

**NIGERIAN EDUCATION LAW AND DISCIPLINE IN SECONDARY SCHOOL: AN  
ASSESSMENT OF THE ROLE OF CLASSROOM TEACHERS.**

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**ABSTRACT:**

*Discipline is an integral part of child socialization and education as an agent of socialization has a great role to play in ensuring that children are discipline. Hence the rules and regulations guiding the management and operation of education should be such that the roles of the stakeholders are spelt out in specific terms. The aim of this paper was to examine the Nigerian Education Law as it relates to discipline in secondary schools and the role assigned to classroom teachers to ensure that students are disciplined. The paper discussed the overview of Education Law, the Concept of School Discipline and examined the role of classroom teachers as specified by the education law. It was discovered that the Nigerian Education Law was derived from the constitution of Federal Republic of Nigeria especially the fundamental human rights as it relevant to educational system. This Education Law is made specific as rules and regulations at school levels. But most of the teachers in secondary schools are ignorant of their rights and the rules and regulations governing their job. A critical examination of the Education Law also revealed that the overall disciplinary control of students was vested on the school administrators, and regulated by the State Ministries of Education, but no specific role was assigned to the classroom teachers in the discipline of the students. It was recommended that a course in education law be introduced in tertiary institutions especially for education students and seminars/conferences on education law be organized for on-the-job teachers. It was also recommended that classroom teachers should be empowered to discipline students who might want to disrupt teaching and learning processes while student with extreme misconducts should be referred to the school Principal. Corporal punishment should not be totally banned in secondary school but should be administered by following a reasonable guideline.*

**Key words: Education Law, Corporal punishment, Discipline, Punitive disciplinary measure, Non-punitive disciplinary measures.**

**INTRODUCTION:**

The importance of relevant legislation in the effective management and operation of an organization or system can not be over-emphasized. The guiding principles of such organization or system, its modus operandi, the rights, duties and obligations of the stakeholders of the organization or system are the vital components of the law that will ensure the realization of the objectives of the organization or system.

Educational system can not be an exception. The guiding law that will ensure the smooth and effective management and operation of educational system is vital to the realization of education objectives. The importance of education in the national and individual development can not be over-estimated. It is a tool for political, social, economic and technological development of a nation. Education is the fulcrum on which all other developmental facets are hinged. No wonder Nigeria adopted education as an instrument par excellence for effecting national development (NPE, 2004). Wikipedia, the free encyclopedia describes education as “an act or process of developing and cultivating (whether physically, mentally or morally) ones mental activities or sense; the expansion, strengthening and discipline of ones mind, faculty etc; the forming of principles and characteristics in order to prepare for any calling or business, by systematic instruction”. Hence education has to do with a balance development of cognitive, affective and psychomotor domains in order to prepare an individual for the future challenges.

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In spite of these numerous services and uses of education to the nation and individual, Nigeria educational system has been challenged and criticized for gross indiscipline among the students at all levels. This has been having serious disruptive effects on teaching and learning process in the classroom, consequently leading to poor academic achievement by the students. According to Yahaya et al (2009), “students’ misconduct in the classroom interferes with teaching and learning and is thought to be precursor to later school dropout and similar negative social outcomes”.

Youths are the future of any nation. The future of any society where the youths do not have respect for the societal culture and norms is in jeopardy. Discipline is an integral part of child socialization; hence it is not a lonesome work. It is the duty of all who are involved in the socialization of the child, including the school, to instill proper discipline into the child. Classroom teacher is one of the major stakeholders in the upbringing of the child. He/she interacts with the child more often than any other staff in the school system. Hence his/her role in the proper upbringing of the child is enormous.

The aim of this paper was, therefore, to examine Nigerian education law as it relates to students control and discipline in secondary school system and the specific role assigned to the classroom teachers in the control and discipline of the students.

### **Education Law: An Overview.**

One of the responsibilities of every Government is the provision of education to its citizenry. The right to education is a universal entitlement, a right that is recognized as a human right. Section 15(1) of Child’s Right Act of 2003 stated that “every child has right to free, compulsory and universal basic education and shall be the duty of the Government in Nigeria to provide such education”. According to UNECEF (2007), “Education has been formally recognized as a human right since the adoption of the Universal Declaration of Human Right in 1948”. This, according to UNECEF (2007), has since been affirmed in numerous human right treaties including United Nations Educational Scientific and Cultural Organization (UNESCO), Convention against Discrimination in Education (1960), the International Covenant on Economic Social and Cultural Rights (1966) and the Convention on the Elimination of all forms of Discrimination against Women (1981). These treaties, according to UNECEF, establish an entitlement to free, compulsory and basic education for all children, an obligation to develop secondary education, supported by measure to render it accessible to all children as well as equitable access to higher education.

