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**TOPIC: THE EXTENT TO WHICH PRIMARY EDUCATION IS
COMPULSORY AND FREE IN NAMIBIA**

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Declaration

This is to certify that the dissertation titled: “THE EXTENT TO WHICH PRIMARY EDUCATION IS COMPULSORY AND FREE IN NAMIBIA” was carried out by Ivette Levien Fredericks (200718053) under the guidance of Mrs N K Nuugwedha.

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“Education is the most powerful weapon which you can use to change the world.”

Nelson Mandela

Dedication

I dedicate this research to primary school children, parents, and teachers and above all, to the Namibian nation, the Namibians

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First of all I want to thank the God for always hearing my prayers and for guiding me until this point in life. Thank you Miss Taimi Rafael who is my dear mother and role model for always encouraging me and giving me the hope to make it through. I am grateful to my supervisor Mrs Nuugwedha Kandali for have been with me and guiding me through every stage that i was doing in my research until the time i submitted my final copy of my research report. I would also like to thank everyone schooling in the schools in Katutura I have interviewed for they showed that by their high corporation and the interest in helping out with the information needed for my findings about whether education is free and compulsory especially in Katutura. Thank you Kefilwe Fefe for all your support, I would not have finished this dissertation without your helping hand. Finally, I would like to thank Priest Vries for he was always there from the beginning until finishing this research paper. Thank you all from the bottom till the top of my heart. Thank you.

Abstract

The purpose of the research paper is to find out the extent to which primary level education is compulsory and free of charge in Namibia. Interviews were conducted in 6 schools within the area of Katutura. Furthermore, the purpose was also to find out a clear perception of the stakeholders about the right to compulsory and free primary education in Namibia. According to the research, education in Namibian primary schools is compulsory but not free. There is however need for further research on the topic. The reason therefore being that this research was only carried out in 5 schools in Katutura, and the information gathered does not necessarily present the exact results of all the primary schools in Namibia. Further research on primary schools in other parts of Namibia is therefore necessary

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CHAPTER 1

BACKGROUND TO THE STUDY

1.1. Introduction

Before Namibia got its independence, education was not compulsory, free and equal for all. While education was being governed by the Bantu Education Act of 1953, not everyone had equal access to education.¹ On 21 March 1990, Namibia got its independence and sovereignty. On that date Namibia adopted a constitution that has been in force for eleven years now as the supreme law of the country.² One of the main aims of the constitution is to maintain and protect the rights which the Namibian people have been denied during apartheid time.³ In addition to that, the protected fundamental human rights and freedoms are enshrined within chapter 3 of the Namibian constitution.⁴ This includes article 20 which deals with the Right to Education. The focus of this paper is on Article 20 (2) of the Constitution which states that primary education must be compulsory and free of charge.⁵

1.2. Statement of the problem

As indicated above, Namibia has adopted a constitution which is entrenched with a Bill of Rights as well as the doctrine of constitutional supremacy. According to Amoo⁶, the doctrine of Supremacy promotes the principles of the rule of law as well as constitutionalism, and it also protects the fundamental rights of individuals. In addition to that, the republic of Namibia is said to be based on the foundation of the principles of democracy, the rule of law and justice for all.⁷

¹ Burton, p. 2001. *Protecting the flame; overcoming Violence as a barrier to education in Namibia*. Cape town: Centre for Justice and crime Prevention, p 55

² Article 1 (6) Act 1 of 1990

³ The preamble of Act 1 of 1990

⁴ Article 1 (6) Act 1 of 1990

⁵ Article 20 (2) of Act 1 of 1990

⁶ Amoo, SK. 2008. *The Independence of the Judiciary in Namibia*. Konrad-Adenauer Stiftung and the authors, p 94

⁷ Article 1 (1) Act 1 of 1990

The right to education is regulated by article 20 of the Namibian constitution⁸. Article 20 (2) of the constitution provides that

“Primary education shall be compulsory and the State shall provide reasonable facilities to render effective this right for every resident within Namibia, by establishing and maintaining State schools at which primary education will be provided free of charge.”⁹

Article 20 (2) is supported by section 38 (1) and (2)¹⁰ which states the following:

(1) “All tuition provided for primary and special education in state schools, including all school books, educational materials and other related requisites, must be provided free of charge to learners until the seventh grade, or until the age of 16 years, whichever occurs first. And

(2) A learner to whom education, other than primary education, is provided in any state school, centre or class or the person responsible for such learner's education, must pay such fees as the Minister may determine.”

Despite the provisions of Article 20(2) read together with section 38 (1) and (2), there are still children who are restricted from attending primary schools due to the failure of paying school fees.¹¹ This happens despite the fact that the supreme law of the country provides for primary education to be free of charge. The issue here is why are the children who are attending primary education paying school fees if primary education is supposed to be free of charge?

1.3. Research question

In view of the background discussed above, the research questions are as follows:

(a) To what extent is primary education in Namibia compulsory and free?

⁸ Act 1 of 1990

⁹ Article 1 (6) Act 1 of 1990

¹⁰ The Education Act of 2001

¹¹ Burton (2001: 9)

The above main research question will be complemented by the following sub research questions:

- (b) What are the perceptions of the stakeholders¹² in Khomas Region regarding the right to compulsory and free primary education?
- (c) If primary education is not compulsory and free, is it possible to abolish the obstacles which are preventing primary education from being compulsory and free?

1.4. Purpose of the research

Since article 20 (2) of the constitution states that:

“Primary education shall be compulsory and the State shall provide reasonable facilities to render effective this right for every resident within Namibia, by establishing and maintaining State schools at which primary education will be provided free of charge”,

the purpose of this research paper thereof is to find out the extent to which article 20 (2) which are adhered to. Also, the research finds out how far the right to compulsory and free primary education has been put into practice.

In addition to the above the research is also aiming at finding out the stakeholder’s knowledge and understanding about the right to compulsory and free primary education. It is important to find out the perception of the stakeholders and the extent to which they know about the right to free primary schools as well as how they understand it.

As a final point, the purpose of the research is to find out what the stakeholder’s are recommending to be done in order to make sure that primary education is compulsory and free.

