

South Africa's transformative Constitution: from civil and political rights doctrines to socio-economic rights promises

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Abstract

This article discusses the post 1994 rights-based approach to transformation. Civil and political rights and socio-economic rights are conceived as central tenets to South Africa's transformative Constitution, 1996. The Constitution was fundamentally tasked with transforming society to bring about substantive social and legal justice, peace, political stability and reconciliation among South Africans. This culminated in a new legal culture, elevating hopes that socio-economic problems largely inherited from the past would be altered. Thus, this article examines the extent to which norms and the law in the Constitution normalizes people's socio-economic conditions. It utilizes notable entrenchment and eventual justiciability of socio-economic rights as noticeable attempt to proffer a panacea to prevailing socio-economic instabilities. It has been observed that first and second generation rights are interrelated and mutually supportive towards the course of transformation. However, it is asserted that the commended normative framework is struggling to ward off the country's social and economic problems owing to persistent poverty problem. Thus, real transformation will remain an elusive dream if poverty is not eliminated.

Keywords: constitutional transformation, human rights, poverty, socio-economic rights.

JEL Classification: K10

1. Introduction

The Constitution of the Republic of South Africa (*hereinafter, the Constitution, 1996*) has been hailed as an extraordinary text which represents an embodiment of progressive democracy. This characterization stems from the country's historic transition from apartheid to a wholly multi-racial democracy, which has been lauded as a unique political event of the last century.² According to Eric Christiansen, this Constitution is frequently been described as a model document for domestication of human rights norms, which the Constitutional Court has championed by taking a progressive human rights activist role in pursuit of

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² Robert P. Imman, *Understanding the Democratic Transition in South Africa*. "American Law and Economics Review" (2013) p. 1.

equality and substantive justice in the eyes of the law.³ This Constitution carried with it, a progressive agenda of transformation geared towards changing all spectrums of society, with specific emphasis on altering social and economic conditions of ordinary South Africans, particularly the previously disadvantaged communities.

In that regard, the epilogue to the 1993 Interim Constitution posited transformation as the cornerstone of democracy through which to realize fundamental objectives of the new democratic dispensation. This agenda was premised on advancing the philosophy of human rights, a means to greater social ends⁴ which is recognized as a very indispensable feature for effective functionality of democracies in the contemporary world⁵ and its political economy. Owing to the fact that human rights theory is a necessity to democracy, their protection, swift enforcement and implementation also constitutes a non-negotiable requirement.⁶ Thus, successes to the regime were to be determined in accordance with this human rights theory which embraces recognized moral connotations that shape society and people's social relations. It is for this reason that civil and political rights and socio-economic rights got entrenched as fundamental doctrines, featuring as core justiciable rights before our courts of law. Therefore, any dispute arising out of either civil and political rights and/or socio-economic rights would attract attention as a constitutional matter upon which the Constitutional Court could pronounce and make a determination, ordering and requiring the state to act in a particular manner to fulfil its obligations as imposed by the Constitution. This is necessitated by the fact that section 2 state that 'the Constitution is the supreme law of the republic, all obligations imposed by it must be fulfilled, and that any law or conduct inconsistent with it should be declared invalid'.

In a nutshell, the core reason behind labelling the Constitution as being a transformative text is fundamentally because of its discernible attempt to commit its people to non-racialism, non-sexism, while demanding that all people be afforded dignity, equality and fundamental freedoms that complement the sustainability of the principle of *Ubuntu*.

2. Rationale and methodology

Although South Africa is commended for its exemplary transition as a beacon for emerging democracies in the world,⁷ it is worth noting that the country

³ Eric C. Christiansen, *Exporting South Africa's Social Rights Jurisprudence*. "Loyola University Chicago International Law Review" (2007) p. 29.

⁴ David P. Forsythe, *Human Rights in International Relations*. (3rd Ed.) "Cambridge University Press" UK, (2012) p. 3.

⁵ Anthony O. Oyowe, *Strange bedfellows: Rethinking Ubuntu and human rights in South Africa*, "African Human Rights Law Journal" (2013) p. 104.

⁶ John C. Mubangizi, *Building a South African Human Rights Culture in the Face of Cultural Diversity: Context and Conflict*. "African Journal of Legal Studies" (2012) p. 4.

