

Realising the Right to Quality Education in South Africa; An African Human Right Appraisal

Isaiah Mmatipe Sefoka

Faculty of Management and Law, School of Law, Department of Mercantile and Labour Law, University of Limpopo, Turfloop, South Africa

Abstract: *The Constitution of the Republic of South Africa, 1996 emphasise the consideration of foreign law by a court, tribunal or forum when interpreting any right in the Bill of Rights (Constitution, 1996; sec 39). Section 39 provides government with the opportunity to consider foreign laws and apply them when there is a need and where applicable. This paper emphasizes the interpretation of the right to quality education by the regional instruments. The paper depicts that regional instruments aimed at promoting the realization of quality education are seminal and worth to be considered for the realization of quality education in South Africa. Likewise Mbazira posits that in order for the right to education to be fulfilled and realised, it is significant to consider, learning and adopting valuable lessons from foreign countries in order to develop and strengthen our countries' educational systems (Mbazira, 2009).*

Keywords: Appraisal; African Human Rights; Quality Education

1. Introduction

This paper examines the protection of the right to education as per the regional instruments adopted by the two United Nations Specialised Agencies namely, the United Nations Educational, Scientific and Cultural Organisation (UNESCO) and the International Labour Organisation (ILO). For the purposes of this study, focus will be on the legal instruments by UNESCO in the execution of its mandate in the field of education and primarily, consideration will be on the Convention against Discrimination in Education (CDE) of 1960. In the same manner, ILO has instruments relevant to the right to education. Of relevance are those instruments aimed at safeguarding everyone's educational right and interest. It is worth noting that the term "instrument" as it appears in this paper does not only refers to conventions, but also to treaties, charters and to soft law documents in the form of declarations and recommendations.

It is also worth noting that the instruments and appraisals in this paper are by no means exhaustive of the legal and quasi-legal initiatives and insight addressing the right to education at the regional level. An in-depth discussion of all such appraisals within the broad themes of this paper is far beyond the ambit of this study. However, those discussed are sufficiently representative of the key developments in the interest area of delivering sustainable quality education. To list and discuss all instruments dealing with education is a daunting task. However, for the purposes of this paper some of the important instruments and their ostensible relevance to the right to quality education are singled out and discussed as follow.

2. UNESCO, Convention against Discrimination in Education (CDE), 1960

UNESCO came into being on 4 November 1946 and in December of the same year it was brought into relationship with the United Nations as a Specialised Agency (UNESCO, 1946). Its objective is to contribute to the creation of peace and security by promoting collaboration among nations

through education (UNESCO, Art 1 (1)). Amongst the core functions it performs is the promotion, transfer and sharing of knowledge and skills. UNESCO, Art 1 (2)). Beiter postulates that amongst UNESCO's priorities in education are to eliminate illiteracy and to secure elementary education for all and to develop higher education, technical and vocational education including adult education and to assist in training and skilfully equipping educators and educational planners and administrators as well as to encourage building and equipping of school (Beiter, 2006;228). UNESCO has adopted various international instruments and recommendations which provide for the rights of individuals which are not relevant for the purposes of this study. Of relevance is UNESCO's Convention against Discrimination in Education (CDE) adopted in 1960. The CDE was the first international treaty to recognize a binding "right to education" (UNESCO, 1946). In line with the UDHR, UNESCO provides that discrimination in education is a violation of the rights as contemplated in the UDHR adopted the non-discrimination principle in education which asserts that "every person has the right to education" (UNESCO, 1946). Its main objective is to severely hamper discrimination of any form in education and to promote equal opportunity and treatment for all.

The CDE defines discrimination to include: "any distinction, exclusion, limitation or preference which, being based on race, colour, sex, language, religion, political or other opinion, national or social origin, economic condition or birth, has the purpose or effect of nullifying or impairing equality of treatment in education and in particular:

- a) Of depriving any person or group of persons of access to education of any type or at any level;
- b) Of limiting any person or group of persons to education of an inferior standards;
- c) Of establishing or maintaining separate educational systems or institutions for persons or group of persons; or
- d) Of inflicting on any person or group of persons conditions which are incompatible with the dignity of

man” (Convention against Discrimination in Education (CDE), 1960).

