

**JUXTAPOSITION OF SELECTED SECTIONS OF THE BRITISH
BUTLER’S ACT AND NIGERIA’S UNIVERSAL BASIC
EDUCATION (UBE) ACT: IMPLICATIONS FOR UNIVERSAL
EDUCATION IN NIGERIA.**

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ABSTRACT

Education laws are imperative for the activation or actualization of education policies and programmes. Therefore, a critical examination of education laws is necessary in order to establish why and how such laws directly or remotely impact educational systems. This paper is a juxtaposition of the famous Butler’s Act of 1944 in Britain with the Universal Basic Education, Act 2004 in Nigeria. It is an attempt to demonstrate how the spirit, letter or lacuna of a law can affect the enforcement or implementation of the law in particular, and the educational system in general. The paper explores the amplitudes of the historic British Act, and identifies the tremendous gains recorded in the British universal education, owing to the robust provisions of some Sections of the Act on aid to voluntary schools, the role of parents and fee-free school system, which is contrary to the questions of suitability, lacunae and ambiguities that touch on similar Sections in the UBE Act. The paper notes that the lacunae and ambiguities identified in these Sections of the UBE Act manifested in their apparent skewness and evident impracticability. The paper submits that Nigeria has a lot to learn from Butler’s Act, particularly from the Sections that gave support to private schools, enabled active participation of parents and clarified the status of fee-free education. The key findings of the paper therefore makes it a comparative analysis of how similar laws, though at separate points in history, have informed the marked differences in the practices of universal education in Britain and Nigeria.

Keywords: juxtaposition, selected sections, butler’s act, universal basic education act, implications, universal education.

INTRODUCTION

Based on political and educational history, the Nigerian educational system is tangentially an offshoot of the British system. Therefore, it would be only expected that there would be more similarities between British and Nigerian educational system than the differences. Besides, it is widely speculated that Nigerian laws and legal system are substantially rooted in the springboard of those of the British. And so, any juxtaposition in the educational laws/systems of both countries cannot in any way amount to a misplaced academic exercise.

Conventionally, the similarities and differences in educational systems mostly predicated on a number of variables and determinants, and prominent amongst which are the policies, laws and regulations initiated or operational in different countries. The importance of education laws is much very hinged on how they “directly or indirectly affect the educational and administrative processes of any educational system” and to the extent that such laws guaranty sustainable progress in the regulation, reformation and further development of the system (Igwe, 2015, p15)

Education laws, especially the democratically legislated ones, are synonymous with the prescription of specific rights and obligations of all stakeholders, with the aim of creating the proper system for education to thrive. In fact, laws are congruent to the search for qualitative education. However, the intricate relationships between the law and educational system are not only cursorily researched in Nigeria, the confusing multilevel and inter-disciplinary approaches associated with such research are often times very complex. Thus, the relationship between education and law calls for the kind of analyses that are carefully narrowed towards a comparative study, so as to secure a better understanding on the uses of the law for an improved educational system.

Specifically, the use of law to promote or consolidate educational schemes in Nigeria is largely affected by both legal and extra-legal factors such as politics, culture, economics, historical heritage, etc. In Britain, these factors do not adversely impinge on the relationship between law and education,

whilst that appears not to be the case in Nigeria. As such, it is strongly perceived that the political exigencies of the Universal Basic Education (UBE) scheme in Nigeria far outweigh the legality of the scheme (Paulley, 2005); whereas it is usually the efficiency of legal mandates that remotely and ultimately determine the overall modus operandi and accomplishment of any educational system (Maduagwu, 2006). It is in this light that this paper attempts to revisit some selected Sections of the Butler's Act (Education Act 1944) and the Universal Basic Act, 2004, in Britain and Nigeria, to ascertain how some critical components of both landmark laws have impacted on the universal education of both nations.

Amplitudes of the Butler's Act

The Education Act of 1944, also famously referred to as Butler's Act, was the brainchild of the then Education Minister in Britain, R.A. Butler. Mr Butler mooted the idea of the Act as part of the reform plans in the post-war British education aimed at removing the educational inequalities which persisted in the British system of education. Butler was equally dissatisfied with the system where though poorer children were offered free access to schools, parents often had to turn down the offers owing to the hidden extra costs involved—a situation that made free education ineffective. Thus, the Act was initiated to become a newer idea of how to ease the administration and implementation of free education. Undeniably, the Act was generally regarded as legislative game-changer for British Education. (Mallison, 1980).

