

# The Right to Free and Compulsory Primary Education in Ghana: Lessons for Other African Countries

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## Abstract

Ghana has over the years developed laws and policies that promotes to free and compulsory primary education. The path that education has taken in Ghana starting from the time of the missionaries, the colonialists, up to the independence and post independent era has reflected a systematic development that support free primary education. Ghana therefore offers a useful template for other countries in sub-Sahara Africa to follow suit owing to the use of policies and laws to actualize right to compulsory primary education. This article gives an analysis of the free primary education in both countries, through the use of national laws and policies on primary education concluding that African countries can draw lessons from the approach adopted by Ghana. The progress made in Ghana can therefore be applied by African countries that are willing to consider education as an important agenda for development.

**Keywords:** Ghana Free Education, Free Compulsory Universal Basic Education (FCUBE), Capitation Grant, Legal Frame Work.

## 1. Introduction

The right to education and the right to environment are arguably the two most important rights in the 21<sup>st</sup> century. With respect to right to education, Nelson Mandela once stated that ‘education is the most powerful weapon which you can use to change the world.’ By necessary implication, right to education is the most important right with which the world can be changed. Thus, the right to the environment itself, nay other rights as well may have to depend for their exercise and optimal use on the right to education. This study therefore examines the right to free and compulsory primary education in Ghana. Ghana is a country which was formerly under British Colony. It was initially called Gold Coast before it was renamed Ghana upon independence in 1957. Ghana has experienced a similar legal and political evolution from colonial to military and civilian democratic governance typical of most countries in Sub-Saharan Africa. The country’s educational development has followed a similar pattern with that of most countries in the Sub-Saharan Africa; beginning with the educational activities of the Christian missionaries as early as the eighteenth century.

This study is divided into six parts. The first part introduces the study. The second part traces the history of education in Ghana. This is considered imperative so as to provide the context for the right to free and compulsory primary education in Ghana. The third part of the study examines educational reforms in Ghana which are the products of the historical experience of this country. The fourth part highlights some of the lessons to be learnt by other African countries. The fifth part of the study examines the existing legal regime on the right to education in Ghana of which the right to free and compulsory primary education is one. The sixth part is the concluding part of the study.

## 2. Period of the Christian Missionaries Activities

Formal education in Ghana dates back to the mercantile era preceding colonisation. European merchants and Christian missionaries are said to have introduced western-style education into Ghana as early as 1765.<sup>1</sup> Many of these institutions, established by Presbyterian and Methodist missionaries, were located in the south of the country in what was the British Gold Coast Colony, the modern-day Ghana. The main aim of these early schools was to facilitate the training of the local inhabitants as interpreters for purposes of trade and to convert Ghanaians to the Christian religion.<sup>2</sup> Thus, the curriculum had a narrow focus on basic literacy with the Bible and scripture as the main texts of schooling. The missionaries played an important role in establishing an education network in Ghana as they convinced the Chiefs of Ghana in 1832 to send their children to the government school later established at Osu, thus creating acceptance for formal education. They also concentrated on the inlands of Ghana, away from the European influences on the coast. Besides reading, writing and arithmetic, workshops were organised for students to acquire practical skills. Carpentry, masonry, blacksmithing, shoemaking and sewing were taught, as well as practical agriculture, and medical and health education. One of the greatest achievements of the Missions was the transcription of local languages (Twi, Ewe and Ga).<sup>3</sup> Pupils were made to pay because the missionaries were faced with the challenge of inadequate

<sup>1</sup> Antwi, M.K., (1991), *Education, Society and Development in Ghana*, Accra: Unimax Publishers Ltd p.10.

<sup>2</sup> Graham C.J., (1971), *The History of Education in Ghana from the Earliest Times to the Declaration of Independence*, London: Frank Cass, p.5.

<sup>3</sup> Ibid

funding.<sup>1</sup>

### 2.1. Education during the Colonial Era

In 1874, the British Government had full colonial authority of the Gold Coast colony. Already great progress had been made in the education sector,<sup>2</sup> with 139 schools in the Gold Coast by 1881,<sup>3</sup> although the educational systems used varied widely.<sup>4</sup> This prompted the government to draw up its first plan in 1882 to guide the development of education. A role for an Inspector of Schools was created from 1887 until 1890 when the office of the Director of Education was created. In 1918, the first targets for the development of education were set by Sir. Hugh Clifford, aimed to provide primary education for every African boy and girl, establish a Training College for teachers in every province, and pay better salaries for teachers. Great strides were made on the education front from 1922 till 1938. The Second World War affected the progress of education as all the European personnel were mobilized for war. Consequently, the first African Director of Education, Mr. V.A. Tetty was appointed in 1938. By the 1950s, there were approximately 3000 primary and secondary schools in the Gold Coast, providing access to formal education for about 6.6% of the country's population.<sup>5</sup> Primary education then underwent a rapid and steady growth and the number of schools rose from 1,081 in 1951 to 3,372 in 1952.<sup>6</sup> Enrolment doubled in a period of five years and the Gold Coast was acclaimed as having the most developed education system in Africa.<sup>7</sup> The Gold Coast in the 1950s was a country with the highest level of education in the whole of Sub-Saharan Africa.<sup>8</sup> The country supplied many of the civil servants working in Nigeria. The British had laid a solid foundation for the formal education system in Ghana, however only a small group had access to it because it was not free.<sup>9</sup>

