

Full length Research Paper

Appraisal of the use of law courts in the administration of justice: A case study of Delta State Secondary Schools, Nigeria

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The study examined the use of law courts in the administration of secondary schools in Delta State, Nigeria. An instrument was constructed to collect data in the study. The subjects of the study were 250 teachers randomly selected from schools, comprising 125 males and 125 females. The one-way analysis of variance (ANOVA) was used to analyse the data collected, and in testing the two null hypotheses at the 0.05 level of significance. The results of the analyses revealed that teachers, irrespective of age and experience were against the use of law courts in the administration of justice in secondary schools in Nigeria.

Key words: Law court, justice, education, secondary schools, Nigeria.

INTRODUCTION

The cry for 'equal justice' under law rings through the centuries. Although justice may be separated from law and even from equality, the linking of these three terms has supported the development of the third great institution of government, the judiciary. In order words, the inevitability of conflicts, difference in opinion and the rise of unforeseen circumstance in the functioning of society and other social systems, such as the public and private schools, have necessitated the obvious need for an agency that will resolve the conflict when they arise. This is necessary for society and institutions within it to operate with some degree of efficiency. The judiciary is the agency that performs this vital function of the interpretation and adjudication of conflicts (Reuter and Hamilton, 1976). When disputes arise in the school system, it is the courts that may be the final arbiter of the legal issues involved.

Laws reflect societal sentiments, and courts and legislative bodies at both state Federal levels are playing an increasingly prominent role in the domain of public education. Laws are being enacted that place additional responsibilities on school to provide a range of services to meet the educational needs of students. Moreover, judicial interpretations of constitutional statutory mandates are having a profound impact on school policies and practices. Educators must be cognizant of this legal activity because no longer can plead "ignorance of the

law as a viable defense for violating protected rights". Also, they need to understand personal and professional ethics and possible conflicts between legal and ethical concerns.

In fact, all actions of teachers and school administrators in administering justice before the court of law have legal and ethical dimensions; hence there is need for prospective educators' knowledge of law and ethics.

In recent times in Nigeria, there has been an increased awareness of the fundamental rights of the citizen. This state of awareness has led to more litigation in all rights of the citizen. It has therefore become necessary for teachers and educational administrators to understand their own rights and limitations as well as legal implications of what they do in school, particularly in dealing with students and their parents/guardians in educational matters (Nwangwu, 1984)..

As stated in the *National Policy on Education (2004)*, the rights of the teachers include the following:

1. The right to maintain discipline and control of students in the school
2. The right to take decisions affecting students' welfare
3. The right to make immediate decisions concerning cases of conflict in the school
4. The right to determine the use of resources at their disposal.

According to Nakpodia (2009), these rights however, should not be abused in any way. It is when these rights are abused that legal actions are usually instituted against teachers by others who think they know their own rights better. It is also for the same reason that teachers go to the law courts for redress.

LITERATURE REVIEW

Teacher and the court

Teachers in the United States enjoy a number of rights pertaining to their employment, including recognition of certain freedoms, prohibition against certain forms of 'discrimination', and significant protections against 'dismissal' from their position. These rights are derived from state and federal constitutional provisions, state and federal statutes, and state and federal regulations.

Constitutional provisions provide protection to teachers at public schools that are generally not available to teachers at private schools. Since public schools are state entities, constitutional restrictions on state action limit some actions that public schools may take with respect to teachers or other employees. Rights that are constitutional in nature include the following:

1. Substantive and procedural due process rights, including the right of a teacher to receive notice of termination and a right to a 'hearing' in certain circumstances
2. Freedom of expression and association provided by the first amendment of the bill of rights
2. Academic freedom, a limited concept recognized by courts based on principles of the first amendment
4. Protection against unreasonable searches and seizures by school officials of a teacher's personal property provided by the fourth amendment

Though private school teachers do not generally enjoy as much of the constitutional protection as public school teachers, statutes may provide protection against discrimination. The 'civil rights act' of 1964, for example, protects teachers at both public and private schools from racial, sexual, or religious discrimination. Private school teachers may also enjoy rights in their contracts that are similar to due process rights, including the inability of a private school to dismiss the teacher without cause, notice, or a hearing (Alezauder, 1980).