Literally, the Butler's Act became a fundamental law that defined the growth and development of British education system for most part of the 20th Century. In fact, the Act provided the launch pad for the modern educational system in Britain in a number of ways. For one, it clearly delineated between the levels of basic education and other strata of education. Secondly, it provided a practicable legal framework for free education for all children. Thirdly, the Act made it a duty for Local Education Authorities to provide welfarist education via school meals and milk. The free meal component of the Act subsisted till 1971 when the administration of Margaret Thatcher as Secretary of Education revoked it for school children who were over eleven years. In 1980, Thatcher, as Prime Minister reduced the milk programme to children less than 5 years of age. This move added to Thatcher's controversies and political

unpopularity as she was ridiculously taunted as "Thatcher, the Milk Snatcher"(ChalkyPapers, 2022). Currently, however, all children in England, between year one and year two in school, are guaranteed a free lunch (and occasionally milk) as part of the universal free school meals scheme that was initiated in 1944.

The Act also informed the creation of Ministry of education to replace the board of education, the universal education activities gradually moved into a more co-ordinated programme. It made more powers available for the Ministry of education to determine policies and assumed a larger chunk of financial support from government, thereby securing a greater participation of the Federal Government in the provision of education. One major prospect of this financial structure was the need to increase funds for education from the national, without jeopardizing the inputs and rights of local or regional authorities in administration of universal education throughout Britain (Mallison, 1980)

The Act equally established a synergized national education system, but with the power to implement change and provide for schools owned by voluntary agencies mostly delegated to Local Education Authorities (LEAs). LEAs therefore exercised extensive autonomy by developing distinctive styles of administration and forms of school organization that was non-discriminatory. The Act consequently provided a firm legal framework for LEAs to have the knowledge of grassroots academic needs of both public and voluntary schools. It hence facilitated the development of education by ensuring that all segments of a community and County profited from the scheme (Game, 2013).

Seventy years down the line, the legacies of the Butler's Act for inclusive universal education are very much deeply felt. In contemporary times, free primary education is almost a national birth-right to every Briton. Prior to Butler's Act, many indigent pupils left school at their tender age, but the Act brought a sustainable reversal to the trend in attrition as all forms of fee-payments at government schools were completely abolished. Also very much interesting and remarkable was that mission schools were incorporated into the national system that abolished fee payment under the Act. In essence, the 1944 Education Act afforded all shades of the citizenry unfettered access and opportunity to basic education. These legacies, and

their attendant influence on the educational mobility for British children, became the platforms upon which successive education policy makers in Britain predicated their incremental policy model for free education (Blatchford, 2014).

The foregoing is not to imply that the Butler's Act did have its challenges. It did in some senses. Notably, it was observed that the Act was passed by a Conservative-led Parliament, and therefore did not reflect a much more radical and welfarist educational scheme that was needed in a war time, as would have likely been the case in a Labour Party-led government. This was in addition to the observation that the Act unnecessarily planted the legacies of profound religious privileges in British education system, not minding that the nation is predominantly a secular society (Sharpe, 2019). These shortcomings notwithstanding, the Act was one of the most important Education Acts that set up a crucial stage for the post-war education revolution that followed in the United Kingdom.

Suitability of UBE Act, 2004

The Universal Basic Education Act, 2004 is basically the “right of the child to compulsory, free universal basic education”. It is also a legal mandate which allows that “every Government in Nigeria shall provide free, compulsory and universal basic education for every child of primary and junior secondary school age”, with the proviso that the Federal Government's intervention shall only be an assistance to States and Local Governments in Nigeria for the purposes of uniform and qualitative basic education throughout Nigeria. The Act is also mostly considered as the reinforcement to: **Section 18 (3)** of the Constitution of Federal Republic of Nigeria, 1999, **Section 15 (1)** of the Child's Rights Act, 2003 and **Article 26 (1)** of Universal Declaration of Human Rights which stipulates: “Everyone has the right to education...Education shall be free, at least in elementary and fundamental stages”.