Every country or state is governed by a constitution or law. Other laws within the country or state are derived from the country’s or state’s constitution or law. Education law is therefore the portion of the country or state law or constitution that specifically governs educational bodies such as public and private schools and universities. It covers every aspect of education and school system. It deals with source of fund that school organization use to acquire resources as well as the bodies to manage both human and material resources to ensure that educational objectives are realized.

Peretomode (1992) defined education law as areas of jurisprudence which focus on educational activities, the operation of public and private elementary, secondary and post secondary institutions of learning. Peretomode (1992) stressed that education law covers the laws and regulations that govern federal, state and local education including the administration and operation of educational institutions, school programmes, instructional methods, discipline, instructional materials and discrimination based on gender or disability. In a similar view, Lexis Nexis (2007) described education law as the branch of civil law that covers the laws and regulations that govern federal and state education including operation of educational institutions, school athletics, instructional methods, programmes and materials. This area of law, according to Lexis Nexis (2007), encompasses issues relating to school faculty, staff, students including school discipline and discrimination based on colour, national origin, sex or disability in violation of the equal educational opportunities Act.

Fuller (1969) identified eight characteristics which a good legal system should have. These characteristics are also applicable to a good education law. They are

- 1) General rules (standards) of conduct.
- 2) Publication of the laws sufficient to subject them to public criticism.
- 3) Minimum reliance on retroactive laws.
- 4) Clear laws and clear standard of decision, that is, a minimum of obscurity, incoherence and vagueness.
- 5) As few contradictory laws as possible.
- 6) Laws within the citizen capability for obedience.

- 7) Law which is relatively constant through times, that is, should be dynamic.
- 8) Conformity with official action with declared rule.

**Concept of School Discipline:**

Discipline is a rudimentary ingredient that plays a crucial role in school system. In the school system, discipline is necessary for the effective management if the goals of the school are to be accomplished. It is an element of managerial tasks that involves the measurement and correction of the performance of the subordinates to make sure that the objectives of education industry and plans desired to attain them are accomplished.

School discipline, according to Wikipedia, the free encyclopedia (2009), “is the system of rules, punishment and behavioral strategies appropriate to the regulation of children and the maintenance of orders in school. Its aim is to control the student’s actions and behavior and set limits restricting certain behavior seen as harmful”. Nakpodia (2010) describes “discipline as a mode of life in accordance with laid down rules of society which all members must conform, and the violation of which are questionable and also punished”. Hence in a school system, discipline can be described as respect for school rules and regulations and maintenance of established standard of behavior the violation of which will attract some sanction or punishment. It involves student control which is an indispensable in the maintenance of laws, order and peace in order to ensure a suitable environment and efficient operation of school for effective teaching and learning. Discipline involves conventions, norms, customs and values which are developed in each school community and applied to guide internal and social interactions. It is a systematic instruction given to members of a group such as students in a school to follow a particular code of conduct. The goal of student discipline is to teach students to behave in ways that contribute to academic achievement and school success, and to support a school environment where students and staff are responsible and respectful.

The concept of school discipline is based on the doctrine of in loco parentis which allows school authorities full responsibility for children’s upbringing, that is, the right to discipline and control. In effect teachers have right to punish students who contravene school laws (Barrel, 1975 and Nakpodia, 2010). The doctrine of in loco parentis was based on the assumption that by sending their children to school, parents agree to delegate to school officials the power to control their children’s conduct in a manner that will be of best interest to the child. West’s Encyclopedia of American Law defines in loco parentis as “a legal doctrine describing a relationship similar to that of parent to a child. It refers to an individual who assumes parental status and responsibilities for another individual, usually a young person, without formally adopting that person”.

Two important shifts in society and law, according to West’s Encyclopedia of American Law, diminished the effect of in loco parentis. One was the evolution of educational standard and the second was the increasing secularization of schools which brought an emphasis on practical education over moral instruction. These shifts have been spread all over the world including Nigeria.

**Discipline in Secondary School and the Role of Classroom Teachers:**

Discipline is an integral part of child socialization. Education, as an important agent of socialization, has a greater role to play in ensuring that discipline is instilled in to students. Schools are the first impersonal and collective environment that children encounter. Although classroom teachers’ function is the transmission of knowledge, they also promote certain values – honesty, competition, respect and individualism – and norms, such as not cheating on tests, being punctual, not arguing with teachers and wearing the right school uniforms.