For the purposes of this paper, equality of opportunities and treatment for all in education must be understood to mean that the right to quality education should not only be acknowledged in principle, but everyone should have a fair chance and adequate resources to access and attain or make use of the educational opportunities presented to them (Chofor Che, 2003). Article 1 of the CDE provides that:

“This Convention prohibit discrimination in education on the grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, economic condition or birth”. “The prohibition is effective if the discrimination had the purpose or effect of nullifying or impairing equality of treatment in education, and particularly if such discrimination had the effect of excluding certain groups of persons from any kind of education, or of establishing separate education systems for groups of persons with the effect that the education offered in those separate schools was of an inferior quality” (CDE, Art 1 (1) (a) and (b)).

This Convention defines the term “education” as referring to all types and levels of education which includes access to education, the standard and quality of education and the condition under which it is provided (CDE, Art 1 (2)). As the first international binding treaty on education, Article 4 of this Convention further provides that:

“State parties to the UNESCO Convention (CDE) undertook to make primary education free and compulsory, to ensure compliance by all with the obligation to attend school as prescribed by law and to establish equal standards of education in all public education institutions”(CDE, Art 1 (a) and (b)).

The paper submits that the provision of quality education must be provided for as early as from the elementary level which includes adult elementary education by employing well trained and capacitated educators who will impart knowledge to learners. Such education must be preceded by a robust educators’ training to enable educators to acquire the necessary skills and to impart those skills to the learners. In doing so, ample budget must be put aside by government for the purposes of conducting sustainable educators’ training and workshops to capacitate the educators. The education provided must be of a high quality and standard in order to impart necessary skills and knowledge to the learners taking part and to build and develop their capacities. Government should continue to fund the provision of such education so that financial incapacity would not be a barrier to the effective realisation of this fundamental right. The study posits that government should use funding as a tool to encourage participation in schooling and to deliver quality education.

3. Charter of the Organisation of Africa Unity / African Union, 1963

The Organisation of Africa Unity (OAU) was formed by newly independent African states to pursue a common regional integration agenda including educational cooperation (African Union, 1963: Art ii). The OAU adopted declarations such as the Declaration on the Rights and Welfare of the African Child (Organisation of Africa Unity, 1963). This Charter as an organisational document did not provide an in-depth meaning of the right to education in general or elementary education; instead it recognised the protection of human rights as one of its objectives and foundational principles (Constitutive Act of the African Union, 2000; Art 3 (h) and 4(m)). It should be mentioned that this Charter urged the signatories to implement programs in the field of education with the objective of making quality education accessible to all children and to give priority to the most deprived and paying a particular attention to the destitute (Declaration on the Rights and Welfare of the African Child, 1979). Moreover, it urged the creation of alternatives and conventional schooling system commensurate with skills and capacity building at the state expense and resources. It is based on these assertions that this paper accentuates that government should sustainably fund the skills development institutions in order to empower and impart knowledge and necessary skills to the people so that they will be employable and perhaps create employment.

4. African (Banjul) Charter on Human and Peoples' Rights (ACHPR), 1981

The African Charter on Human and Peoples’ Rights (ACHPR) was adopted by the Organisation for African Unity (OAU) and it is one of the pivotal fundamental human rights instruments on the African continent which recognises peoples’ rights including socio-economic rights (Heyns and Killander, 2007). One of its objectives is to outrightly prohibit discrimination of any kind and promote the enjoyment of rights and freedoms such as the Human Rights including the right to quality education (ACHPR, 1982; Art 2). South Africa is a member state to the ACHPR which is one of the International human rights treaties and provides that “states have an obligation to make primary education compulsory and free of charge”. Article 17 concisely provides that “every individual shall have the right to education” (ACHPR, 1982; Art 17 (1)).

In support of the right to education as stipulated in Article 17, Article 1 provides that:

“The Member States of the Organization of African Unity parties to the present Charter shall recognize the rights, duties and freedoms enshrined in this Charter and shall undertake to adopt legislative or other measures to give effect to them”.

This paper emphasises that the phrase “other measures” in the context of this study refers to the introduction and implementation of sustainable educator’s capacity building

workshops aimed at capacitating educators so that they will be able to deliver education of good quality and high standard. Article 2 further stipulate that “every individual shall be entitled to the enjoyment of the rights and freedoms recognized and guaranteed in the present Charter without distinction of any kind such as race, ethnic group, colour, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or other status”(ACHPR, 1982; Art 1 and 2).

South Africa is promoting the contents of the ACHPR because it undertook to adopt legislative frameworks and other measures such as the Constitution and SASA to give effect to the “right to basic education”. This shows that the state is obligated to make primary or basic education free and compulsory to every person without any kind of discrimination and to make sure that everyone is entitled to the enjoyment of every right including the right to basic education.

