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ABOUT US

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COMPARATIVE ANALYSES OF RIGHTS AND DUTIES IN INDIA, SOUTH AFRICA AND US CONSTITUTION

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1. Introduction

"If we all discharge our duties, right will not be far to seek. If leaving duties unperformed we run after rights, they will escape us like a will-o'- the-wisp. The more we pursue them, the farther they fly".

- Mahatma Gandhi

Rights and duties are pioneering concept for any state/ country to function. Rights and duties are not only constitutional obligations, but also moral need of the society. Right is duty well performed, every right correspond to the duty, and duty correspond to the rights. If right exists then duty must be followed by it. Any state to remain democratic must imply the rights and duties.

Every country has implemented the rights and duties in their constitution some of them have taken it from the inception, some by amendments. Rights and duties remain crucial point between governance and the citizen. Freedom and it's extend to citizen can be marked well by the rights and duties. Rights and duties in constitution implies the moral as well as legal obligation both guiding to citizenship and governance.

For comparative studies when I evaluate the historical factors we find loads of similarity between the history and freedom struggle of India, South Africa and somewhat even of USA. But all three governance are very different.

India

Constitution is on top of all the governance. In preamble itself it talks about the fundamental rights by means of Liberty of thought, expression, belief, faith, and worship. The form of governance in India has a quasi-federal form of government, with a strong central government

and distribution of powers between the central and state governments.

South Africa

The preamble to the South African Constitution mentions the country's past apartheid regime, and it speaks to ensuring "freedom". The South African Constitution follows a parliamentary form of government, with a three-tier system and an independent judicial body

USA

The preamble to the US Constitution mentions the formation of a union, and seeks to "secure the Blessings of Liberty". The US Constitution also allows dual citizenship, and the president is the head of state.

Looking at over all view it seems to be interesting point to study that how rights and duties and its implication will be in the above three countries.

Background and Rationale

1. Significance of rights and duties in Modern State

In the modern state, the concepts of rights and duties are foundational to the functioning of democratic governance, the protection of individual freedoms, and the promotion of social cohesion. These concepts are deeply interwoven, ensuring that the relationship between the state and its citizens is balanced, just, and conducive to the overall well-being of society. Their significance can be understood through several key dimensions:

2. Protection of Individual Freedoms

Rights are essential in safeguarding the fundamental liberties of individuals against the arbitrary use of power by the state or other entities. In a modern state, the protection of rights such as freedom of speech, religion, assembly, and privacy allows citizens to express themselves, pursue their interests, and participate in the democratic process without fear of repression. These rights are enshrined in constitutional and legal frameworks, providing citizens with the means to challenge any infringement upon their freedoms.

The significance of these rights lies in their role in empowering individuals, enabling them to lead lives with dignity and autonomy. Without such protections, the state risks devolving into authoritarianism, where the will of the few overrides the rights of the many. Therefore, rights

are indispensable for maintaining the moral and legal integrity of the state.

3. Promotion of Social Justice

In addition to protecting individual freedoms, rights in a modern state often extend to socio-economic realms, encompassing the right to education, healthcare, work, and an adequate standard of living. These rights are critical in promoting social justice by addressing inequalities and ensuring that all citizens have access to the resources and opportunities necessary for a dignified life.

The recognition of socio-economic rights reflects the state's commitment to not only safeguard individual liberties but also to create an environment where all citizens can thrive. This commitment is especially significant in addressing historical injustices, reducing poverty, and fostering a more equitable society.

4. Duties as the Counterbalance to Rights

While rights empower individuals, duties impose certain obligations on citizens to act in ways that support the collective good. Duties in a modern state include obeying the law, paying taxes, serving on juries, and respecting the rights of others. These duties ensure that the exercise of individual rights does not undermine social order or infringe upon the rights of others.

The significance of duties lies in their role in fostering a sense of responsibility among citizens. By fulfilling their duties, individuals contribute to the stability, security, and prosperity of the state. Duties also reinforce the idea that citizenship is not merely about claiming rights but also about participating in the collective life of the community and contributing to the common good.

5. Maintenance of Democratic Governance

The interplay of rights and duties is crucial for the functioning of democratic governance. Rights allow citizens to hold the state accountable, participate in political processes, and advocate for change. Duties, on the other hand, ensure that citizens respect the rule of law and contribute to the orderly functioning of society.

In a modern state, the effective exercise of rights and the conscientious fulfillment of duties by citizens are what sustain democratic institutions and processes. Without this balance,

democracy can become unstable, leading to either an erosion of rights or a breakdown in social order.

6. Social Cohesion and National Unity

Rights and duties contribute to social cohesion by fostering a shared sense of identity and purpose among citizens. Rights ensure that all members of society are treated with respect and dignity, while duties encourage individuals to act in ways that promote the well-being of the community. Together, they help to build trust between citizens and the state, as well as among citizens themselves.

In diverse societies, the recognition of both individual rights and collective duties is vital for maintaining national unity. By ensuring that all citizens feel valued and responsible for the nation's future, the state can mitigate social tensions and promote a more harmonious society.

7. Adapting to Global Challenges

In the modern world, states face complex global challenges, such as climate change, migration, and international security. The significance of rights and duties extends to the global arena, where states must balance their responsibilities to their citizens with their obligations to the international community.

Rights such as the right to a healthy environment or the right to asylum are increasingly relevant, while duties may include commitments to international treaties and cooperation in global governance. The modern state must navigate these challenges by upholding both domestic and international rights and duties, ensuring that its actions contribute to global peace and sustainability.

8. Rationale of Comparative Studies

India (said to be adopted best of all countries), the USA (said to be global document of rights and duties as UDHR and inspiration for many countries constitution, conventions and treaties), and South Africa (youngest of all) represent three distinct constitutional traditions, each with its own set of challenges and achievements in the realm of rights and duties. The U.S. Constitution, one of the oldest written constitutions in the world, has profoundly influenced global constitutionalism, particularly through its Bill of Rights. The Indian Constitution, a post-colonial document, reflects a synthesis of Western legal traditions and indigenous values, with

a strong emphasis on social justice. The South African Constitution, forged in the aftermath of apartheid, is renowned for its comprehensive Bill of Rights and its focus on equality and human dignity.

A comparative study of these three constitutions offers valuable insights into how different nations address similar fundamental issues, such as the protection of individual liberties, the promotion of social welfare, and the responsibilities of citizens. It also allows for an examination of how each country navigates the tensions between individual rights and collective duties, and how these tensions are resolved through legal and institutional mechanisms.