¹² These are the people who practically know more about the primary education, such as primary school teachers, parents of children going to primary schools, and the citizens living close to the primary schools selected.

1.5. Significance of study

The significance of the research is to find out whether or not primary education is compulsory and free of charge.

In order to find out whether or not primary education is compulsory and free of charge, it is essential to reveal the perceptions of the stakeholders with regards to the adherence of the provisions of article 20(2). The reason for this step is to hear about the right to compulsory and free primary education from the stakeholder's themselves, especially the ones affected by this right. It is important to discover what the stakeholders are experiencing with regards to the right to compulsory and free primary education. Talking to the stakeholders gives them an opportunity to also view out possible recommendations that will help make primary education compulsory and free of charge.

1.6. Limitations

Various researches done before on education concentrated on the meaning and the enforcement of the right to education in general. This research in particular is about the right to compulsory and free primary education. To be specific, this research is only concentrating on the extent to which this right to compulsory and free primary education is a reality.

In order to find out whether primary education is compulsory and free, it is necessary to conduct research in all the primary schools of Namibia. However, due to the limited resources and time, it is impossible to carry out the research as planned. There are 1039 primary schools in Namibia of which 986 are owned by the government.¹³ Only six (6) schools were selected for the research. Due to the reason that it is also difficult to conduct a research on everyone within the selected schools, the research was only done on a number of stakeholders that were available at the

¹³ Final AU report of 07 December 2010, P 30

time. The research also focused on the sampled community members and their awareness of the right to compulsory and free primary education.

The right to education is a broad topic. For the purpose of this research, the focus point is mainly on whether or not primary education is compulsory and free of charge. This research did not concentrate on any other level of education, but only on primary schools. The research also does not deal with on access to education, equality, quality of education and other aspects on education in details.

1.7. Research Methodology

1.7.1. Research approach

This research is a qualitative research which was based on a case study. The study was directed on specific number of people in a specific area of Windhoek¹⁴. The research studied the stakeholder's personal contribution towards the right to compulsory and free education in Namibia.¹⁵

1.7.2. Population

The targeted population for this research is all the primary schools in Namibia. However, there is limited resources and time to carry out the research throughout the whole of Namibia. The research is done in the area of Windhoek. 6 schools where selected, specifically within the area of Katutura. The research was done on six (6) teachers, eight (8) parents and four (10) citizens from the area of Katutura.

1.7.3. Sampling

For the purpose of this research, purposeful sampling was carried out. There have been many allegations in the community that not all black children are

¹⁴ Windhoek is the capital city of Namibia and it is found in the Khomas region of Namibia.

¹⁵ In Katutura to be specific

attending primary school. The six (6) schools that are sampled are the schools where black children attend school. In addition, the six (6) school where selected from Windhoek, in Katutura where poverty is common.

Additionally, sampling was done for a reason. The stakeholders who have knowledge about whether primary education is compulsory and free, are the people who are closely connected to primary schools. Teachers who teach in primary schools are a good source of information on a topic related to primary education. However, due to their busy schedule only one (1) teacher per school was interviewed. The Parents of the children who attend primary schools also have information of whether primary education is compulsory and free of charge.

1.7.4. Research instrument

Interviews were conducted by using interview questions. Questions were prepared, typed and printed out. The interviewer physically met the respondents and asked them the interview questions face to face. The questions were clearly explained to the respondents and were asked in a neutral tone. The interviewer went to the houses of the stakeholders mentioned above after working hours, by appointment. The interviewer was asking the respondents the questions and writing down the answers given by the respondents. It was important to carry out interviews because it helped to find out the experiences of the stakeholders regarding the issue in question.

1.7.5. Data analysis

The data was analysed by coding the answers of the respondents. The interview answers of each respondent were compared to each other. The interviewer merged the similar answers and reported the findings as they were answered by the respondents.

CHAPTER 2

LITERATURE REVIEW

2.1. Introduction

This chapter outlines the information that have been published or written by previous authors on the topic of compulsory and free primary education. First the right to free and compulsory education is defined, and then discussed in depth. This chapter also discusses other topics that are related to free and compulsory education. The chapter then concludes.

2.2. Definitions of legal concept

2.2.1. The Right to Education

Burton et al,¹⁶ define the right to education as one of the most important rights which every child has that creates opportunities for them to have a brighter future.

Bitensky¹⁷ defines the right to education as the “lifeblood of a people”. Furthermore, Bitensky¹⁸ based this definition on Justice Cardozo’s theory, who believed that for there to be freedom, there must be a choice, and there can only be a choice if there is knowledge.

Henaire¹⁹ on the other hand defines the concept of the Right to Education as part of International Human Rights. Henaire²⁰ further comments that the right to education is not just an International Human Right, but it is a right that is protected by regional and national instruments as well. Also, Education as a fundamental Right in itself contributes to the “autonomy of the individual” and it serves as a tool which gives

¹⁶ Burton, p et al. 2001. *Protecting the flame; overcoming Violence as a barrier to education in Namibia*. Cape town: Centre for Justice and crime Prevention, p 23

¹⁷ Bitensky, H.S. 1992. *Theoretical Foundations for the Right to Education under the U.S Constitution; The beginning to the end of the National Education Crisis*. USA: Northern western University school, p 56

¹⁸ Bitensky (1992:56)

¹⁹ Henaire, J. 2000. *The Right to Education*. EIP retrieved from www.portail-eip.org/english/publicationsdosierspeda.html on 12th of august 2011, p1

²⁰ Henaire (2000: 1)

opportunity to an economy, a society, adults and children to have knowledge that will prevent them from poverty, as well as to contribute positively in the community.²¹ To break it down, Henaire²² divided the Right to Education into five (5) important elements that make up the definition of what is education and what gives it the privilege to be an important right. The first one is that education gives an individual personal and social development. Education secondly provides the knowledge to an individual on democracy, for education is already democracy in itself. Thirdly, Henaire²³ says that education educates and inspires the understanding of equality in the society. Fourthly, education is said to be one of the best investment for states. Finally, the Right to education is as important because of the consequences as well as the practical level and possibilities it can offer.