⁷ Conor Colasurdo & Rebecca Marlin, *South Africa's Constitutional Jurisprudence and the Path To Democracy: An annotated interview with Dikgang Moseneke, Acting Chief Justice of the Constitutional Court of South Africa*. "Fordham International Law Journal" (2013) pp. 285-286.

has also faced a multiplicity of enormous challenges since its transition of 1994. These problems range from non-realization of excellently embedded constitutional norms, to problems that stem from socio-economic conditions plaguing the majority of impoverished communities. Thus, the objective of this article is to illustrate that even though constitutional guarantees from a perspective of civil and political rights have somewhat been achieved, there still remains enormous challenges with regards to translating these appealing norms into reality. That is, meaningful realization of civil and political rights and further enjoyment of socio-economic rights by the majority of indigent people remain a distant dream. The article intend to show that to be successful, good normative framework ought to be complimented by political willingness by the executive sphere of government to effect meaningful change in pursuit of alleviating society's deplorable humanitarian conditions. This also requires that there be stability among democratically legitimate institutions such as the South African Human Rights Commission (SAHRC) and the Public Protector, whose primary functions include among others, to support our constitutional democracy while advancing the realization of human rights in general.

This study adapted to qualitative style of research. Reliance was placed on data derived from written texts (primary and secondary sources) in the form of statutes, international human rights instruments, case law and relevant scholarly publications. It uses South Africa's human rights jurisprudence to illustrate the transformative nature of the Constitution, what has been achieved and hurdles encumbering full realization of second generation rights.

3. The transformative nature of the Constitution in perspective

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 effectively liberalize political climate, paving way for democratic politics and a caring people centred governance⁸ which gives high regard to human rights. This was made feasible through a cautious selection of constitutional system which subscribed to constitutionalism, mandating state to perform its functions in accordance with stipulated rules within the confines of the Constitution.⁹ This culminated in a construction of a culture of justification, moving away from a culture of authority. It entails that the state derives its authority from the Constitution, and that state functionaries should conform to it when exercising their public functions. Thus, constitutionalism refers to a doctrine which governs the legitimacy of government action.¹⁰ This effectively meant that state must be able to

⁸ Julius O. Ihonybere, *Democratization in Africa*, "Peace Review: A Journal of Social Justice" (1997) p. 377.

⁹ Iain Currie & Johan De Waal, *The Bill of Rights Handbook* (2005), 5th Ed. "Juta & Co.Ltd.: Cape Town", p. 8.

¹⁰ Yvonne Burns, *Administrative Law under the 1996 Constitution* (2003), "LexisNexis: Butterworths, Durban", p. 34.

substantively defend all its decisions in accordance with constitutionally enshrined rights and values. Significant aspects of the Constitution's transformative nature find expression in its founding pillars which emanated from periods of struggles, and therefore represented a collective commitment geared towards ensuring that the conditions which led to conflict and suffering in society are eradicated and not given space to re-emerge.¹¹ Thus, the post-1994 regime embodied a vivid paradigm shift entrusted in law and social order thereby creating a new normative system, characterized mainly by respect for human life, dignity, human rights and fundamental freedoms.¹² What is worth noting is the fact that under apartheid, human rights could not develop.¹³

Because South Africa subscribed to constitutionalism, the notion of transformative constitutionalism emerged, and was guided intrinsically by the pursued constitutional agenda of transformation. Since then, efforts to find the meaning of this notion in juridical terms have kept evolving. However, Karl Klare formulated a noble meaning of transformative constitutionalism theory, which he used to describe the nature of the post 1994 Constitution. He posited transformative constitutionalism as a 'long-term project of constitutional enactment, interpretation and enforcement committed to transforming a country's political, legal and social institutions, and power relations in a democratic, participatory and egalitarian direction'.¹⁴ He argued that the Constitution offered an enterprise to induce major social change through non-violent political processes immensely grounded in law.¹⁵ Karin Van Marle perceived it as a theory which encompasses an approach to the Constitution 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.¹⁶ 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.¹⁷

From a perspective of socio-political and legal perspectives, Pius Langa posited this project as a constitutional commitment to heal wounds of the past and guide us to a better future.¹⁸ He posited that it encompassed transformation as a process, a continuous ideal, a way of looking at the world that creates a space in which dialogue and contestation are truly feasible, where new mechanisms of being

¹¹ Christof Heyns & Danie Brand, *Introduction to socio-economic rights in the South African Constitution*. "Law, Democracy & Development" (1998) p. 153.