9. Statement of Research Problem

The concepts of rights and duties form the pillar of constitutional governance, shaping the relationship between the state and its citizens. While rights empower individuals by guaranteeing freedoms and protections, duties impose obligations on citizens to contribute to the well-being of society. However, the articulation, interpretation, and enforcement of these concepts vary significantly across different constitutional frameworks, reflecting diverse historical, social, and political contexts.

The Constitutions of India, South Africa, and the United States each provide a unique perspective on the balance between rights and duties. The U.S. Constitution, with its strong emphasis on individual liberties through the Bill of Rights, presents a model where duties are more implicit, relying on civic responsibility. The Indian Constitution explicitly codifies both Fundamental Rights and Fundamental Duties, reflecting a balance between individual freedoms and collective responsibilities. South Africa's Constitution, born out of a history of apartheid, emphasizes human dignity, equality, and socio-economic rights, while also promoting a vision of active citizenship in the pursuit of justice and reconciliation.

Despite their shared commitment to democratic governance and the rule of law, these three constitutional frameworks differ markedly in how they conceptualize and enforce rights and duties. These differences raise important questions about the implications of these constitutional designs for social justice, governance, and the role of citizens in a democracy.

10. Research problem

How do the Constitutions of India, South Africa, and the United States conceptualize and balance the rights and duties of citizens, and what are the implications of these differences for democratic governance, social justice, and the protection of individual freedoms?

1. What are the historical and philosophical foundations that have shaped the articulation of rights and duties in the Constitutions of India, South Africa, and the United States?
2. How do these constitutional frameworks differ in their scope, limitations, and enforcement mechanisms for rights and duties?
3. What are the practical impacts of these differences on the governance, legal systems, and societal dynamics of each country?
4. How do these constitutional provisions address contemporary challenges, such as social inequality, minority rights, and national security?
5. What lessons can be drawn from a comparative analysis of these three constitutional frameworks for strengthening democratic governance and protecting human rights globally?

11. Rights and Duties concept in India, US and South Africa Constitution (as it is):

Of India:

1. Fundamental Rights & Fundamental Duties:

Fundamental rights of the Indian constitution are the basic rights provided by the constitution of India to its citizens. These rights are essential for the development of the personality of every individual. They are also needed to preserve human dignity.

Fundamental Rights

Fundamental rights are the basic human rights enshrined in the Constitution of India which are guaranteed to all citizens. They are applied without discrimination on the basis of race, religion, gender, etc. Significantly, fundamental rights are enforceable by the courts, subject to certain conditions. Fundamental rights are adopted from the bill of rights of United State.

In this section, we list the fundamental rights of India and briefly describe each of them. It is given in part III of Indian Constitution from Art. 12-35 and 226

1. Right to Equality (Articles 14 – 18)

The right to equality is one of the important fundamental rights of the Indian Constitution

that guarantees equal rights for everyone, irrespective of religion, gender, caste, race or place of birth. It ensures equal employment opportunities in the government and insures against discrimination by the State in matters of employment on the basis of caste, religion, etc. This right also includes the abolition of titles as well as untouchability.

2. Right to Freedom (Articles 19 – 22)

Freedom is one of the most important ideals cherished by any democratic society. The Indian Constitution guarantees freedom to citizens. The freedom right includes many rights such as:

- Freedom of speech
- Freedom of expression
- Freedom of assembly without arms
- Freedom of association
- Freedom to practise any profession
- Freedom to reside in any part of the country
- Read more on the Right to Freedom in the linked article.

Some of these rights are subject to certain conditions of state security, public morality and decency and friendly relations with foreign countries. This means that the State has the right to impose reasonable restrictions on them.

3. Right against Exploitation (Articles 23 – 24)

This right implies the prohibition of traffic in human beings, begar, and other forms of forced labour. It also implies the prohibition of employment of children in factories, etc. The Constitution prohibits the employment of children under 14 years in hazardous conditions.

4. Right to Freedom of Religion (Articles 25 – 28)

This indicates the secular nature of Indian polity. There is equal respect given to all religions. There is freedom of conscience, profession, practice and propagation of religion. The State has no official religion. Every person has the right to freely practice his or her faith, and establish and maintain religious and charitable institutions.

5. Cultural and Educational Rights (Articles 29 – 30)

These rights protect the rights of religious, cultural and linguistic minorities, by facilitating them to preserve their heritage and culture. Educational rights are for ensuring education for everyone without any discrimination.

6. Right to Constitutional Remedies (32 – 35)

The Constitution guarantees remedies if citizens' fundamental rights are violated. The government cannot infringe upon or curb anyone's rights. When these rights are violated, the aggrieved party can approach the courts. Citizens can even go directly to the Supreme Court which can issue writs for enforcing fundamental rights.

Features of Fundamental Rights

Fundamental rights are different from ordinary legal rights in the manner in which they are enforced. If a legal right is violated, the aggrieved person cannot directly approach the SC bypassing the lower courts. He or she should first approach the lower courts.

Some of the fundamental rights are available to all citizens while the rest are for all persons (citizens and foreigners).

Fundamental rights are not absolute rights. They have reasonable restriction, which means they are subject to the conditions of state security, public morality and decency and friendly relations with foreign countries.

They are justiciable, implying they are enforceable by courts. People can approach the SC directly in case of violation of fundamental rights.

Fundamental rights can be amended by the Parliament by a constitutional amendment but only if the amendment does not alter the basic structure of the Constitution.

The Fundamental Rights of the Indian Constitution can be suspended during a national emergency. But, the rights guaranteed under Articles 20 and 21 cannot be suspended.

The application of fundamental rights can be restricted in an area that has been placed under martial law or military rule.

Fundamental Rights are available only to Citizens of India except art. 15. Fundamental rights are very important because they are like the backbone of the country. They are essential for safeguarding the people's interests.

According to Article 13, all laws that are violative, of fundamental rights shall be void. Here, there is an express provision for judicial review. The SC and the High Courts can declare any law unconstitutional on the grounds that it is violative of fundamental rights. Article 13 talks about not just laws, but also ordinances, orders, regulations, notifications, etc.

Fundamental Duties

It is the concept of fundamental duties that inculcates the essence of responsible citizenship and collective welfare. The Fundamental Duties, as enshrined in the Indian Constitution, is a beacon guiding citizens towards a harmonious and productive relationship with their country and fellow beings. Fundamental Duties are the moral responsibilities of the citizens of India to help promote a patriotic spirit and to uphold the unity of our country.