Tooley²⁴ defines the right to education according to *Article 26 of the Universal Declaration of Human Rights of 1948*. He explained that the right to Education in terms of Article 12 should be explained according to the initial draft of Article 26 that was proposed by Cassin of France.

2.2.2. Compulsory Education

Beck²⁵ defines compulsory education as “making children go to school and controlling their activities while they are there.” He further discusses that in the past, Compulsory education was not supported by people who would use children for child labour, and also by parents who feel that education should take place at home.²⁶ Moreover, the development of the concept of compulsory education was created to justify the fact that children also have the right to be protected from their parental and other societal exploitation.²⁷ This justification is said to have changed the mind-set of the parents to day as now they are collaborating with the government to make compulsory school a possibility. Beck²⁸ has used different age groups of ages to

²¹ Henaire (2000:1)

²² Ibid, p1

²³ Ibid, p1

²⁴ Tooley, J. 2004. *The Right to Education*. Oxford: Blackwell Publishing, p 47

²⁵ Beck, P. 1990. *Better schools; Compulsion*. New York: The Falmer Press, p 65

²⁶ Beck (1990:68)

²⁷ Beck (1990:69)

²⁸ Beck (1990:70)

identify how important compulsory education is to the children. Beck²⁹ furthermore stated that, at the age of 12 years old, the parent require a “safe and pleasant environment” for their children as they go to school. The parents are also said to be cautious about whether the government is ensuring that the children are really in schools when they are sent to school.³⁰ Beck states that at the age of from 12 -16 education should not be compulsory because at that age the children will normally seek for what they feel is right for them, and they should not be forced to participate if they do want. He justifies that at the difference between the two categories is that children at a younger age do not know how to defend themselves against any abuse and exploration that they are exposed, and they have not developed enough to make decisions and take their education in their own hand. Beck³¹ also discusses that compulsory education is not only important for the child, but also for the parents as well as for the society, for he further states that compulsory education is more than just the child attending school every day. He emphasises that the children do a lot of activities at school over which they have little control over. It is of understanding that for education to be effective there must be some degree of compulsion included, where the teacher acts as the coordinator who is in charge of controlling and directing the students actions.

Tooley³² stated that Cassin’s argument on compulsory education is to clarify that no one, including the state or the child’s parents, can stop a child from receiving education. Wilson from UK and Mr Chang from China disagreed with Cassin and stated that the word compulsory in the draft should be removed because the right to education will be interpreted as “state education”.³³ Having difficulties of choosing which paragraph of article12 of UDHR defines the right of education, James emphasised that each paragraph of the Article represents an important element of the right to education, and that article 12 should be read together as a whole, and not just one specific paragraph.³⁴ Therefore, James concluded that the definition of the right to education as defined by Article 12 can only be understood and

²⁹ Ibid, p 70

³⁰ Ibid, p 70

³¹ Beck (1990: 69)

³² Tooley (2004:48)

³³ Ibid, p 48

³⁴ Ibid, p 48

recognised by introducing the systems of free and compulsory schools and education for all.³⁵

2.3. The Right to Free and Compulsory Education

Based on Burton et al³⁶ research and findings, the enrolment of primary schools in Namibia is successfully reached a number of 95%. However there is also a small problem which Burton justifies that there are still many children who are not going to school, for they don't have access to education and to quality school. The factors which are preventing the children from going to school are "poverty, lack of policy implementation, lack of mother-tongue education and the shortage of ECD programs in the country".

Poverty is a big contribution to the lack of access to education because. Burton et al³⁷ states that the government's budget only uses 25% of its budget in the education section, and apart from that which is not enough for the schools to have good quality educated teachers and school facilities like books for the children. In addition to that, every second person in Namibia is poor, which does not make it easy for the children and their financial contribution towards their school.³⁸ This poverty has only lead to many children dropping out of school and some not completing their education.³⁹

Burton et al⁴⁰ also concentrated on the fact that Namibian government has come up with legislations that are aimed at encouraging access to free education, but he also disagrees that most of those frameworks which are regulating education are not enforced. He states that parents also have to pay to the schools where the children are attending. He further disagrees that education is not fair because many children have no choice but to stop going to school because the parents cannot afford to pay for the school fees.⁴¹

³⁵ Ibid, p 48

³⁶ Burton et al. (2001: 27)

³⁷ Burton et al. (2001:29)

³⁸ Ibid, p 29

³⁹ Burton et al. (2001: 37)

⁴⁰ Burton et al. (2001: 39)

⁴¹ Burton (2001: 9)

Hubbard's⁴² research states that article 20 of the Namibian constitution is the starting point of the right to education in Namibia. Furthermore, she states that article 20 should be read together with article 10 of the Namibian constitution which states that everyone is equal before the law and that no one should be discriminated against. Furthermore, she also states that article 95 (e) of the Namibian constitution gives every citizen the right to fair and reasonable access to public facilities and services in accordance with the law.

Dominique et al⁴³ believes that the sole reason for the education system all together is to "facilitate the social and economic integration of the different members of a generation".

Finance

In terms of finance, there are authors like Mostert and Kasanda⁴⁴ who discuss the issues of finance as an important topic to children's Education. They furthermore state that sources of finance are limited, based on educational and social economic background of the child's family that is supporting them financially or who are taking care of them.

