

## THE PROTECTION OF FUNDAMENTAL RIGHTS IN THE NETHERLANDS AND SOUTH AFRICA COMPARED: CAN THE MANY DIFFERENCES BE JUSTIFIED?

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### Summary

This contribution considers the protection of fundamental rights in the Netherlands and South Africa. Both countries strive to be constitutional democracies that respect basic rights. But both countries go about this aim in very different ways. These different paths to constitutionalism are compared, as well as the reasons for these differences and whether it can be said that these differences are justifiable. This is done by comparing the character of the rights guaranteed in the Dutch and South African legal orders, the sources of these rights and the locus or centre of protection in both systems. The conclusion is reached that no single or perfect route to attaining the desired protection of fundamental rights exists, but that one should always enquire as to the state of individual freedom and the right to make free political choices in measuring the worth of a system's protection of rights.

**Key words:** South Africa, The Netherlands, comparative fundamental rights.

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