

Nigeria's Tertiary Institutions and Education Laws

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Abstract

The study investigated Nigeria's tertiary institutions and education laws. Without education laws, tertiary institutions would be in a state of anarchy. The study is beneficial to students, members of academic communities, curriculum developers, education administrators, the National Universities Commission (NUC), the Federal/States Ministries of Education, and its parastatal. Historical and case study designs were adopted. The doctrinal method was used in data collection. The primary sources of data were the Education Ordinance 1887, Education Code 1903, Education Ordinance 1928, Education Ordinance 1916, Education Code 1926, Education Ordinance 1948, Education Act 1952, Education Edicts 1966-1979, the Constitution of the Federal Republic of Nigeria 1999, Education Law 1999 and the Universal Basic Education Act 2004; sources of secondary data were published textbooks, scholarly peer-reviewed journals, and articles. Data were content-analysed, compared, contrasted, and presented thematically. The research findings were that students, academics, and non-academic members of staff of the schools should know education laws. The teaching of education laws should be a continuous exercise in all tertiary institutions. It was recommended that the NUC, the National Board of Technical Education, and the National Commission for Colleges of Education should introduce education laws as a course in the curriculum, to be registered for and passed by each student of the institutions before graduation. The management of the schools should train and retrain their students, academics, and non-academic members of staff on education laws regularly. Anybody who does anything contrary to the education laws of the institutions should face its consequences.

Keywords: Education Laws, Lecturers, Nigeria, Tertiary Institutions, Students.

Introduction

Nigeria, the most populated country in Africa is blessed with both human and natural resources. The country has thirty-six states with the federal capital territory in Abuja. There are tertiary institutions in all the states of the federation and the federal capital territory. Universities, polytechnics, colleges of education, schools of nursing, colleges of forestry and agriculture, petroleum institutes, research institutes, theological/seminary schools, technical colleges, and a host of others are the tertiary institutions in the country. Some of the schools are owned by the federal government, some are owned by the state governments while others belong to private persons or bodies. The institutions are established by the Act of the National Assembly, laws passed by the state houses of assembly, and institution laws of the private persons and/or bodies. Each of the laws takes its root from the Constitution of the Federal Republic of Nigeria, 1999 (as amended) which is the ground norm.

There are regulatory bodies supervising and controlling the operations of tertiary institutions. The National Universities Commission (NUC) is the regulatory body for the award of degrees in all the universities either owned by the federal government, state government, or private bodies or

persons. The National Board of Technical Education (NBT) takes charge of polytechnics and mono-technics, and the National Commission for Colleges of Education (NCCE) regulates the award of the certificates in the colleges of education either privately owned, state-owned, or federally owned. The Federal Ministry of Education and the state's Ministry of Education are the ministries controlling their activities and are responsible for providing guidelines and amenities where necessary.

What brings about the establishment of the institutions is law. It brings peaceful operations of the schools, admission, examination, marking, grading, conduct of the students and members of staff (academics and non-academics), and graduation.

According to Ebete (2008), "the term law is usually described as written and unwritten rules derived from customs and enactment which are recognised by the people as binding on them and could be applied using appropriate sanction system." Law can therefore be defined as the codified rules or norms governing the behaviour and relationship of individuals in a society. Alalibo (2006) stated that "educational administration involves regular interaction among stakeholders such as teachers, students, parents and community where schools are located. There is, therefore, the need for these relationships and interactions to be properly defined by law." In addition, schools like other organisations need laws and regulations to guide their operations. According to Dada (2015) "education law encompasses a wide range of legal matters, which guide the operation of the educational system" Ibara (2018) found that "the legal subject matters include constitutional laws, court decisions or the ordinances, statutes of the state or local governments, which provide a guide on the operation of the educational system" In other words, education law is the association or application of the law to the education enterprise. Thus, if school administrators, teachers, and students are conversant with some legal concepts and can identify some common legal pitfalls they will be better equipped to handle their tasks (Ikati, 2005). Education law is all about management, progress, and administration of the learning environment (Agi & Ereme, 2018). It guides students' rights, teachers' rights, curriculum, disciplinary measures, code of conduct, and school safety Nnamdi (2021). Gede (2014) stated that "society/environment/organisation that lacks law, there will be anarchy."