The fundamental duties were incorporated under Part IV-A of the Constitution by The Constitution (42nd Amendment) Act, 1976. It is adopted from the Constitution of than Soviet Russia.

Article 51(A) of the constitution describes 11 fundamental duties.

It states that it shall be the duty of every Indian citizen:

- a) to abide by the Constitution and to respect its ideals and institutions, the National Anthem and the National Flag;
- b) to cherish the noble ideals which inspired our national freedom struggle and follow them;
- c) to uphold and to protect the unity, sovereignty, and integrity of the Indian nation;
- d) to defend the country and render national service whenever called upon to do so;
- e) to promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities; to renounce practices derogatory to the dignity of women;
- f) to value and preserve the rich heritage of our composite culture;
- g) to protect and improve the natural environment including forests, lakes, rivers and

- wildlife, and to have compassion for living creatures;
- h) to develop the scientific temper, humanism and the spirit of inquiry and reform;
 - i) to safeguard public property and to abjure violence;
 - j) to strive towards excellence in all spheres of individual as well as collective activity so that the nation constantly rises to higher levels of endeavour and achievement;
 - k) who is a parent or guardian to provide opportunities for education to his child or, as the case may be, ward between the age of six and fourteen years.

OF U.S.

AMERICAN DECLARATION OF THE RIGHTS AND DUTIES OF MAN

It was adopted by the Ninth International Conference of American States, Bogotá, Colombia, in 1948. One of the oldest declaration on rights of citizens, and gone from least amendments i.e. 27 amendments. It was devised with principal aim the protection of the essential rights of man and the creation of circumstances that will permit him to achieve spiritual and material progress and attain happiness. It is being given in declaration of the rights and duties.

Preamble

All men are born free and equal, in dignity and in rights, and, being endowed by nature with reason and conscience, they should conduct themselves as brothers one to another.

The fulfillment of duty by each individual is a prerequisite to the rights of all. Rights and duties are interrelated in every social and political activity of man. While rights exalt individual liberty, duties express the dignity of that liberty.

Duties of a juridical nature presuppose others of a moral nature which support them in principle and constitute their basis.

Inasmuch as spiritual development is the supreme end of human existence and the highest expression thereof, it is the duty of man to serve that end with all his strength and resources. Since culture is the highest social and historical expression of that spiritual development, it is the duty of man to preserve, practice and foster culture by every means within his power.

And, since moral conduct constitutes the noblest flowering of culture, it is the duty of every man always to hold it in high respect.

Rights:

Article I. Every human being has the right to life, liberty and the security of his person.

Article II. All persons are equal before the law and have the rights and duties established in this Declaration, without distinction as to race, sex, language, creed or any other factor.

Article III. Every person has the right freely to profess a religious faith, and to manifest and practice it both in public and in private.

Article IV. Every person has the right to freedom of investigation, of opinion, and of the expression and dissemination of ideas, by any medium whatsoever.

Article V. Every person has the right to the protection of the law against abusive attacks upon his honor, his reputation, and his private and family life.

Right to life, liberty and personal security; Right to equality before law; Right to religious freedom and worship.; Right to freedom of investigation, opinion, expression and dissemination; Right to protection of honor, personal reputation, and private and family life.

Article VI. Every person has the right to establish a family, the basic element of society, and to receive protection therefore.

Article VII. All women, during pregnancy and the nursing period, and all children have the right to special protection, care and aid.

Article VIII. Every person has the right to fix his residence within the territory of the state of which he is a national, to move about freely within such territory, and not to leave it except by his own will.

Article IX. Every person has the right to the inviolability of his home.

Article X. Every person has the right to the inviolability and transmission of his correspondence.

Article XI. Every person has the right to the preservation of his health through sanitary and social measures relating to food, clothing, housing and medical care, to the extent permitted by public and community resources.

Right to a family and to protection thereof; Right to protection for mothers and children; Right to residence and movement; Right to inviolability of the home; Right to the inviolability and transmission of correspondence; Right to the preservation of health and to well- being.

Article XII. Every person has the right to an education, which should be based on the principles of liberty, morality and human solidarity.

Likewise every person has the right to an education that will prepare him to attain a decent life, to raise his standard of living, and to be a useful member of society.

The right to an education includes the right to equality of opportunity in every case, in

accordance with natural talents, merit and the desire to utilize the resources that the state or the community is in a position to provide.

Every person has the right to receive, free, at least a primary education.

Article XIII. Every person has the right to take part in the cultural life of the community, to enjoy the arts, and to participate in the benefits that result from intellectual progress, especially scientific discoveries.

He likewise has the right to the protection of his moral and material interests as regards his inventions or any literary, scientific or artistic works of which he is the author.

Article XIV. Every person has the right to work, under proper conditions, and to follow his vocation freely, insofar as existing conditions of employment permit.

Right to education; Right to the benefits of culture; Right remuneration.,

Every person who works has the right to receive such remuneration as will, in proportion to his capacity and skill, assure him a standard of living suitable for himself and for his family.

Article XV. Every person has the right to leisure time, to wholesome recreation, and to the opportunity for advantageous use of his free time to his spiritual, cultural and physical benefit.

Article XVI. Every person has the right to social security which will protect him from the consequences of unemployment, old age, and any disabilities arising from causes beyond his control that make it physically or mentally impossible for him to earn a living.

Article XVII. Every person has the right to be recognized everywhere as a person having rights and obligations, and to enjoy the basic civil rights.

Article XVIII. Every person may resort to the courts to ensure respect for his legal rights. There should likewise be available to him a simple, brief procedure whereby the courts will protect him from acts of authority that, to his prejudice, violate any fundamental constitutional rights. Right to leisure time and to the use thereof; Right to social security; Right to recognition of juridical personality and civil rights; Right to a fair trial.

Article XIX. Every person has the right to the nationality to which he is entitled by law and to change it, if he so wishes, for the nationality of any other country that is willing to grant it to him.

Article XX. Every person having legal capacity is entitled to participate in the government of his country, directly or through his representatives, and to take part in popular elections, which shall be by secret ballot, and shall be honest, periodic and free.

Article XXI. Every person has the right to assemble peaceably with others in a formal public meeting or an informal gathering, in connection with matters of common interest of any nature.

Article XXII. Every person has the right to associate with others to promote, exercise and

protect his legitimate interests of a political, economic, religious, social, cultural, professional, labor union or other nature.