Samoff⁴⁵ is also another author that discusses education and finance. To him, education is a very expensive enterprise.⁴⁶ The expenses start from the step of wanting to change the education system, to the merging of the previous authorities into a single ministry, and to finally enforce the new law as well.⁴⁷ He believes that it is good to have such spirit, but it has a very high cost. There are many things that a government must spend money on.⁴⁸ Samoff⁴⁹ further outlines that when the

⁴² Hubbard, D. 2009. *Realizing the Right to Education for All: School policy on Learner Pregnancy in Namibia*, Edited by Oliver, C.R. 2009. *Children's Rights in Namibia*, Windhoek: Konrad Adenauer Stiftung

⁴³ Chuard Dominique et al. 1994. *Cost, Financing and development of education In Namibia*. France; IREDU, University of Bourgogne, p 14

⁴⁴ Mostert, M.L. & Kasanda, C.D. 2005 *Education in Namibia: A Collection of essay*. Namibia; University of Namibian Publishers, P 53

⁴⁵ Samoff (1992:74)

⁴⁶ Ibid, p74

⁴⁷ Ibid, p 74

⁴⁸ Ibid, p 74

⁴⁹ Samoff (1992:75)

government is trying to make many benefits for the children, it does not mean that expenditure will reduce. This is where the government steps in to make resources available for the children to use in schools, and this costs money. The government tries to make sure that there is a supply of school materials, water and electricity, to mention a few.⁵⁰ This becomes a heavy expense in terms of supplying those expenses especially when there is a high rate of children failing and repeating school at the same time.⁵¹

2.4. Education for All

According to Brock-Utne⁵² the word education for all was defined by the developing countries at a world conference on education for all, as basic education. Furthermore, he also mentioned that the meaning of education for all include more than just the right for primary education. The term education for all at the conference was also defined to include non-formal education, adult education as well as secondary education.

Education for all is an international initiative which was first and launched in Thailand in 1990.⁵³ The reason for the initiation is to try to bring educational benefits to as many citizens in as many societies as possible.⁵⁴ This meeting was made possible by several groups of governments, civil society groups, development agencies such as UNESCO and the World Bank.⁵⁵ One of the main objectives that the meeting wanted to achieve is to ensure that by the year 2015, all the children especially girls and those who have difficult circumstances and access to education, to get access to good quality, free and compulsory primary education.⁵⁶

Samoff⁵⁷ discusses that education for all is not just about having more schools or more children in schools, but it develops from what we think about our education

⁵⁰ Samoff (1992:76)

⁵¹ Samoff (1992:78)

⁵² Brock-Utne. 2000. *Wise Education for all: the recognition of the African mind*. New York; Falmer Press, P27

⁵³ <http://web.worldbank.org/WBSITE/EXTERNAL/TOPICS/EXTEDUCATION.com> on 27th August 2011

⁵⁴ Ibid

⁵⁵ Ibid

⁵⁶ Ibid

⁵⁷ Samoff J. 1992. Towards education for all: A development brief for education, culture and training. Second dissertation draft, p8

system and the way of training and organising it. Samoff in his research discusses the factors that complete the term “education for all” which are democracy, quality, equality and access to education.

- In terms of “Access to education”, the issue therefore is, how is access to education related to free and compulsory education? Children who can afford paying for school have access to education. What about the children who cannot afford education?
- In terms of “Equality” Every child should equally have the same rights to get an education. The issue here is how equally children get education if there are still some children who are unable to get education when they fail to pay school fees? Is there equality between children who can afford education and children who cannot afford education?

2.5. The Advantages and disadvantages of having Free and Compulsory Education

According to Samoff⁵⁸, once the access to education has been expanded, the productivity and economic growth will also expand. He further states that education should not be viewed as an important element just because people expect it to be useful, but rather because it is essential for people to participate effectively within our society, and to be part of a community in which we can understand and communicate with each other. Samoff states that this is the most important reason for having education. Educating people is defined to mean “investing in our development”.⁵⁹ Many studies and reports have shown that investing in human capital such as primary school for children would have a bright effect of stimulating economic growth and improvement of welfare in the long run.⁶⁰ He also made a point that without education there will be no development.⁶¹ In his research he made a difference between an educated and uneducated person. He came to the

⁵⁸ Samoff (1992: 6)

⁵⁹ Samoff (1992: 17)

⁶⁰ Ibid, p 17

⁶¹ Ibid, p 17 discusses the studies and reports that were carried out by the national and international agencies.

conclusion that an educated person is more productive and they contribute more the economic growth of the country.

In terms of primary education Samoff⁶² states that, primary education is important because it gives children a good mental development, in which it contributes to their intellectual abilities as well as their personalities.

2.6. The Right to Education in Namibia

During the time of apartheid the education system was only available to the minority number of white people. Only a few⁶³ could get access to education, and the years of attending primary school were also limited.⁶⁴

Samoff discussed in his dissertation that during the liberation struggle, education was also at the top list of high priorities to be tackled after independence. However he mentioned that the expectations in terms of education where higher then what could be possible.⁶⁵

According to Keulder⁶⁶, after independence, the government has introduced reforms that will help to eliminate the discriminations of education. She further states that the government is now using 28% of its budget for the education sector. Moreover, Keulder have expressed that although the primary schools have an enrolment rate of about 82%, there is similarly a problem of about the same number of school drops outs.

'Currently there is said to be 1672 schools in Namibia. Out of those schools 1571 schools are owned by the state and the 101 schools are privately owned.⁶⁷ 1039 of

⁶² P, 50

⁶³ Black Namibians, to be specific

⁶⁴ Samoff J. 1992. *Towards education for all: A development brief for education, culture and training*. The Second dissertation draft.

⁶⁵ Samoff, p 24 discusses that before independence, a lot of promises were made to the Namibian people of what to expect after independence. He also states that although all that was expected is not all what the people got, we should keep striving and expecting more in order to move forward.

⁶⁶ Keulder, T. 2009. *Catching the voice of the born free Generation of Namibia* overall report ; Namibia. P, 14

⁶⁷ Final AU report of 07 December 2010, P 30

those schools are the primary schools in which 986 of them are owned by the state and 53 of them are private owned.⁶⁸ Furthermore, 407 000 of children have enrolled at the primary schools in the year 2010.⁶⁹

Namibia has celebrated its 21st independence this year⁷⁰, and is still slowly trying to reach the high heights of development, as it is still a developing country. Insisting something in the beginning and neglecting it in the middle will not guarantee it reaching the end.

Keulder⁷¹ acknowledges the fact that the Namibian government is trying its best to bring improvements to the access and quality to basic education, but at the same time there are still many weaknesses in the education section. According to the findings of her research, about 30% of the callers she interviewed agreed that the measurements that can be taken to prevent children from dropping out of school are to make education cheaper.

The article of Ipinge⁷² was aimed at discussing two major goals of the Namibian education system which he described as the accessibility to studying opportunities and quality of education being provided by the Namibian government.

