

# A Critical Appraisal of the Right of a Child to Compulsory, Free Universal Basic Education in Nigeria

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## Abstract

The need to enlighten the world on the legal basis and the boundaries of the right of a child to compulsory, free universal basic education, in Nigeria, was what provoked this research. The research adopts a doctrinal method in order to arrive at some findings.

Findings in the research reveal some strange provisions and lacunae in the Act that grants the right to compulsory, free universal basic education and these strange provisions and lacunae have the effect of ultimately negating the said right of a child or defeating the fundamental aim of the legislation that provides for the said right.

**Keywords:** Right, child, free, education ,universal, basic ,,Nigeria

## 1.1. Introduction.

Any country that needs development must embrace education and be ready to give its citizens the necessary support needed to overcome the stronghold of illiteracy. This support, must also be sincere if a state is determined to detach itself from the negative grip and consequences of illiteracy. Education signifies light and where you find light, there is hope.

This article stations its discourse on the domestic law in Nigeria that provides for the right of a child to compulsory, free universal basic education. The landmark legislation on this subject matter in Nigeria is the Compulsory, Free Universal Basic Education Act, 2004.

## 1.2. The Right of a Child to Compulsory, Free Universal Basic Education in Nigeria.

In an attempt to move beyond mere declaration, into thm realm of legal commitment, the Act was passed in 2004 2. Section 2, of the Act confers on every Nigerian child, right to compulsory, free universal basic education. The said section reads

*2(1) Every Government in Nigeria shall provide free, compulsory and universal basic education for every child of primary and junior secondary age.*

*(2) Every parent shall ensure that his child or ward attends and completes*

*(a) Primary school education, and*

*(b) Junior secondary school education by endeavouring to send the child to primary and junior secondary schools.*

*(3) The stakeholders in education in a Local Government Area, shall ensure that every parent or person who has the care and custody of a child performs the duty imposed on him under section 2 (2) of this Act.*

*(4) A parent who contravenes section 2(2) of this Act commits an offence and is liable\_*

*(a) On first conviction to be reprimanded*

*(b) On second conviction, to a fine of N2,000:00 or imprisonment for a term of 1 month or to both;*

*(c) On subsequent conviction, to a fine of N5,000:00 or imprisonment for a term of 2months or to both.*

From the above provisions, the following can be deduced.

-There is a legal obligation on every government of Nigeria to provide free, compulsory universal basic education for every child covered by the Act

- There is a legal obligation on the parents to ensure that their children or wards covered by the Act, enroll for primary and junior secondary education.

- There is a legal obligation on parents to ensure that their children or wards covered by the Act, complete primary and junior secondary schools

- Stakeholders in various Local Governments also have the legal obligation to ensure that parents send their children or wards to primary schools and junior secondary schools and to complete same

Errant parents may suffer reprimand, imprisonment, payment of fine or both imprisonment and fine.

The Act says services provided in public primary and junior secondary schools shall be free of charge and that any person who receives or obtains any fee contrary to this, commits an offence and is liable on conviction to a fine not exceeding N10,000: or imprisonment for a term of 3 months or to both<sup>8</sup>. This is to curb the excesses of corrupt public officials. Universal Basic Education means early childhood care and education, the nine years of formal schooling, adult literacy and non-formal education, skills acquisition Programmes and education are special groups such as nomads and migrants, girl-child and women, Almajiri, street children and disabled groups. The Act defines “primary school” as a school which provides a six year basic course of full time instruction suitable for pupils between the age of six years and twelve years while ‘junior secondary school’ is defined as a school which provides a three - year post primary course of full time instruction suitable for pupils between the age of twelve years and fifteen years. It is important to know that the Magistrate’s Court or any other State Court of competent jurisdiction shall have the jurisdiction to hear and determine cases arising under section 2 and to impose the punishment stated<sup>11</sup>.