¹² Mashele Rapatsa, *The Right to Equality under South Africa's Transformative Constitutionalism: A Myth or Reality?* "Acta Universitatis Danubius.Juridica" (2015) p. 26.

¹³ Jeremy Sarkin, *The Drafting of South Africa's Final Constitution from a Human Rights Perspective*. "The American Journal of Comparative Law" (1999) p. 68.

¹⁴ Karl Klare, *Legal Culture and Transformative Constitutionalism*. "South African Journal on Human Rights" (1998) p. 146.

¹⁵ *Ibid*, p. 150.

¹⁶ Karin van Marle, *Transformative Constitutionalism As/And Critique*. "Stellenbosch Law Review" (2009) p. 288.

¹⁷ *Ibid*.

¹⁸ Pius Langa, *Transformative Constitutionalism*. "Stellenbosch Law Review" (2006) p. 352.

are constantly explored and created, accepted and rejected, and in which change is unpredictable but the idea of change is constant.¹⁹

In the main, the transformative nature of the Constitution is queried through its capacity to alter social, legal and political landscapes in a manner that is considered legitimate by its citizens. Its transformative abilities stem from the fact that it enabled swift domestication of international bill of rights, where first and second generation rights should find domestic application with ease. Further, it is transformative because it promised civil and political rights and socio-economic rights to its citizens thereby bringing an end to disenfranchisement and discriminatory systems of laws. Subsequently, the Constitution entrenched fundamental values that would eventually be recognized as forming an integral part of rights based discourses. This includes the right to dignity, equality, life and social security. Since then, the Constitutional Court have consistently played an important judicial activist role by building a rich jurisprudence promulgating significant precedence on these fundamental constitutional values. It has largely corroborated on a number of occasions that judicial enforceability of socio-economic rights is possible. This has been interpreted as a novel and highly promising approach to judicial protection of socio-economic rights,²⁰ particularly because others always argued that socio-economic rights are non-justiciable and not worthy of declaration as enforceable rights.²¹ Generally, an approach adopted by the courts has been that of embedding fundamental synergy between claims over socio-economic entitlements with well-founded values premised on civil and political rights. It is for this reason that these rights have established some levels of interdependence.

3.1 Founding tenets of civil and political rights

Given the need to democratize and liberalize legal systems, Chapter 2 of the Constitution entrenched the Bill of Rights which spells out people's guaranteed rights in clear terms. This was necessitated by the fact that embracing civil and political rights became the first point of departure towards building South Africa's human rights culture. Because the Constitutional Court formed an integral part of transformation project, it was anticipated of it to essentially influence the entrenching of human rights culture.²² The right to life, dignity and equality are

¹⁹ Ibid, p. 354.

²⁰ 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" (2003) p. 91.

²¹ Eric C. Christiansen, *Adjudicating Non-Justiciable Rights: Socio-economic Rights and The South African Constitutional Court*. "Columbia Human Rights Law Review" (2007) p. 321. *See also*, E Christiansen, *Using Constitutional Adjudication to Remedy Socio-Economic Injustice: Comparative lesson from South Africa*. "UCLA Journal of International Law & Foreign Affairs" (2008) p. 377.

²² Henk Botha, *Equality, Plurality and Structural Power*. "South African Journal on Human Rights" (2009) p. 1.

posited as founding tenets of civil liberties. As a result, jurisprudence pertaining to the right to life, dignity, equality and freedom of movement provides notable insights on how Courts aided the new normative framework to embed civil and political rights, and accompanying liberties and freedoms in pursuit of culture of justification. The Constitutional Court took off with an indictment to protect the *right to life*. This would be the first test with regards to its capacity to advance substantive and social justice through propounding constitutional values. The need to safeguard the right to life was in accordance with section 11 of the Constitution which provides that ‘everyone has the right to life’. The right to life dictum was set in *S v Makwanyane* 1995 (3) SA 391 (CC) where it was contended that death penalty was incompatible with the prohibition of cruel, inhuman and degrading forms of punishment, and therefore could not find any space for justification in a free and open democracy. This case declared as unconstitutional, any state action of terminating life and effectively abolished death penalty, also known as capital punishment. The fundamental function served by this precedent was that of emphasising that the state should be exemplary in terms of upholding human rights,²³ that meting death penalty is short of that.

