona-non-grata in the republic. The framers of new constitution ignored the backdrop of these historical facts, and earlier pitfalls. The framers of the new constitution adopted provisions to improve the conflicting struggle for power. In this regard, there is a need to create a power sharing device. A successful governance need building arrangement among the political entrepreneurs of diverse ethnic groups (Lijphart, 1967 : 24). The article 88 and the article 32 strengthen the notion of autonomy, decentralization, and federalism. The article 88 states that "government of unity in which all parties with a minimum of 5 percent of the seats in the National Assembly may participate" (Art, 88 of Constitution, 1996). The Article 32 states, "Every person shall have the right... to establish, where practicable, educational institutions based on a common culture, language or religion, provided that there shall be no discrimination on the grounds of race" (Art, 88 of Constitution, 1996). The election of national assembly by proportional representation is mentioned in the article 40 of the constitution of South Africa to suit the ethnic and racial complexions of the republic. A constitution is essential for to be well-organized, the participation of the majority and minority groups in



governance, and for the promotion of a sense of nationalism (Clark, 1993 : 29-34). "Political crisis in much of Africa derives in part from the marginalization of minority ethnic groups who are often denied amenities because they lack the numerical clout to compete for scarce resources" (Udogu, 1994 : 56).

The manipulation in the constitution is problem of South African nations. Article 73 provisions for a minority veto power. It mentions the requirement of the two-thirds majority for amending the constitution and for adopting a new constitutional text by a Constitutional Assembly (Art, 73 of Constitution, 1996). The basic motive behind this provision is to minimize the role of influential communities and other groups with numerical strength to introduce changes that could be inimical to the overall interest of the polity. A good South African constitution will rest on the political attitude of the ANC, the dominant political party in the republic, and the other custodians of power. It is hoped that the aforementioned provisions would be allowed to endure and prosper even after Mandela leaves active politics in 1999. Political liberalization is an essential need for South African countries.

### **3. Constitution of South Africa : Transformative Nature**

"It is essential to unpack the theoretical context within which South Africa's Constitution became recognized as a transformative tool. From legal and political perspectives, the post-1994 transition settled for democratization which would efficiently liberalize political climate, paving the way for democratic politics and caring people-centered governance with high regards of human rights. This was made feasible through a careful selection of constitutional system which subscribed to constitutionalism, mandating the state to perform its functions by stipulated rules within the confines of the Constitution" (Iain Currie & Johan De Waal, 2005 : 8). The important aspect of the constitution is to be transformative nature and reflection of the past struggle against the apartheid. The constitution should give the guarantee of the collective commitment towards the ensuring the conditions of the deprived society and also ensure that past history should not repeat again in future' (Christof Heyns & Danie Brand, 1998 : 153).

Therefore since 1994, the new regime of South Africa personified a bright pattern move entrusted in law and social order

by which creation of a new system of democratic values with respect of fundamental rights and freedoms along with respect of human rights, dignity, and life of human being. It is assumed because South African constitution is the based on the notion of the transformation by which the pursuing the transformation of democratic agendas. "Karin Van Marle perceived it as a theory which encompasses an approach to the Constitution of South Africa and law in general that is committed to transforming political, social, socio-economic and legal practices in a manner that it will radically alter existing assumptions about law, politics, economics, and society in general. Further that the Constitution is made transformative not only because of its traditional accounts of the rule of law but because of its capacity to reach out to other disciplines such as philosophy, political theory, and sociology" (Karin van Marle, 2009 : 288).

The constitution of South also known as transformative by nature because of this provide the guarantee of civil and political rights as mentioned above and same rights also legitimate through the citizen of country. The constitutional also provide equality and abolished discriminatory approach. "This includes the right to dignity, equality, life and social security. Since then, the Constitutional Court has consistently played an essential judicial activist role by building a vibrant jurisprudence promulgating significant precedence on these fundamental constitutional values" (Paul Nolette, 2003 : 91).

#### **4. Political and Civil Rights**

To provide the legal status of democracy and make flexible to the system chapter 2<sup>nd</sup> of the constitution include the Bill of Rights by which rights are absolute in constitutional manner (Henk Botha. 2009 : 1). These rights are main foundation of the idea of civil liberty. Consequently, the court is also pursuing the new normative framework for these rights. Life is very important of every human being, therefore constitution of South Africa in section 11 of the constitution mentioned to protect the right to life' (David, 2003 : 445).