It is in recognition of this importance of education that the federal Government of Nigeria stated “the inculcation of the right type of values and attitudes for the survival of individual and Nigerian society” as one of its national educational goals (NPE, 2004). To achieve this goal, school boards are vested with the power to promulgate disciplinary policies and procedures that will promote conducive teaching and learning environment. These rather broad policies are made more specific as rules and regulations at the individual school level. Only school rules and regulations that are reasonable, have an educational purpose, administratively feasible and are legally enforceable should be maintained in a school (Peretomode, 1992).

The growing in awareness of the fundamental human rights as enshrined in the chapter IV, sections 33 to 46 of 1979 and 1999 constitution (promulgated), especially as it is relevant to school children has made the process and procedures for discipline students to be more problematic. According to Peretomode (1992), school children like adults in the society, have rights as provided for in the constitution. They also have other rights by the virtue of their status as students, which non-school persons are not entitled to. Hence they can

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seek reliance on the Nigerian constitution for their rights not to be subjected to any infringement. The table below gives some of the fundamental human rights as they are relevant to education law and the type of punishment and practices in schools that tend to violate them:

**TABLE 1: FUNDAMENTAL HUMAN RIGHTS OF STUDENTS AND PUNISHMENT AND PRACTICES THAT TEND TO INFRINGE UPON THEM IN SCHOOL.**

S/N	Fundamental Rights	Punishments or Practices in schools that violate or tend to infringe on Rights.
1	<b>Right to Life</b>	Corporal punishment or any other form of punishment that leads to the loss of student's Life or causes him permanent disfigurement. Maintenance of attractive nuisance e.g unsafe playground or dangerous condition of premises that may cause death or serious injury to student.
2	<b>Right to Dignity of Human Person.</b>	Shaving student's hair or cutting student's shirt to fit in school Assembly or Classroom in the name of grooming. Using excessive or derogatory or dirty language on a student in the presence of other that lowers his person before others or causes him emotional disturbances.
3	<b>Right to personal Liberty</b>	Barring student from taking an examination which he has duly registered for. Unreasonably detention of student after school. Refusal to issue or sign transfer certificate in the form approved by the Ministry of Education to a parent or guardian if all fees owned the school has been paid.
4	<b>Right to fair hearing.</b>	Punishing a student without giving him the opportunity of defending himself against the charges which should be made known to him in advance. Not follow a laid down procedure for punishing a student. Suspending or expelling or denying a student a right without formally accusing him and allowing him to state his case.
5	<b>Right to Private Life.</b>	Reading the private mails/letters of students before delivery them to the students. Unnecessary or arbitrary searches of student boxes, lockers or pockets and seizures.
6	<b>Right to Freedom of Thought and consciousness.</b>	Requiring students to take part in Sunday services or morning assembly worship where the religious observance related to a religion other than their own. Punishing student who refuses to recite the pledge and take part in flag salute.
7	<b>Right to Freedom of Expression and press.</b>	Disallowing the formation of a press club or other social or educative clubs that are not prohibited by the law. Preventing students from expressing their opinions in a peaceful manner or in protest letter. Suspending a student fro expressing his view about certain practices or aspects of the school administration.
8	<b>Right to Freedom from Discrimination.</b>	Refusing to admit a qualified student to your school on the basis of tribe, religion, political, belief, state etc. Basing admission on quota system, particularly admitting candidates with lower test scores and leaving un-admitted those with higher scores on the same test because of state of origin, sex, religion etc.

Source: Peretomode 1992, pp 231 – 234

In Nigeria, every secondary school has a set of rules and regulations that are meant to guide students towards good conduct and behaviour in order to maintain general discipline, peace, order and conducive environment for effective teaching and learning. Any action on the part of students that are contrary to these school rules and regulations is considered as an offence and an act of indiscipline. This act of indiscipline attracts certain punishment or sanction. Unfortunately, most of the secondary school teachers do not know their rights let

alone the rules and regulations governing the school system. According to Peretomode (1992), many teachers are ignorant of the rules and regulations governing their employment and the school system in which they work, consequently they are not aware of the legal implications of their actions or inactions and limitations.

Nwagwu (1987) puts it this way:

Most teachers in our school system have never read the Nigerian constitution nor even the laws, rules and regulations governing the administration of the school system. Many are not aware of their rights, duties, obligations and responsibilities under the law and more especially as the probable consequences or implications in their day-to-day activities within the school system

Peretomode (1992) noted that the rules and regulations of most secondary school in Nigeria do not explicitly specify the consequences of violating such rules and regulations. Consequently, students, teachers and parents do not know which rules if violated will attract what punishment.

Discipline in Nigerian secondary schools can be classified as punitive and non-punitive disciplinary measures. Punitive disciplinary measures include corporal punishment, suspension and expulsion and non-punitive disciplinary measures include counseling, positive reinforcement and parent notification and communication.