According to the year 2000 assessment of Namibia⁷³, concentrated on the fact that the constitution has guaranteed free primary school for everyone for seven years, where every Namibian will have at least 10 years of basic education. This report found out that, until the year 2000 as from independence year, the government has not succeeded in making primary schools compulsory for all the children because of lack of accommodation near the existing of schools within the reach of all the children.

⁶⁸ ibid

⁶⁹ ibid

⁷⁰ On 21 March 2011

⁷¹ Keulder (2009: 34)

⁷² Ipinge, K. 2009. *Quality of Education and access to education in Namibia: Goals of education after 10 years*. Namibian Journal. 13 (8)

⁷³ Dr Robert, C.W. 2000. *Education for All: The year 2000 Assessment*, Republic of Namibia. Ministry of Basic Education

Bishop G⁷⁴ emphasises that in the government publications there is a document called “Towards Education for all” which is now trying to focus on expanding access to education system in Namibia. The purpose for the publication is the fact that there is no need to have many schools in Namibia, but to introduce and expand more educational programmes where education is truly accessible to the Namibian people

2.7. School Development Fund

According to Walter⁷⁵, the UN has approached Namibia concerning the “inaccessibility to free and compulsory primary education”. The approach was based on the requirement of providing primary education free of charge without charging the children or the parents or the guardian. It was further aimed that the provisions of section 20 of the Namibian constitution should not be limited to the fact there is a lack of resources available. Walter⁷⁶ challenges the constitution versus the Education Act, and asks whether the Education Act violates the supremacy spirit of the constitution in terms of the right to education. Walter explains that article 20 (2) of the Namibia constitution states that :

“the state shall provide reasonable facilities to render effective the right to education to every resident within Namibia by establishing and maintaining state school sat which primary education will be provided free of charge”.

Section 33 (1) of the Education Act state the following:

“The Ministry of education must (a) establish and maintain state schools and classes for the provisions of primary education, (b) establish and maintain the hostels, teacher’s resources centres, schooling clinics and other facilities which may be necessary for the benefit of learners and teachers in attendance at state schools and classes”

⁷⁴ Bishop, g. 1989. *Alternative strategy for education*. New York; St. Martin’s Press P,7

⁷⁵ Adv. Walter. 2010. *Fact & reality: free education chapter 3 article 20 of the Namibian constitution v Education Act*. Namibia, P,1

⁷⁶ Adv. Walter (2010:1)

Section 38(2) of the Education Act states the following:

“A learner to whom education is other than primary education, is provided, must pay such fees as the minister may determine”.

Walters⁷⁷ made a difference between article of the constitution as well as the sections of the Education Act.⁷⁸ He further states that both the constitution and the Act contain peremptory provisions of “must and shall” that need to be investigated and understood. He further explains that the peremptory words require exact compliances with, in which failure to comply with leads to the Act null and Void. In addition to that, he argues that the term “free of Charge” means “at no cost at all” this has been explained also that it means the vulnerable children as well as their parents is under no obligation to pay any school development fund. Further arguments have been brought forward that the state is the one who has the responsibility of providing development and improvements to the schools and not the children. Consequences of not paying for school development fund is discussed that the learner may be excluded from other school activities that were financed by other children’s school development funds, which is provided for by section 25 (12). Walter is of the opinion that there are parents out there who are unable to pay for the children’s school fees, and that is why he recommends that the rich children’s families should subsidize the child from the poor family.

Burton P et al⁷⁹ mentions that the Education Policy Act of 2001 makes provisions for poor learners to be exempted from paying the fees, but the principals are very reluctant to put the policies in action. Also it is expressed that the laws of the country are simply there on paper but they are not being implemented. He further explains that especially in rural areas of Namibia the poor families are therefore forced by the situation of not being able to pay for the children’s school fees and they are forced to withdraw their children from schools. As a result this is said to violate the right of the child to free primary education. Burton et al⁸⁰ suggests that one of the methods to tackle the education problem is to provide educational programs that are aimed at

⁷⁷ Walter (2010:1)

⁷⁸ Education Act of 2001

⁷⁹ Burton et al (2001:43)

⁸⁰ Burton et al (2001:44)

stimulating and enforcing the right of the children entering the formal schooling system at the age of 6 which is the beginning of primary education. Burton et al⁸¹ further recommends that the government should be the bearer of making sure that its people's rights are protected. Further recommendations were made that the government should start enforcing the legislations and policies that are aimed at protecting the children's rights to equitable access to education. Also, the government should put an input into the review, developments and implementations of such legislations and policies. In addition to that, it was also recommended that the NGO's should participate in targeted awareness campaigns at national and regional level and to assist the governments in building the capacity required to enforce the relevant policies.

2.8. The Right to Education at an International Level

Morka⁸² discusses the state of the right to education at an international level. The victims of education around the world are the disadvantaged, vulnerable and the poor people. Morka defined the right to education as the human right which is recognised in all nations and throughout the history of humanity as a means for societies to grow. The right to education is said to be recognised as a human rights as also inherent from the right to dignity. The right to education is recognised in many international policies and instruments.

The Universal Declaration of Human Rights is one of the instruments which provides for education to be compulsory and free for everyone. It also provides that higher education should be equally accessible and shall be made available to all.

Another international instrument is the International Convention on Economic, Social and Cultural Rights which contains article 13 and 14 that set out the details about the right to education. As the same in the Universal Declaration of Human Rights, article 13 and 14 of the International Convention on Economic, Social and cultural Rights provides for the right to free and compulsory education.

⁸¹ Burton et al. (2001: 57)

⁸² Morka, F. *The Right to Education*. Retrieved from www.var/mobile/application/ODF204B2-4892-8E4E-EF15BDEE335A8/Documents/modules16 on 17 July 2011

The Convention on the Rights of the children is also an international instrument that is concerned about the right to education. Article 28 and 29 of this instrument are the articles that touch on the administration of school discipline in a humane manner. Article 29 is more concerned about the fact that education should be directed towards the development of the child's personality, talents, mental and physical abilities.