According to Isola (2010), "law in the school is to enable the administrators to achieve the maximum aims and objectives of the institution. Law is meant for the lecturers, students, administrators, and a host of others to enable them to train and retrain the learners and guide them against future occurrences." They are made by either the local, state, or federal governments. The pronouncements of law courts and international treaties/conventions are also part of the education laws. These give legal protection for the students and the school (Alalibo, 2006).

In 1914, Lord Lugard introduced some innovations to the educational sector in Nigeria which are still useful today. Schools are expected to abide by the rules and regulations in the computer age which is guided by law (Ebate, 2008). A teacher or student is to obey law and order. Effective management of the school is important to the school administrators (Peretomode, 1999, Osokoya, 2002 & Oluyede, 2001).

Education laws in Nigeria ensure that students are fully protected by the institutions of higher learning. Many problems are adversely affecting the quality and standard of education in Nigeria (Ekundayo, 2010). Some graduates are not knowledgeable after their graduation. They are not quite exposed to certain important things, that their counterparts are enjoying in other parts of the world, and it will become discovered that it limits them unfairly (Gbadamosi, 2013).

However, education laws can help make things better. It should be added that compliance with these policies is so important and if certain measures are put in place, it can easily be seen that no institution in the country will go on breaking any of the legislations (Moye, 2015). According to Igwe (2003), "Laws exist in schools to accommodate and regulate academic activities, but the awareness of such laws and their implementation by university lecturers and students is not guaranteed." Ibara (2010) was of the view that "there are a lot of education edicts, handbooks on discipline, teachers' manual, national policy on education university law, condition of service, education policies, and proclamations introduced by the federal and state governments to ensure that there is order in the universities, polytechnics, colleges of education and even secondary schools and college." Some of these laws and regulations are not followed. Some university lecturers and students have not set their eyes on the university laws let alone know what is contained in them (Ejiogu, 1987). The teaching of law is limited to faculties of law in the universities. Education law and knowledge are not made part of the curriculum in the universities. These have caused ignorance in the university environment (Moronfolo, 2002). Nigerian curricula are being reviewed at intervals despite that some teachers/students are not knowledgeable about the law upon which an education policy is founded. Igwe & Obasi (2005) concluded that "lack of knowledge about school rules by both students and teachers and the implementation of such laws have adversely affected education in Nigeria." University lecturers in Nigeria require legal knowledge to do their work perfectly and effectively while the students need the knowledge to avoid being punished if they go against the law.

Statement of the Problem

Discipline in the tertiary institutions in Nigeria is to promote learning. Universities, polytechnics, colleges of education, schools of nursing, colleges of forestry and agriculture, petroleum institutes, research institutes, theological/seminary schools, technical colleges, and a host of others are established and maintained so that students and researchers will learn. To learn, certain standards of behaviour must be in place. Lecturers and students of the tertiary institutions in Nigeria do show an act of disrespect to one another as a result of a lack of detailed knowledge of education laws. This results in a crisis that such schools are being closed for months or weeks in private and government-owned tertiary institutions.

Many lecturers and students are being sent out of the higher education system due to the inability to know their rights from wrongs. The question is how knowledgeable are lecturers and students of tertiary institutions in Nigeria about the contents of education law? It is against this backdrop this study is carried out to analyse, juxtapose, expose, and know the importance of education laws in Nigerian higher institutions.

Methodology

Historical and case study designs are adopted for this study. The doctrinal method is used in data collection. The primary sources of data are the Education Ordinance 1887, Education Code 1903, Education Ordinance 1928, Education Ordinance 1916, Education Code 1926, Education Ordinance 1948, Education Act 1952, Education Edicts 1966-1979, the Constitution of the Federal Republic of Nigeria 1999, Education Law 1999 and the Universal Basic Education Act 2004; sources of secondary data are published textbooks, scholarly peer-reviewed journals, and articles. Data are content-analysed, compared, contrasted, and presented thematically

Research Questions

1. What is the relevance of education laws in Nigerian tertiary institutions?
2. Are the students, academics, and non-academic members of staff of the tertiary institutions in Nigeria aware of education laws?

