

Accentuating School Infrastructural Amenities, Socio-Economic Goods and Services to Realize Quality Education in South Africa

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Abstract

The paper examines how infrastructural amenities, socio-economic goods and services, play an active role in ensuring the realization of quality education. It is an undisputed fact that teaching and learning have now become an essential tool in shaping the right to access quality education. However, quality education cannot be realized if infrastructural amenities, socio-economic goods and services are not up to standard. The judiciary, through its pronouncements has also reiterated on the significance of having a learning environment that is conducive for effective teaching and learning. This paper showcases the importance of infrastructural amenities and socio-economic goods and services, as an integral part of the realization of quality education. In doing so, the paper adopted a non-empirical approach generally acceptable in legal research activities. It concludes that the right to education is inalienable and as such, it is incumbent on the government and institutions responsible for the delivery of education, to ensure that the right is promoted and provided for at all costs. The paper recommends that the government must improve infrastructural amenities, socio-economic goods and services in schools, to create a learning environment conducive to the realization of quality education.

Keywords: *Amenities; Infrastructure; Quality Education; Realisation; South Africa*

Introduction

Education is an important tool to freeing and unlocking the potential of every individual (*Section 27 and others v Minister of Education and Another*, 2012; 114). It is one of the important tools essential to build a good foundation in life, as it instils and restores confidence in individuals and brightens their future (Education Centres Project Report, 2011; 1). It is the foundation of any autonomous country that is geared towards advancement of human welfare and creation of better employment prospects (Plan of Action, 2003; 4). Veriava posits that, “education is a basic right and it is a significant instrument that the society can use to drive development in all its sectors and alleviate poverty and starvation” (Veriava, 2005; 1).

However, it is also worth noting that education provided under poor infrastructural amenities, coupled with lack of socio-economic goods and services, is normally of low quality and standard. Seemingly, the provision and the realization of quality education under such conditions becomes a daunting task. Moreover, the government is answerable to ensure that the right and all related issues concerning the provision and the realization of quality education, are promoted and provided for as preserved under the South Africa Constitution of 1996 (Granville et al., 1998).

Meaning of Key Concept

It is important to look into the meaning of a few central concepts used in this paper. Bearing in mind the fact that having to define legal conceptions is a daunting and contentious task and will, as a result, be subject to different meaning in the context of this paper, the following are some of the relevant definitions:

Realization

The Oxford dictionary meaning of the word realization means the fulfilment or achievement of something desired or anticipated. For this study, the word realization means making real or giving the appearance of reality. In the context of this paper, it also means making the right to access education not only a constitutional provision but also an achievable reality.

Quality Education

The United Nations International Children's Emergency Fund (UNICEF) 1946 delineates quality education to include:

healthy, well-nourished pupils who are ready to take part in the learning process, and who also receive learning support from their respective families and communities; environments that are healthy, safe, protective and gender-sensitive, and provide good infrastructure and adequate socio-economic goods and services for pro-active learning; content that is reflected in relevant curricula and materials for the acquisition of basic skills; a process through which educators use child-centred pedagogies to facilitate teaching and learning which reflects the necessary materials and programmes for the attainment of quality basic skills; Educational results incorporating relevant skills and knowledge required for positive participation in society (UNICEF, 2000:3).

Statement of the Problem

Despite the fact that the realization of quality education is promoted by legislation and policies, such as the National Plan of Action, 2003 and the South African Schools Act (SASA) of 1996, the reality on the ground is that realization is seldom feasible due to poor infrastructure and socio-economic services at schools. Good infrastructure and social services play an integral part in realizing quality education, hence it is difficult if not impossible to achieve good results in an environment that is under-resourced and not so conducive. This paper argues that good infrastructure and other socio-economic services serve as an integral part for the realization of quality education, and as such they must be provided for at all cost. Consequently, challenges still exist in providing these services, which in turn prohibit the delivery of quality functional education.

Research Methodology

The researcher in this paper adopted a qualitative method generally acceptable in legal research. The researcher utilised a desktop analysis of secondary materials, more in particular library resources and relied heavily on scholarly legal literature which included

textbooks, articles, case law, legislation, policies and educational regulations. The paper further employed primary information from reports by relevant departments and ministries of education dealing with the subject matter. Other instruments addressing the provision of resources connected to the right to education are also examined.

Purpose of the Study

This paper seeks to showcase how infrastructural amenities, socio-economic goods and services, play an essential role in striving for the realization of quality functional education in South Africa. The paper provides insights into how the government can ensure that there is delivery of quality and sustainable education.