UNESCO Convention against discrimination in Education is a convention that focuses its attention on states to develop and apply national policies which will promote the equality of opportunity and treatment as well as to make the primary education free and compulsory.

The Convention on the Elimination of all Forms of Discrimination against Women is the convention that concentrates on the equal opportunity right to get education for all genders.

Regional instruments that deal with the right to education are as follows

- The African Charter on the Rights and Welfare of the Child
- The African Charter on Human and People's Rights (article 17)
- American Declaration of the Rights and Duties of Men (article 12)
- Protocol to the American Convention on Human Rights in the area of Economics, Social, and Cultural Rights (article 13)
- The European Convention on the Legal status of Migrant Workers (article 14 and 15)
- The Framework Convention for the protection of national Minorities (article 13 and 14)

2.9. Examples of Countries with Free Educational

Cuba is one of the countries where education is free at educational level including university level. ⁸³ Lubisi⁸⁴ discusses that the free education in Cuba is provided for by the state coffers and the government has increased the level of gross Domestic

⁸³ Lubisi C.R. 2008. *The Request for free education in South Africa: how close is the dream to the reality. Centre for education policy Development*; Johannesburg, South Africa, p 60

⁸⁴ Lubisi (2008: 66)

Product. Lubisi⁸⁵ also states that Cuban follows a macro and a micro economic model which also makes it easy for the country to afford to make the education free for all the Cuban people.

Sri Lanka is a developing country which also offers free education including university level. Lubisi⁸⁶ also mentions that the funding for the free education is derived from provincial sources and main funding also come from the ministry of education

The United States of America also provides for free education. The difference between the United States and Cuba and Sri Lanka is that the right to free education is not mentioned anywhere in the United States constitution, but it is mealy practiced. Lubisi⁸⁷ states that the funding of education in is derived from the state which covers about 48% and another 45% which is derived from taxes.

⁸⁵ ibid

⁸⁶ ibid

⁸⁷ ibid

CHAPTER 3 THE FINDINGS

3.1. Introduction

In this chapter, the researcher outlines the research results in raw format, straight from the field.

3.2. Definitions of the respondents of “the Right to Free and Compulsory Primary Education”.

Table 1⁸⁸

QUESTIONS	RESPONSES
What is understood by the term “free education”?	<p>Four of the teachers defined free education as having the freedom to go to school with no fear and discrimination.</p> <p>All the other twenty (20) respondents defines free education as making education available to everyone and not only to the rich people, and being able to attend school free of charge and not paying anything to get education</p>
What is understood by the term” compulsory education”	All respondents defined compulsory education as an education that must be attended by all the children.

⁸⁸ The information is based on the interviews conducted in Katutura

3.3. Awareness of the Right to of Compulsory and Free Primary Education by the Constitution by Stakeholders.

Question: Are you aware of the Right to Compulsory and Free Primary Education?

Table 2

Answers	Number of respondents
Yes I read it in the constitution	3
Yes I heard of it	19
No I don't know about it	2

All the teachers responded that they are aware that the constitution contains a right to compulsory and free primary education. Of all the six (6) teachers, only three (3) have skimmed through article 20 of the constitution. Six parents and eight general citizens know that the children have the right to go to school, but do not know about it in details because they have not been educated about it. All they know is that during the liberation struggle, the Namibian freedom fighters were fighting for freedom and for education in Namibia to be free. Therefore, the respondents are aware about the right to free and compulsory education.

3.4. Compulsory and Free Primary Education in Namibia.

Question: Is Primary Education Compulsory and free on Namibia?

Table 3

Answers	Education is free	Education is not free	Education is compulsory	Education is not compulsory
Number of respondents	4 teachers and 2 general citizens	2 teachers, 6 parents and 10 general citizens	6 teachers, 6 parents and 4 general citizens	2 parents, 6 general citizens

The respondents which states that education is free explained that the government is meeting the guardians and parents half way in the costs that schools encounter. For example water bills, electricity bills, and telecommunication bills, buying of books and paying teachers. Furthermore, these respondents agree that the amount of money that parents and guardians contribute as school fees is not enough to question article 20 (2).⁸⁹

The respondents⁹⁰ that say primary education is not free at all defend their point by stating that some percentage of the school's costs are paid by guardians or parents as school fees.

The respondents that say primary education is compulsory feel that the parents and guardians play a big role on how compulsory primary education is to a child. The parents have the power to make the children go to school, whether they want to go

⁸⁹ Article 20 (2) of the Namibian constitution

⁹⁰ This is especially the teachers.

or not. In addition to that it was also articulated that in order for children to enter other levels of education they are required to first finish their primary level education.

Lastly, some of the respondents are of the impression that primary education is not compulsory in Namibia because not all children under the age of 16 are attending primary school and it is not everyone who is educated. Therefore education is only for children who want to go to school, and who are forced by guardians as well as those who can afford it.

3.5. Impediments limiting the Right to Free and Compulsory Primary Education.

The factors that are limiting education in Namibia to be free and compulsory are as follows:

3.5.1. Poverty:

Poverty and education are the best of enemies. Where there is poverty there is less education, and where there is education there is less poverty. Just as education opens many doors of success, opportunities and prevents people from poverty, poverty does the opposite of closing the doors of success, opportunities and education. It seems that although education is available in Namibia for all children, poverty seems to be playing a big role in stopping some of the children from going to school. Katutura is a remote place in Windhoek where you find the most number of people with poverty. Also, this is the place where one finds a good deal of children roaming around the streets and not going to school.⁹¹ Apart from that, Katutura is a place with high crime rate and high birth rate. A general citizen expressed in the interview that children stop going to school because of poverty and they end up in the streets committing crimes, while most girls end up getting pregnant at a very early age. This adds another burden, and these young mothers still can't afford to take their children to primary school. A teacher expressed that there is a great deal

⁹¹ This is personally observed

of poverty and a high rate of uneducated people in Katutura. Therefore, most of the people do not know the importance of taking their children to school.