Article XXIII. Every person has a right to own such private property as meets the essential needs of decent living and helps to maintain the dignity of the individual and of the home.

Article XXIV. Every person has the right to submit respectful petitions to any competent authority, for reasons of either general or private interest and the right to obtain a prompt decision thereon.

Right to nationality; Right to vote and to participate in government; Right of assembly; Right of association; Right to property; Right of petition.

Article XXV. No person may be deprived of his liberty except in the cases and according to the procedures established by pre-existing law.

No person may be deprived of liberty for nonfulfillment of obligations of a purely civil character.

Every individual who has been deprived of his liberty has the right to have the legality of his detention ascertained without delay by a court, and the right to be tried without undue delay or, otherwise, to be released. He also has the right to humane treatment during the time he is in custody.

Article XXVI. Every accused person is presumed to be innocent until proved guilty.

Every person accused of an offense has the right to be given an impartial and public hearing, and to be tried by courts previously established in accordance with pre-existing laws, and not to receive cruel, infamous or unusual punishment.

Article XXVII. Every person has the right, in case of pursuit not resulting from ordinary crimes, to seek and receive asylum in foreign territory, in accordance with the laws of each country and with international agreements.

Article XXVIII. The rights of man are limited by the rights of others, by the security of all, and by the just demands of the general welfare and the advancement of democracy.

Right of protection from arbitrary arrest. Right to due process of law; Right of asylum.

CHAPTER TWO Duties

Article XXIX. It is the duty of the individual so to conduct himself in relation to others that each and every one may fully form and develop his personality.

Article XXX. It is the duty of every person to aid, support, educate and protect his minor children, and it is the duty of children to honor their parents always and to aid, support and

protect them when they need it.

Article XXXI. It is the duty of every person to acquire at least an elementary education.

Article XXXII. It is the duty of every person to vote in the popular elections of the country of which he is a national, when he is legally capable of doing so.

Article XXXIII. It is the duty of every person to obey the law and other legitimate commands of the authorities of his country and those of the country in which he may be.

Article XXXIV. It is the duty of every able-bodied person to render whatever civil and military service his country may require for its defense and preservation, and, in case of public disaster, to render such services as may be in his power.

It is likewise his duty to hold any public office to which he may be elected by popular vote in the state of which he is a national.

Duties to society; Duties toward children and parents; Duty to receive instruction; Duty to vote; Duty to obey the law; Duty to serve the community and the nation.

Article XXXV. It is the duty of every person to cooperate with the state and the community with respect to social security and welfare, in accordance with his ability and with existing circumstances.

Article XXXVI. It is the duty of every person to pay the taxes established by law for the support of public services.

Article XXXVII. It is the duty of every person to work, as far as his capacity and possibilities permit, in order to obtain the means of livelihood or to benefit his community.

Article XXXVIII. It is the duty of every person to refrain from taking part in political activities that, according to law, are reserved exclusively to the citizens of the state in which he is an alien.

Duties with respect to social security and welfare; Duty to pay taxes; Duty to work; Duty to refrain from political activities.¹

OF SOUTH AFRICA

South Africa Rights and duties are the latest made as it is approved and executed since 1997. And again the unique part of the South African constitution rights and duties are inspired from American declaration of Rights and duties. South African constitution itself was design as part of freedom from racial war, and known as post-apartheid. South African Constitution comes very near to Indian constitution from two angles 1) from its freedom struggle and 2) its

¹ <https://www.oas.org>

inspiration is same i.e. American declaration of 1948.

It's Preamble only state following things:

- heal the divisions of the past and establish a society based on democratic values, social justice and fundamental human rights
- improve the quality of life of all citizens and free the potential of each person
- lay the foundations for a democratic and open society in which government is based on the will of the people, and in which every citizen is equally protected by law
- build a united and democratic South Africa that is able to take its rightful place as a sovereign state in the family of nations.

Rights

1. This Bill of Rights is a cornerstone of democracy in South Africa. It enshrines the rights of all people in our country and affirms the democratic values of human dignity, equality and freedom.
2. The state must respect, protect, promote and fulfil the rights in the Bill of Rights.
3. The rights in the Bill of Rights are subject to the limitations contained or referred to in section 36, or elsewhere in the Bill.

Equality

1. Everyone is equal before the law and has the right to equal protection and benefit of the law.
2. 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.
3. The state may not 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
4. No person may unfairly discriminate directly or indirectly against anyone on one or more grounds in terms of subsection (3). National legislation must be enacted to prevent or prohibit unfair discrimination.
5. Discrimination on one or more of the grounds listed in subsection (3) is unfair unless

it is established that the discrimination is fair.

Human dignity

Everyone has inherent dignity and the right to have their dignity respected and protected.

Life

Everyone has the right to life.

Freedom and security of the person

1. Everyone has the right to freedom and security of the person, which includes the right -
 - a. not to be deprived of freedom arbitrarily or without just cause;
 - b. not to be detained without trial;
 - c. to be free from all forms of violence from either public or private sources;
 - d. not to be tortured in any way; and
 - e. not to be treated or punished in a cruel, inhuman or degrading way.

2. Everyone has the right to bodily and psychological integrity, which includes the right -
 - a. to make decisions concerning reproduction;
 - b. to security in and control over their body; and
 - c. not to be subjected to medical or scientific experiments without their informed consent.

Slavery, servitude and forced labour

No one may be subjected to slavery, servitude or forced labour

Privacy

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

- a. their person or home searched;
- b. their property searched;
- c. their possessions seized; or
- d. the privacy of their communications infringed.

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 -
 - a. those observances follow rules made by the appropriate public authorities;
 - b. they are conducted on an equitable basis; and
 - c. attendance at them is free and voluntary.
3. a. This section does not prevent legislation recognising -
 - i. marriages concluded under any tradition, or a system of religious, personal or family law; or
 - ii. systems of personal and family law under any tradition, or adhered to by persons professing a particular religion.b. Recognition in terms of paragraph (a) must be consistent with this section and the other provisions of the Constitution.

Freedom of expression

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

Assembly, demonstration, picket and petition

Everyone has the right, peacefully and unarmed, to assemble, to demonstrate, to picket and to present petitions.

Freedom of association

Everyone has the right to freedom of association.