Teacher certification

Certification requirements

Every state requires that teachers complete certain requirements to earn a teacher's certificate in order to teach in that state. Most states extend this requirement to private schools, though some jurisdictions may waive this

for certain sectarian or denominational schools. The requirements that must be satisfied and the procedures that must be followed to earn certification vary from state to state. Requirements generally include completion of a certified education program, completion of a student teaching program, acceptable performance on a standardized test or tests, and submission of background information to the appropriate state agency in charge of accreditation. Some states require more extensive physical and mental testing of teachers and a more extensive background check. Some states also require drug testing of applicants prior to certification. An increasing number of states now require teachers to complete a satisfactory number of continuing education credits to maintain certification.

Denial or revocation of teaching certificate

Courts have held consistently that teaching certificates are not contracts. Thus, requirements to attain or maintain a certificate may be changed and applied to all teachers and prospective teachers. The certification process is administered by state certifying agencies in each state, and most of these agencies have been delegated significant authority with respect to the administration of these rules. Despite this broad delegation, however, the state agencies may not act arbitrarily, nor may these agencies deny or revoke certification on an arbitrary basis. Some state statutes provide that a certificate may be revoked for "just cause." Other common 'statutory' grounds include the following:

1. Immoral conduct or indecent behavior
2. Incompetency
3. Violations of ethical standards
4. Unprofessional conduct
5. Misrepresentation or fraud
6. Willful neglect of duty

Tenure and dismissal of teachers

Tenure

Most states protect teachers in public schools from arbitrary dismissal through tenure statutes. Under these tenure statutes, once a teacher has attained tenure, his or her contract renews automatically each year. School districts may dismiss tenured teachers only by a showing of cause, after following such procedural requirements as providing notice to the teacher, specifying the charges against the teacher, and providing the teacher with a meaningful hearing (Nakpodia, 2007). Most tenure statutes require teachers to remain employed during a probationary period for a certain number of years. Once this probationary period has ended, teachers in some states will earn tenure automatically. In other states, the

local school board must take some action to grant tenure to the teacher, often at the conclusion of a review of the teacher's performance. Tenure also provides some protection for teachers against demotion, salary reductions, and other discipline. However, tenure does not guarantee that a teacher may retain a particular position, such as a coaching position, nor does it provide indefinite employment.

Prior to attaining tenure, a probationary teacher may be dismissed at the discretion of the school district, subject to contractual and constitutional restrictions. Laws other than those governing tenure will apply to determine whether a discharge of a teacher is wrongful. If a probationary teacher's dismissal does not involve discrimination or does not violate terms of the teacher's contract, the school district most likely does not need to provide notice, summary of charges, or a hearing to the teacher.

In the absence of a state tenure statute, a teacher may still attain de facto tenure rights if the customs or circumstances of employment demonstrate that a teacher has a "legitimate claim of entitlement for job tenure." The United States Supreme Court recognized this right in the case of *"Perry vs. Sindermann"*, which also held that where a teacher has attained de facto tenure, the teacher is entitled to due process prior to dismissal by the school district.

State laws do not govern the tenure process at private schools. However, a contract between a private school district and a teacher may provide tenure rights, though enforcement of these rights is related to the contract rights rather than rights granted through the state tenure statute.

Dismissal for cause

A school must show cause in order to dismiss a teacher who has attained tenure status. Some state statutes provide a list of circumstances where a school may dismiss a teacher (Barrel, 1975). These circumstances are similar to those in which a state agency may revoke a teacher's certification. Some causes for dismissal include the following:

1. Immoral conduct
2. Incompetence
3. Neglect of duty
5. Substantial noncompliance with school laws
6. Conviction of a crime
7. Insubordination
8. Fraud or misrepresentation

Court upholds federal teacher-protection law

A federal statute meant to give teachers and school administrators protection from legal liability over their efforts to maintain safe and orderly schools has been

upheld against a constitutional challenge.