3.5.2. School fees

School fee is also a factor that limits primary education from being compulsory and free. For one to understand the meaning of school fees, it is necessary to make a distinction between school fees and school development fund. Only one (1) of the parents defined school development fund and school fees as one concept. School development funds are the funds from any source, either sponsored or paid to the school in order to help the school develop its infrastructure.⁹² The teachers define school development fund as a financial box or account of the school in which all the financial support to the school is kept, whether it comes from the parents, the community or from anywhere else.⁹³

School fee is the money paid to a specific school on behalf of the learner by his/her guardians or parent in order for that specific learner to attend classes and get education.⁹⁴

According to the respondents, the school fees of the children are paid by whoever is taking care of such child.⁹⁵ School fees of children who are living with their parents are paid to the school by such parents.⁹⁶ It was further expressed that there are children who have parents but are living with other people such as relatives or guardians, and such relatives are responsible for paying the child's school fees.⁹⁷ Children who do not have any relatives to take care of them are supported by the government through laws and policies provided for orphans by the laws of Namibia⁹⁸.

⁹² Infrastructures such as the school's buildings, the building of new class rooms, buying of new books if not provided by the government etc. This is a combined definition of all the respondents

⁹³ A combined definition of the teacher respond

⁹⁴ eight (8) parents and 10 of the general citizens

⁹⁵ All the respondents

⁹⁶ All the parents

⁹⁷ All the teachers

⁹⁸ One parent

But most of the children who do not have guardians normally drop out of schools and make the streets their homes.⁹⁹

According to the respondents,¹⁰⁰ there is no specific amount for which all children of all the primary schools are paying the same. The amount of school fee is determined by the quality of education the school provides and the area in which the school is located.¹⁰¹ The parents feel that it is not fair that each primary school has different fees.¹⁰² But three teachers state that primary school fees should be determined by the quality of education and teachers at that school.

Furthermore, the school fees of most primary schools are paid according to the three (3) school terms that the children attend school in a year.¹⁰³ If a child is paying N\$ 500.00 per year that means that in a semester/term she/he will pay about N\$ 167.00 per semester.¹⁰⁴ The primary schools all pay a different amount of money. Some school fee is paid yearly, as the children attend school on a yearly basis. The children are therefore given the whole year to pay for their school fees.¹⁰⁵ Some primary schools are paid half on each term and some are paid only once.¹⁰⁶ There are parents who prefer to pay the school fees of their children once, depending on the availability of finance.¹⁰⁷ But there are some parents who are not financially well off and they struggle to pay the money. They therefore only pay whenever they can get.¹⁰⁸

School fees are paid to the school management.¹⁰⁹ The fee is handed to the financial department within the school where the learner attend.¹¹⁰ This however depends on the rules and the decisions of the schools.¹¹¹ Some schools make it easy for the

⁹⁹ *ibid*

¹⁰⁰ All the respondents

¹⁰¹ 2 teachers

¹⁰² 7 of the parents

¹⁰³ All parents and teachers

¹⁰⁴ One parent

¹⁰⁵ 4 of the teachers. This depends on the rules of the schools.

¹⁰⁶ 2 of the teachers

¹⁰⁷ Three (3) parents

¹⁰⁸ One (1) teacher

¹⁰⁹ All the teachers

¹¹⁰ *ibid*

¹¹¹ *ibid*

children to pay the school fees to their class teachers.¹¹² But some schools prefer that the parent come personally to the school to pay on behalf of the children because at primary school the children are still very young and do not fully understand finance matters.¹¹³ Children can be very obedient but at the same time very ignorant, and that is why some primary schools prefer the parents to pay for the school fees in person.¹¹⁴

Two of the parents are not happy because they feel that the schools are not providing good quality education, although they are paying school fees for their children.¹¹⁵ The complaints from some parents are that some primary schools are paid higher than other primary schools but they all belong to the same community and registered as well as controlled by the government.¹¹⁶ In addition to that, parents are saying that apart from paying school fees they also have to pay for other school expenses like school uniforms, sport activities, parties, to mention a few.¹¹⁷ Apart from that, five (5) parents are also not happy that their children are putting pressure on them at home because they want to be like the other children and to be supported financially like the other children.¹¹⁸ Children even start competing against each other, on who always has a new uniform and who pays their tuition fees first and in full.¹¹⁹

It is not every child who goes to school, as some guardians or parents cannot afford to pay the school fees for their children.¹²⁰ This then makes some of the children to start roaming around the street and become street kids who don't care about going to school anymore.¹²¹ Still, nothing is being done about those children, for they are left roaming on the streets.¹²²

¹¹² Five of the parents

¹¹³ Four of the parents

¹¹⁴ One (1) teacher

¹¹⁵ Two (2) of the parents

¹¹⁶ One parent

¹¹⁷ Five (5) parents

¹¹⁸ One parent

¹¹⁹ ibid

¹²⁰ 1 teacher, and 5 parents

¹²¹ 1 teacher

¹²² 1 parent

One teacher stated that parents are paying “peanuts” and the children are receiving more education at school than what they are actually paying for.

3.6. The Best Interest of the children

When students fail to pay their school fees they are usually send back home to go and come with their parents or their guardians to come and explain why they did not pay the school fees of the children.¹²³ The teachers seat down and talk to the parent and advise them on what they can do to manage pay the children school fees, like advising them to divide the yearly school fees in terms so that they can pay it according to terms until they manage to pay off the whole amount.¹²⁴

One of the consequences of the child not paying for school fees is that the child will not be allowed to get his or her report card at the end of the year until the child pays of the school fees.¹²⁵ Sometimes the children go up to even two or three years without paying for the school fees, which leads them to be send home until they pay for the school development fund.¹²⁶ As for the children who are in grade seven or any last grade of the specific primary school, the child will not get the report and will not be able to apply for the next grade at a secondary school.¹²⁷

Three respondents voiced that failure of paying school fees can affect the children’s mentally capabilities at school. Students do not go freely to school anymore, and they end up missing classes which also leads to children failing or performing poorly.¹²⁸ The children as a result also do not concentrate in class and feel guilty as they are always scared to be pointed out in front of other children when they are asked about the school fees which they did not pay.¹²⁹ They do not feel free in school as the other students who paid always make fun of them.¹³⁰ The children at

¹²³ All the teacher, 7 parents and 2 general citizens

¹²⁴ Three teachers

¹²⁵ All the teachers

¹²⁶ ibid

¹²⁷ Two (2) parents

¹²⁸ ibid

¹²⁹ ibid

¹³⁰ One parent

the same time start isolating themselves from other children and not participating or listening in class.¹³¹

3.7. Government support and contribution toward the Right to Free and Compulsory Primary Education

During liberation struggle, schools were just available to certain groups of people and it was not fairly available to everyone in Namibia.¹³² Now that Namibia has had independence for 21 years, the government “of the people for the people” has taken over the ownership and control of the schools in Namibia. It does not matter what background the children are from because all the children can go to the same school and get the same education like the other children. The government is providing for classrooms, books, water, electricity, and more school facilities.¹³³ The government is trying to meet the children’s needs by providing were it can.