Importance/Relevance of the Study

This study will be of benefit to students, lecturers, the university community, the schools and institutions of learning from secondary schools to colleges of education, polytechnic, mono-technic, and universities where education law is applicable, and it will be of benefit to the law community - the lawyers, judge, court of law, solicitors, advocates, attorneys, barristers among others. Curriculum developers, education administrators, the National Universities Commission, the Federal/State Ministries of Education and its parastatal/agencies, and the public will benefit from this work.

Students will gain a lot from this work when they become aware of the relevance of education laws and their rights and with this, they will know how to obey and not flaunt school rules and regulations. Lecturers and students will be aware of their legitimate rights in regards to educational knowledge in the university environment which will reduce the incessant act of sending lecturers and students out of the institution without following due process.

The university community will benefit as awareness will be created by the study and introduction of educational law into the curriculum of the university which all students and lecturers are to study. Other higher education institutions will gain from the study having exposed the importance and relevance of legal education in the university which will be of added advantages to the institutions. The law community will become aware of the need to sensitize people on legal literacy so that people will know their wrongs from right and as such fundamental human rights of the citizens, rules of law, and right to a fair hearing will be more pronounced in the university and the society at large.

Policymakers in the field of education such as curriculum developers, education administrators, proprietors, consultants, research institutes, training centers, supervisors, ministries, and a host of others will know that legal knowledge in the educational sector is important and necessary for all, particularly in the university environment. To this end, to the public, it will serve as revelation because it discusses the reasons why law is important and must be carried out in our educational system. This research will enlighten and orientate them on their rights as workers/students, which many are unaware of.

The Concept of Law and Education Laws in Nigeria

A body of principles and procedures guiding against human conduct is called law. Law is a creation of the constitution, legislature, courts, and/or any other government agencies empowered to do so (Chukwuma & Madu, 2003). Everybody in each state must obey and respect the law for peaceful coexistence. The law may be written and unwritten but must be recognised by courts. According to Ebong (2006), there is common law and statutory law. The common law operates within the communities while the statutory law takes care of students while in the care of the teachers (Brabrand, 2003).

Law has the following characteristics as explained by Brabrand (2003) & Nwosu (2006): "It is a set of rules that regulates human conduct; it is created and maintained by the state and has a certain amount of stability, fixity, and uniformity; it is backed by coercive authority so its violation leads to punishment; it is the expression of the will of the people and is generally written down to give it

definiteness; it is related to the concept of sovereignty which is the most important element of state so it provides peace, protection, and security to the people, and to protect the rights and freedoms of the people."

According to Ebong (2006), "The concept of education law in Nigeria is not popular but law and education are closely related and one cannot be divorced from the other." However, education law and the term school law are the names given to the branch of civil law that covers the operation of education. Education law may deal with the creation and funding of schools and school policy, teacher requirements, and the rights of students (Mebradu, 2008). According to Ofo, (2001), "Education law is the portion of the law in a state, country or city that specifically governs educational bodies such as public and private schools and universities. Various education laws cover every aspect of education and system." Education is administered and managed with the assistance of laws, rules, and regulations (Asuquo & Usoro, 2004). It controls the conduct and behaviours of members of the institution. The main purpose of the law is to bring about tranquility in all sectors of society (Mebradu, 2008).

In addition, Brown (1998) explained that education laws are made to guide, control, maintain, administer, and protect the education system. Although people who are involved in education operate within the ambit of the laws of the land, be it criminal or civil. Education laws are important because of educational establishments (Boone, 2013, Oyediji, 2012 & Foddy, 1993).

Education laws are regulatory mechanisms enacted to control the actions of those concerned with the proper administration of the educational system according to Patton (1990) as they regulate and control the actions of other participants in the educational system and dictate the occurrences within the educational system rapid expansion large size and population. It is used to manage the crisis within the educational system, accompanied by educational expansion (Oboagbulem, 2013). It serves as an antidote for various operational problems facing a given educational system and it also helps to solve emerging problems and remove the inadequacies in an educational system Kosemani (1982).