##### **Right to Dignity**

The section 10 of the constitution indicates that every person has right to inherent dignity along with respect and protected' (Arthur Chaskalson, 2000 : 196). "The concept of dignity was a focused point in the constitution as it is considered important

touchstone of human rights. Due to respect of the right to dignity, it is helpful to abolish the decision of death penalty. The law of the land which is constitution itself provides the guarantee to improve the quality of life and freeing potential of the citizen with human dignity which is also seen as an sensitive humanist essential that has flourished and continued to reinvent itself in South Africa" (De Grunchy, 2011 : 1). Therefore the right to dignity is more important in the context of socio-economic of human well-being.

### **Rights**

1. "This Bill of Rights is a cornerstone of democracy of South Africa. It enshrines the rights of all people in South Africa and affirms the democratic values of human dignity, equality and freedom.
2. The state must respect, protect, promote and fulfill the rights in the Bill of Rights.
3. The rights in the Bill of Rights are subject to the limitations contained or referred to elsewhere in the Bill" (Constitution of South Africa, 1996).

### **Application**

The Bill of Rights applies to all law and binds the legislature, the executive, the judiciary and all organs of state.

### **Equality**

- » "Everyone is equal before the law and has the right to equal protection and benefit of the law.
- » Equality includes the full and equal enjoyment of all rights and freedoms. To promote the achievement of equality, legislative and other measures designed to protect or advance persons or categories of persons, disadvantaged by unfair discrimination may be taken.
- » The state may not unfairly discriminate against anyone on grounds of race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language or birth. No person may unfairly discriminate directly or indirectly against anyone" (Constitution of South Africa, 1996)..

### **Human Dignity**

"Everyone has inherent dignity and the right to have their dignity respected and protected" (Constitution of South Africa, 1996).

### **Life, Freedom and Security of the Person**

1. Everyone has the right to freedom and security of the person, which includes the right :
  - “not to be deprived of freedom arbitrarily or without just cause;
  - not to be detained without trial; Everyone has the right to life;
  - to be free from all forms of violence from both public and private sources;
  - not to be tortured in any way; and
  - not to be treated or punished in a cruel, inhuman or degrading way” (Constitution of South Africa, 1996).
2. Everyone has the right to bodily and psychological integrity, which includes the right :
  - “to make decisions concerning reproduction;
  - to security in and control over their body;
  - not to be subjected to medical or scientific experiments without their informed consent” (Constitution of South Africa, 1996).

### **Slavery, Servitude and Forced Labour**

“No one may be subjected to slavery, servitude or forced labour” (Constitution of South Africa, 1996).

### **Privacy**

Everyone has the right to privacy, which includes the right not to have :

- “their person or home searched;
- their property searched;
- their possessions seized; or
- the privacy of their communications infringed” (Constitution of South Africa, 1996).

### **Freedom of religion, belief and opinion**

1. “Everyone has the right to freedom of conscience, religion, thought, belief and opinion;
2. Religious observances may be conducted at state or state-aided institutions provided that :

- those observances follow rules made by the appropriate public authorities;
  - they are conducted on an equitable basis; and
  - attendance at them is free and voluntary” (Constitution of South Africa: 1996).
3. (A) This section does not prevent legislation recognizing :
- “The marriage tradition perform in any tradition whether in any system, religion, family or personal law; or
  - The family and personal law or any tradition or practicing or professing any religion.
- (B) Recognition in terms of paragraph (a) must be consistent with this section and the other provisions of the constitution” (Constitution of South Africa, 1996).

#### **Freedom of Expression**

1. Everyone has the right to freedom of expression, which includes:
  - “freedom of the press and other media;
  - freedom to receive and impart information and ideas;
  - freedom of artistic creativity; and
  - academic freedom and freedom of scientific research.
2. The right in subsection (1) does not extend to :
  - propaganda for war;
  - incitement of imminent violence; or
  - advocacy of hatred that is based on race, ethnicity, gender or religion, and that constitutes incitement to cause harm” (Constitution of South Africa, 1996).

