

## THE OBLIGATION TO PROVIDE FREE BASIC EDUCATION IN SOUTH AFRICA: AN INTERNATIONAL LAW PERSPECTIVE

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### SUMMARY

In South Africa many learners are denied the right to basic education because of the levying of school fees and other educational charges, in spite of the international obligation imposed on government to provide free primary education. This article examines the exact nature and extent of this obligation by exploring the concept of "free" basic education. The applicable international instruments and their interpretation as well as the significance of the right to education as a central, facilitative right are examined in order to establish the content of the right to basic education and the legal obligations that ensue. Against this background, the implications of the South African Constitutional Court's approach to the realisation of socio-economic rights and the possibility of the establishment of a core minimum obligation are analysed. It is argued that learners in South Africa may come from different socio-economic backgrounds but as learners in the same public school domain and as equal bearers of their constitutional right to basic education all of them are entitled to the same type and quality of free basic education.

**KEYWORDS:** Right to education; free education; basic education; international obligations; core obligations

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