Following on the list is the *right to dignity*. Section 10 provides that ‘everyone has inherent dignity and the right to have their dignity respected and protected’. In *S v Makwanyane*, Justice Kate O’Regan held that recognising human dignity is an affirmation of an intrinsic worth of human beings, and further that dignity is a foundation of all other rights in the Bill of Rights.²⁴ In *Dawood and Another v Minister of Home Affairs and Others* (CCT35/99) [2000] ZACC 8; 2000 (3) SA 936, it was emphasized that dignity informs how other rights are viewed. Hence, it is being traded as the touchstone in our understanding of human rights. This entails that the need to give due regard to dignity also influenced the decision to abolish death penalty. Conferring human dignity is centred on worthiness or excellence attributed to humans by virtue of being humans, and is therefore a potential method of preventing conflicts.²⁵ The Constitution committed to improving the quality of life and freeing potential of every person thereby entrenching human dignity, something that is seen as a humanist intuitive imperative that has flourished and continues to reinvent itself in South Africa.²⁶ Thus, the concept of dignity embraces socio-economic context of human well-being.²⁷

²³ David Bruce, *Killing and the Constitution – arrest and the use of force*. “South African Journal on Human Rights” (2003) p.445.

²⁴ See also, Arthur Chaskalson, *Human Dignity As A Foundational Value of Constitutional Order*. “South African Journal on Human Rights” (2000) p. 196.

²⁵ Shadrack Gutto, *Inter-Faith Peace Summit*, 24th Annual Human Rights Review, (2014).

²⁶ De Grunchy, *The humanist imperative in South Africa*. “South African Journal of Science” (2011) p. 1.

²⁷ Sandra Liebenberg & Michelle O’Sullivan, *South Africa’s new equality legislation: A tool for advancing women’s socio-economic equality*. “Acta Juridica” (2001) p. 84.

The *right to equality* features as a tool to prohibit unfair or illegal discrimination.²⁸ Section 9(1) provides that ‘everyone is equal before the law and has the right to equal protection and benefit of the law’. The basis of strength for equality is rooted in the known history of race-based systematic discriminatory legal system of apartheid. This created severe structural socio-economic inequalities in both public and private domain, problems which remain evident in society even today. By implication, the right to equality connote the need to construct a special kind of relationship between beings or entities that are deemed same or equal in nature and form. Efforts have been made to distinguish equality into formal and substantive model. Formal equality requires that people be treated in the same way regardless of varying individual circumstances. On the other hand, substantive equality is founded on the need for the law to consider individual circumstances in an effort to guarantee same favourable outcome to all individuals.²⁹ Thus, the Constitution pursues substantive equality in that it seeks to accommodate and address socio-economic disparities of persons, in an attempt to redress subordination and inequalities.³⁰ These views were emphasized in *President of the Republic of South Africa v Hugo* (1997) 4 SALR 1 (CC): para 41, *City Council of Pretoria v Walker* 1998 (3) BCLR 257 (CC) and various other precedence.³¹

To ensure a comprehensive civil liberty, section 18 (*freedom of association*) and section 21 (*freedom of movement and residence*) are guaranteed as rights. These proffer to citizens, freedoms to choose political affiliation, participation in political activities and decide freely on a preferred place of domicile. In the main, civil and political rights constituted a dogma for socio-

²⁸ In terms of section 9(3), no one, including the state, may unfairly discriminate directly or indirectly against anyone on one or more grounds, including race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth. Section 9(4) & (5) emphasizes that direct or indirect discrimination on the basis of any of these listed grounds is unfair, and that national legislation should be enacted to prevent or prohibit unfair discrimination. This resulted in the state promulgating Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000 (PEPUDA; also referred to as the Equality Act). The Act places an obligation on the state, non-governmental organizations, community-based organizations, traditional institutions and all persons to promote equality.

²⁹ *National Coalition for Gay and Lesbian Equality & Another v Minister of Justice & others* 1999 (1) SA 6 (CC): at paras. 60-62.

³⁰ Titia Loenen, *The Equality Clause in the South African Constitution: Some Remarks from a Comparative Perspective*. “South African Journal on Human Rights” (1997) p. 403.