5. UNESCO Convention on Technical and Vocational Education (CTVE), 1989

The Convention on Technical and Vocational Education (CTVE) is another important convention adopted by UNESCO in the field of education in 1989. This convention was held in Paris and its objective is to promote and develop the technical and vocational education for the purposes of safeguarding peace and the economic betterment of signatories (CTVE, 1989). The CTVE recognises that technical and vocational education should meet the global aim of development and that the provision of technical and vocational education which include access to technical and vocational educational institutions be provide for equally to everyone without any form of discrimination (CTVE, 1989; Art 2 (1), (2) (a), (b), (c) and (d), (3) and (4)).

It provides that the contracting signatories shall guarantee that no individual who has attained the educational level for admission into technical and vocational education shall be discriminated against based on any ground, and the signatories shall strive to work towards the right to equal access to technical and vocational education including educational institutions and towards equality of opportunities to study throughout the educational process (CTVE, 1989; Art 2 (3)). Article 2(4) of the CTVE provides that the contracting signatories shall pay the necessary attention and take the appropriate measures to the learners with special needs including the handicapped and other disadvantaged and marginalised groups to benefit from technical and vocational education (CTVE, 1989; Art 2 (4)).

6. International Labour Organisation Convention Concerning Indigenous and Tribal Peoples in Independent Countries (Convention No. 169), 1989

The International Labour Organisation Convention (ILO) was created by the Paris Peace Conference under Part XIII of the Treaty of Versailles in 1919 and ultimately in December 1946, the ILO was brought into relationship with the UN as a specialised agency (United Nations General

Assembly (UNGA), 1946; Resolution 50 (I)). According to Article 1 of this convention the primary function of the ILO is to improve the conditions of labour in its member States. However, the ILO has prepared legal instruments which are relevant to the right to education and the ILO Convention Concerning Indigenous and Tribal Peoples in Independent Countries (CCITPIC), Convention No. 169 of 1989 is one of such instruments. Article 29 of this convention provides that “the imparting of knowledge and skills that will help persons including children belonging to a particular group of peoples concerned to participate fully and on an equal footing in their own community and in the national community shall be an aim of education of these people” (CCITPIC, 1989; Art 29). In the same manner, Article 27 provides for the involvement of members of indigenous groups in the development of education programmes and the right of the indigenous peoples to establish their own educational institutions with the State financial aid (CCITPIC, 1989; 27(1)-(3)). It is against these assertions that this paper postulates that the acquisition of skills and knowledge resultant from quality education is of cardinal importance and among others the building blocks of a developed nation linked to development and growth of the country’s economy.

7. African Charter on the Rights and Welfare of the Child (ACRWC), 1990

African Charter on the Rights and Welfare of the Child (ACRWC) also referred to as Children’s Charter was adopted by the Organisation of Africa Unity (OAU) in 1990 and was entered into force in 1999 (ACRWC, 1990). The ACRWC was adopted soon after the CRC and in similar terms to the CRC it was aimed at promoting the rights of the child including the right to quality education and obligates government to ensure access to effective training and preparation for employment (Viljoen, 2012; 392). The ACRWC make provisions to ensure and guarantee the right to quality education to every child and enjoins State Parties to take the necessary measures with an intent and purpose of realising the right and obligates the State Parties to implement special measures in respect of gifted and disadvantaged, rich and destitute children in order to ensure equal access to education for all levels and sections of the community (ACRWC, 1990; Art 11 (1)).

Accordingly, Article 11 precisely set out the purposes of the provision of quality education as being among others: to promote and develop the child’s personality, skills, talents and mental and physical abilities to the fullest potential; to foster respect and understanding for human rights and fundamental freedoms set out in regional and international instruments; to promote the child’s understanding of primary healthcare and to preserve and strengthen positive African morals, traditional values and cultures (ACRWC, 1990; Art 11 (2)). Article 11 provides further that:

“States parties shall take appropriate measures with a view of achieving the full realisation of this right and shall encourage the development of secondary education in its different forms and to progressively make it free and accessible to all; make higher education accessible to all on the

basis of capacity and ability by every appropriate means; take measures to encourage regular attendance at schools and reduction of drop-out rates”(ACRWC, 1990; Art 11(3) (a), (b), (c) and (d)).