### 2.2. Education in the Independence and Post-Independence Eras

After Ghana gained independence from British Colonial rule on March 6, 1957, education remained a high priority on Dr. Kwame Nkrumah's government's agenda. There were policies on free compulsory basic education from the beginning and the creation of local education authorities with responsibilities for buildings, equipment and maintenance grants for primary schools.<sup>10</sup> There was a dramatic increase in the number of elementary and secondary schools during the regime of Nkrumah which was overthrown in a military coup in 1966. President Nkrumah, initiated the Education Act 1961 (Act 87), aimed at achieving Free Universal Primary Education in Ghana. The Act endorsed the two-tier system of education as instituted by the British in colonial times, namely primary and secondary education. Three things of significance are worth highlighting in the provisions of the Act: first, the Act established Local Education Authorities within Local Authorities and entrusted them with the responsibility, among other things, to maintain all schools in their areas. Thus, the establishment of public basic schools henceforth became the responsibility of the local authorities only. As can be seen, through this provision, responsibility and operation of the primary educational system devolved from the central government to the municipalities. This shows that decentralization had been in operation since the early sixties in Ghana even before it was introduced by the World Bank. The second important feature of the 1961 Act was the fact that it made education compulsory, with Section 2(1) stating that, "Every child who has attained the school-going age as determined by the Minister shall attend a course of instruction as laid down by the Minister in a school recognised for the purpose by the Minister." The word 'shall' denotes compulsion so, it can be deduced that the Act makes primary education compulsory. A third equally important aspect of this Act was its provision for tuition-free education, with Section 20(2) stipulating that "No fee, other than the payment for the provision of essential books or stationery or materials required by pupils for use in practical work, shall be charged in respect of tuition at a public primary, middle or special school." In sum, from the aforementioned, the 1961 Education Act, (Act 87) made primary education tuition-free and compulsory. The inference is that the Act made education compulsory, but it could not be said that education was fully free because even though

<sup>1</sup> Ibid, see also McWilliam, H.O., and P.M. Kwamena-Poh, (1975), *The Development of Education in Ghana: An Outline*, London: Longman.

<sup>2</sup> Etse, Daniel (2014), "Without the European Merchants and Colonial Masters there would be No Formal Education in Ghana: Another thought" [www.theinternationaljournal.org](http://www.theinternationaljournal.org) > RJCBS: 3(5), March-p.29.

<sup>3</sup> Mc Williams, H.O.A. and Kwamena-Poh, M.A (1975). *The Development of Education in Ghana*, London: Longman, p.97.

<sup>4</sup> Ibid

<sup>5</sup> Isahaku, S. (2009) *An Analysis of Dominant and Alternative Approaches to Education Reform in Sub-Saharan Africa: the case of Ghana*, PhD thesis, Trondheim, Norwegian University of Sciences and Technology Management available at; <http://www.diva-portal.org/smash/get/diva2:287583/FULLTEXT01.pdf> accessed 24 April 2014.

<sup>6</sup> Scadding H., (1989) "Junior Secondary School: An Educational Initiative in Ghana", 19 (1) *Compare*, pp.43-48.

<sup>7</sup> Foster, P., (1965) *Education and Social Change in Ghana*, Chicago: University of Chicago Press,

<sup>8</sup> BBC World Service, *The Story of Africa (Africa History from the Dawn of Time)*, available on: [http://www.bbc.co.uk/worldservice/specials/1624\\_story\\_of\\_africa/page5.shtml](http://www.bbc.co.uk/worldservice/specials/1624_story_of_africa/page5.shtml) accessed on 12 March 2014.

<sup>9</sup> Isahaku note 8 p.35.

<sup>10</sup> Little, Angel, (2010) "Access to Basic Education in Ghana: Politics, Policies and Progress", *Create Pathways to Access, Research Monograph No. 42*, University of Sussex: CREATE p.7.

tuition was free, parents were still responsible for their children's books and school materials. Also, from the Act the administration of education became decentralised and not the monopoly of the central government. The 1961 Education Act gave the responsibility for expanding primary education to local education authorities; this resulted in the rapid expansion of access to primary education.<sup>1</sup>

In 1961, primary and middle school was made tuition fee-free and compulsory. Grade 1 enrolments increased from 139,000 to 231,000 in the first year, and total primary school enrolment increased from 664,332 in 1960 to 1,413,517 in 1965. This resulted in an increase in the Gross Enrolment Rate (GER) from 59% in 1960 to close to 200% increase in 1965.<sup>2</sup> While this high GER resulted from the enrolment of many over aged pupils, it could be argued that Ghana in 1965 already had an enrolment capacity to cater for all children of primary school age. However, as economic conditions worsened, enrolment stagnated between 1965 and 1970, resulting in a decline in the GER, which in 1975 was only 72% and remained below 80% until 2000<sup>3</sup>. Although the percentage of nearly 80% in 2000 might sound good, it is a very big decline from the 1965 numbers from a human rights perspective.

Realizing the importance of trained teachers for the expanded system, the 1961 Education Act obligated opening of new teacher training colleges, expanding those already in existence and making provision for the training of unqualified teachers through various emergency and short-term in-service training programmes. Teachers' numbers increased by 1,000 between 1961 and 1963, with the yearly output rising from 420 to 1,108 trained teachers from teacher training colleges.<sup>4</sup> Some of the achievements of the early post-independence era included a well-trained and motivated teaching force that was recognised as fundamental for ensuring quality of educational provision. Teachers enjoyed salaries comparable to people with similar qualifications in other professions with Nkrumah declaring that he wanted the profession to give service that is second to none.<sup>5</sup> At independence, Ghana's economy was very strong.<sup>6</sup> The pattern of pre-tertiary education in the 1960s was six years of primary education, four years of middle, five years secondary, and two years sixth form totalling 17 years, that could lead to a three-year University course.<sup>7</sup> The system was soon regarded as too long and too academic.<sup>8</sup> In 1973, the ruling military government carried out a review of the educational system, and formed the so-called Dzobo Committee to recommend appropriate measures to improve the situation (Dzobo, 1974).<sup>9</sup> This led, in 1974, to the government putting into operation the first major, post-independence, reform in pre-university education. Thus, 1974 saw a reform of the system, in starting the Junior Secondary School on an experimental basis. This reform is generally referred to as 'The New Structure and Content of Education' (NSCE), which reduced the length of pre-tertiary education from 17 years to 13 years.<sup>10</sup> Primary education remained the same 6 years. The four years of junior secondary school was reduced to three years. The five years of senior secondary school, lower stage was reduced to two years, and the period of senior secondary, upper level, remained two years; the year pattern changed from 6-4-5-2 to 6-3-2-2).<sup>11</sup> Due to economic constraints that faced the country in the late 1970s and early 1980s, as well as the bureaucratic bottlenecks coupled with sheer lack of interest and commitment from administrators, the new programme never went beyond the experimental stage.<sup>12</sup> By the end of the 1970s, there was a dramatic decline in the economy of the country, culminating in a situation in which Ghana's foreign debt placed it in the category of one of the highly indebted poor countries in Africa,<sup>13</sup> which had adverse effect on the educational system.