Sydor (2006) noted that "education law is a generic term that covers a wide range of legal subject matter." It is all about legitimate rights, administrative, property, constitution law, agreements, torts, and a host of others for educational and administrative processes. In Nigeria, education law generally stipulates the guidelines for the smooth running of educational activities (Fabunmi, 2003, Fafunwa, 2004 & Fabunmi, 2005). The education regulations and edict originate from a state bureaucracy being represented. Education law guides the activities of parents, students, lecturers, and a host of others in the educational industry (Olanmi, 2007). He further stated that it involves teachers' rights, students' rights, curriculum, disciplinary measures, code of conduct as well as school safety. It is a legal discipline that pertains to the issues concerning school administration. (Cranston, 2002, Creswell, 2003 & Creswell 2005) opined that "It deals with the effective management of school facilities and the implementation of necessary regulations." (Ebete, 2008, Olorusala & Olayemi, 2011) noted that "It provides a framework for modulating the activities within the school environment and guides the code of conduct and ensures schools. It also deals with the sources of funding that school organizations use to acquire resources and with the requirements teachers and other faculty and staff must meet to be certified, trained, hired, retained, and fired."

Wagbara (2005) reasoned that "This policy makes the government exercise proper control of education and other related activities. This is why most schools seek government approval because this approval enables them to carry out some educational activities without limitation." Ayeni (2012)

discovered that "it is this law that gives the government templates on how to issue approval mandates. Therefore, education law includes the vital things that must be in place for a school to operate, the learning environment, the eligibility of the teachers, administrative activities as well as proper management of the school." Arikewuyo (2001) was of the view that "It enables the government to efficiently supervise the educational system through officials and invigilators."

Obi (2004) opined that education law has three main sources namely; the customary law-which is a body of rules regulating the lifestyle and value system of a people to maintain law and order, and harmonious co-existence among the people within the indigenous community. English law was introduced in Nigeria by the British colonial policymakers not to abrogate the customary law but to preserve as much as possible customary laws that were capable of the English notion of justice, and statute which refers to enacted laws or legislation or Acts of parliament in a democracy. In continuation, he includes other sources of Education law as the constitution, which provides a framework of law within which orderly government processes may operate. It contains the basic structure of the national government and a written set of rules to control the conduct of the government and its agencies,' The legislature, which involves law made by a body, constituted for the purpose, that is, an enacted law or statute. The statute here is from the Latin word 'statum' meaning, it is decided to show that statutes are bills voted on and passed into law by the legislature. Statutes can be distinguished from byelaws, decrees, and edicts. While byelaws are enactments by a Local Government Council based on the law, Edicts are laws at the state level, and Decree are laws at the federal level under a military government, for example, Decree No 16 of 1985 which confers on the Minister of Education the power to establish and maintain minimum standards at all levels of education (Arikewuyo, 2001).

Obi (2004) included judicial precedents or court decisions as another source of law in education in which case laws, judicial laws, or the judgments by courts are terms used to express judicial opinions on education law. The terms are used to distinguish laws enacted by legislative bodies from the rule of law, which are enunciated, by the courts. Administrative laws and school rules and regulations are rules, and regulations made and applied by the federal or state regulatory agencies and commissions such as ministries of education, and schools management boards among others.

Historically in tracing the origin of education laws in Nigeria, Nwagu, (2003) stated that "education laws are simply those laws that have been enacted specifically for the organisation and administration and control of the education system and explained that education laws were promulgated as ordinances during the colonial era and the military regime, the education laws were issued as decrees or edicts by the federal government." In tracing the origin of Education Law, (Nwagu, 2003) noted that "the founding fathers of western education in Nigeria were the Christian Missionaries who used it as the most effective tool for evangelisation." Okeke, 2007 stated that "The Nigerian educational system may be compartmentalised into two broad eras: namely The Colonial Education Development Era 1842 - 1960 and the National Education Development Policy Era 1996 - present. The first colonial education law known as the Education Ordinance of 1882 was meant for the British West African territories of Nigeria and Gold Coast now known as Ghana. Intensive missionary activities and expansion in Nigeria marked the period. Before this time, the Church Missionary, the Wesleyan Methodist Missionary Society, the Roman Catholic Mission, the United Presbyterian Church of Scotland the Qua Iboe Mission, the Primitive Methodist Missionary Society, and the Basel Mission established themselves in the southern part of Nigeria. The colonial government in Nigeria paid less or no attention to the education needs and aspirations of the people. It was between 1877 and 1882 that the colonial government made an annual grant of (£200) two

