

EDUCATION LAW: CONCEPT, ISSUES AND PROSPECTS

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Abstract

Nigeria is a heterogeneous society with approximately 250 ethno/linguistic groups, different religious affiliations and beliefs. The country's population stands at over 200,000,000 citizens. Unfortunately, the literacy rate in Nigeria, which stood at 62% in 2018, dropped from a peak of 70% in 2006. As it is a known fact, no nation can be great or rise above the quality of its educational system, as education tends to raise productivity and creativity as well as stimulate entrepreneurship and technological breakthrough, leading to greater output and economic growth. For the education sector to thrive without bias and sentiments, it must be governed by rules and regulations. This paper, 'Education Law: Concept, Issues and Prospects' x-rays different definitions of education law, the concept, issues and prospects of education law in Nigeria. It also gave suggestions such as Education law, which should be indigenous in nature should be promulgated subject to public opinion and due democratic process before being signed into law on acceptance and others.

Keywords: *Education Law, Heterogeneous Jurisprudence ,Society*

Introduction

Nigerians have embraced formal education. This is evidenced in the rapid development of schools and the massive turn-outs from various institutions of learning. Despite the dwindling, inconsistent, irregular and generally poor budgetary allocations captured by Agabi (2010) as follows: 14% in 2007, 13% in 2008; 8% in 2009 and only 6% in 2010, contrary to the United Nations Prescription that the developing countries should allocate not less than 25% of their annual budget to education (Okunamiri, et al., in Babalola & Ayeni, 2009), the education sector remains one of the largest sectors of the economy. This is a truism because if the expenditure on education by the Federal, State and Local Governments in Nigeria are put together, it is likely to represent a greater portion of the nation's expenditure (Igwe, 2010). Also, the education sector has attracted numerous people from different ethnic groups, races and backgrounds.

With the attendant huge expenditure and large number of people from different walks of life, it is only imperative that the 'dos' and don'ts' of the sector should be spelt out, to help in checks and balances, define different jurisdictions and the legal implications of over-stepping bounds. Orderliness which in turn will bring progress will then follow. This necessitated education law. This paper captioned Education Law: Concept, Issues and Prospects shall look at the

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definitional analysis of Education Law, Concepts of Education Law, Issues in Education Law, Prospects of Education Law and then proffer suggestions for enhancing education law in Nigeria.

Definitional Analysis of Education Law

Education law which is as old as the development of formal education is Nigeria (Maduagwu, 2006) has not lent itself to a single definition as there is plethora of them. However, a critical examination of these definitions will reveal the salient commonalities which constitute Education Law. According to Agabi and Ukala in Agabi, et al., (2005), “Education law can be regarded as an area of jurisprudence, which covers a wide range of legal subject matters relating to the principles and practices of establishment and operation of public and private education institutions”. To Maduagwu (2006), “education law includes ‘dos’ and ‘don’ts’ and implications of such acts in the operations of the school system”. Peretomode in Igwe (2010) defines “education law as those areas of jurisprudence which focuses on educational activities – the operation of public and private elementary, secondary and post secondary institutions of learning”.

Alexander in Igwe (2010) opined that:

“education or school law as a field of study is a generic term covering a wide range of legal subject matters, including the basic fields of contracts property, torts, constitutional law and other areas of law which directly or indirectly affect the educational and administrative processes of the educational system”.

Igwe (2010) declares that education law reflects on a wide range of legal subject matters, including constitutional, contract and property law. A synthesis of the above definitions reveals that education law can be considered as the ‘dos’ and ‘don’ts’, the rules and regulations governing education and educational related matters and their legal implications. ‘Dos’ in this regard epitomizes those attributes or things expected of all – students and even staff of a school while ‘don’ts’ are those mis-behaviour, habits, lifestyles, which are not expected by all and sundry.

Concept of Education Law

Nigerians have shown much interest in formal education since its development in the country. The level of interest shown varies from one ethnic group to the other, which also determines the rate of educational growth in the various ethnic groups. It is a truism that the education sector is one of the largest and vibrant sectors going by the total expenditure on education by the federal, state and local government of the country and the large number of people from different walks of life. In essence, it becomes imperative to have rules and regulations guiding and directing the affairs as well protecting members. To have this huge, vibrant sector with this large number of members without a guide in the form of rules and regulations is to support disorderliness and anarchy, where everybody does whatever they feel like.

The school communities also have some sort of rules and regulations which guide them in achieving educational goals and objectives. As earlier stated, without these rules and regulations, everybody: students, teachers and principal/administrator are without obligation for whatever action(s) taken. These rules and regulations promote orderliness. This lends to the concept of education law. Education law which range from rules and regulations guiding the operation and administration of schools border on the students, teachers, administrators, parents and other workers within the educational system.

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Igwe (2010) postulated:

“Education law transcends the agglomeration of education edicts, decrees and regulations emanating from the state bureaucracy, also empowering appropriate educational authorities to promote and execute educational policies. It also includes the “dos” and “don’ts” as well as the implications of the roles of educational administrators in the operation of the school system”.