Political rights

1. Every citizen is free to make political choices, which includes the right
 - a. to form a political party;
 - b. to participate in the activities of, or recruit members for, a political party; and
 - c. to campaign for a political party or cause.
2. Every citizen has the right to free, fair and regular elections for any legislative body established in terms of the Constitution.
3. Every adult citizen has the right -
 - a. to vote in elections for any legislative body established in terms of the Constitution, and to do so in secret; and
 - b. to stand for public office and, if elected, to hold office.

Citizenship

No citizen may be deprived of citizenship.

Freedom of movement and residence

1. Everyone has the right to freedom of movement.
2. Everyone has the right to leave the Republic.
3. Every citizen has the right to enter, to remain in and to reside anywhere in, the Republic.
4. Every citizen has the right to a passport.

Freedom of trade, occupation and profession

Every citizen has the right to choose their trade, occupation or profession freely. The practice of a trade, occupation or profession may be regulated by law.

Labour relations

1. Everyone has the right to fair labour practices.
2. Every worker has the right -
 - a. to form and join a trade union;
 - b. to participate in the activities and programmes of a trade union; and
 - c. to strike.
3. Every employer has the right -
 - a. to form and join an employers' organisation; and
 - b. to participate in the activities and programmes of an employers' organisation.

4. Every trade union and every employers' organisation has the right -
 - a. to determine its own administration, programmes and activities;
 - b. to organise; and
 - c. to form and join a federation.
5. Every trade union, employers' organisation and employer has the right to engage in collective bargaining. National legislation may be enacted to regulate collective bargaining. To the extent that the legislation may limit a right in this Chapter, the limitation must comply with section 36(1).
6. National legislation may recognise union security arrangements contained in collective agreements. To the extent that the legislation may limit a right in this Chapter, the limitation must comply with section 36(1)

Environment

Everyone has the right -

- a. to an environment that is not harmful to their health or well-being; and
- b. to have the environment protected, for the benefit of present and future generations, through reasonable legislative and other measures that -
 - i. prevent pollution and ecological degradation;
 - ii. Promote conservation; and
 - iii. secure ecologically sustainable development and use of natural resources while promoting justifiable economic and social development.

Property

1. No one may be deprived of property except in terms of law of general application, and no law may permit arbitrary deprivation of property.
2. Property may be expropriated only in terms of law of general application -
 - a. for a public purpose or in the public interest; and
 - b. subject to compensation, the amount of which and the time and manner of payment of which have either been agreed to by those affected or decided or approved by a court.
3. The amount of the compensation and the time and manner of payment must be just and equitable, reflecting an equitable balance between the public interest and the interests of those affected, having regard to all relevant circumstances, including -
 - a. the current use of the property;

- b. the history of the acquisition and use of the property;
 - c. the market value of the property;
 - d. the extent of direct state investment and subsidy in the acquisition and beneficial capital improvement of the property; and
 - e. the purpose of the expropriation.
4. for the purposes of this section -
 - a. the public interest includes the nation's commitment to land reform, and to reforms to bring about equitable access to all South Africa's natural resources; and
 - b. property is not limited to land.
5. The state must take reasonable legislative and other measures, within its available resources, to foster conditions which enable citizens to gain access to land on an equitable basis.
6. A person or community whose tenure of land is legally insecure as a result of past racially discriminatory laws or practices is entitled, to the extent provided by an Act of Parliament, either to tenure which is legally secure or to comparable redress.
7. A person or community dispossessed of property after 19 June 1913 as a result of past racially discriminatory laws or practices is entitled, to the extent provided by an Act of Parliament, either to restitution of that property or to equitable redress.
8. No provision of this section may impede the state from taking legislative and other measures to achieve land, water and related reform, in order to redress the results of past racial discrimination, provided that any departure from the provisions of this section is in accordance with the provisions of section 36(1).
9. Parliament must enact the legislation referred to in subsection (6).

Housing

1. Everyone has the right to have access to adequate housing.
2. The state must take reasonable legislative and other measures, within its available resources, to achieve the progressive realisation of this right.
3. No one may be evicted from their home, or have their home demolished, without an order of court made after considering all the relevant circumstances. No legislation may permit arbitrary evictions.

Health care, food, water and social security

1. Everyone has the right to have access to -

- a. health care services, including reproductive health care;
 - b. sufficient food and water; and
 - c. social security, including, if they are unable to support themselves and their dependants, appropriate social assistance.
2. The state must take reasonable legislative and other measures, within its available resources, to achieve the progressive realisation of each of these rights.
 3. No one may be refused emergency medical treatment.

Children

1. Every child has the right -
 - a. to a name and a nationality from birth;
 - b. to family care or parental care, or to appropriate alternative care when removed from the family environment;
 - c. to basic nutrition, shelter, basic health care services and social services;
 - d. to be protected from maltreatment, neglect, abuse or degradation;
 - e. to be protected from exploitative labour practices;
 - f. not to be required or permitted to perform work or provide services that -
 - i. are inappropriate for a person of that child's age; or
 - ii. place at risk the child's well-being, education, physical or mental health or spiritual, moral or social development;
 - g. not to be detained except as a measure of last resort, in which case, in addition to the rights a child enjoys under sections 12 and 35, the child may be detained only for the shortest appropriate period of time, and has the right to be -
 - i. kept separately from detained persons over the age of 18 years; and
 - ii. treated in a manner, and kept in conditions, that take account of the child's age;
 - h. to have a legal practitioner assigned to the child by the state, and at state expense, in civil proceedings affecting the child, if substantial injustice would otherwise result; and
 - i. not to be used directly in armed conflict, and to be protected in times of armed conflict.
2. A child's best interests are of paramount importance in every matter concerning the child.
3. In this section "child" means a person under the age of 18 years.

Education

1. Everyone has the right -
 - a. to a basic education, including adult basic education; and
 - b. to further education, which the state, through reasonable measures, must make progressively available and accessible.
2. Everyone has the right to receive education in the official language or languages of their choice in public educational institutions where that education is reasonably practicable. In order to ensure the effective access to, and implementation of, this right, the state must consider all reasonable educational alternatives, including single medium institutions, taking into account -
 - a. equity;
 - b. practicability; and
 - c. the need to redress the results of past racially discriminatory laws and practices.
3. Everyone has the right to establish and maintain, at their own expense, independent educational institutions that -
 - a. do not discriminate on the basis of race;
 - b. are registered with the state; and
 - c. maintain standards that are not inferior to standards at comparable public educational institutions.
4. Subsection (3) does not preclude state subsidies for independent educational institutions.

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.