Significance of the Study

This study will make the following contributions to the existing body of knowledge:

- Establish development of legal reforms to improve social services in schools.
- Contribute to the state's educational strategies aimed at improving and facilitating the provision of social services, for the feasibility of the right to quality education in South African schools.
- Contribute to how these services can be improved to realize the right to education as mandated by the South African Constitution.
- It will also be beneficial to school leaders, management, curriculum advisors, and other professionals who support teaching and learning to achieve their goals.

Argument

Bekker posited that, the right to education was identified as a "strong positive right", which implied that it should be provided irrespective of the state's financial constraints (Bekker 2000). This denotes that the provision of education must be prioritized in state financial allotments and, to the point that it has never been so prioritized (Bekker 2000). On the other hand, Isaacs asserted that, "the crisis in education is one of the greatest barriers to achieving a better life for all in South Africa. It entrenches inequality and impairs the dignity of millions who enter adult life without the tool needed (which is education) to fully express themselves or contribute meaningfully to the society" (Isaacs, 2007). This study,

therefore, argues that poor infrastructure and social services in schools are among others, impediments in achieving quality education that leads to a better life.

Moreover, Beiter's view was that, "what is important is the acknowledgement by the judiciary that the right to education is crucial to the transformation of the South African society. Schools must therefore be in a condition which makes meaningful teaching and learning possible" (Beiter, 2006). Similarly, Van Leeve's observation was that the provision of education of low quality and poor standard riddled by under-resourced, hazardous and insalubrious surroundings dispossessed learners from adoring their right to education (Van Leeve, 2014; 29).

Sibusiso Bengu once commented about the right of access to education on blueprint policy provided by the Department of Education, that this country must shape its educational system in a manner that it will serve the need and interest of the society. Such a system must promote equality and diminish discrimination in the educational arena. It must admire diversity, respect innovative teaching and learning methodologies, and make every effort to accomplish academic excellence. Such system must be preserved and cared for by those it serves, and it must use all the means available in the most effective manner possible (the White Paper on Education and Training, 1995; 3).

Legislative Frameworks Promoting Quality Education

The Constitution (1996) provides that, every person is entitled to receive elementary education, which includes elementary education for adults and the right to further education. It further provides that, the state is obligated to make further education gradually accessible and available. It is trite to indicate that the state must provide for this education. (Constitution, 1996: sec 29). This study argues that access in less favourable conditions is tantamount to no access at all. This means that the provision of education under poor infrastructure and fragmented by an under-resourced environment, is of low quality and standard which in turn deprives students from exercising their right to quality education.

In 2003, the National Plan of Action (NPA) on education was embraced to accomplish enhanced “access to free and quality elementary education” to all citizens. The NPA declared that there was a need to attain and provide quality elementary education to every school-age child, irrespective of the child’s financial incapacity. This plan of action seeks to achieve the provision and development of a free and compulsory, also quality elementary education to the learners, to enable them to acquire the required life skills. The paper depicts that it is clear that access and or the provision of compulsory elementary education is well attained hence every learner of school-going age attend school free of charge.

In 1996, the South African Schools Act (SASA) was promulgated to address the historical inequalities in the educational system, and to bring about uniformity in the provision of eminence in education. SASA also seeks to develop schools and bring fundamental educational changes within the communities (SASA, 1996). It obligates each parent and or guardian to ensure that every school-age child, for whom they are answerable, attends and completes elementary education (SASA, 1996; sec 3). In an attempt to promote appropriate exercise of the right to education, and redress past injustices, the Act further obligates the state to provide ample funding to public schools on an equitable basis (SASA, 1996; sec 34).

Section 5 of the Act also provides for the Minister of Education to propose the least uniform rules and criteria for the provision of school infrastructural amenities, teaching and learning support resources and systems (SASA, 1996; sec 5A (1) (a) and (c)). The section further provides that, “such norms and standards must in terms of infrastructure provide for, but not be limited to, the availability of classrooms; electricity; water; sanitation; library and sports facilities”. Regarding the provision of a teaching and learning support system, the rules and criteria must ensure the delivery of learners’ stationery and learning materials; appropriate school furniture and other school apparatus (SASA, 1996; sec 5A (2) (b)).

This study posits that free (elementary) education is a well-appreciated move on the part of the government. However, if the provision of education for all is fragmented by under-resourced, unsafe and uncondusive learning environments, it then means that the realization of quality education will not come to fruition.