### 2.3. Education during the Period of Political Instability

A new education committee under Professor Kwapong was appointed immediately after the overthrow of Kwame Nkrumah, to fix the weakness in Ghana's educational system at the close of the 1970s. Ghana's education was then described as 'decayed in need of organic rejuvenation'.<sup>14</sup> The decay was a result of political instability with its resulting poor management, corruption, and general macroeconomic turmoil.<sup>15</sup> This second

<sup>1</sup> Foster, P. (1965), *Education and Social Change in Ghana*, London: Routledge and Paul Kegan, p 32.

<sup>2</sup> Mc Williams, H.O.A. and Kwamena-Poh, M.A. note 6, p. 99.

<sup>3</sup> Akyeampong, K., (2010) "Educational Expansion in Ghana: A Review of 50 Years of Challenge and Progress", *Create Pathways to Access, Research Monograph No. 33*, University of Sussex: CREATE p.3.

<sup>4</sup> Akyeampong, K., (2009) "Revisiting Free Compulsory Universal Basic Education (FCUBE) in Ghana". *45 (2), Comparative Education*, pp. 175-195 at 179. See also: Akyeampong, K., (2010) "Educational Expansion in Ghana: A Review of 50 Years of Challenge and Progress", *Create Pathways to Access, Research Monograph No. 33* University of Sussex: CREATE p.3.

<sup>5</sup> McWilliam & Kwamena-Poh, note 6, p.99.

<sup>6</sup> Little, note 13, p.9.

<sup>7</sup> Akyeampong, "Revisiting Free Compulsory Universal Basic Education (FCUBE) in Ghana" note 17, p.179.

<sup>8</sup> Ibid.

<sup>9</sup> Little, note 13, p.9.

<sup>10</sup> Ibid.

<sup>11</sup> Ibid.

<sup>12</sup> Akyeampong, "Educational Expansion in Ghana", note 17, p.4.

<sup>13</sup> Little, note 13, p.10.

<sup>14</sup> Akyeampong, "Revisiting Free Compulsory Universal Basic Education (FCUBE) in Ghana" note 17, p.178.

<sup>15</sup> Ibid

phase of educational development in Ghana's political history, (1974- 1983) was characterised by instability in governance as a result of successive military takeovers. This political instability coupled with the rise in oil prices in the early 1970s resulted in economic decline in the country. It was a period of harsh and repressive revolutionary zeal on the part of the military regime of 1981 and resulted in a significant number of trained and highly qualified teachers leaving the country.<sup>1</sup> Education was therefore affected by political instability, ad hoc measures, and frequent changes in education policy. Teaching and learning in basic schools had deteriorated to the extent that majority of school leavers were semi-illiterate, and confidence in Ghana's once enviable education system deteriorated.<sup>2</sup>

The quality of basic education which had been high pre-1974 began to decline as a result of poor national economy which led to mass exodus of Ghanaian teachers leaving for neighboring oil-rich Nigeria where they could get higher wages compared to what they could earn as teachers in Ghana then. At the same time educational infrastructure and facilities worsened for lack of funding.<sup>3</sup> Poor supervision and ineffective management of schools also led to further deterioration in the quality of education.<sup>4</sup>

As school quality declined, the returns plummeted, causing demand for schooling especially among the poor to fall sharply.<sup>5</sup> During the 1980s, an additional year of schooling only produced an annual rate of return of 4 to 6%.<sup>6</sup> By the mid-1980s, Ghana's educational system was in sharp decline following a period of protracted poor economic performance in the 1980s. In 1982, per capita income was 30 percent below the 1970 level, and the index of real monthly earnings had fallen from 315 to 62. This period also witnessed acute shortage in teachers, textbooks, and instructional materials throughout the country's schools.<sup>7</sup> By 1983 the education system was in major crisis through lack of educational materials, deterioration of school structures, low enrollment levels, high drop-out rates, poor educational administration and management, drastic reductions in Government's educational financing and the lack of data and statistics on which to base planning.<sup>8</sup> From Little's assessment, Ghana's education system had deteriorated in quality; enrolment rates stagnated and the percentage of Gross Domestic Product (GDP) allocated to education dropped from 6.4% in 1976 to a low of 1.7% in 1983<sup>9</sup>. Government resources were no longer available to construct, complete or even maintain the existing education facilities and the down-turn in the economy resulted in significant fall in the ratio of trained to untrained teachers in the basic education sector.<sup>10</sup> Ghana introduced austerity and decentralization measures in 1983, which included the formal introduction of school fees.<sup>11</sup> By 1987, awareness of quality and equity issues prompted a first round of educational reforms, reflected in a small increase in government funding observable in the mid to late 1980s, but enrolment continued to stagnate.

### 3. Educational Reforms

In the early eighties, Ghana embarked on a series of IMF structural adjustment programmes under which the government mounted reforms in all social sectors. The Education Sector Adjustment Credit (EdSAC) became operational with the help of development partners, notably the World Bank and the UK DFID- (then the Ministry of Overseas Development - ODM).<sup>12</sup> This program was aimed at arresting the decline of the education sector. Moving beyond the events just described, the third phase of educational reform started. This was the period referred to here as 'the military to the rescue' phase as it covers the period of major reform from which the Free Compulsory Universal Basic Education (FCUBE) reform of 1996 emerged.<sup>13</sup> Structural adjustment policies (SAP) were introduced. Although structural adjustment is controversial, nevertheless, from Akyeampong's evaluation, '...it nevertheless created the conditions for improving the economy that led to increasing investment in basic education'.<sup>14</sup> With strong World Bank support, the development of basic education in Ghana received

<sup>1</sup> Nti, J. (1999), *Ministry of Education- Report of Consultancy on Organisation and Institutional Analysis*. Accra: Ghana Ministry of Education.

<sup>2</sup> Mc Williams & Kwamena-Poh note 6, p.100.

<sup>3</sup> World Bank (2004), *Books, Building and Learning Outcomes: An Impact Evaluation of World Bank Support to Basic Education in Ghana*. Washington DC: Operations Evaluation Department (OED), World Bank.

<sup>4</sup> Kadingdj, Stanislaus (2004), "Policy Initiatives for Change and Innovation in Basic Education Programmes in Ghana" 4 (2) *Educate* p.6.

