

**AN ANALYSIS OF THE IMPACT OF THE RIGHT TO  
EQUALITY ON THE SOUTH AFRICAN CUSTOMARY LAW  
AND LEGISLATION**

**By**

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## ABSTRACT

South Africa is a country in transition from a society based on inequality to one that is based on equality. The achievement of equality is one of the fundamental goals that South Africans have fashioned for themselves in the current Constitution<sup>1</sup> that has an entrenched Bill of Rights. The constitutional order is committed to the transformation of the entire South African society from a grossly unequal society to one in which there is equality between men and women and people of all races. Equality is embodied as a value and a fundamental human right in the Constitution.

The aim of the study is to establish as to what impact the Constitution has on customary law and legislation that conflict with the right to equality as enshrined in its Bill of Rights. In order to achieve the aim, primary data was collected from key informants and the available literature. Upon analysis of the data, the researcher concluded the study with a finding that the Constitution has an overriding effect on customary law and legislation that conflict with the right to equality in South Africa. This is because the Constitution is the supreme law in the country as a whole and any law that is repugnant to it is invalid.

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<sup>1</sup>The Constitution of the Republic of South Africa, 1996.