Cultural, religious and linguistic communities

1. Persons belonging to a cultural, religious or linguistic community may not be denied the right, with other members of that community -
 - a. to enjoy their culture, practise their religion and use their language; and
 - b. to form, join and maintain cultural, religious and linguistic associations and other organs of civil society.
2. The rights in subsection (1) may not be exercised in a manner inconsistent with any

provision of the Bill of Rights.

Access to information

1. Everyone has the right of access to -
 - a. any information held by the state; and
 - b. any information that is held by another person and that is required for the exercise or protection of any rights.
2. 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.

Just administrative action

1. Everyone has the right to administrative action that is lawful, reasonable and procedurally fair.
2. Everyone whose rights have been adversely affected by administrative action has the right to be given written reasons.
3. National legislation must be enacted to give effect to these rights, and must -
 - a. provide for the review of administrative action by a court or, where appropriate, an independent and impartial tribunal;
 - b. impose a duty on the state to give effect to the rights in subsections (1) and (2); and
 - c. promote an efficient administration.

Access to courts

Everyone has the right to have any dispute that can be resolved by the application of law decided in a fair public hearing before a court or, where appropriate, another independent and impartial tribunal or forum.

Arrested, detained and accused persons

1. Everyone who is arrested for allegedly committing an offence has the right -
 - a. to remain silent;
 - b. to be informed promptly -
 - i. of the right to remain silent; and
 - ii. of the consequences of not remaining silent;
 - c. not to be compelled to make any confession or admission that could be used in

- evidence against that person;
- d. to be brought before a court as soon as reasonably possible, but not later than -
 - i. 48 hours after the arrest; or
 - ii. the end of the first court day after the expiry of the 48 hours, if the 48 hours expire outside ordinary court hours or on a day which is not an ordinary court day;
 - e. at the first court appearance after being arrested, to be charged or to be informed of the reason for the detention to continue, or to be released; and
 - f. to be released from detention if the interests of justice permit, subject to reasonable conditions.
2. Everyone who is detained, including every sentenced prisoner, has the right -
- a. to be informed promptly of the reason for being detained;
 - b. to choose, and to consult with, a legal practitioner, and to be informed of this right promptly;
 - c. to have a legal practitioner assigned to the detained person by the state and at state expense, if substantial injustice would otherwise result, and to be informed of this right promptly;
 - d. to challenge the lawfulness of the detention in person before a court and, if the detention is unlawful, to be released;
 - e. to conditions of detention that are consistent with human dignity, including at least exercise and the provision, at state expense, of adequate accommodation, nutrition, reading material and medical treatment; and
 - f. to communicate with, and be visited by, that person's -
 - i. spouse or partner;
 - iii. next of kin;
 - iv. chosen religious counsellor; and
 - v. chosen medical practitioner.
3. Every accused person has a right to a fair trial, which includes the right -
- a. to be informed of the charge with sufficient detail to answer it;
 - b. to have adequate time and facilities to prepare a defence;
 - c. to a public trial before an ordinary court;
 - d. to have their trial begin and conclude without unreasonable delay;

- e. to be present when being tried;
 - f. to choose, and be represented by, a legal practitioner, and to be informed of this right promptly;
 - g. to have a legal practitioner assigned to the accused person by the state and at state expense, if substantial injustice would otherwise result, and to be informed of this right promptly;
 - h. to be presumed innocent, to remain silent, and not to testify during the proceedings;
 - i. to adduce and challenge evidence;
 - j. not to be compelled to give self-incriminating evidence;
 - k. to be tried in a language that the accused person understands or, if that is not practicable, to have the proceedings interpreted in that language;
 - l. not to be convicted for an act or omission that was not an offence under either national or international law at the time it was committed or omitted;
 - m. not to be tried for an offence in respect of an act or omission for which that person has previously been either acquitted or convicted;
 - n. to the benefit of the least severe of the prescribed punishments if the prescribed punishment for the offence has been changed between the time that the offence was committed and the time of sentencing; and o. of appeal to, or review by, a higher court.
4. Whenever this section requires information to be given to a person, that information must be given in a language that the person understands.
 5. Evidence obtained in a manner that violates any right in the Bill of Rights must be excluded if the admission of that evidence would render the trial unfair or otherwise be detrimental to the administration of justice.

Limitation of rights

1. 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 -
 - a. the nature of the right;
 - b. the importance of the purpose of the limitation;
 - c. the nature and extent of the limitation;

- d. the relation between the limitation and its purpose; and
 - e. less restrictive means to achieve the purpose.
2. Except as provided in subsection (1) or in any other provision of the Constitution, no law may limit any right entrenched in the Bill of Rights.

States of emergency

1. A state of emergency may be declared only in terms of an Act of Parliament, and only when-
 - a. the life of the nation is threatened by war, invasion, general insurrection, disorder, natural disaster or other public emergency; and
 - b. the declaration is necessary to restore peace and order.
2. A declaration of a state of emergency, and any legislation enacted or other action taken in consequence of that declaration, may be effective only -
 - a. prospectively; and
 - b. for no more than 21 days from the date of the declaration, unless the National Assembly resolves to extend the declaration. The Assembly may extend a declaration of a state of emergency for no more than three months at a time. The first extension of the state of emergency must be by a resolution adopted with a supporting vote of a majority of the members of the Assembly. Any subsequent extension must be by a resolution adopted with a supporting vote of at least 60 per cent of the members of the Assembly. A resolution in terms of this paragraph may be adopted only following a public debate in the Assembly.
3. Any competent court may decide on the validity of -
 - a. a declaration of a state of emergency;
 - b. any extension of a declaration of a state of emergency; or
 - c. any legislation enacted, or other action taken, in consequence of a declaration of a state of emergency.
4. Any legislation enacted in consequence of a declaration of a state of emergency may derogate from the Bill of Rights only to the extent that -
 - a. the derogation is strictly required by the emergency; and
 - b. the legislation -
 - i. is consistent with the Republic's obligations under international law applicable to states of emergency;
 - ii. conforms to subsection (5); and