Again, considering that a previous attempt in 1979 by the Nigerian government to facilitate universal education was not backed by any law, the UBE Act evidently became a major milestone in Nigeria's historical experiment on universal education in the sense that it was the first ever legal instrument towards universal education. More so, the Act was not only part of Nigeria's legal reaffirmation of the right of all citizen to

education, it was also part of the country's expanded vision and renewed commitment towards the attainment of the Articles of Education for All (EFA).

Controversially, the launching of Universal Basic Education, as a scheme in Nigeria, preceded the actual commencement of the Act, which was a clear paradoxical action of putting the cart before the horse. Whilst the Act was signed into law on the 26th Day of May, 2004, the scheme was launched on 30th September, 1999. Again, it is observed that the effective date for the enforcement of the Act was not stated in the Act. In addition, and following the covert political gerrymandering that occasioned the build-up to the drafting and signing of the Act, the Act on arrival was considered a victim of deliberate or inadvertent ploy by policy makers to be selective or discriminatory in the implementation of the different Sections of the Act; leaving the Act with some critical questions on its suitability for the tenets and roadmap towards the actualization of universal education (Babayemi, Not Dated; Okorosaye-Orubite, 2008).

Juxtaposition of Key Sections of Both Acts.

1. Aid to Private Schools

A point of marked variance between the UBE Act and Butler's Act is on the place of the voluntary agencies and private schools in the entire gamut of universal free education. There was no Section of the UBE Act that provides for private sector participation in the promotion of compulsory education, unlike **Section 13** of the Butler's Act where the provision for aid and grants to voluntary schools was stipulated, whilst **Section 114** made room for the interpretation of the status of proprietors and their roles in relation to the registration of independent schools.

Specifically, **Section 15 (1)** of the UBE Act emphatically stated that only "Public Schools", "Public Primary School" or Junior Secondary Schools" would be assisted out of the funds provided by any tier of government in Nigeria. In other words, education providers from the private sector do not access the UBE intervention funds; thereby raising serious doubts and concerns on how the rights and privileges of children, who are in private schools, would be protected in the UBE scheme (Edwin, 2004). Clearly too, neither did the UBE Act reflect the interest of private schools nor did it clarify their role in the provision of basic education. The implication is that

there was obvious exclusion of the private schools from the free “services” contained in the **Section 15(1)** of the Act. The non consideration and inclusivity of private primary and junior secondary schools in the UBE Act exposes their management to the vulnerabilities of multiple taxations and levies from government agencies, host communities and sabotage by non-state actors. Private school proprietors are known to be harassed and inundated with demand for corporate social responsibility and other forms of extortions by government and non-government entities, not minding that these proprietors do not receive any form of statutory subvention (Nwaokugha, 2015).

The plight of the private schools under the Act was further aggravated with the preponderant growth of private schools in Nigeria. Of the estimated 117,000 primary schools in Nigeria, 55,000 are private schools (Sasu, 2022). Again, the implication of this for the law and concept on free education is that the Act is quite partial and discriminatory to a whopping 48% of pupils in private schools who are denied all the government largesse in the Act. In effect, this large population of Nigerian pupils who enroll into private schools is obliquely denied their fundamental rights to free education since they do not in any way benefit from the resources or incentives provided by the Act (Abdullahi, 2023). In the face of this skewed treatment of pupils in private schools, the Act can neither be said to be justiciable nor fostering equality of education.

2. Involvement of Parents

Sections 36 and 39 of the Butler’s Act provided for the duties of parents to secure the education of their children and to also secure regular attendance of registered pupils, whilst **Section 76** guaranteed for pupils to be educated in accordance with the wishes of their parents. Under the Act, the parent was mandated to cause the child to receive efficient full-time education suitable to his age, ability and aptitude. Failure of the parent to accomplish this attracted a fine not exceeding 5 pounds or an imprisonment of not exceeding one month or both the fines and imprisonment.