School Infrastructure as an Indispensable Tool

According to Kapur, the concept of infrastructure has not only been used in educational institutions, but also in other organizations such as workplaces, which fact led people to start paying more attention towards the development of infrastructure (Kapur, 2019;2). However, for this paper, the concept of infrastructure is deliberated on from the school point of view. It is important to highlight that through the provision, and or the availability of adequate infrastructure, learners are able to fully benefit in schools, in a number of ways. For example, learners can perform their academic work in an organized manner, hence no learner density, with adequate capacity or size of classes.

Furthermore, learners are likely to become more motivated, while learning and applying their skills in a class or environment, which is comfortable for the execution of their individual tasks. Moreover, learners feel pleasant and contented within school premises fortified with adequate infrastructural amenities, thus can do their schoolwork more effectively, and contribute towards accomplishing their professional and or personal objectives (Kapur, 2019; 2). For this reason, it is important for the South African government to strategically plan its fiscal means, to bring about perfections in the school infrastructure in all schools across the country.

This paper argues that with adequate availability, or ample provision of proper infrastructure in schools, this would enhance learners' capability to carry out their classroom tasks in a regimented and proficient manner, as they will be using good infrastructural amenities, such as proper classrooms fortified with proper school furniture, to increase efficiency in the learning activities, as the environment will be more conducive and welcoming. Likewise, when there is provision or availability of infrastructural facilities within the school premises, or in the classrooms, it also enhances the educators' ability to effectively carry out their pedagogical duties and responsibilities. Educators would also

be able to render the necessary contribution, more effectively impart skills and knowledge to the learners, and promote learners' growth and development (Kapur, 2019; 2).

School Infrastructure as a Character Advancement

The paper argues that, the key objective of educational institutions is to promote the growth and development of learners, and enrich their personalities. Learners enroll in educational institutions to acquire skills and knowledge, to enable them to attain and sustain good living conditions, while rendering a valuable contribution and promoting the wellbeing of other individuals. The implication of this is that personal advancement is a significant factor in people's lives, and it is through the acquisition of good quality education that individuals can bring about positive changes to their personalities. It is important though, to emphasize that individuals are likely to acquire good quality education where there is a provision or availability of adequate infrastructural facilities. Subsequently, it can be said that there is a strong correlation between infrastructural amenities, quality education and personal advancement (Kapur, 2019; 2).

Judicial Contribution

The paper steadfast that litigation can be perceived as oppositional; however it can also open the door to achieving the necessary and improved "access to the right to education" (Biegel and Hastings, 1994). Hodson (2003) opined that, because of the significant role of education in the lives of all citizens and the society as a whole, any attempt to transgress the right is usually resisted by the judiciary (Cogan et al., 2014). Hence, the Court, as part of its judicial activism, interprets the laws in such a way that it will lead to the realisation and enforcement of the rights to access quality education (Mubangizi, 2006). On the other hand, it is worth noting that the prominence of the right to access, and realization of quality education has also been deliberated and interpreted by the judiciary in the local and the international courts (De La Vega, 1994).

The judiciary, through its pronouncements, emphasised the importance of having good infrastructural amenities and ample resources, for the realisation of quality education. Poor infrastructural amenities and socio-economic goods and services, such as dilapidated classrooms, lack of books and school furniture, periodical feeding schemes

and lack of running water are among others contributory factors to poor delivery of quality education. This was emphasised in the case of *Section 27 v Minister of Education* where an exigent submission was brought before the Court, requesting a determination that the conduct by the Department of Basic Education, failure to deliver schoolbooks to schools across Limpopo Province violated the learners' right to elementary education, thus required an order compelling the department to promptly deliver the required books. The court observed that, "education is critical in both freeing and unlocking the potential of each person and it also ruled that textbooks are an essential component of quality teaching and learning" (Section 27 case, par 22). The Court held that failure by the department to deliver books violated the learners' right to basic education (Section 27 case, par 32).

The court highlighted that if a right is violated it should be followed by an effective and meaningful remedy. If that fails to happen it means that the individual rights have not been protected, and the Court must act according to the spirit and purport of the Constitution, and to ensure that if a right is violated, appropriate actions are implemented to remedy the situation. Furthermore, the Court stated that, "there is no doubt that an order only for delivery of textbooks will not address the consequences and effects of the failure of delivery for the first half of the year". The whole situation boiled down to the need for Court intervention to address the loopholes in learning (*Section 27 v Minister of Education* 2013, para 36).