#### **Assembly, Demonstration, Picket and Petition**

“Everyone has the right, peacefully and unarmed, to assemble, to demonstrate, to picket and to present petitions” (Constitution of South Africa, 1996).

#### **Freedom of Association**

“the Constitution Provides Right To Freedom Of Association” (Constitution Of South Africa, 1996).

#### **Political Rights**

1. Every person or citizen of the country has freedom to choose and form a political organization and also includes :

- “To make a political party,
  - To participate in political activities and also recruit its members, to conduct political campaign” (Constitution of South Africa, 1996).
2. “Every citizen has the right to free, fair and regular elections for any legislative body established in terms of the Constitution” (Constitution of South Africa, 1996).
  3. Every adult citizen has the right:
    - “to vote in elections for any legislative body established in term of Constitution, and to do so in secret; and
    - to stand for public office and, if elected, to hold office” (Constitution of South Africa, 1996).

### **CITIZENSHIP**

“All people have right to citizenship, no one denied from this right” (Constitution of South Africa, 1996).

#### **Freedom of Movement and Residence**

“Every citizen has right to freedom of movement; leave the Republic, to enter, to remain and to reside anywhere in the country and right to access the passport facility” (Constitution of South Africa, 1996).

#### **Freedom of Trade, Occupation and Profession**

“Every citizen of the country has right to practice and choose their profession, trade and occupation as per law of the land” (Constitution of South Africa, 1996).

#### **Labour Relations**

Every worker of the nation has right to practice fair labour and also right to established an organization and also can join trade union and has right to participate in the strike, and activities of the trade unions’ (Constitution of South Africa, 1996).

Every employer has the right :

- “to form and join an employers’ organisation; and
- to participate in the activities and programmes of an employers’ organisation”(Constitution of South Africa, 1996).

“Every employers and trade union organization of South Africa has right to established own administration to make policies,

activities and programmes, bargain collectively and to form and join a federation” (Constitution of South Africa, 1996).

### **Environment**

The neat and clean environment is essential for everyone which is a necessary for health and well-being and all should participate to protect the environment in the interest of the future generation of the country and also adopt the appropriate measures and legislative support that :

- (a) need to protect ecological degradation and ecology;
- (b) need to promote conversion, and
- (c) need to secure sustainable development in the field of ecology and appropriate use of natural resources for promoting justifiable socio-economic development’ (Constitution of South Africa, 1996).

### **Property**

1. Property is the essential aspect of the life. Therefore, “the constitution of South Africa provides right to property according to the rules and regulation laid down in the constitution. There in strictly prohibited by the law of arbitrary deprivation of property. In the public interest, property may be expropriated with the consent of the owner and also subject to the adequate compensation as per court order” (Constitution of South Africa, 1996).

The main objectives of this section is to protect public interest, to fulfill the commitment of land reform which was promised during the freedom movement, to provide equitable or equal opportunity to all access the natural resources of the country and property is not restricted to land. This is the responsibility of the government and administration to make law and, within its available resources, to foster conditions which enable citizens to gain access to land on an equitable basis.

### **Housing**

“Every individual is the integral part of the society and state is guardian of the society, therefore every person has right to get appropriate housing facility without any discrimination. It is the prime responsibility of the state to take necessary action to provide housing facility for all with taking adequate legislative and other way of measures within the available resources so that can achieve

the progressive realisation of this right. Without any concrete reason or without any order from the court, eviction from the house is illegal or cannot demolish. There is no arbitrary law in the constitution" (Constitution of South Africa, 1996).

### **Health Care, Food, Water and Social Security**

"Health care is also an important right of every human being. Every person has right to get health care services and facility which includes reproductive health care, adequate appropriate social support, food, water, if they are not capable to support themselves and their dependants, proper social assistance. The state must take practical legislative and other actions, within its accessible resources, to achieve the progressive realisation of each of these rights. It is also mandatory for every health care institution to provide emergency medical treatment" (Constitution of South Africa, 1996).

