

THE SOUTH AFRICAN *COMPANIES ACT* AND THE REALISATION OF CORPORATE HUMAN RIGHTS RESPONSIBILITIES

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SUMMARY

The *Companies Act* 71 of 2008 (the *Companies Act*) was promulgated in April 2009 and came into effect on 1 April. The purpose of this Act is, among other things, to promote compliance with the Bill of Rights as provided for in the *Constitution of the Republic of South Africa, 1996* (the *Constitution*), in the application of company law. This gives recognition to the constitutional imperative to bring company law within the South African constitutional law framework. This article argues that by including the promotion of compliance with the Bill of Rights as provided for in the *Constitution* in the application of company law, the *Companies Act* effectively reinforces a duty for companies to ensure that they should always seek to prevent violations of human rights, particularly those human rights that are directly linked to their operations. This article looks at certain provisions in the *Companies Act* and argues that the inclusion of these provisions if interpreted in a certain manner will reconcile the values and practices of company law with the related human rights concerns. It argues that the inclusion of the Bill of Rights in the application of company law ensures that human rights concerns are also considered within the functioning of the company. The article then looks at the various provisions in the Act which have the potential to ensure that this position is achieved in the application of company law.

KEYWORDS: human rights; responsibilities; realisation; obligations; companies; *Constitution*.

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