

Indoctrination in the Name of the Constitution: the Bill of Responsibilities

The new bill of responsibilities is a threat to our Constitutional Democracy. It purports to outline the responsibilities that flow from each of the rights in the Constitution. Instead, it seeks to amend the Constitution by stealth and indoctrinate the youth of this country with conservative values.

As a human rights lawyer, I do not object to the concept but rather its execution. After all, it follows logically from the fact that anyone has a fundamental right, that someone else – whether it be the state or another person – has an obligation to respect, protect or fulfil that right. Without specifying duties, rights create expectations that cannot be fulfilled. The concept of a duty is also particularly important in South African society which can benefit from a greater sense of civic responsibility and social cohesion.

The specification of these duties is, however, often difficult and, particularly so, when it comes to determining the obligations of individual persons rather than the state. Nevertheless, the only basis upon which a bill of responsibilities can be developed that reflects our national consensus is that it must track the rights that have been included in our Constitution.

Instead, what we see in the bill of responsibilities is an attempt by the National Religious Leaders Forum – which developed this document together with the Department of Education - to impose their own conservative vision of morality upon the children of this country.

Take the right to equality, for instance. The bill of responsibilities amends the carefully negotiated equality clause in our bill of rights by omitting many of the important and progressive grounds upon which discrimination is forbidden.

Unsurprisingly, religion moves from the 12th ground of prohibited discrimination in the constitution to the 3rd in the bill of responsibilities.

On the other hand, despite the fact that schools in South Africa are rife with homophobia, and lesbian/gay people are subject to severe intimidation, sexual orientation is omitted from the list of prohibited grounds. The inclusion of sexual orientation on this list was one of the features that rendered South Africa's constitution one of the most advanced in the world: why then was it omitted from the bill of responsibilities?

Other omissions include pregnancy and marital status: did the drafters think that prohibiting discrimination on these grounds would promote teenage pregnancy and destabilise the institution of marriage?

Many of the rights in the Bill of Rights also usually protect the freedom of individuals to determine the way in which they wish to live according to their own values. This in turn imposes a responsibility upon individuals to respect the decisions of others and their life

choices. The bill of responsibilities, however, illegitimately attempts to use the bill of rights to indicate to individuals what their choices should be.

Thus, the right to life does not merely require individuals to respect and protect the lives of other individuals, but it is said to impose a duty upon the individual to live a healthy life. Similarly, the right to family and parental care bizarrely is said to imply a duty to 'recognise that love means long-term commitment and the responsibility to establish strong and loving families'. The right has no such implications: it imposes no obligation upon single people, for instance, to establish any type of family at all, nor does it require that one adopt any particular view of what love means.

Perhaps one of the most disturbing elements of the document is its attempt to re-write the bill of rights so as to eliminate its ethic of social justice and instead to impose capitalist values upon our children. We're supposed to accept the responsibility to work hard: yet, children are taught nothing about the need to respect the labour rights of others.

Despite only a very weak property right existing in the South African constitution, the bill of responsibilities refers incorrectly to a right to *own* property.

Sadly, the socio-economic rights provisions in the Constitution – one of the most innovative features of our bill of rights - that establish bonds of solidarity and mutual concern, do not even feature on the bill of responsibilities. It thus has the effect of educating our children in a narrow, atomistic individualism rather than a spirit of togetherness and ubuntu.

The Department of Education should be ashamed that it has released a bill of responsibilities that is so fatally flawed. The wider public have not been consulted nor does it appear to have sought the advice of experts on human rights. A supposedly secular document is suffused with a religious morality that many of us do not share or wish to impose on others. The bill of responsibilities is a good idea that has gone wrong: it is time to return to the drawing board and develop a document that truly reflects the values of all South Africans.

Dr David Bilchitz is Senior Researcher at the South African Institute for Advanced Constitutional, Public, Human Rights and International Law. These views are expressed in his personal capacity.

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