It is worth noting that the first two purposes of imparting quality education and necessary skills and knowledge to the child as outlined in the ACRWC are quite similar to those outlined in the CRC and therefore salient. Be that as it may, the latter two purposes as stated in the ACRWC are specifically for this Charter and their inclusion set out the special objective of the ACRWC being to promote and realise the right to quality education in a unique and different manner as provided in the African context.

Apart from Article 11, there are other provisions promoting the right to education in this Charter. Article 13 provides that:

“Signatories shall ensure that the disabled persons has effective access to training in a manner conducive to the person’s achieving the fullest possible social integration, individual development and his cultural and moral development”(ACRWC, 1990; Art 13 (2)). Regarding the parental responsibility, Article 20 provides that “signatories have the obligation to assist parents and in case of need provide material assistance and support programmes particularly with regard to nutrition, health, and education”(ACRWC, 1990; Art 20 (2) (a)).

This paper postulates that South Africa is implementing and promoting the objectives of the ACRWC as outlined in Article 13 of the ACRWC by ensuring that disabled persons are given special attention in order to effectively access quality education and training in a conducive manner suitable to them for their development. Having said that, people with disability are included to exercise and enjoy the rights in the Bill of Right including the right to education hence the word “everyone” as enshrined in section 29 of the Constitution of the Republic of South Africa, 1996. With regard to the responsibility of the parents as articulated in Article 20 of the ACRWC, South Africa is implementing the provision of this Article since it promulgated legislation such as SASA which obligates every parent to cause every learner for whom he or she is responsible to attend school from the first school day until the last school day of the free and compulsory learner’s school days (SASA, 1996; sec 3 (1)). The study posits that the word “every learner” as it appear in section 3 (1) of SASA also include disabled persons.

8. African Youth Charter (AYC), 2006

The Africa Youth Charter (AYC) was adopted in Banjul, Gambia in July 2006 (Heyns and Killander, 2007; 94). Similarly to the ACRWC, the AYC’s essence was that Africa’s greatest resource is its youth population whose active and full participation has the potential to enable all its people without any form of discrimination and hindrance to surmount the difficulties in the provision of quality

education (Heyns and Killander, 2007; 94). It adds more value to the promotion and protection of the right to quality education as it promotes skills acquisition and development amongst youth. Article 13 provides that:

“Every youth shall have the right to education of good quality and standard; education of young people shall be directed to the promotion and holistic development of young person’s creative, cognitive and emotional abilities to their full potential” (AYC, 2006; Art 13). It provides further that “State parties shall take all reasonable and appropriate measures with a view to achieve full realisation of the right to quality education and shall take the necessary steps to encourage regular school attendance and reduce drop-out rates” (AYC, 2006; Art 13 (4)).

It is pertinent to stress that with regard to the provision of the right to quality education, it is neither necessary nor enough to have all the international and regional appraisals or instruments in place without their implementation and enforcement to realise this fundamental right. Most importantly, the State parties to those instruments must take relevant measures such as enforcing the instruments to ensure their effective implementation and realisation by monitoring them and adopting capacity building measures to build and improve the educators’ and learners’ skills.

9. Declarations on the Rights of Mentally Retarded Persons (1971), and on the Rights of Disabled Persons (1975)

The 1971 Declaration was adopted in the context of a growing consensus amongst non-governmental organisations that specified conventions defining the rights of disabled persons were necessary to complement the general human rights contained in the universal instruments (Hodgson, 1998; 156). The Declaration targeted a specific group of people with disabilities, but it became the basis for the subsequent one which extended the entitlements to all persons with disabilities (Declaration on the Rights of Disabled Persons, 1975; Par 3). The declaration provides that “the mentally retarded person has a right to quality education, training, rehabilitation and guidance as will enable him to develop his ability and maximum potential”(Declaration on the Rights of Disabled Persons, 1975; Par 2).

Subsequently, the 1975 Declaration called for measures to enable persons with disabilities to be as self-reliant as possible, and specifically recognised their right to education, vocational training and rehabilitation that will make it possible for them to develop and as well as to transform their educational skills and capabilities ((Declaration on the Rights of Disabled Persons, 1975; Par 6). The Declaration did not have binding force. However, they constitute moral and political persuasion to secure national policy changes in the 70s and 80s. They also had a great effect in enhancing the visibility of persons with disabilities and their exclusion from mainstream human rights protection. Hence, after the 1975 Declaration on the Rights of Disabled Persons, the year

1981 was designated to be the international year of Disabled Persons by the United Nations General Assembly (Murungi, 2013; 35).