The Missouri Supreme Court, ruling in a lawsuit in which a student who had been slashed by another student sought to hold a school superintendent liable, held that the federal law was a valid exercise of Congress' powers under the spending clause in Article I of the Constitution.

The court upheld the Paul D. Coverdell Teacher Protection Act, which was passed as part of the No Child Left Behind Act of 2001. The law aims to protect education professionals from being sued over efforts to undertake "reasonable actions to maintain order, discipline, and an appropriate educational environment." The law is named for the U.S. senator from Georgia who championed it.

Missouri's highest court ruled this week in a suit brought by Craig Dydell, who was a student at Central High School in Kansas City, Mo., in 2005 when he was slashed in the neck by another student in the cafeteria. Dydell survived the attack, and he sued Kansas City Schools Superintendent Bernard Taylor for negligence over the incident. Dydell claimed that the superintendent failed to disclose to teachers that the other student had the potential for violence because the student had been expelled from a Kansas City charter school for attempting to bring a knife to school. Taylor raised the Coverdell Act as a defense, which prompted Dydell to challenge the federal law as unconstitutional. Dydell argued that Congress lacked the authority under the spending clause to coerce the states into recognizing legal immunity for teachers and administrators over efforts to keep schools safe. A state trial court rejected Dydell's arguments, and in its February 8, decision in "Dydell vs Taylor", the Missouri Supreme Court unanimously affirmed:

"The Coverdell Act's requirement that Missouri provide ... immunity to teachers in return for federal education funds is hardly novel," says the opinion by Judge Laura Denvir Stith. "It is an example of Congress' traditional use of its spending power to further broad policy objectives by conditioning receipt of federal money upon compliance by the recipient with federal statutory and administrative directives."

The court noted that under the federal law, states may nullify its application merely by passing legislation saying so, without the loss of any federal education funds.

"There is no stick at all, only carrots," the opinion says. "There is no coercion at all."

The court also rejected arguments by Dydell that the superintendent was not protected by the Coverdell Act because he failed to comply with its language that his actions conform to federal, state, and local laws in furtherance of maintaining order and control in schools.

Dydell said the superintendent failed to comply with a district policy requiring any portion of a special education student's individualized education plan that mentioned potentially violent behavior be shared with teachers. The court said while the student who slashed, Dydell was in special education and had an IEP, the Coverdell Act did not impose a duty on the superintendent to make sure that the student's IEP detail his potential for violence (which it apparently did not).

Teacher freedoms and rights

Freedom from discrimination

The Equal Protection Clause of the Fourteenth Amendment of the Constitution protects teachers at public schools from discrimination based on race, sex, and national origin. These forms of discrimination are also barred through the enactment of Title VII of the Civil Rights Act of 1964, which was amended in 1972 to include educational institutions. This law provides that it is an unlawful employment practice for any employer to discriminate against an individual based on the race, color, religion, sex, or national origin of the individual. Title IX of the Education Amendments of 1972 provides protection against discrimination based on sex at educational institutions that receive federal financial assistance. Title VII and IX also prohibit 'Sexual Harassment' in the workplace.

A teacher who has been subjected to discrimination has several causes of action, though proof in some of these cases may be difficult. A teacher may bring a cause of action under section 1983 of Title 42 of the United States Code for deprivation of rights under the Equal Protection Clause (or other constitutional provision). However, to succeed under this cause of action, the teacher would need to prove that the school had the deliberate intent to discriminate. Similarly, a teacher bringing a claim under Title VII must demonstrate that the reasons given by a school for an employment decision were false and that the actual reason for the decision was discrimination.

Academic freedom

Teachers in public schools have limited freedoms in the classroom to teach without undue restrictions on the content or subjects for discussion. These freedoms are based on rights to freedom of expression under the First Amendment of the Bill of Rights. However, the concept of academic freedom is quite limited. The content taught by a teacher must be relevant to and consistent with the teacher's responsibilities, and a teacher cannot promote a personal or political agenda in the classroom. Factors such as the age, experience, and grade level of students affect the latitude in which a court will recognize the

academic freedom of a teacher (Apori, 1993).

