

# **TRANSLATING SOCIOECONOMIC RIGHTS FROM ABSTRACT PAPER RIGHTS TO FULLY FLEDGED INDIVIDUAL RIGHTS: LESSONS FROM SOUTH AFRICA**

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## **ABSTRACT**

The South African Constitutional Court has given effective the economic, social and cultural rights in the South African Constitution by defining the nature of the obligations that they engender. In this respect, both the Constitution and the jurisprudence offer immense lessons to other domestic jurisdictions on the African continent and elsewhere. In spite of this, the approach of the Court still falls behind international jurisprudence in some respects. The most visible shortfall is rejection of the minimum core obligations approach which would obligate the state to provide to everyone a minimum level of goods and services. The Court has instead opted for a reasonableness review approach. However, the failure to give substantive content to the rights has made it impossible to fully interrogate the reasonableness of the means chosen by the state to realize the rights. This article proposes a proportionality test to be used to interrogate the means chosen to realize the rights, which is only effective after giving substantive content to the rights. The article also proposes ways through which the minimum core approach could be used without over burdening the state. The provision of a minimum core should be directed towards those who need it.