- iii. is published in the national Government Gazette as soon as reasonably possible after being enacted.
5. No Act of Parliament that authorises a declaration of a state of emergency, and no legislation enacted or other action taken in consequence of a declaration, may permit or authorise -
- a. indemnifying the state, or any person, in respect of any unlawful act;
 - b. any derogation from this section; or
 - c. any derogation from a section mentioned in column 1 of the Table of Non-Derogable Rights, to the extent indicated opposite that section in column 3 of the Table.
1. Human Dignity Entirely
 2. Life Entirely
 3. Freedom and Security of the person With respect to subsections (1)(d) and (e) and (2)(c).
 4. Slavery, servitude and forced labour With respect to slavery and servitude
Children With respect to:
 - subsection (1)(d) and (e);
 - the rights in subparagraphs (i) and (ii) of subsection (1)(g); and
 - subsection 1(i) in respect of children of 15 years and youngerArrested, detained and accused persons With respect to:
 - subsections (1)(a), (b) and (c) and (2)(d);
 - the rights in paragraphs (a) to (o) of subsection (3), excluding paragraph (d)
 - subsection (4); and
 - subsection (5) with respect to the exclusion of evidence if the admission of that evidence would render the trial unfair.
6. Whenever anyone is detained without trial in consequence of a derogation of rights resulting from a declaration of a state of emergency, the following conditions must be observed:
- a. An adult family member or friend of the detainee must be contacted as soon as reasonably possible, and informed that the person has been detained.
 - b. A notice must be published in the national Government Gazette within five days of the person being detained, stating the detainee's name and place of detention and referring to the emergency measure in terms of which that person has been detained.

- c. The detainee must be allowed to choose, and be visited at any reasonable time by, a medical practitioner.
 - d. The detainee must be allowed to choose, and be visited at any reasonable time by, a legal representative.
 - e. A court must review the detention as soon as reasonably possible, but no later than 10 days after the date the person was detained, and the court must release the detainee unless it is necessary to continue the detention to restore peace and order.
 - f. A detainee who is not released in terms of a review under paragraph (e), or who is not released in terms of a review under this paragraph, may apply to a court for a further review of the detention at any time after 10 days have passed since the previous review, and the court must release the detainee unless it is still necessary to continue the detention to restore peace and order.
 - g. The detainee must be allowed to appear in person before any court considering the detention, to be represented by a legal practitioner at those hearings, and to make representations against continued detention.
 - h. The state must present written reasons to the court to justify the continued detention of the detainee, and must give a copy of those reasons to the detainee at least two days before the court reviews the detention.
7. If a court releases a detainee, that person may not be detained again on the same grounds unless the state first shows a court good cause for re-detaining that person.
 8. Subsections (6) and (7) do not apply to persons who are not South African citizens and who are detained in consequence of an international armed conflict. Instead, the state must comply with the standards binding on the Republic under international humanitarian law in respect of the detention of such persons.

Enforcement of rights

Anyone listed in this section has the right to approach a competent court, alleging that a right in the Bill of Rights has been infringed or threatened, and the court may grant appropriate relief, including a declaration of rights. The persons who may approach a court are -

- a. anyone acting in their own interest;
- b. anyone acting on behalf of another person who cannot act in their own name;
- c. anyone acting as a member of, or in the interest of, a group or class of persons;
- d. anyone acting in the public interest; and
- e. an association acting in the interest of its members.

Interpretation of Bill of Rights

1. When interpreting the Bill of Rights, a court, tribunal or forum -
 - a. must promote the values that underlie an open and democratic society based on human dignity, equality and freedom;
 - b. must consider international law; and
 - c. may consider foreign law.
2. When interpreting any legislation, and when developing the common law or customary law, every court, tribunal or forum must promote the spirit, purport and objects of the Bill of Rights.
3. The Bill of Rights does not deny the existence of any other rights or freedoms that are recognised or conferred by common law, customary law or legislation, to the extent that they are consistent with the Bill.²

Responsibilities

In South African Constitution duties word is replaced by responsibilities, and it is given in following format:

Bill of Rights

The Bill of Rights is a cornerstone of South African democracy and enshrines the rights of all people in the country. It affirms democratic values such as human dignity, equality, and freedom. The state must respect, protect, promote, and fulfill the rights in the Bill of Rights.

Section 12

This section guarantees the right to freedom and security of the person, including the right to not be treated in a cruel, inhumane, and degrading way.

Section 17

This section states that everyone has the right to peacefully and unarmed assemble, demonstrate, picket, and present petitions.

Electoral Commission

The Constitution establishes an independent Electoral Commission that is publicly funded and

² www.gov.za

accountable to Parliament, but independent of the government. The Commission must promote and safeguard democracy in South Africa, and must be impartial in exercising its powers.

Parliament

The Constitution mandates Parliament to establish an independent regulatory institution to regulate broadcasting in the public interest. This institution must ensure fairness and a diversity of views that broadly represent South African society.

- It also include under bill of responsibilities following responsibilities:
- Treating everyone equally and fairly
- Not discriminating unfairly against anyone
- Treating people with reverence, respect, and dignity
- Protecting and defending the lives of others
- Honoring and respecting parents, and helping them
- Attending school regularly, learning, and working hard

5. Comparative Views

Comparison between US and Indian Constitution on Rights

- Indian Fundamental rights inspired by Bill of fundamental rights of US. UDHR is considered to be global document.
- While India has incorporated 'Fundamental Rights' in its Constitution, The US has incorporated 'The Bill of Rights in its Constitution.
- US Constitution has provided additional Human Rights, which have not been provided explicitly in the Indian Constitution.
- Freedom of the Press constitutes an important part of the US Constitution explicitly provided under the First Amendment, whereas in Indian Constitution it is implicitly placed under Freedom of speech and expression-Art. 19[1][a].
- Under the 2nd Amendment in the US Constitution, The Right to carry weapons is provided as a basic right, whereas in India, arms or weapons are strictly regulated and no such right to the citizens has been provided.
- In 1978 Right to Property was abolished as a Fundamental Right in India, but it is still a Fundamental Right guaranteed by the US Constitution.
- In the US, the Right to life and personal liberty cannot be deprived without following Due Process of Law, whereas, in India, the Right to life and personal liberty can only

be taken away by Procedure established by law especially under the provision of emergency.

- Petitioning the Supreme Court is a Fundamental Right in India, whereas, in the US, the government is petitioned. (Here, the term Government not only includes the executive but also the higher judiciary).
- The fifth Amendment in US Constitution provides that an accused will be tried, for a criminal offense with the system of a 'Grand Jury' (common people selected randomly representing the community). Whereas in India, the accused are tried by the Judges only.
- According to the 9th Amendment in the US Constitution, a right cannot be denied just because it is absent from the Constitution or Statutes (this is in accordance with Locke's theory), Whereas in India, a right is recognized and enforced only if it is codified into the statute books (this is in accordance with the theories propounded by Austin and Bentham).
- UDHR considers privacy rights which are separately considered in India
- UDHR also states on security of providing food, water and basic need to the citizen in the constitution rights while Indian constitution has given art. 21 with wide spectrum of utility but there is no specific mentions.
- UDHR has mentioned special rights of political participation which is implied taken by Indian constitution.