### **Children**

Children are the future of any country. Healthy growth of the children leads to the healthy nation and healthy development of socio- economic and polity. Therefore the constitution of South Africa included special measurement or rights for the children. These rights are followings :

- The constitution of South Africa has given the right to every children for name and nationality by birth along with the family and parental care and also has substitute care when removed from the family.
- Every child has right to shelter, health care service, nutrition, and required social services, so that they can protected from the unwanted diseases and maltreatment, neglect and deprivation.
- Every child has right to protection from the exploitation or exploitative labour practices by any one.
- Every child has right to education, mental and physical health, spiritual and moral development.
- Child cannot be detained without any appropriate or solid reasons. If detention is most required, shortest period of time as per law and it is also ensure that child should kept away from the persons over the age of 18 years. Child has a right to access legal consultation provided by the state free of cost.
- Child should protect from the armed conflict.



- Child's interested should be protected.
- "Child means a person under the age of 18 years" (Constitution of South Africa, 1996).

### **Education**

Education is the key of social development of the society by which a good and healthy environment is possible. Therefore, in South Africa the Constitution gives right to education for all citizens of the country without any discrimination. The important rights are following :

- "Every citizen has right to a basic education including adult and further education. It is the duty of the state to take practical measures to make progressively offered and available for easily to all.
- Everyone can access education in his/her way of speaking of own language and the state or public institution should ensure to provide facility of education in reasonably and practical manners based on the principle of 'equity' without any kind of discrimination.
- Every citizen has right set up his/her own independent education institution at own expenses with the registered permission of the state and do not discriminate on the basis of race, color, gender, religion and creed. It is mandatory for all education institutions to maintain education standards with the comparison of the public institution as well as globally" (Constitution of South Africa, 1996).

### **Social Security**

Under Section 27(1) (c) and 27(2) of the constitution of South Africa clearly mentioned about that "everyone has the right to social security, including if they are unable to support themselves and their dependents. An appropriate social assistance, and require the state to take reasonable measures to ensure progressive realization" (Constitution of South Africa, 1996). Similarly section 28(1)(C) of the constitution provides "children protection provisions which guarantee every child the right to social services. This has culminated in government rolling out state-funded social assistance programme which provides monthly social grants such as child support grant, care in dependency grant, old age grant, disability grant, means-tested to ensure the reach by the most indigent members of society" (Constitution of South Africa, 1996).

### **Education**

Education is the important dimension of the well functioning of the democratic system. Therefore, Section 29 of the constitution is concerned with the Right o Education for all. Therefore, all primary level student has right to access free education and department of education will provides free of cost text book to all, remedial classes at primary level.

### **Language and Culture**

“Everyone has the right to use the language and to participate in the cultural life of their choice, but no one exercising these rights may do so in a manner inconsistent with any provision of the Bill of Rights” (Constitution of South Africa, 1996).

### **Cultural, Religious and Linguistic Communities**

South Africa is a multi racial, multicultural society where every social group has their own social practices and beliefs. The constitution of South Africa provides equal status and rights to all community without any discrimination on the basis of culture, religion and language. Every person is free to practice his/her belief and faith.

Every citizen, person or community has right to establish and maintain religious, linguistic and cultural associations and civil society. All rights are can be exercised as per law or Bill of Rights of the constitution.

### **Access to Information**

It is the duty of the state and the public institutions to provide public related information and everyone can access any information held by the state. “The National legislation must be enacted to give effect to this right, and may provide for reasonable measures to alleviate the administrative and financial burden on the state” (Constitution of South Africa, 1996).

### **Just Administrative Action**

Every citizen of the country has right to administrative action which is reasonable, lawful and procedurally fair. It mandatory for the administration to appropriate reason in written, if any work is delayed or not possible, in the case of affection of rights of someone.

### **Access To Courts**

The judiciary is the third pillar of the democracy. South Africa has an independent judicial system. Every citizen has tight the access

legal opinion or legal way to resolve the dispute according to law laid down by the judiciary in a fair public hearing in a court or any other platform decided by the judiciary or court.

### **Arrested, Detained and Accused Persons**

Everyone has right to know reason of detention and must produce before the court as soon as possible or within 48 hours of detention and produce solid reason of arrest. Court has to decide of charged and reason of detention or to be released. Every accused or detained person has right to hire a legal practitioner for consultation. Every detained person has right to human dignity and adequate accommodation, food, study materials and health facility at the state expenditure. The detention of a person is to communicate with the nearest relative such as spouse or partner and next to kin, chosen religious counselor and medical practitioner.