<sup>5</sup> Glewwe, P. & Ilias, N. (1996), "The Determinants of School Attainment in Sub-Saharan Africa: A Case of Ghana", 8, (3) *Journal of International Development*, 395-413 at 398.

<sup>6</sup> Glewwe, P., (1996), *The Economics of School Quality Improvements in Developing Countries: An Empirical Study of Ghana*, London: Macmillan Press p.12.

<sup>7</sup> Akyeampong, K, J., Djangmah, A. Seidu, A. Oduro & F. Hunt, (2007) "Access to Basic Education in Ghana: The Evidence and the Issues", *Create Pathways to Access, Country Analytical Review*, University of Sussex: Create.p.10.

<sup>8</sup> Ibid

<sup>9</sup> Little, note 13, p.12

<sup>10</sup> Ibid.

<sup>11</sup> Ibid.

<sup>12</sup> Kadingdj, note 32, p.8

<sup>13</sup> Ibid

<sup>14</sup> Akyeampong, K., note 17 p.178

US\$260 million from 1986 to 2002.<sup>1</sup> During the period 1984 to 1990, Ghana enjoyed a lot of goodwill from developed wealthy countries and donor agencies such as the World Bank and the IMF. The reason for this financial support was the 'success story' of Ghana's Economic Recovery Programme of 1983.<sup>2</sup>

At the onset of the Education Reform Programme in 1986, the International Development Association (IDA) took the leading donor role in providing Educational Structural Adjustment Credit (EdSac) to tertiary, non-formal, vocational, and basic education. Additional project assistance came from USAID, DFID, UNICEF, Canadian International Development Agency (CIDA), European Union (EU) grants and the African Development Bank (ADB) loans.<sup>3</sup> The problem was that donor activity was uncoordinated throughout the period of 1986-1991, resulting in the creation of several project implementation units (PIUs) within the Ministry of Education.<sup>4</sup> In 1992, in an effort to co-ordinate better the various international funding and technical assistance agencies, the World Bank provided support for the establishment of the Project Management Unit (PMU) with a Director General to co-ordinate the activities and missions of all funding and donor agencies. However, many donors strongly felt that the PMU was not serving the collective interests of all donors.<sup>5</sup> Joint missions were difficult to facilitate and most of the PMU staff had contracts funded through IDA credit to the government.<sup>6</sup> Writing in 2000, Mettle-Nunoo & Louise Hilditch reported that, lack of co-ordination was still the biggest barrier to more effective support to education in Ghana and other developing countries as well.<sup>7</sup> Significant in this period was the ambition of the government to reform the education system by restructuring the nation's economic base to bring it into conformity with the financial credibility criteria required by the World Bank.<sup>8</sup> It was characterised by Ghana's participation in, and endorsement of, international agreements such as EFA, the Convention on the Rights of the Child, and CEDAW. This meant that the Government had to remain committed to her obligations under the international human rights laws, and must be influenced by the bilateral and multilateral negotiations it had taken part in, as a guide when making policies. With this condition met, Ghana had the opportunity of negotiating for credits and grants to finance major education reform. The outcome of the reforms and recovery of the education sector is the FCUBE created in 1996. The Government of Ghana recognises education as the fundamental building block of the country, and realising that a literate citizenry is the foundation of democratic processes, economic growth and social well-being of a nation's population. From world human development rating, Ghana is categorised today as within medium human development nations with a Human Development Index (HDI) ranking of 131.<sup>9</sup>

### 3.1. Free Compulsory Universal Basic Education (FCUBE)

This part of the study examines the design, planning, and implementation of the FCUBE programme embarked on by Ghana in the last twenty years. The FCUBE initiative in Ghana was formally launched in 1996 and enhanced through a Capitation Grant Scheme strategy in 2004/05. The Ministry of Education, Science and Sports (MoESS) has the overall responsibility for policy formulation. The Mission of the MoESS is 'to ensure that all Ghanaian children of school-going age are provided with quality formal education and training through effective and efficient resource management that will facilitate the making of education delivery relevant to the manpower and social needs of the nation.'<sup>10</sup>

The FCUBE launched in October 1996 was to be implemented within a ten-year period (1996-2005) in fulfilment of the Fourth Republican Constitution's mandate, which states that; 'The Government shall [...] draw up the programme for implementation within the following ten years for the provision of Free Compulsory Universal Basic Education'.<sup>11</sup> It was designed to address some of the shortcomings of previous educational reform initiatives in the country. The first 9 years form the basic education and is free and compulsory. It is wider unlike the former UPE which made only primary education free. The question is; 'how was the 1996 FCUBE reform policy different from the previous similar education policies?' According to Kadingj, 'even though the FCUBE policy was not new in terms of themes and ideas, it was certainly new in the emphasis it placed on its implementation'.<sup>12</sup> By requiring that all children in Ghana receive nine years of free schooling, the Government wished to ensure that all products of the basic education system were prepared for further education

<sup>1</sup> World Bank, (2004), *Books, Building and Learning Outcomes: An Impact Evaluation of World Bank Support to Basic Education in Ghana*, Washington DC: Operations Evaluation Department (OED), World Bank.

<sup>2</sup> Kadingdj, note 32, p.8.

<sup>3</sup> Ibid

<sup>4</sup> Action Aid, (2000), *A Report on Donor Participation in the Education Sector in Ghana*, Accra: Action Aid, p.27.

<sup>5</sup> Ibid p.27

<sup>6</sup> Ibid p. 33

<sup>7</sup> Ibid

<sup>8</sup> Ibid

<sup>9</sup> Akyeampong, note 17, p.179.

<sup>10</sup> Adamu-Issah, M.L. Elden, M.Forsom, & T. Schrofer, (2007), *Achieving Universal Primary Education in Ghana by 2015: A Reality or a Dream?*, New York: UNICEF, p.3.