In a nutshell, the concept of education law refers to the statutes, regulations, cases, and policies governing education and the resolution of dispute in educational institutions.

Issues in Education Law in Nigeria

Fundamentally, the educational institutions in Nigeria derive their existence, powers and functions from chapter 2 of the 1999 Constitution of the Federal Republic of Nigeria as Amended in 2010. This section of the Constitution spells out the educational objectives of Nigerians thus:

- i. Government shall direct its policy towards ensuring that there are equal and adequate educational opportunities at all levels.
- ii. That administration shall promote science and technology.
- iii. That regime shall strive to eradicate illiteracy, and to this end, the jurisdiction shall as when practicable, provide:
 - Free and compulsory primary education.
 - Free secondary school
 - Free university education
 - Free adult education programme

In spite of the provisions above, government’s educational policy to ensure accessibility and adequacy of educational provisions, the idea that education is a right rather than a privilege is yet to be practically recognized by government.

In expressing the inadequacy and silence of the Nigerian Constitution on socio-economic right, Ihonvbere in Igwe (2010) contended that:

“If a bill of right is to make any sense, it must include among others, a right to work and to earn a living wage, a right to shelter, health and education. That is, the least we can strive for if we are ever going to have a society which realized basic human needs”.

Another issue in education law is traceable to the nation’s policy on education. According to the National Policy on Education of the Federal Government of Nigeria (FGN, 2004), Section 1 Subsection 3, the five national goals of Nigeria, which have been endorsed as the necessary foundation for the National Policy on Education, are building of:

- (a) A free and democratic society
- (b) A just and egalitarian society
- (c) A united, strong and self-reliant nation;
- (d) A great and dynamic economy and
- (e) A land full of bright opportunities for all citizens.

The issue in this is that they are only policy statement that lacks any form of commitment on the part of government.

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According to Maduagwu (2006), the whole statement is a political statement presented in a philosophical way with no atom of commitment on the government for its realization. Another issue in education law is that they are made or promulgated as their needs arose. Notwithstanding, it is difficult to accept the fact that these laws in the form of decrees or edicts do not infringe on the fundamental human rights of the citizenry, yet the legal implications were never considered before signing or passing them on to the citizenry. A typical example is the school year (variation) decree of 1986.

Further, according to Igwe (2010),

‘It should be noted that the Nigeria legislations concerning fundamental human rights and education were prototype documents of the United Nations Charter on Human Rights and other alien legislations. The idea is lofty but one wonders if Nigeria is ready for such a democratic master piece of international legislative value’.

Another issue is that before now, during the military era, it was obvious that laws were repealed from time to time and another promulgated. This is quite unhealthy for any educational system.

Prospect of Education Law in Nigeria

Going by the dwindling and never improving budgetary allocation to the education sector, it is obvious that despite the guiding rules and regulations in place, the sector is in a “sorrow state”. If there is no improvement on the part of government, it leaves the education industry with its laws without a futuristic prospect in Nigeria.

However, Nigeria is a country that is hyperactive in nature. In addition, change in government and national policies, including that of education, is not new here in this part of the globe. What this means is that chances abound of the success of education vis-à-vis, education law in Nigeria. However, it is pertinent to emphasize here that certain steps in the right direction need to be taken. These include:

- a) Making education law only when needed and it should not infringe on the rights of the citizens.
- b) School law should be promulgated and passed into law when it has passed through due democratic processes.
- c) Legal frameworks for educational institutions should not be made as prototype of developed nations but relevant to our developing nature.
- d) The statues, rules, regulations and policies governing education and the resolution of disputes in educational institutions should be indigenou and should address issues as they relate to educational and legislative problems and needs.

Recommendations

As earlier postulated by Igwe (2010) that education and law are inseparable Siamese twins, it is obvious that the prospects of education law in Nigeria is an agglomeration of the prospects of education and that of law put together. What this implies is that one need to consider the prospects of education in Nigeria in other to ascertain the prospects of education law in this part of the globe. Accordingly, Ajayi in Babalola and Ayeni (2009) postulated that one of the strategies for improving efficiency of education in Nigeria is stable educational policies. To him, government should be able to determine and implement necessary changes in educational policies without

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distorting the stability of education. Other strategies are improved funding of education, provision of more physical facilities, supply and motivation of qualified teachers, stable educational policies, curriculum review and effective supervision and monitoring of schools.

Review and amendment of constitution or education law should tackle salient contemporary issues which should conform to national educational values such as relevant blend to local needs. Education related decrees, edicts, etc should be made as it applies to our needs, not necessarily as a prototype of developed countries. Education law, which should be indigenous in nature, should be promulgated subject to public opinion and due democratic process before being signed into law on acceptance. Government should be committed on educational matters. Adequate fund as prescribed by the United Nations' for education of developing countries should be adhered to. There should be a law that mandates a compulsory allocation on education. There should be review, amendment and subsequent inclusion in the Constitution, FGN (2010) chapter 2, section 18 of education as a right and not as a privilege of every citizen of Nigeria.

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