Freedom of expression

A leading case in First Amendment Jurisprudence regarding protected forms of expression is *Pickering v. Board of Education*. This case involved a teacher whose job was terminated when he wrote to a local newspaper an editorial critical of the teacher's employer. The Supreme Court held that the school had unconstitutionally restricted the First Amendment rights of the teacher to speak on issues of public importance. Based on *Pickering* and similar cases, teachers generally enjoy rights to freedom of expression, though there are some restrictions. Teachers may not materially disrupt the educational interest of the school district, nor may teachers undermine authority or adversely affect working relationships at the school.

Freedom of association

Similar to rights to freedom of expression, public school teachers enjoy rights to freedom of association, based on the First Amendment's provision that grants citizens the right to peaceful assembly. These rights generally permit public school teachers to join professional, labor, or similar organizations; run for public office; and similar forms of association. However, teachers may be required to ensure that participation in these activities is completely independent from their responsibilities to the school.

Freedom of religion

The First Amendment and Title VII of the Civil Rights Act of 1964 provide protection against religious discrimination by school districts against teachers. Teachers may exercise their religious rights, though there are certain restrictions to such rights. This existence of restrictions is particularly relevant to the public schools, since public schools are restricted from teaching religion through the Establishment Clause of the First Amendment. Thus, for example, a teacher is free to be a practicing Christian, yet the teacher cannot preach Christianity in the classroom.

Privacy rights

Teachers enjoy limited rights to personal privacy, though courts will often support disciplinary action taken by a school district when a teacher's private life affects the integrity of the school district or the effectiveness by which a teacher can teach. Thus, for example, a teacher may be terminated from his or her position for such acts as Adultery or other sexual conduct outside marriage, and courts will be hesitant to overrule the decisions of the school board.

Age

The Age Discrimination in Employment Act of 1967, with its subsequent amendments, provides protection for teachers over the age of 40 against age discrimination. Under this act, age may not be the sole factor when a school district terminates the employment of a teacher. If a teacher charges a school district with age discrimination, the school district has the burden to show that some factor other than age influenced its decision.

Pregnancy

The Pregnancy Discrimination Act of 1978 provides protection for teachers who are pregnant. Under this act, a school district may not dismiss or demote a pregnant teacher on the basis of her pregnancy, nor may a district deny a job or deny a promotion to a pregnant teacher on the basis of her pregnancy (Fakayode, 1985)..

MATERIALS AND METHODS

The educational policy has legal basis and implications for the administration of education in the country and the courts perform law making functions. The courts perform a number of administrative responsibilities especially to protect fundamental and civil rights of the citizens. It is true therefore that most legal controversy involves a dispute regarding fact and it is the responsibility of the court to critically examine evidences contained in documents, articles, public records or the oral testimony of witnesses in order to pre determine the facts of the case. Teachers are the major actors in the administration of justice in the school system, but in carrying out their day-to-day duties of teaching, nurturing, monitoring and guiding students to achieve educational goals and objectives, the teachers occasionally encounter problems with their students, their bosses at the local boards, Ministry of Education and even with their own colleagues. This is usually in the area of discipline and corresponding punishment meted out (Nwagwu, 1987). Some forms of punishment given to disobedient students such as corporal punishment, suspension and expulsion from school generated bad blood and trouble in most cases. The vogue is that parents/guardians and teachers rush to the law courts to seek redress, thus making the school system of today to become legally hazardous, and this has led to an unprecedented increase in the number of court cases affecting the school system, and hence fear of litigation may have caused some teachers to abandon their school or administrative functions (Peretomode, 1992).

The study deployed the one-way analysis of variance (ANOVA) for analysis. Two research questions and two hypotheses were investigated. The research questions are:

- Should the law courts be used in the administration of justice for education in Nigeria?
- Are the fundamental rights of teachers infringed upon as they exercise their legitimate duties due to court litigation?

The hypotheses are:

- There is no significant difference between experienced and inexperienced teachers in their attitudes towards the use of law courts in settling educational conflicts in secondary schools.
- The age of teachers has no significant influence on their attitudes towards the use of law courts in settling educational conflicts in secondary schools.

