RIGHT TO EDUCATION AND EQUALITY OF OPPORTUNITY IN EDUCATION: AN ANALYSIS OF CONSTITUTIONAL OBLIGATIONS IN AFRICAN STATES

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1. Introduction

The right to education is an internationally recognized right. It is a “human right in itself and an indispensable means of realizing other human rights.” The principle of equality of opportunity in education is the hallmark of the right to education. It is reflected in the instruments adopted by UNESCO in the field of education. It is also common to the all United Nations human rights treaties. These instruments create an international normative framework, along with the State obligations prescribed in national constitutions. The principle of equality of opportunity in education, thus established, is of pivotal importance in international and national efforts aimed at the realization of the right to education for all as an overarching right. Its key importance is also recognized in the constitutions of certain African countries, which clearly express this principle and its various attributes and dimensions.

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1 General Comment No. 13 on the right to education (Article 13 of the Covenant), adopted by the Committee on Economic, Social and Cultural Rights (CESCR) at its twenty-first session in 1999, E/C.12/1999/10, 2 December 1999, (para. 1).

UNESCO has adopted a variety of instruments in the field of education, pursuant to its constitutional mission. The Organization has the mandate “to advance the ideal of equality of educational opportunity without regard to race, sex or any distinctions, economic or social; (...) by suggesting educational methods best suited to prepare the children of the world for the responsibilities of freedom.”

The Constitution of UNESCO reflects the belief of its founders in ensuring “full and equal opportunities for education for all.” Member States of UNESCO have the constitutional obligation to ensure ‘full’ opportunities for education, so that no one remains deprived of it; they also have the constitutional obligation to ensure ‘equal’ opportunities so that there is no discrimination of any kind.

The fundamental principle of equality of educational opportunities, enshrined in UNESCO’s constitution, is also expressed in the Convention against Discrimination in Education, adopted by the Organization in 1960. Other instruments adopted by UNESCO in the field of education which develop the right to education in its various dimensions, also reflect this principle. The principle of equality of

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2 The full text of instruments elaborated by UNESCO is available on UNESCO’s Website: http://www.unesco.org.


3 Article 1§2 (b) of UNESCO’s Constitution.

4 The principle of equality of opportunity in education is expressed in the Convention on Technical and Vocational Education (1989). It is also reflected in other recommendations adopted by UNESCO in the field of education, including the Recommendation concerning the Status of Teachers (1966) which provides