<sup>11</sup> Article 38(2) 1992 Constitution of Ghana

<sup>12</sup> Kadingdj, note 32, p.9.

and skill training.<sup>1</sup> The 1996 FCUBE policy sought to expand access to good quality basic education. Specifically, at the heart of FCUBE was the government's commitment 'to make schooling from Basic Stage one through nine *free* and *compulsory* for all school-age children by the year 2005 ... [and] to improve the quality of the education services offered'.<sup>2</sup> The compulsory part indicates the determination to put pressure on parents to ensure attendance by their children for the full duration of the basic education. Parents were threatened with fines if they failed to comply, but without an enforcement strategy this is simply an empty threat. Despite an existing policy of fee-free tuition in primary schools post-1996 as outlined by FCUBE, many districts continued to charge students levies to attend school as a means of raising funds to cover school-related expenses.<sup>3</sup> While theoretically, no child was to be turned away for non-payment of fees, the initiative did not work. This deterred many families, particularly the poorest, from sending their children, especially girls, to school. There was confusion over what 'free education' actually stood for. The Ghana Education Service had to highlight what FCUBE entails as follows;

[...] under FCUBE programme, the government provides free tuition, textbooks and teaching and learning materials and subsidises the cost of exercise books. It also supplements Basic Education Certificate Education (BECE) fees for both public and private candidates ... [but] parents ... are expected to send all their children of school-going age to school, feed them and provide them with school uniforms, school bags, stationery and transport where necessary.<sup>4</sup>

Through what is termed the Capitation Grant Scheme, Ghana embarked on a national initiative for the provision of universal basic education in 2004. Consequently, school fees were completely abolished in 2005.<sup>5</sup> This initiative sought to bolster the constitution, in which free, compulsory and universal primary education is mandated, and to support its educational policy under FCUBE, which was established as an outgrowth of this constitutional mandate.<sup>6</sup> In order to meet the MDG goals for education, the Government took the bold step forward by abolishing all fees charged by schools-(pre- primary, primary and junior secondary) and provided schools with a small grant for each pupil enrolled, called the Capitation Grant Scheme (CGS).<sup>7</sup> Under this system, every public pre-primary, primary school and junior secondary school receives a grant of about \$3.30 per pupil per year. Schools are therefore not permitted to charge any fees to parents. These amounts were chosen based on an analysis of the average fees charged nationwide at the basic education level.

#### 3.1.1. *The Capitation Grant and its Impact on Free Primary Education in Ghana*

The Capitation Grant Scheme was introduced in 2004-2005 to support financially and administratively the FCUBE policy of free, universal basic education. It removed the financial barrier to enrolling in schools while, at the same time, compensated schools for any loss of revenue incurred by eliminating student levies.<sup>8</sup> These allocations would be accounted for and spent in accordance with the School Performance Improvement Plan (SPIP). The key players in the management of the capitation grant are the District Director of Education (DDE), Assistant Director Supervision, Circuit Supervisors, District Accountant, School Management Committee (SMC), and Head-Teacher.<sup>9</sup>

##### 3.1.1.1. *Mode of disbursement of the grant*

The disbursement of the fund is done as follows: The Ghana Education Sector (GES) has a main account, where the central government deposits funds for the payment of the capitation grant. Individual checks are issued to each of the districts on the basis of enrolment in each district, this is to be deposited in specially designated bank accounts for capitation grants.<sup>10</sup> To ensure smooth implementation of the school programs, separate bank accounts are opened for each school, and funds are transferred from the district account to the school account.<sup>11</sup> The executor of an activity within the SPIP applies to the head teacher for funds with a Request Form. A cash equivalent to that activity is withdrawn from the bank, an Advance Form is completed, and cash is given to the executor to be used for the purpose indicated on the request form. After the completion of the activity, the

<sup>1</sup> Ibid

<sup>2</sup> Maikish, Athena & Gershberg, Alec, (2009), *Targeting Education Funding to the Poor: Universal Primary Education, Education Decentralization and Local Level Outcomes in Ghana*, (UNESCO Background paper prepared for the Education for All Global Monitoring) (Paris:UNESCO), p.6. See also Government of Ghana 1996, Ministry of Education, Science and Sports p.1.

<sup>3</sup> Ibid p.2

<sup>4</sup> Daily Graphic, Friday, November 17, 2000, 19; culled from: Akyeampong, K., 'Revisiting Free Compulsory Universal Basic Education (FCUBE) in Ghana', (2009) 45: 2 *Comparative Education*, 175-195 p.181

<sup>5</sup> Global Initiative on Out-of-School Children Ghana Country Study available at [www.uis.unesco.org/.../out-of-school-children-ghana-country-study-2012](http://www.uis.unesco.org/.../out-of-school-children-ghana-country-study-2012) accessed 23July13.

<sup>6</sup> Ibid.

<sup>7</sup> Ministry of Education Science and Sports, (2006), *Report on the Education Sector Annual Review (ESAR)* Accra: MoESS.

<sup>8</sup> Adamu-Issah, M,L. Elden, M.Forson, & T. Schrofer, note 52, p. 4.

<sup>9</sup> Ampratwum, Edward & Armah-attoh, Daniel, (2010) "Tracking Capitation Grant in Public Primary Schools in Ghana", 10 (1), *Ghana Center for Democratic Development (CDD-GHANA)*, p.12.

<sup>10</sup> World Bank in Collaboration with UNICEF, (2009), *Abolishing School Fees in Africa: Lessons from Ethiopia, Ghana, Kenya, Malawi and Mozambique*, Washington D.C: World Bank, p.111.

<sup>11</sup> Ibid p 112.

executor submits the relevant documentation (receipts, honour certificates, and activity report) to the head teacher and completes an Accounting for Advances Form to end the process. At the school level, requests for funds are to be endorsed by both the SMC chairman and the head teacher. These persons are jointly responsible for the use of funds to attain targets set out in the SPIP.<sup>1</sup> The district education office should open a special account to lodge funds for the capitation grants. The signatories to this account are the DDE and the District Accountant. To ensure smooth implementation of the school programs, separate bank accounts should also be opened by the district for each school. The signatories to the school account are the head teacher and the assistant.<sup>2</sup> As done in Kenya, it is submitted that Parent Teacher Associations (PTAs) could be made grant signatories to increase demand for transparency and accountability by actors outside of the formal management structure of schools. To ensure accountability and transparency, each school is to maintain financial records, which document all capitation grants disbursed and received, along with all appropriate receipts and documentation. These records are to be made available for the review of the Schools Management Committee (SMC), the district education office, and the internal audit office. Monthly and quarterly reports describing activities completed and on-going during the period, together with a statement of expenditures for these activities, are to be sent to the district education office by the head teacher and the SMC chairman. The district education office is also to report on a quarterly basis to the director general on capitation grant operations. It is submitted that there are monitoring, and reporting on the disbursement and use of funds at the districts and schools on a term-by-term basis coupled with review of progress on implementation of the scheme. This is an evidence of transparency and accountability, which is required for successful implementation of the Capitation Grant Scheme (CGS). Sustainability of the CGS can only be ensured with this accountability demands. The (CGS) sought to encourage effective implementation of decentralization by empowering schools to plan and carry out school quality improvement activities using accountability guidelines and forms.