The result of this study will be useful to both policy implementers of educational plans and programmes, as well as parents, students and all those involved in the day-to-day running of the school. Also, the finding is of great benefit to every person who is genuinely interested in the effectiveness and efficiency of the educational system in Nigeria and elsewhere.

The descriptive survey research design was used in this study. It enabled the researcher to determine the attitude of teachers towards the use of law courts in the administration of justice in terms settling educational conflicts in secondary schools in Delta State. The target population comprised 971 teachers from the secondary schools in Delta State, Nigeria. A stratified random sample comprising 125 males and 125 females was selected as sample size for the study. This represents 26% of the total population.

The research instrument developed by the researcher was a fourteen-item questionnaire, titled "the use of law courts in the administration of justice in Secondary School's Questionnaire" and designated as "ULCAJQ". It comprised of sections A and B. Section A is the demographic variables on experience and age of teachers; while section B contains 14 items constructed to guide the study. The items were constructed with responses based on the respondents in line with the Likert-type scoring of 4 – Strongly Agree (SA), 3 – Agree (A), 2 – Disagree (D) and 1 – Strongly Disagree (SD). The responses of each item were counted and scored. The instrument was validated in its face and content values by experts in the discipline on legal school operation, and later tested for reliability through test-re-test, using Pearson 'r' statistic and the reliability coefficient of 0.68 was obtained. This showed that the research instrument has a high internal consistency. The One-way Analysis of Variance (ANOVA) was the statistical test used to analyse the data collected.

RESULTS AND DISCUSSION

The data collected were analysed to answer the two research questions and to test the two null hypotheses formulated to guide the study.

Question 1: Should the law courts be used in the administration of justice for education in Nigeria?

In order to answer this question, as well as question two, the response of subjects to section B of the research instrument were scored and analysed. The results are presented in Table 1, which showed the frequency distribution of responses to the questionnaire items and their corresponding percentages. Table 1 revealed that staggering majority of 241 out of 250 respondents, representing 96.4% of the total respondents were of the opinion that the law courts should not be used in the administration of secondary schools. A small percentage of the respondents (3.6%), 9 out of the 250 respondents, however felt that the courts could be used in certain situations and circumstances.

Question 2: Are the fundamental rights of teachers infringed upon as they exercise their legitimate duties due to court litigation?

From the responses shown in Table 1, 248 out of the 250

Table 1. Frequency distribution of responses to research questions 1 on Items 1 to 5.

Item	Number of positively disposed	Percentage of positively disposed	Number of negatively disposed	Percentage of negatively disposed	Total {N(%)}
One	241	96.40	9	3.60	250(100)
Two	248	99.20	2	0.80	250(100)
Three	242	96.80	8	3.20	250(100)
Four	229	91.60	21	8.40	250(100)
Five	238	95.20	12	4.80	250(100)

Table 2. Experience of teachers in the use of law courts (Summary table of One-way ANOVA).

Source of variation	Df	SS	MS	F-calculated	F-critical
Between groups	2	36	18	1.34	3.00
Within groups	247	3311	11.40		
Total	249	3347	-		

Table 3. Age of teachers in the use of law courts (Summary table of one-way ANOVA).

Source of variation	Df	SS	MS	F-calculated	F-critical
Between groups	2	16	8.00	1.21	3.00
Within groups	247	1640	6.64		
Total	249	1656	-		

respondents were of the opinion that the fundamental rights of the teachers are infringed upon as they carry out their legitimate duties by court litigation. This represent a whopping majority of 99% with only two respondents (0.8%) being of the opposite view.

H₁: There is no significant difference between experienced and less inexperienced teachers in their attitudes towards the use of law courts in settling educational conflicts in secondary schools

To test this hypothesis, experiences of teachers were categorized into three groups; high, average and low. Their respective responses were then isolated and scored. The relevant data for testing was shown in Table 2. This showed that out of the 250 respondents, 31(12.3%) of the respondents were highly experienced, 170(68.0%) were of average experience, and 49(19.6%) were of low experience as derived from demographic data of the research instrument. Respective mean scores computed for high, average and low experience were 3.90, 3.51 and 3.12. These means seem to be equal. In order to test the significance of these means, the one-way analysis of variance (ANOVA) was applied to the data and the result presented on Table 2.