³¹ Further jurisprudence on the right to equality includes; *Hoffman v South African Airways* 2001 (1) SA 1 (CC) which prohibited discrimination on the basis of illness, HIV status in this case; *Kylie v CCMA and Others* (2007) 28 ILJ 470 (CCMA), (2008) 29 ILJ 1918 (LC) & 2010 (4) SA 383 (LAC) which prohibited discrimination of ‘prostitutes’ or ‘sex workers’ from accessing protection afforded within the ambits of the Constitution, objectively to protect them against pervasive exploitation; *Standard Bank of SA v CCMA and others* (2008) 29 ILJ 1239 (LC) a case which prohibited discrimination on the basis of disability, in which a bank employee was rendered paraplegic after a car accident, with court ordering the bank to offer reasonable accommodation; and *National Coalition for Gay and Lesbian Equality v Minister of Justice* 1999 (1) SA 6 (CC) which prohibited discrimination on the basis of sexuality (homosexuality).

political transformation. Of utmost importance is the fact that these rights seem to have readied an atmosphere where claims on socio-economic rights are possible.

3.2 Socio-economic rights promises

Socio-economic rights create entitlements to material conditions for human welfare.³² Thus, an inclusion of socio-economic rights in the Constitution came as no surprise. It was mainly considerate of documented cruelty of pre-1994 socio-economic deprivations, which resulted in a variety of social amenities being inaccessible to majority of South Africans, including employment and other opportunities which were systematically determined along racial lines.³³ Such circumstances made sustainable honourable livelihood impossible to achieve. The fundamental purpose of including socio-economic rights in the Constitution and affording them judicial enforceability can be summed as premised on trusting in their ability to augment meaningful realization of civil and political rights. It has been argued that it would be less useful if citizens had freedom of association and expression while their health was poor consequent to abject poverty or destitution, and this would lead to disillusionment among people who might even protest the Constitution as failing to deal with their fundamental needs.³⁴

The core socio-economic rights includes the right to health care, education, housing or shelter, social security, all of which are complimented by a new wave of third generation rights, the right to development. Socio-economic rights content was formulated in such a manner as to impose a positive obligation on the state to take reasonable measures within available resources to ensure their progressive realisation. Substantive jurisprudence has equally evolved.

First, is the right to health care services which was canvassed in *Minister of Health v Treatment Action Campaign (TAC)*³⁵ and *Soobramoney v Minister of Health (Kwazulu Natal)*.³⁶ In both instances, the Constitutional Court emphasized on the application of reasonableness test (rationality principle) with regards to state capacity to deliver, and availability of resources that enable access to such health care. In *TAC*, the Court ordered the state to devise and implement within its available resources, a programme that guarantees access to antiretroviral drug to prevent mother-to-child-transmission of HIV³⁷ which the Court considered as feasible and affordable. Whereas in *Soobramoney*, the Court saw it as reasonable

³² Danie Brand, *Introduction to socio-economic rights in the South African Constitution*. In Danie Brand & Christof Heyns (Eds.) *Socio-Economic Rights in South Africa*, (2005) "Pretoria University Law Press" p. 3.

³³ Jeremy Sarkin, *Can South Africa Afford Justice? The Need and Future of a Public Defender System*. "Stellenbosch Law Review" (1993) p. 261.

³⁴ Christof Heyns & Danie Brand, *Introduction to socio-economic rights in the South African Constitution*. "Law, Democracy and Development" (1998) p. 154.

³⁵ (2002)5 SA 721 (CC).

³⁶ (CCT32/97) [1997] ZACC 17; 1998 (1) SA 765 (CC); 1997 (12) BCLR 1696 (27 November 1997).

³⁷ *TAC* case, at para. 135.

on the part of the state to limit access to emergency medical treatment due to proven scarcity of resources at the state run hospital.³⁸ The Court was reluctant and emphasized that it would not interfere with executive's rational decisions in the running of state affairs.³⁹

The right to housing also embedded its significance to socio-economic rights jurisprudence. It was propounded in *Government of the Republic of South Africa v Grootboom*,⁴⁰ eventually becoming a landmark case, a widely celebrated precedent. The Court ordered government to develop a programme that addresses the housing needs of people who lived in intolerable conditions.⁴¹ This case became crucial in affirming the place of substantive equality in determining scope and content of social and economic rights.⁴²

Section 27(1)(c) and 27(2) provides that everyone has the right to social security, including if they are unable to support themselves and their dependants, an appropriate social assistance, and require the state to take reasonable measures to ensure progressive realisation. This is complimented by children protection provision, section 28(1)(c), 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 (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.