### 3.1.2. *Impact of the capitation grant*

Capitation Grants had a positive impact on school enrolment-related figures during the 2005/06 school year, whereby gross enrolment rose by nearly 10 per cent, bringing total primary enrolment to 92.4 per cent nationwide, and net Enrolment increased from 62 per cent to 69 per cent.<sup>3</sup> Every region in the country experienced a rise in enrolment, with the Northern Region, where rates were lowest, experiencing the largest increase. Overall enrolment in basic schools increased by 16.7 per cent in the 2005/06 school year compared to 2004/05. Enrolment of girls increased slightly more than that of boys (18.1 per cent vs. 15.3 per cent).<sup>4</sup> There was an increase of 147, 635 in absolute figures, or 14.6% over the 2003/04 academic year Overall enrolment rose by an impressive 14.5 per cent; enrolment gains for pre-school were particularly significant (over 36 per cent). The CGS had a significant impact on boosting school enrolment. This success led to the nationwide adoption of the 'Capitation Grant' system in early 2005. A total amount of C/129 billion (US\$14.72 million) was released by the government for the program in its first year of implementation.<sup>5</sup> The Government of Ghana now spends 40% of its recurrent national budget on education; about 65% of that amount is allocated to primary and junior secondary education.<sup>6</sup> These figures are among the highest reported by African nations.

#### 3.1.2.1. *Funding*

Financial sustainability of the CGS is very crucial for the success of the scheme. Since the introduction of the capitation grant, the Government of Ghana proposed to fund the scheme from the Heavily Indebted Poor Countries (HIPC) Initiative and the Social Impact Mitigation Levy Funds. A total amount of C/129 billion (US\$14.72 million) was released by the government for the program in its first year of implementation from the following sources: HIPC Fund, C/ 47.5 billion, or US\$5.40 million, and the Social Impact Mitigation Levy Fund, C/ 82.0 billion or US\$9.32 million.<sup>7</sup> Subsequent financing was included in the national budget for the year. Ghana has received lots of international donor supports in form of grants and loans. Ghana's Vision 2020 policy document makes a financial commitment of approximately 40% of GDP to the development of education. Developments Partners working in close collaboration with Government have also committed substantial resources to the Government of Ghana since 2005 when the CGS was launched.<sup>8</sup> Approximately \$400 million has been loaned or granted since 1997, of which the greater part has been directed to basic education, including the national literacy program. On an annual basis donor contribution constitutes some 9% of the overall

<sup>1</sup> Ibid.

<sup>2</sup> Ibid.

<sup>3</sup> World Bank & UNICEF, *Abolishing School fees in Africa*, note 64, p.102,

<sup>4</sup> Adamu-Issah et al note 52, p.4.

<sup>5</sup> Little, A. note 13 p.31.

<sup>6</sup> Osei Robert et al, (2009), *Effects of Capitation Grant on Education Outcomes in Ghana*, Legon: Institute of Statistical Social and Economic Research University of Ghana, p.5.

<sup>7</sup> Little note 14 p.31.

<sup>8</sup> Maikish A & Gershberg A. (2009), "Targeting Education Funding to the Poor: Universal Primary Education, Education Decentralisation and Local Level Outcomes in Ghana", *Background Paper for the Education for All Global Monitoring Report*, Paris: UNESCO.

education budget and 15% of the allocations for basic education.<sup>1</sup> The emerging lead donor to the scheme has been the World Bank (IDA) with credits totalling US \$230 million including a primary education credit of US \$65 million and US \$32 million for the second phase of the National Functional Literacy Programme. Other donors include DFID grants of £50 million, USAID grants of US \$53 million to primary education. CIDA's support was US \$14 million for basic technical education. Norway grant aid of US \$8 million was for literacy and school construction for basic education. The OPEC fund gave a grant aid of US \$4.4 million for school construction and rehabilitation of school sanitation facilities. World Food Programme supported through food allocation to school children.<sup>2</sup> All support programme funded by World Bank, USAID and other donor agencies have been integrated into a single Project Management Unit headed by a Director-General. This facilitates coordination in the disbursement of the grants to guarantee effective operational implementation.

#### **4. Lessons from the Ghana Capitation scheme**

The Capitation Grant strategy has been very successful and has narrowed economic, gender and geographical disparity figures regarding education in Ghana. The full abolition of school fees constitutes a relatively simple strategy that has had an immediate and considerable impact on access to education. In Ghana, the grants have created a great deal of momentum and generated additional support from international agencies. The Government's determination to adopt a holistic approach to the development of education within the framework of mobilizing all available resources - human, material and financial has yielded positive results. Poverty, which has been identified as a major barrier to education, is being addressed through the Ghana Poverty Reduction Strategy (GPRS) which seeks to provide an environment that empowers all Ghanaians to participate in wealth creation. In Ghana presently, primary education is practically free and compulsory, though the mode of enforcing compulsory attendance is not clarified. The success of the FCUBE programme is evidenced by the fact that Ghana's illiteracy rate is one of the lowest in Africa today as a result of the FCUBE programme. At present, more than 80% of Ghana's children are enrolled and staying in primary school, a rate far ahead of most countries in sub-Saharan Africa.<sup>3</sup>

Financial sustainability is a critical issue in the free primary education programme. The EFA process has emphasised that enrolment growth alone is not sufficient to meet development needs, and that concerns for quality and achievement must co-exist alongside enrolment targets. In Ghana, for example, the reassertion of fee-free education in 2005 through the school capitation grant scheme has created 'extra demand of about 13,400 classrooms' mostly needed in poor rural areas.<sup>4</sup> Thus, not only are more teachers needed, but also the new teachers should be effectively trained. This has placed new pressures on the financing of teacher education and its costs. Where the challenges that this has created are not met, the obligations under the human rights laws will be compromised by rising pupil-teacher ratios and increased numbers of untrained teachers. Thus, as fee-free education policies take root and more public schools become available. The related policy objective in its Education Strategic Plan (ESP) emphasised the need to 'increase private sector participation in the education sector'. The Education Ministry receives biggest budget allocation to implement programmes.<sup>5</sup> Parliament approved GH¢ 5,816,315,000.00 (\$1,515,890,823.35) for the Ministry of Education to implement its programmes and pay compensation in the 2014 fiscal year.<sup>6</sup>