hundred pounds to the missionaries.” Akintola, 2013 opined that “This was the first participation by the government in educational development in Nigeria. The grant was made on the condition that the money was spent on the maintenance of the schools. Based on this, some of the missions set up management boards to help regulate the curriculum, teachers’ salaries, and conduct.” Ijadula (1998) stated that “The 1882 Education Ordinance also created an education board to manage education and laid down the criteria for the approval of grants by the government for the payment of teachers’ salaries. It also included the quality of organization and discipline in the school academic standard.” According to Ijadula (1998), the colonial and post-colonial education development initiated several education ordinances, policies, codes, and Acts designed for the improvement of education law during the periods. These include but are not limited to Education Ordinance 1887, Education Code 1903, Education Ordinance 1928, Education Ordinance 1916, Education Code 1926, Education Ordinance 1948, Education Act 1952, Education Edicts 1966-1979, the Constitution of the Federal Republic of Nigeria 1979 and 1999, Education Law 1999 and the Universal Basic Education Act 2004. They have contributed immensely to the growth and development of education law in Nigeria (Olorunsala & Olayemi, 2011).

Findings

The following are the major findings of this study to wit:

1. Education laws are relevant and necessary for the smooth running of every tertiary institution globally particularly in Nigeria.
2. There are education laws in Nigeria’s tertiary institutions but the same must be taught to avoid violation of such laws.

Discussion of Findings

The first finding is that education laws are relevant for the smooth running of tertiary institutions in Nigeria. This finding is in line with Chukwuma & Madu (2003), Olakanmi (2007), and Baudura (2012) where the scholars opined that giving lecturers/employment handbooks to lecturers will enable them to perform their duties in line with the university laws. Taylor (2001) & Bloumberg (2006) have similar views with this finding to the extent that the scholars stated that lecturers cannot work outside the scope of the employment and are to comply with enabling laws of the institution to bring about development, peace, and progress of the university’s environment. Moronfolo (2005) posited that ignorance of the law is not an excuse where a lecturer to be aware of the operational laws in the institution.

The second finding is that there are education laws in Nigeria’s tertiary institutions but the same must be taught to avoid violation of such laws. Bock (2005) was of the view that education laws are relevant, useful, and important in an academic environment as done in this study. Samelson (1994), Okeke (2000), and Igwe & Obasi (2005) were of the view that where students know education knowledge, there will be no breaking down of law and order. The institution will be calm and the understanding between the students and the management will be cordial.

According to Okeke (2007), the academic environment is the best and most suitable place to learn about law and its knowledge. Bock (2005) also found that the academic environment cannot be ruled out in terms of learning law. The scholars found that education laws are necessary in every academic environment.

Conclusion

Education laws bring peace, progress, tranquility, and development to every tertiary institution in Nigeria. Students, academics, and non-academic members of staff of the tertiary schools know education laws but they need to be updated on the developments in respect of the said laws. The teaching of education laws should be a continuous exercise in all tertiary institutions in Nigeria to avoid any gap in the knowledge of education laws.

Recommendations

The study recommends thus:

1. The National Universities Commission (NUC), the National Board of Technical Education (NBT), and the National Commission for Colleges of Education (NCCE) should introduce education law under the general study unit of each school with a minimum of two units to be compulsorily registered for and passed by each student of the higher institutions before he or she can graduate.
2. The management of each tertiary institution should train and retrain their students, academics and non-academic members of staff vide seminars at least once a semester to enable them to know the current positions about education law in the system locally, and globally.
3. The students, academics, and non-academics members of staff of the tertiary institutions who do anything contrary to the education laws of the institutions should face the wrought of the laws. Still, they must be given the right to fair hearing as provided in the Constitution of the Federal Republic of Nigeria 1999 (as amended) and all other enabling laws in the country.

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