### 1.3. Problems in the Act.

The Act has some inherent problems which negate the very right it seeks to confer. These problems are herein discussed. First, while section 3(1) of the Act says “The service provided in public primary and junior secondary shall be free of charge” section 15 of the Act says “ Service that should be provided free of charge are books, instructional materials, classrooms, furniture and free lunch” This omits a fundamental service needed for education. This service, is tuition. By omitting tuition as part of the free services, government is then legally free to impose tuition fees no matter how high. As to whether or not Government really provides books, instructional materials, classrooms, furniture and free lunch, this is not the subject of this discourse, but at least, there is a legal obligation to do this. Where government imposes tuition fees that an average Nigerian parent cannot pay, how will payment of school fee be enforced? The commonest way of enforcing payment of school fee in Africa is sending pupils home or denying them their exams and if any of these is resorted to, then the poor parent can now keep his child at home thereby defeating the intent of the Act. Another area of dissatisfaction is that, the Act only punishes errant parents without stating the fate of their children. For example, if a parent refuses to enroll his or her children, and opts for imprisonment, the Act does not make any provision where such children can be adopted by the Government for the purpose of their education. Also, the Act defines a child or ward as “a person of primary and junior secondary school age who is between the age of 6 years and 16 years whether disabled or not”. It means that a child of 17 years old is not a child for the purpose of the Act. If Government is sincere in its fight against illiteracy, then a child under the Act should include those who are up to at least, 18 years of age. This will promote eradication of illiteracy which is the most fundamental objective of the Act which confers right to compulsory free universal basic education on children. While the Act confers compulsory, free universal basic education on a child, it fails to impose obligation on a child to make them available for the said basic education. There are instances where children may turn prodigal and swear never to acquire the available basic education. There should be a provision where such children can be rehabilitated for the common good of the country and by extension, the world in general. Another area is that, the Act says “the provisions of sections 2(2) and 4(1) of this Act shall not apply to any parent who for the time being is resident outside Nigeria.” One wonders the logic behind this provision. The provision in a way, defeats what the Act seeks to promote. Every parent who will be resident abroad for the time being should make adequate arrangement for children or wards at home to enjoy this right, otherwise, nothing should protect such parent from facing the wrath of the law. There is no definition for the term “stake-holders” in the Act. It is expected that since the law imposes some duties and obligations on stakeholders in Local Government Areas, persons in such shoe should be listed in the Act so as to give an idea as to who is a stake-holder for the purpose of carrying out the duties imposed by the Act.

### 1.4. Conclusion.

The article has appraised the provisions of the Act that confer on a child right to compulsory, free universal basic education in Nigeria. It has also discussed some inherent problems in the Act. Findings in this article reveal the following, under the Act,

- a – Free services which a child is entitled to, do not include tuition
- b – Errant parents are punished even with imprisonment without stating the fate of the children in the absence

of their parents<sup>16</sup>

c - The definition for the term “child or ward” is narrow and evasive of responsibility<sup>17</sup>

d – The Act does not confer obligation on children to make them available for basic education.

e – The Act unduly exonerates parents who are resident for the time being, outside Nigeria, from obligation imposed by the Act

f – The act does not provide any definition for the term “stakeholders<sup>19</sup>”

It is hereby suggested that, the Act be amended to include the following:

a- Tuition should form part of the free services.

b- Children of errant parents should be adopted by Government for the purpose of the said basic education.

c- The definition of a “child or ward” should be extended to include at least, children who are 18years of age.

This will be for common good.

d- The Act should place obligation on children to make them available for the said basic education and to make provision for the rehabilitation of the delinquent ones.

e- No parent who is resident abroad should be exonerated from liability,

unless and until they have made adequate arrangements for their children’s education before traveling.

f- The Act should provide a definition for the term “stakeholders” so that the said stakeholder will clearly see themselves having duties and obligations under the Act.

These suggestions, if taken will enrich the Act which seeks to eradicate illiteracy in Nigeria, and the world will be a better place.

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