



unesco

Chair



UNIVERSITEIT VAN PRETORIA
UNIVERSITY OF PRETORIA
YUNIBESITHI YA PRETORIA

UNESCO CHAIR ON EDUCATION LAW IN AFRICA UNIVERSITY OF PRETORIA CALL FOR PAPERS FOR A SPECIAL FOCUS EDITION OF THE AFRICAN HUMAN RIGHTS LAW JOURNAL

Background to a special focus edition

There is broad acceptance that the right to basic education is a fundamental multiplier right. However, the implementation of the right to education is still not fully achieved in Sub-Saharan Africa. Over the last two decades, educational development has witnessed notable improvement in Africa, as the number of children accessing school at all levels has increased. Despite this notable gain, expansion is still insufficient. This is evidenced in a 2022 report released by UNESCO on out-of-school children, which indicates that an estimated 244 million children between the ages of 6 and 18 worldwide were not attending school. 98 million of these children reside in Sub-Saharan Africa. There have also been further setbacks due to the COVID-19 pandemic which set back the progress of many children at school, and caused many to disengage. Without urgent political will and investment in education, the situation will likely get worse as the region faces a rising demand for education due to an expanding school age population. This requires a scaling up of education by the public sector, and a further risk is the spread of low fee private schooling, which, while it may serve a purpose on a temporary basis, endangers the public system if it is unregulated or causes governments to cut back on planning, budgeting and spending on public education

While each country's education system may face unique problems, general issues that characterise most countries are the perennial challenges of the lack of resources, inadequate planning and budgeting, insufficient number of schools, charging of fees and hidden costs, inequality in access to education, dilapidated learning facilities, ill equipped teachers, and overcrowded classrooms. These challenges have continued despite the existence of legal framework (international, regional, and domestic) that imposes an obligation on government to provide access not just to education for all children within their jurisdiction, but quality education. The potentials of these legal instruments have not been fully explored to achieve the goal of ensuring access to quality education for every child. It is in this context the UNESCO Chair on

Education Law in Africa at the University of Pretoria, explores the legal solutions to some of these challenges, and aims to advance access to quality basic education for children in Sub-Saharan Africa.

Education law creates the normative framework for education- within international and regional human rights standards. All countries in Sub-Saharan Africa have ratified the UN Convention on the Rights of the Child, almost all have ratified the African Charter on the Rights and Welfare of the Child and many have ratified the International Covenant on Economic, Social and Cultural Rights. All of these instruments require states to ensure universal access to free and compulsory basic education. Some of the Constitutions of countries in the region make similar promises, and also commit to achieve greater access to basic education. This strong normative framework, together with national Constitutions provides space for the law and legal processes to be used to achieve gains in education. In particular, strategic litigation has shown promising results in a few countries. In South Africa the courts have upheld the principle that the right to basic education is immediately realisable, and in a series of cases has fleshed out some of the content of the right to include textbooks, desks and chairs, teachers and school transport. There have also been several cases on the rights of children within education, such as positive findings regarding corporal punishment, exclusion of pregnant girls, and the rights of children in private schools. In Eswatini, lawyers brought a series of cases which initially garnered a declarator on the right of all children to free primary education, and although the appeal was ultimately lost, the case seemed to get the government moving on rolling out primary education. In Nigeria, lawyers have been successful in the ECOWAS court and in the High Court in establishing that Education is a justiciable right, despite being included in the non-justiciable part of the Constitution. Cases in Uganda and Kenya have caused closure of private schools that failed to meet standard. The ECOWAS court has issued a decision finding that the exclusion of pregnant learners in Sierra Leone is not in line with the African regional standards – and similar cases at the national level have been brought in Kenya. Treaty bodies such as the African Committee of Experts on the Rights and Welfare of the Child have also been engaged to hold state parties such as Senegal, Kenya, Uganda, and Sudan accountable for violating the right to education of children within their jurisdiction. These remarkable stories are not the only ones that tell a positive story about what law can do to advance the right to education and they are hopefully just the beginning.

Call for papers for the special focus edition

The UNESCO Chair on Education Law in Africa, University of Pretoria calls for papers on topics or themes reflecting the use of the existing legal framework on the right to basic education to promote

the right to basic education of children in Sub-Saharan Africa, either through law reform or litigation.

Papers may be country specific, or comparisons between countries. Articles that focus on or include treaty bodies or regional and subregional courts are also welcome. In particular, the editors are keen to receive articles using law reform or litigation to advance the right to education (or rights in education). These could be accounts of work already done, or could describe plans or strategies to use law reform or litigation to advance the right to education (or rights in education). In articles focusing on strategic litigation, the editors encourage the inclusion of sub-themes such as justiciability of the right, the role of courts, the role of lawyers and civil society actors. In articles focusing on law reform rather than litigation, the Constitutional framework, socio-political landscape, the role of Parliament and the role of civil society actors will be of interest.

Thematic articles may also be submitted – for example, these could include themes such as school infrastructure, barriers such as school transport, exclusion from education, corporal punishment in schools, language in schools, religion in schools and the wearing of religious symbols, school governance, and the regulation of private schools. Although the focus is on school level education, articles that include the right to education at pre-primary level are also eligible.

The papers that are submitted will go through a rigorous process of blind peer review. Papers that are selected and are found to be suitable for publication will be published as part of a collection in a special focus in one of the editions of the African Human Rights Law Journal (AHRLJ).

The editing team includes UNESCO Chairholder Professor Ann Skelton, Dr Faranaaz Veriava, Dr Perekeme Mutu.

Please send your contributions to Dr Perekeme Mutu at **Perekeme.mutu@up.ac.za**

Abstracts of 300 words should be submitted on the 30th of June 2023

Those authors whose abstracts are selected will be required to submit a first draft by **15th November 2023**.

Online Seminar: on the 2nd of November 2023, an online seminar will be organized for those whose papers have been accepted to present their findings.

The intended date of publication of the **special focus edition is in June 2024**