Fair trial of every accused person is compulsory and whatever charges imposed, to be informed appropriately with the required details of answer. It is a constitutional right of every detained person to have appropriate time to prepare the defense in favor of him and also need to be present when hearing of the charges or detention started.

## **4.2 Limitation of Rights**

The rights in the Bill of Rights may be limited only in terms of law of general application to the extent that the limitation is reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom, taking into account all relevant factors, including:

- “the nature of the right;
- the importance of the purpose of the limitation
- the nature and extent of the limitation; the relation between the limitation and its purpose; and
- less restrictive means to achieve the purpose” (Constitution of South Africa, 1996)

### **The State of Emergency**

A state of emergency may be declared as per the parliamentary act when it is required in the worst situation faced by the state such as threatened of war, invasion, general, general revolt, mess, natural disaster and any other public emergency which emerge through

lapses in law and order, and the emergency declaration is essential to reinstate peace and order.

“A state of emergency cannot impose more than 21 days W.E.F its imposition date, if needed further, the highest law making body that is National Assembly has power to give extension the same for not more than three months. This extension should be supported by the majority members of the National Assembly. If any further extension is required, there is need to support by the 60 percentage members of the National Assembly” (Constitution of South Africa, 1996).

### **Enforcement of Rights**

The given rights of the citizen mentioned in the Bill of Rights are the duty of the state to implement and enforce properly. If Bill of Rights are being violate or threatened, judiciary has right to give relief including a declaration of rights. Anyone can approach in the court in the interest of self, community and in the public interest.

### **4.3 Interpretation of Bill of Rights**

The interpretation of Bill of Rights is required by the judiciary, tribunal or any forum, there is need to promote the values of society along with the sanctity of the democracy, liberty, equality, and dignity of human being and also consider international or foreign law. The explanation of the Bill of Rights also considers the existence of the customary and common laws.

“it is the duty of the legal bodies such as court, tribunal, or forum to respect the and promote the spirit of the Bill of Rights when they explain or develop any legislation, common or customary law” (Constitution of South Africa, 1996).

### **References**

- Arthur Chaskalson, “Human Dignity as a Foundational Value of Our Constitutional Order”, *South African Journal of Human Rights*, 16(2), 2000, 193-205.
- Christof Heyns & Danie Brand, “Introduction to socio-economic rights in the South African Constitution”, *Law, Democracy and Development*, 2(2),1998.
- Clark, S., *Nelson Mandela Speaks*. New York : Pathfinder Press, 1993.
- Collier’s Encyclopedia, *The Republic of South Africa 1997*. New York : Newfield Publication, 1997.

*Constitution of the Republic South Africa*, 1996.

David P. Forsythe, *Human Rights in International Relations* (3<sup>rd</sup> ed.), UK. : Cambridge University Press, 2012.

De Grunchy, "The humanist imperative in South Africa", *South African Journal of Science*, 107(7/8), 2011.

Henk Botha, "Equality, Plurality, and Structural Power", *South African Journal of Human Rights*, 25(1), 2009.

Iain Currie and John De Wall, *The Bill of Rights Handbook*, (5<sup>th</sup> ed.). Juta & Co. Ltd., 2005.

*Interim Constitution of South Africa*, 1993.

Karin Van Marle, "Transformative constitutionalism as/and critique", *Stellenbosch Law Review*, 20(2), 2009, 286-301.

Lijphart, A., *Democracy and Plural Societies: A Comparative Exploration*, New Haven, Connecticut : Yale University Press, 1967.

Paul Nolette, "Lessons Learned from the South African constitutional court : Toward a Third Way of judicial Enforcement of socio-economic rights", *Michigan State International Law Review*, 12, 2003.

Udogu, E.I. (ed.), (1997) *Democracy and Democratization in Africa: Toward the 21st Century*. Leiden: E.J. Brill Publishers.

Udogu, E. I. (ed.), *Nigeria and the Politics of Survival as a Nation-state*, Lewiston, New York : Edwin Mellen Press, 1997.

Welsh David, "Negotiating a Democratic Constitution", J. S. Spence (ed.), *Change in South Africa*, London : Pinter Publishing, 1994. ★