Since the calculated F value of 1.34 was less than the critical F value of 3.00, the null hypothesis was retained. This meant that there was no significant difference

between the three groups, implying that experience of teachers did not have any significant influence on their attitudes towards the use of law courts in the administration of secondary schools.

H₂: The age of teachers has no significant influence on their attitudes towards the use of law courts in settling educational conflicts in secondary schools

The relevant data for testing this hypothesis has been presented in Table 2. The responses of the three groups, young, middle-aged and old in this study, were scored and analysed. The data collected from section A of the research instrument showed that of the 250 respondents, 36(14.4%) were young, 172(68.8%) were middle-aged and 42(16.8%) were old. The computed mean scores were 3.70 for young, 3.85 for middle-aged and 3.96 for old respondents, which appeared to be equal. In order to test the hypothesis of three equal means, the one-way analysis variance (ANOVA) was applied to the data and the results presented in Table 3.

Since the calculated F value of 1.21 was less than the critical F value of 3.00, the null hypothesis was retained. This meant that there was no significant difference between the three groups, implying that age had no significant influence on the attitudes of teachers towards the use of law courts in administering secondary schools.

Research question one sought the opinions of teachers

towards the use of law courts in the administration of secondary schools. The empirical examination revealed that a staggering majority of teachers felt that the court should not be used in secondary school administration. The tiny minority could be, have seen the court as useful only when their involvement had to do with macro-decisions bothering on such things as ownership of schools, salary scales, breaching of contracts, etc, and the day-to-day running of schools.

In research question two, the empirical examination revealed that a whopping majority of 99.2% of the teachers believed that their fundamental rights were violated as they carry out their legitimate duties by law court litigation. One of the most rampant reasons for court litigation in the educational system bothers on punishment for both students and teachers. Punishment is the bedrock of teaching and training, and a part and parcel of the system. Without punishment, the school system will become chaotic and tend too fast to entropy. The maintenance of discipline in the classroom and entire school is part of the teacher's duties, and school officials have the authority to determine and apply the rules applicable to routine classroom and school discipline in their schools. Students who commit unwholesome act, who break school rules and regulations, should be punished. The punishment may include physical labour or detention, suspension or expulsion from the school, and corporal punishment, depending on the gravity of the offence and what the school law stipulates.

Hypothesis one was retained. This indicates that experience of teachers does not, to any significant extent, influence teachers' attitudes toward the use of law courts of secondary schools. This finding tended to differ from other findings in various studies in which experience was usually found to discriminate against outcomes or effects. This findings, therefore underline the fact that teachers, in all intents, resist the use of law courts in the administration of secondary schools.

Hypothesis two was also retained. This meant that age of teachers had no significant influence on their attitudes toward the use of law courts in settling educational conflicts in secondary schools. This finding is interesting since it would be expected that the younger teachers would prefer to tie the rope of their "jet age" and support the dashing to the court at the slightest grievance.

Conclusions

Based on the findings, the researcher concluded that teachers in secondary schools, irrespective of knowledge of Education Law, experience and age, were against the use of law courts in settling education conflicts in schools, and they were of the opinion that increased litigation in the educational system had infringed upon their fundamental rights, reduced their level of motivation, dampened

their morale, as well as increased and the level of indiscipline in secondary schools in Nigeria.

RECOMMENDATIONS

The following recommendations were made in the study:

1. The law governing school operation should be reviewed to suit the present day demands of teachers, students and parents.
2. School authorities should endeavor to sufficiently convince erring student of his or her guilt before the student is subjected to corporal punishment as is stipulated by the law governing the school system. The students must see and understand that this is not done out of malice or in a temper.
3. Teachers and education officials should endeavor to administer corporal punishment. This way, the affected persons would accept punishment in good faith and would rarely go to court.
4. Workers in the educational system must be sufficiently aware of their various duties and responsibilities as well as their fundamental rights and limitations. Knowledge of the Education Law therefore becomes imperative, when they become aware of not only their own rights and responsibilities but also of those of others as well as the legal implications of their actions.

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