This paper posits that the right to “free and compulsory education” in South Africa is also enjoyed by people with disabilities to develop their abilities and potential, to be self-reliant and to recognise their “right to education”. This means that people with disability are included to enjoy the rights in the Bill of Rights which also include the “right to education”, hence the word “everyone” as contemplated in section 29 of the 1996 Constitution.

10. The United Nations Convention on the Right of Persons with Disabilities (CRPD), 2006

Unlike other conventions such as the ACRWC, United Nations Convention on the Right of Persons with Disabilities (CRPD) devoted its focus on the provision of the right to quality education to persons with disabilities. The CRPD affirms that persons with disabilities like other people need to be treated with inherent human dignity and also to be treated with equality and not discriminated against (Hansungule, 2016; 62). It is worth noting that persons with disabilities should be treated with courtesy and in a manner that is inclusive and promote their full participation in society and as persons whose capacities are well evolving. This can be done by recognising and realising their right to quality education. These assertions are supported by Article 24 of the CRPD which provides that the right to education must be realised on a non-discrimination basis and equal opportunity and inclusive educational system must be ensured at all levels at all cost (CRPD, 2006; Art 24 (1)).

It is pertinent to indicate that the CRPD’s inclusion of inclusive education and provision of equal opportunities in education in an Article focusing on access to education (Article 24) must be highly applauded. It should be noted that the CRPD is as a result of more expressions of the protection of persons, more in particular children with disabilities’ right to quality education which must be protected and the means by which this must be achieved than the CRC and the ACRWC (Hansungule, 2016; 62). However, this should not be seen as a negative criticism of the CRC nor the ACRWC, but it should be seen as the CRPD’ serious recognition and acknowledgement of the historical and prevalent combat and barriers that persons with disabilities had faced in their attempt to access quality education. The ostensible focus on inclusive education and equal opportunities is among the useful mechanisms used by the CRPD to combat the barriers and to ensure that people with disabilities are not discriminated but rather be treated with human dignity and equality (Hansungule, 2016; 62).

The CRPD provides that the aim of education include among others: “the full development of human potential and dignity, self-worth as well as the strengthening of respect for human rights, fundamental freedoms and diversity; the development by persons living with disabilities of their personality, talents and creativity as well as their mental physical abilities to their fullest potential; and enabling them

to effectively participate in a free society” (CRPD, 2006; Art 24 (1) (a) (b) and (c)). Like other conventions, the CRPD obligates the states signatories or parties to take relevant measures to ensure that the right to education is fully realised and in order to have effective academic and social development, effective and perpetual individual support measures must be provided (CRPD, 2006; Art 24 (2)). It is worth mentioning that this convention set out relevant measures such as the promotion of inclusive education and provision of equal opportunities in education that signatories should take in order to empower persons with disabilities to learn life and social development skills and capabilities that will impart knowledge and equip them to facilitate full and equal participation in their respective communities (CRPD, 2006; Art 24 (3)). According to Article 24 of the CRPD this measures also include mobility skills training and the facilitation of peer support and mentoring and ensuring that education for persons with disabilities is delivered in the most appropriate environments which maximise their academic and social development which will transform them into better persons (CRPD, 2006; Art 24 (3) (a) (b) and (c)).

11. The Children’s Charter of South Africa, 1992

South Africa as well have comprehensive provisions on the right to education. Among others is the Children’s Charter of South Africa (CCSA) which was adopted in June 1992 at the South African Children’s summit on the Rights of Children in Cape Town (CCSA, 1992). It is significant to highlight some important aspects regarding the right to quality education as outlined in this Charter. This paper posit that it is also important to read the CCSA in line with the 1996 Constitution of South Africa as they both showcase the importance of providing free, equal and compulsory education free from any form of discrimination (CCSA, 1992). Article 8 of the CCSA provides that all children have the right to free and equal education as education is a right not a privilege (CCSA, 1992; Art 8 (1)). The paper postulate that it is also important to read the Charter with section 3(1) of SASA which provides that “every parent must cause every learner for whom he or she is responsible to attend school from the first school day until the last school day of the free and compulsory learner’s school days” (SASA, 1996; sec 3 (1)). In the same vein, Article 8 (4) of the CCSA provides that “parents have an obligation to be fully involved in their children’s educational and developmental life both at school and at home” (CCSA, 1992; Art 8 (4)). It is also pertinent to point out from these provisions that the CCSA and the 1996 Constitution have the same aims and objectives in common hence they both provides that every child should enjoy the right to elementary education because this right is of inestimable value regarding the development and upbringing of the child. It is also imperative to highlight that parents inclusive of educators have a legal obligation to ensure that their children receive quality education owing to the articulations as provided for in CCSA and SASA accordingly.