In *Madzodzo and Others v Minister of Basic Education and Others*, the Eastern Cape High Court handed down a verdict in favour of a submission brought against the education departments, compelling the delivery of school furniture to schools across the Eastern Cape Province. The Departments of Education reasoned that, "the allocation of resources, procurement and delivery of furniture could only happen after an independent audit of furniture shortages across all schools in the Eastern Cape was completed later that month". The Court overruled the reasoning and highlighted that, "school furniture is an integral component of the right to basic education as enshrined in section 29(1)(a) of the Constitution, and that the state is obliged to take all reasonable measures to realise

the right with immediate effect” (Madzodzo case, 2014: par 17). The Court held that, “the Departments of Education breached the learners’ constitutional right as provided for in section 29 of the Constitution, by failing to provide adequate age-and-grade-appropriate furniture that would enable each child to have his or her own reading and writing space, and the persistent failure by the department to deliver such appropriate furniture to schools constituted an ongoing violation of the right to basic education” (Jamieson & Stein, 2014:15).

The other case that dealt with the provision of good infrastructural amenities is the case of *Komape and Others v Minister of Basic Education*. It is indispensable to highlight that in discussing this case, deliberations will only be limited to what is relevant to this paper, which is the promotion of the provision of infrastructural amenities. This case was about a pupil who attended grade R at one rural school near Seshego in the Limpopo Province. The pupil met his untimely death when he fell into a pit latrine located on school premises. The plaintiffs (members of the pupil’s family) sought relief following his death. As part of the relief sought, they also claimed for punitive damages to penalize the respondents, and compensation for the loss suffered due to the alleged rupture of the defendants’ statutory rights and obligations (*Komape and Others v Minister of Basic Education* Par 7 and 9).

In deciding this matter, the court held that it was not convinced that retributive damages would be appropriate relief in this regard, and if the plaintiffs were successful in this claim, they would be over enriched and as such, that would not promote public interest (*Komape* par 68). The court ruled that a structural interdict was more proper, fair and provided reasonable relief that upheld the constitutional provisions effectively. The court further held that the best interest of every learner attending rural schools with pit sanitary facilities across the province must take preference (*Komape* par 70). In the court’s opinion, it was the only effective way to ensure that government takes initiatives to provide basic sanitary facilities where there is none, and improve those facilities in schools where they are available but in a state of disrepair. The court acknowledged with no doubt that, to achieve this would require a lot of planning on the part of the state,

however, that did not prevent the court from directing the state to meet and fulfil its constitutional commitments (Komape par 70).

Of relevance to this paper, the court ordered both the first and second defendants to provide and erect, at each rural school fortified with pit sanitary facilities, across the Province, an adequate quantity of proper and dignified toilets to be used by all learners, which toilets latrines are accessible without difficulty, secured and harmless, and which afford privacy and encourages well-being and cleanliness (Komape par 72). Despite the fact that the court was mindful that this order placed extra strain on the state's financial means, it requested the first and second defendants to submit relevant information regarding the necessary program to be developed, the exact time period scheduled for its implementation, to achieve this goal. This, said the court, would enable it to perform a supervisory role in executing the order, to justify the legitimate right of the learners attending schools with poor and degrading sanitary facilities in rural Limpopo (Komape par 70).

Conclusion and Recommendations

In light of the above, South Africa has ample legislative measures, frameworks and intervention procedures aimed at developing the educational sector, to ensure access and realisation of quality education. It is also clear that the judiciary has proactively contributed towards the enforcement and realisation of quality education, by emphasizing the significance of prioritising the provision of school infrastructural and social amenities to achieve the objective of quality education for all. However, the challenge is that poor infrastructural amenities, socio-economic goods and services such as dilapidated classrooms and restrooms, lack of books and school furniture, and lack of running water are significant contributing factors to the poor delivery of quality education, hence learners cannot perform well under such conditions.

The paper, therefore, recommends that the government must ensure that the required services are provided for at all costs, to provide the learners with an environment

conducive for effective learning. Through the judiciary, it must also ensure that judgements promoting the provision of infrastructural amenities, socio-economic goods and services, are pronounced, for the realization of quality education. The government must perpetually monitor the enforcement of existing laws regulating the provision of these services, and further ensure adequate compliance with salient laws, and enforce such laws where compliance is failing.

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