Capitation grant scheme is not devoid of challenges. Some of the challenges identified include overcrowded classrooms, and exacerbation of teachers' workloads. Overcrowding and insufficient teaching and learning materials will inevitably lead to a fall in the quality of teaching. The 'pull' between strong commitment of governments and donors and available resources was another issue. On balance, the capitation grant creates national momentum. The CGS is a pro-poor strategy and it is the poor, in particular, who have responded by enrolling their children in public schools. The scheme has also narrowed gender and geographical differences. Even the Northern Region (where rates were lowest) experienced a large increase in school enrolments. The abolition of school fees and introduction of capitation grants constitute a strategy that has an immediate and considerable impact on access to education; in comparison to other strategies, for example school feeding programme. In Ghana, the capitation grant has generated additional international funding support. Without doubt, effective financial system for the transfer of funds from the central to the school level has been the key to successful implementation of the scheme.

#### **5. The Right to Education in the Constitution of Ghana**

The 1992 Constitution of Ghana is very strong in terms of human rights protection. Chapter V of the

<sup>1</sup> Little, note 13, p.33.

<sup>2</sup> Action Aid, *Donor Participation in the Education Sector in Ghana*, p.27

<sup>3</sup> Global Initiative on Out-of-School Children Ghana Country Study, p.18.

<sup>4</sup> MOESS, (2007) Accra: Ministry of Education Science and Sports p.81.

<sup>5</sup> [www.gbchghana.com/1.638311](http://www.gbchghana.com/1.638311) accessed 12/08/2014

<sup>6</sup> Ibid.



Constitution guarantees a number of fundamental rights and freedoms, which ‘shall be respected and upheld by the Executive, Legislature and Judiciary and all other organs of government and its agencies and, where applicable to them by all natural and legal persons in Ghana, and shall be enforceable by the courts as provided for in this Constitution’.<sup>1</sup> The right to education guaranteed by the Constitution includes Article 25 (1) which provides as follows:

All persons shall have the right to equal educational opportunities and facilities and with a view to achieving the full realisation of that right: (a) *Education shall be free, compulsory and available to all.* The term, ‘all persons’, certainly includes all children.<sup>2</sup>

Notably, the provision determines the State's duty towards education to be effectuated through the guarantees of; free, compulsory basic education, including assurance that it will be offered costing nothing for all. Interestingly, with education’s placement in the constitution as a fundamental right, the constitution allows for seeking redress in the courts if the right to education is violated. The Constitution also contains a provision specifically for children’s rights in Article 28, with Article 28(1) placing an obligation on Parliament to enact laws which will ensure that parents do not abdicate their responsibility to care and maintain children they have brought into the world. Article 28(2)-(5) assure and guarantee important rights to children. Specifically, Article 28(2) provides that every child has the right to be protected from engaging in work that constitutes a threat to his health, education or development.

Another article addressing the right to education is Article 38 which specifically directs that:

The State shall provide educational facilities at all levels in all the regions of Ghana, and shall, to the greatest extent feasible, make those facilities available to all citizens... [The] Government shall draw up a programme for implementation within the following ten years, for the provision of free, compulsory and universal basic education.

This provision thus takes the state obligation to provide free and compulsory primary education further from the narrow concept of primary education to the national provision of basic education. It is submitted that the 1992 Constitution of Ghana committed Ghana to the principle of free universal basic education and gave this commitment some substance by establishing a time-frame. As a result, the 10-year FCUBE emerged from this constitutional mandate in 1996. From this emerged the "Capitation Grant Scheme", which removes the barriers of fees and levies that poor families face when considering schooling for their children. This has enhanced access to school for all children in Ghana. The FCUBE policy in Ghana, introduced in 1992 and formally launched in 1996, was apparently pursuant to this constitutional mandate and frames the current basic education policy in Ghana. In sum, the 1992 Constitution of Ghana sets a time frame within which the government will provide free, compulsory basic education, and at its expiration it fulfilled its commitment by establishing the FCUBE policy.

### 5.1. *Children’s Rights Act of 1998*

On ratification of the Child Rights Convention (CRC), State parties are obliged to: ‘...undertake all appropriate legislative, administrative and other measures for the implementation of the rights recognised in the present convention’.<sup>3</sup> Being a legally dualist State, the rights enumerated in the CRC can only be fully accessible to children in Ghana only through incorporation into the constitution or the municipal laws of the State. For dualist States a treaty that is not incorporated into the municipal law is as good as inconclusive.<sup>4</sup> Ghana having ratified the CRC<sup>5</sup> thereby agrees to ‘respect and ensure’ the children’s rights set forth therein.<sup>6</sup> In order to conform its legislation, and administrative practice to the requirement contained in the CRC, Ghana enacted in 1988 the Ghana’s Children’s Act. The 1998 Children’s Act (Act 560) reforms and consolidates the law relating to children by providing for the rights of the child, maintenance and adoption, and by regulating child labour, apprenticeship and related matters. The Act protects the right to education. Section 6(2) of the Act provides that: ‘[e]very child has the right to life, dignity, respect, leisure, liberty, health, education and shelter from his parents. The Act further specifies that, ‘[n]o child must be deprived of access to education, immunisation, adequate diet, clothing, shelter, medical attention or any other thing required for his development’.<sup>7</sup> The Children’s Act of Ghana complements the constitutional provisions on the right to education. There are other various, policy documents and reports, which have helped in meeting the educational needs and aspirations of the children in Ghana some of which are discussed below.

<sup>1</sup> Article 12 1992 Constitution of Ghana

<sup>2</sup> Article 25 Constitution of Ghana

<sup>3</sup> Art 4 CRC.

<sup>4</sup> Koh, Harold Hongju (1999), “How is International Human Rights Law Enforced?” 74 *Indiana Law Journal* 1397- 1413 at 1398.