The parent’s response to this question was a positive one, for most of them agree that the government’s contribution to education is effective.¹³⁴ A parent feels that his children are in good hands during the day when they are at work.¹³⁵ The parents also feel that the government is trying very hard to do its part although the country is still a developing country.¹³⁶ However, a respondent who does not agree with the effective contribution of the government are stating that, “*in this world everything is effective once there is money involved, and once the money is not there then no one cares anymore.*”

¹³¹ ibid

¹³² Samoff J. 1992. Towards education for all: A development brief for education, culture and training. The Second dissertation draft

¹³³ All the teachers, 7 parents

¹³⁴ 7 of the parents

¹³⁵ One (1) parent

¹³⁶ ibid

3.8. The Community's contribution towards the Right to Free and Compulsory Primary Education

Most of the uneducated people in the community¹³⁷ mentioned that they do not know about the right to education in details, because they have not been educated about it. All they know is that during the liberation struggle, the Namibian freedom fighters were fighting for freedom and for education in Namibia to be free. The complaints thereof are that there is not much they can do about the right to education because they do not even know if it existed in the constitution. The other respondents¹³⁸ of the community are stating that there is not much they can do although they know about the right. It was mentioned by one of the respondents that: "*the law is already taking care of everything and I don't need to trouble myself with things of the government because I will not really get far and I don't want to go to jail*".¹³⁹

¹³⁷ Seven (7) of the parents are uneducated and nine (4) of the general citizens are also uneducated

¹³⁸ One (1) parent

¹³⁹ One of the general citizens

CHAPTER 4

CONCLUSION AND RECOMMENDATIONS

4. 1. Summary

After thoroughly going through and perusing over the results, the researcher came-up with the following conclusions:

- Free primary education is all about learners attending free of charge.
- Namibian primary education is compulsory to some extent, but is not free.
- Poverty is one of the limiting factors that are restricting children from attending primary school.
- Payment of school fees is also a factor which limits primary education from not being free of charge.
- Keeping the children away from school as a result of not paying school fees is not in the interest of the children.
- The educated stakeholders that were interviewed know of the right to compulsory and free primary education which is written in the constitution of Namibia. The stakeholders who are not educated only heard about this right.
- The responsibility of paying school fees is vested in parents or guardians of the children attending primary school.
- It is concluded that school fees is paid annually, and the amount differs from school to school. In most cases some parents or guardians are not happy about school fees as they feel it is expensive and education must be free.
- Government owns all the public primary schools. Government is also providing a helping hand by covering some costs of the primary school.
- The government's contribution is appreciated by some of the respondents.
- The community at large does not question the decisions of the government, they simply follow it.

4.2. Recommendations:

The following are the recommendations that the respondents provided during the interview

1. It is recommended that the children should not be told to pay any school fees, for education is supposed to be free of charge according to article 20 of the Namibian constitution. Namibia is a country with a small population, which should make it easy for the government to tackle the primary education population and make it free of charge.

The government should ensure that the right to compulsory and free primary education is really implemented in order to covers all the primary education learners. The government of Namibia should start prioritising education in Namibia instead of other things like military expenditures. It is useless to try to get as many children to school as possible, if those children will not end up finishing the schools due to the lack of finance.

2. There are still children roaming around the streets and not attending schools. This then leads to a high rate of unemployment in the country. Once primary education is made completely free of charge, the number of children roaming around the streets will start reducing.
3. It is also recommended that section 20 (2) of the constitution must be changed if the government does not intend to make education free of charge.
4. The Namibian government must start educating the citizens about the right to compulsory and free primary education which is contained in the constitution.

5.4. Recommendations for further research

This study was carried out under various constraints such as limited time and scope, lack of financial resources, so forth. It is, therefore recommended that, future research carry out the same study at wider scale and with a larger sample so that the results can be generalized at national and international level.

Appendix

1. Table 1 Definition of compulsory and free primary education in Namibia
Page 21
2. Table 2 Awareness of the stakeholders on the Right to of Compulsory
And Free Primary Education by the Constitution. Page 22
3. Table 3 is primary education compulsory and free? Page 23

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The African Charter on Human and People's Rights

American Declaration of the Rights and Duties of Men

Protocol to the American Convention on Human Rights in the area of Economics, Social, and Cultural Rights

The European Convention on the Legal status of Migrant Workers

The Framework Convention for the protection of national Minorities

Interview questions

My name is Ivette Levien Fredericks. I am currently a second year LLB student, studying at University of Namibia. I am conducting a research and it will be highly appreciated if you can spare a few minutes of your time. I would like to interview you about the right compulsory and free primary education in Namibia.

The purpose of this research is to find out whether education in Namibia is really free and compulsory.

Demographics

- Gender

Questions

1. How do you understand the term free education?
2. How do you understand the term compulsory education?
3. Do you think Primary education is compulsory and free in Namibia?
4. Are you aware of the right to compulsory and free primary education in the Namibian constitution?
5. How does the government contribute to the right to compulsory and free primary education?
6. Can you explain the difference between school fees and school development fund?
7. Who is responsible for paying school fees? How and to whom is school fees paid?
8. What measurements are taken when a learner fails to pay their school fees?
9. How does "not paying" school fees affect the learners?
10. What do you recommend should be done for primary education to be compulsory and free?

Thank you for your cooperation and willingness to help answer the interview question.