It is trite that education is essential to a well-functioning democracy.⁴³ Thus, the right to education is also entrenched in section 29 of the Constitution. *Section 27 and Others v Minister of Education and Another* (2012) ZAGPPHC 114 dealt with access to basic education. Justice Kollapen held that 'a failure by the department to provide textbooks constituted a violation of the right to basic education, and ordered the Department of Basic Education to honour its constitutional obligation not later than June 2012. He also ordered the department to develop catch-up or remedial plan for learners disadvantaged by such delays.

4. Trapped in a quagmire

South Africa's past necessitates that continuous assessments remain indispensable in order to measure progress with regards to effective realization of human rights. This is important because it assists in establishing whether the post 1994 rights-based discourse has offered any meaningful solutions towards resolving problems inherited from the past. Presently, the country has been

³⁸ *Soobramoney* case, at para. 36.

³⁹ *Ibid*, para. 29.

⁴⁰ 2001 (1) SA 46 (CC).

⁴¹ *Ibid*, at paras. 97-99.

⁴² Pierre De Vos, *Grootboom, The Right of Access to Housing And Substantive Equality As Contextual Fairness*. "South African Journal on Human Rights", (2001) p. 273.

⁴³ Eric Berger, *The Right to Education under the South African Constitution*. "Columbia Law Review" (2003) p.614.

struggling with distressing levels of poverty,⁴⁴ which effectively makes it difficult for majority of indigent people to assert their rights. This is because under poverty, none of the noted first and second generation rights *above* can be achieved. Thus, the problem of poverty reduces the country's twenty one year old rights discourse into a constant political rhetoric, and a paradox in the extreme. After all, what good is served by attractive legal norms if they are incapable of bettering people's lives? What is discernible is that in principle, the existing legal norms have only stabilized socio-political landscape. This entails that the 'right to vote' and determine who governs is amongst the least realized rights, while there is no real enjoyment of socio-economic equality and dignity in real terms, simply because the country's wealth still vests in the hands of elite few.⁴⁵

5. Conclusion

This article had intended to illustrate that although South Africa embedded noble global human rights norms at the core of the Constitution, there still remain immense challenges that inhibit potential of the commended human rights treatise. Karl Klare's conceptualization of transformative constitutionalism attempted to influence the country's transformation and developmental objectives. It effectively theorised a palatable synergy between constitutional, democratic and social values to reinforce the post-1994 unity and reconciliation agenda, with the hope of stabilizing society's socio-economic problems. However, its ambitions have not successfully infused into socio-economic predicaments afflicting majority of South Africans. Therefore, this article resonates the view that the rights framework adopted by the post-1994 regime effectively protected social arrangements entrenched by the pre-1994 regime, to such an extent that conceptualization of rights in the new South Africa does little, and fails to alter historical patterns of people's social and economic settings.⁴⁶ It has been observed that South Africa is caught in a quagmire, indeed invariably struggling to uproot the legacy of apartheid and thus faces immense challenges that have been given added impetus by increasing demands from people who yearns for meaningful realization of social and economic rights and civil liberties.⁴⁷ Hence, forging ahead, it is crucial to re-consider the impact of legal norms on social problems.

⁴⁴ Trusha Reddy & Andile Sokomani *Corruption and Social Grants in South Africa*, (2008); Isobel Frye, *Towards a decent living level*. "Studies in Poverty and Inequality Institute" (2014); Pali Lehohla, *Poverty Trends in South Africa: An examination of absolute poverty between 2006 and 2011*. "Statistics South Africa" (2014).

⁴⁵ Ronnie Kasrils, *How the ANC's Faustian pact sold out South Africa's poorest*. "the Guardian" 24 June 2013, p. 1.

⁴⁶ George W. Mugwanya, *Human Rights in Africa: Enhancing Human Rights Through the African Regional Human Rights System*, "Transnational Publishers, Inc." Ardsley, New York. (2003) p. 93.

⁴⁷ Human Rights Watch, *World Report: Events of 2013*. (2014) p. 169.

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