<sup>5</sup> Office of the High Commissioner of Human Rights, Status of ratification of the Convention on the Rights of the Child, available at <http://www.ohchr.org/english/law/crc-ratify.htm> (accessed on 12 July 2014).

<sup>6</sup> Art 26 Vienna Convention

<sup>7</sup> Section 8 (1) *Children’s Act Ghana 1988*.

### 5.2. Key Policies towards Ensuring Free Compulsory Universal Basic Education in Ghana

Ghana has created a policy document on basic education improvement sector program put together by the government in 1996 to ensure implementation of the FCUBE. One may therefore ask: How was the 1996 FCUBE reform policy different from the policies preceding it? Previously, there had been policies such as The Accelerated Development Plans (ADP) for Education of 1951 and 1961,<sup>1</sup> the Dzobo Committee of 1973, and the New Structure and Content of Education of 1974.<sup>2</sup> Kadingj's response as previously noted is that even though the FCUBE policy was not 'new' in terms of themes and ideas, it was certainly 'new' in the emphasis it placed on its implementation.<sup>3</sup> The expansion and reforms planned under the FCUBE were designed to equip future generations of Ghanaians with fundamental knowledge and skills, in selected Ghanaian languages, literacy and numeracy, in order to develop further their talents through additional education or training.<sup>4</sup> This was to be achieved through the four objectives of the FCUBE reform: (i) to improve the quality of teaching and learning; (ii) to improve management efficiency and sustainability; (iii) to increase access and partnership; and (iv) to decentralize the management of the education sector.<sup>5</sup> The FCUBE reforms of 1996 were designed to enforce the objective of ensuring free, compulsory and accessible basic education.

To facilitate the attainment of free education under the FCUBE programme, a number of programmes were implemented. First is the Quality Improvement In Primary Schools (QUIPS) programme, which is supported predominantly by USAID and helps to train competent teachers, train education managers and planners, and promotes a supportive learning environment.<sup>6</sup> The implementation of this programme has helped to expand access, improve quality teaching and learning, improve the supply of logistics and curricula development as well as motivate teachers.<sup>7</sup> Second is the Capitation Grant Scheme, already discussed earlier. A Capitation Grant Scheme to help schools make up for missing fees which pupils would have paid was created in 2004.<sup>8</sup> The result is that this has led to considerable increase in school enrolment. Lastly is the School Feeding Programme, which was initiated in order to help ease the burden on parents in feeding their children. There has also been increasing international interest in supporting the school feeding programme.<sup>9</sup> The objectives of the School Feeding Programme are to enhance school enrolment, encourage attendance, ensure retention, and improve nutritional and health status of children. It uses home grown foodstuff to provide hot meal to primary school pupils. This is a pro-poor policy, based on the belief that one cannot teach a child with an empty stomach, rather, the child must be fed first, before he or she can assimilate. This has been known to have immediate gains in enrolment especially in poorer districts.<sup>10</sup> Indeed all the above programmes have enhanced enrolment and increased retention and completion of primary education.<sup>11</sup> Programmes like this are good examples for countries in Africa to follow.

### 5.3. Concluding Observations on Ghana's CRC Report

The Committee on Child Rights Convention considered the second periodic report of Ghana in 2005.<sup>12</sup> In the Committee's concluding observation, a number of positive steps were noted. For example, the remarkable improvement made in the field of education in introducing the Capitation Grant, was extolled, and also the introduction of school feeding programme in three regions of northern Ghana was commended.<sup>13</sup> The Committee recommended the extension of the school feeding programme to other regions of the country and also recommended that the State party increase and efficiently use public expenditure in education. They also recommended improving access to vocational training and informal education for vulnerable groups, including street children, orphans, children with disabilities and child workers. Another recommendation was to increase enrolment in primary and secondary education and end gender disparities in the access and full enjoyment of the right to education. Finally, the Committee noted the gap between the positive laws regarding children's right taken by Ghana and the practice. Generally, the Committee's report gave some positive feedback of Ghana's educational initiatives.

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<sup>1</sup> Kadingj, note 32.

<sup>2</sup> Ibid

<sup>3</sup> Ibid p.9

<sup>4</sup> MOE, 1996, 1998

<sup>5</sup> MOE, 1996, p 15

<sup>6</sup> The Mitchell Group (Stephen P. Heyneman, coordinator), (2009) *Review of Basic Education Quality in Ghana: Progress and Problems*, USAID, p.4.

<sup>7</sup> Ibid.

<sup>8</sup> Madeez Adamu-Issah, et al, (2007) *Achieving Universal Primary Education in Ghana by 2015: A Reality or a Dream?* New York: UNICEF,

<sup>9</sup> The World Bank & UNICEF, note 64, p.121

<sup>10</sup> Ibid

<sup>11</sup> Ibid

<sup>12</sup> UN Committee on the Rights of the Child (CRC), *UN Committee on the Rights of the Child: Second Periodic Reports of States Parties Due in 1997, Ghana*, 14 July 2005, CRC/C/65/Add.34, available at: <http://www.refworld.org/docid/43f3054a0.html> [accessed 20 April 2015]

<sup>13</sup> Ibid

## 6. Conclusion

The experience of Ghana is an inspiring one. But, what is clear is that Ghana made an experience which would have been filled with a lot of regrets an interesting one. It is one from which African countries can learn. Ghana identified its problem and sought to solve it by being pragmatic and committed. Two notable dimensions to the Ghanaian story is that right to education has a formal and substantive dimension. The substantive dimension is in respect of commitment exhibited and the concrete ways Ghana sought to address its problems. The formal dimension is in respect of the legal regime in Ghana. Why law may somewhat be considered to lay down the foundation for development, the Ghanaian experience tends to suggest that commitment is the key first and from there the law can follow. As a matter of fact, commitment constitutes value which may eventually drive the direction to which law will be led. African countries are therefore urged to take a cue from Ghana. Of course, the experience of one country cannot completely be the same with the experience of another, nonetheless there are some identifiable patterns which may make the approach adopted by one country commendable to the other. The experience of Ghana in all respects largely reflects the experiences of the countries of the Sub-Saharan Africa and the approach of Ghana may be helpful subject to such modifications as local circumstances demand.

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