12. Conclusion

The paper has examined the regional instruments supporting the promotion of quality education and showcase the significant of considering such instruments, to learn and adopt valuable lessons from them. These instrument advocate for the elimination of illiteracy and to secure quality education for all despite one's' color, race or nationality. They also promote access to quality education to everyone including the disabled person and to equip both learners with the necessary skills to be employed and to create employment themselves. This instruments have positive influence that impact on social and economic changes nationally and in the regional arena which fact is important because for a policy, law or instrument to be relevant and meaningful it must be aligned with and reflect socio economic developments.

References

- [1] African (Banjul) Charter on Human and Peoples' Rights (ACHPR), 1981
- [2] African Charter on the Rights and Welfare of the Child (ACRWC), 1990
- [3] African Youth Charter (AYC), 2006
- [4] Beiter K. D. 2006. The Protection of the right to education by international law: Including a Systematic Analysis of Article 13 of the International Covenant on Economic, Social and Cultural Rights, Martinus Nijhoff Publishers, 1-705.
- [5] Charter of the Organization of Africa Unity /African Union, 1963
- [6] Children's Charter of South Africa, 1992
- [7] Chofor Che. C.A. 2003. Educational opportunities for the girl child in Africa: A necessary revisit of the discrimination factor with reference to Egypt, South Africa and Cameroon, Masters of Laws, University of Pretoria.
- [8] Constitution of the Republic of South Africa, 1996.
- [9] Declarations on the Rights of Mentally Retarded Persons (1971), and on the Rights of Disabled Persons (1975)
- [10] Douglas Hodgson The human right to education (1998)
- [11] Hansungule Z. 2016. A case for the Socio-Economic Rights of children with disabilities in South Africa: Protection of the Right to basic education and the Right to social services, LLM dissertation Faculty of Law University of Pretoria.
- [12] Heyns C and Killander M. 2007. Compendium of key Human Rights Documents of the African Union.
- [13] International Labour Organisation Convention Concerning Indigenous and Tribal Peoples in Independent Countries (Convention No. 169), 1989
- [14] Mbazira C. 2009. Litigating socio-economic rights in South Africa. A choice between corrective and distributive justice, Pretoria University Law press (PULP) 2009.
- [15] Murungi L.N. 2013. The significance of article 24(2) of the UN Convention on the Rights of Persons with Disabilities for the right to primary education of children with disabilities: a comparative study of Kenya and South Africa (University of Western Cape).
- [16] Muthoga L.G 1992. 'Introducing the African Charter on the Rights and Welfare of the African Child and the Convention on the Rights of the Child' in a paper delivered at the International Conference on the Rights of the Child organized by the Community Law Centre, University of the Western Cape.
- [17] Organization of African Unity, Declaration of the Rights and Welfare of the African Child, OAU Doc AHG/st.4 (XIV) Rev.1 (1979).
- [18] Pretoria, 2003. Available at http://repository.up.ac.za/bitstream/handle/2263/985/ch_ofor%20checl.pdf?sequence=1 >retrieved on 20-05-2018
- [19] Smith R. 2005. Textbook on International Human Rights 2 ed (2005) Oxford University Press, Oxford.
- [20] South African Schools Act
- [21] UNESCO Convention against Discrimination in Education (UNESCO Convention), adopted by the General Conference at its 11th Session in Paris, 14 December 1960
- [22] UNESCO Convention on Technical and Vocational Education (CTVE), 1989
- [23] UNESCO, Convention against Discrimination in Education (CDE), 1960
- [24] United Nations Convention on the Right of Persons with Disabilities (CRPD), 2006
- [25] United Nations Educational, Scientific and Cultural Organization (UNESCO) as effected by the United Nations General Assembly (UNGA) Resolution 50(I) of 1946.
- [26] Viljoen F. 2012. International human rights law in Africa.
- [27] Wako S.A. 1988. 'Towards an African Charter on the Rights of the Child', paper delivered at a workshop on the Draft Convention on the Rights of the Child, Nairobi (9 – 11 May 1988).

*The financial assistance of the National Institute for the Humanities and Social Sciences, in collaboration with the South African Humanities Deans Association towards this research is hereby acknowledged. Opinions expressed and conclusions arrived at are those of the author and are not necessarily to be attributed to the NIHSS and SAHUDA.