Comparison between US and Indian Constitution on Duties.

- UDHR was adopted in 1748 and it was focusing on the duties as development and defense of the country, while Indian fundamental duties are moral obligations that need to be imbibed in the mind of the citizen.
- UDHR inclines more towards the education that every citizen needs to gain.
- UDHR has given the special provision for the military training to be taken by every individual and they have to maintain the tenure and post achieved by them by government,
- India fundamental duties have worked on maintaining the respect of the freedom struggle and othe ailments India has gone through
- Indian constitution stress on the duties to protect the environment, flora, fauna etc. while UDHR covers it in rights but never mentions in duties.

- Fundamental duties are supposed to be implied by the state in their law and enforce but cannot be enforce centrally and UDHR states it must be imposed centrally.

Comparison Between South Africa and Indian Constitution on Rights.

- Both the constitution rights and duties are inspired by the UDHR of US given in 1748. But South African constitution can be youngest of all as executed in 1997.
- The bill of Rights in South Africa is not only obligation but also has to be honoured and it applies to all three tier system and citizen both, Indian rights are applicable to citizen and it implies all the political party and its system members.
- South African can has taken apartheid very seriously in their constitution and their equality, right to life and human dignity right all are moving to eliminate the discrimination which they have badly faced. While Fundamental rights do mention it in right to (not) discriminate and even go step further and brings in rights for minorities and other.
- Like US South Africa has added the political rights like making party and participation in governance as fundamental rights, which is not being part of the Indian constitution
- Like US environment protection is also part of the rights, while India has shifted it as fundamental duties, though article 21, include it in its wide spectrum.
- Right to property is included in Fundamental rights of South Africa, which is excluded from rights in India
- South Africa has moved from and added the right of housing and even extended to food, water, health care and social security as part of the basic rights which Indian constitution has neglected.
- Citizenship is mentioned as fundamental right of child in South Africa, India mentions the same but not as part of fundamental rights. Even both the constitution goes further for right to education and freedom of exploitation in their own way indeed.
- It is very unique to see the right of ‘just administrative action’ is part of the South African Constitution but not seen in any other countries constitution

Comparison between South African and Indian Constitution on Duties.

- The basic difference between the South African and India constitution related to duties is India calls it fundamental duties, while South African are leaning to the term of responsibilities.

- Indian Fundamental duties are moral and ethical obligation of the citizen, while South African responsibilities are divided into two parts of understanding one towards the governance and another toward the individual duties.
- South African responsibilities primary ask is to respect, protect and promote the rights in the bills of the rights, Indian duties are not speaking anything of such rights.
- It is the responsibility to set election electoral and they need to be transparent in the financial accountancy, this is the unique aspect mention again only in the South African responsibilities.
- South African responsibility is also to make the governance for fair and just regulatory system came up with diverse view. This word diverse view may bent toward the different parties with different views wherein best could be elected.
- South Africa moves toward special bill of responsibility which is more of show casing their hardship of discrimination and asking from rights to responsibility to maintain the state of responsibilities, In India we have limited such things till rights only and not in duties.
- When India speaks of the respecting the freedom fighters and flags and such other things, South Africa ask to take responsibilities and respect parents and helping them.
- A unique responsibility in South Africa is to attend the school regulary, learning and working hard.

6. Impact on the citizens

Impact of the rights and duties in the comparison can be mentioned in the two different ways,

1. Specific country and,
2. In General

Specific Country

5.1.1 Of India

The balance between rights and duties aims to create a responsible and aware citizenry that respects diversity and contributes to national progress. Citizens are empowered by their rights but also reminded of their responsibilities toward the nation and society.

5.1.2 Of South Africa

The strong emphasis on rights, especially in a post-apartheid context, empowers South African

citizens to claim their rights and seek justice. The implicit duties promote social cohesion and the protection of rights within the community. The main cling of rights and duties is giving the citizen a discrimination free and liberal life.

5.1.3 Of United States

The strong emphasis on individual rights promotes personal freedom and autonomy. However, the expectation of civic duties ensures that citizens participate in and support the functioning of the government and society, maintaining the balance between liberty and order.

Comparative Impact

- **Empowerment vs. Responsibility:** All three constitutions empower citizens through a robust framework of rights. However, while India's and the U.S.'s constitutions clearly outline duties (explicit in India, implicit in the U.S.), South Africa focuses more on the protection and promotion of rights, with duties being implied through social and legal responsibilities.
- **Social Cohesion:** The duties in the Indian Constitution foster a sense of collective responsibility, while in the U.S., civic duties are expected but less formalized. South Africa's approach emphasizes rights as a tool for healing and social justice but implicitly encourages social responsibility.
- **Democratic Participation:** In all three countries, the rights and duties of citizens play a crucial role in democratic participation. Rights ensure that citizens can freely engage in democratic processes, while duties encourage active and responsible participation in governance and society.

Suggestion to be adopted by Indian Constitution in light of the comparison:

1. **Empowerment vs. Responsibility:** All three constitutions empower citizens through a robust framework of rights. However, while India's and the U.S.'s constitutions clearly outline duties (explicit in India, implicit in the U.S.), South Africa focuses more on the protection and promotion of rights, with duties being implied through social and legal responsibilities.
2. **Social Cohesion:** The duties in the Indian Constitution foster a sense of collective responsibility, while in the U.S., civic duties are expected but less formalized. South Africa's approach emphasizes rights as a tool for healing and social justice but implicitly encourages social responsibility.

3. Democratic Participation: In all three countries, the rights and duties of citizens play a crucial role in democratic participation. Rights ensure that citizens can freely engage in democratic processes, while duties encourage active and responsible participation in governance and society.
4. Social and well-being Securities: Like US and South Africa India too need to incorporate the social security, housing (not property), food, water and other basic facility as part of the fundamental rights:
5. Responsibility version: India must amend and add the version of the responsibility by giving the special obligation on citizen to protect, respect and support the old age, children and physical and mentally challenged people.
6. Responsibility of Justice: India must adopt the step ahead to 'just administrative' as responsibility of every citizen to see that justice is delivered and voice of the citizen must have value over the judiciary to prioritize the case to make 'just India'.

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