Similarly, **Section 2 (2)** of the UBE Act stipulated the duties of the parent, who must ensure that their child went to school. In the Act, a parent who cannot send their children to school would be liable to pay fine N2000, N5, 000 or N10, 000 or face imprisonment as the case may be. In Britain, the

Butler's Act allows for monitoring of the school register to determine when and where a parent prevented their child from attending school, unlike in Nigeria where there were no accountability system put in place to monitor parents who may be found wanting against the Act, and this is the possible reason why there were no records of any convicted Nigerian parent since the Act was enacted. The UBE Act was simply not explicit on the terms for parental engagement and support for their children's education (Alabi, 2022; Nyewusira, 2019).

Another legal loophole over the responsibility of the parents towards ensuring the effectiveness of the UBE Act in particular and the UBE scheme in general was in the ambiguity of the Act on its enforcement on parents. Hence, Okorosaye- Orubite, (2008) writes:

Another question to be raised is how to enforce the provisions of the Act, especially **Section 2**. Again the FG plays the ostrich! First, the FG sees its role under this Act (Section 1) as an intervention which "shall only be assistance to the States and Local Governments in Nigeria for the purposes of uniform and qualitative basic education throughout Nigeria." Thus, the responsibility of enforcing Section 2(2) of the Act is shifted to "stakeholders in education in a Local Government Area (who) shall ensure that every parent or person who has care and custody of the child performs the duty imposed on him...(Section2(3).Who are these 'stakeholders? Unspecified (p.67-68).

The above clearly exemplified some of the ambiguities and lacunae in the UBE Act. One sharp contrast between the Butler's Act and the UBE Act, thusly, lay in the process of monitoring and sanctioning defaulting parents. In the Butler's Act, the monitoring of school attendance provided the caveat for enforcement on the parent. This is opposed to the lack of monitoring and ambivalence in the enforcement of the UBE Act on the Nigerian parent.

3. Fee-Free Education.

It was expressly stated in **Section 61** of Butler’s Act that there “no fees shall be charged in respect of admission to any school maintained by a local education authority”, with another proviso that there were sums (not fees) payable by parents under the Section. In sharp contrast, **Section 15** of UBE Act stated that “services that should be provided free of charge are books, instructional material, classrooms, furniture and free lunch”. As such, the Act was silent about fee payment by students or their parents. The implication of this is that fee payments were bound to hideously happen under a scheme that is supposedly free, as some public schools demanded payments for Parents Teachers Association (PTA) levies, uniforms, textbooks and other essential school items. Regrettably, the burden of such hidden fees/levies contributed to the problem of out-of-school children (Opara, 2022). It is thus puzzling that the drafters of the UBE Act could be equivocal on the outright prohibition of fees, even with the legal prejudice and mantra that every “Government in Nigeria shall provide free, compulsory and universal education for every child”. The implication of this is that the silence of the Act on fees payment cast serious doubt on one of the fundamental objectives of the UBE programme, which is to: provide free, universal basic education for every Nigerian child of school-going age.

Conclusion.

The challenges of universal education in Nigeria were enough reasons for the immediate searchlight on the UBE Act, 2004. A juxtaposition of the Butler’s Act and UBE Act has shown that the aforementioned Sections of both Acts touched on some critical aspects of universal education viz, aid to schools, parental involvement and free-fees in school. Whilst there were noticeable contradictions in these three major areas as incorporated in the UBE Act, the Butler’s Act was much less contradictory in these same areas. The result was that 70 years after the Butler’s Act, Britain has leveraged on the profitability of the Act to sustain universal education whereas Nigeria’s 25 years of experiment on universal education suffered many twists, bearing mind that in 2019, Nigeria recorded the highest number of Out-of-School children on planet earth.

RECOMMENDATIONS

- In reviewing the UBE Act, there should be clarity on the clauses that affect the role of parents and matters of fee payment as was the case with the Butler's Act.
- Nigeria should put up a UBE Act that is enforceable on stakeholders, particularly the parents
- Any Act of parliament on universal education in Nigeria without clear-cut provisions on how it would positively impact on pupils who subscribe to private school cannot be considered justiciable and equitable. No Act on universal education should, by any wise, be discriminatory.
- Finally, a better way to making an effective law for universal education in Nigeria is to deliberately ensure that such law does not controvert those tenets of free education and fundamental rights which are historically and contemporarily associated with global best practices in universal education.

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