Corporal punishment entails physical chastisement of a student who violates the school rules and regulations. It is the infliction of physical pain as a penalty for an infraction. Over the years infliction of corporal punishment on recalcitrant students has been accepted method of promoting good behavior and instilling notion of responsibility and decorum into the heads of mischievous students. Today, administration of corporal punishment is on the wane in Nigerian Secondary schools. Most state ministries of education have made the administration of corporal punishment the exclusive duty of the school principals/heads or any school official that may be authorized to carry out the punishment while some state have put total ban on it. For instance, the 1989 Imo State Education Edicts (Miscellaneous Provision), according to Peretomode (1992), states that:

All punishments shall be reasonable, taking into account the age and sex of the offender and the nature of the offence. Corporal punishment shall be administered by the headmaster/principal or by a teacher authorized by him. Provided that except the headmaster/principal, no male teacher shall administer corporal punishment on a female student.

Similarly, regulation 3(1m) of the Schools and Institutions (Records) Regulations made under the Education Law of Oyo State, according to Nakpodia (2010), provides as follows:

A corporal punishment book in which shall be entered by the headmaster or teacher authorized by the headmaster/principal, the date of all such punishment awarded, the nature of the offence and punishment, the name of the teacher administering the punishment and the name of the pupil. Such corporal punishment shall be kept to the minimum and shall be administered only by the headmaster/principal, or teacher authorized by the headmaster/principal, such authorization is to be entered in the log book: provided that no female pupil shall receive corporal punishment from a male teacher.

The River State Ministry of Education, in a circular letter Ref. ME/S.31T/VOL.111/44 of 9<sup>th</sup> jun. 1984, captioned, "POWER OF PRINCIPALS AND HEADMASTER IN THE ENFORCEMENT OF DISCIPLINE" vested with the power among others:

- To prohibit corporal punishment in respect of class work;
- To sufficiently convince an offending student/pupil of his guilt before he is subjected to corporal punishment: which in any case must not be done out of malice or in temper. On no account should young and inexperienced teachers be allowed to use the cane. All cases of insubordination requiring corporal punishment must be referred to the principal/headmaster;
- A maximum of (six) 6 strokes of the cane may be administered on an offending child, either on his buttocks or palms, depending on the gravity of the offence by the principal/headmaster or his nominee (Peretomode, 1992).

The implication of the education laws of various States mentioned above is that the classroom teacher has no right what so ever to administer corporal punishment irrespective of the gravity of the offence a student has committed, either against the teacher or against the rules and regulations of the school, unless he is given authority by the principal to do so.

Suspension and expulsion are the other two punitive measures use in Nigerian Secondary Schools. Suspension is a temporary exclusion of a student from school for a specific period of time ranging from one day to several weeks while expulsion connotes permanent removal of the student from school. These

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punitive measures are administered by the school administrator in cases involving extreme misbehaviours such as assault upon a school staff or some other person on school ground, possession of dangerous drugs on school premise, cheating in an examination, theft and damage of school properties.

Most States in Nigeria have stipulated the process and procedure to follow in arriving at the decision of suspending or expelling a student who has misbehaved. In Rivers State, for example, Principal can suspend offending students for a maximum of two weeks, during which a full report of the offence is made to Ministry with the recommendations for ratification of the action taken. Instruction to expel a student must come from the State Ministry of Education (Peretomode, 1992). The Education Law of Ogun State, according to Peretomode 1992, states as follows in respect of the procedure to be adopted in the suspension and/ or expulsion of a student:

The Principal shall have power of suspending pupils for any cause he considers adequate, provided that he immediately gives reasons in writing to the board of governors of the school who shall meet without delay to discuss and take final decision on such cases.

The implication of the above disciplinary process and procedure is that only the Principals in Nigerian Secondary Schools are vested with overall disciplinary control of students. It is therefore suffices to say that no specific role is assigned to classroom teachers as far as students discipline and control are concerned. The decision of the Principal concerning the discipline of offending student is also subject to the approval of the Ministry of Education.

Research studies have revealed the displeasure of the teachers about this neglect of their role in the discipline of students. According to Anho 2011, Nigerian teachers insinuate that the reason for the exponential growth of cases of students' misconduct is that school regulations are not founded in the cultural strategies for disciplining children. They regularly lament that they are not adequately protected and authorized to be involved in the disciplinary process in that they are relatively helpless especially when they encounter discipline challenges in classrooms where the school head is not always nearby. According to these teachers, reported Anho 2011, the corporal punishment, suspension and expulsion regulations are a scheme which strips off their rightful authority over students. They feel disempowered. They claim that these regulations contravene the cultural practices of child upbringing where every adult in a society was regarded as a parent and had the right to discipline any child as s/he sees it fit.

### **CONCLUSION:**

The global declaration of children right to education and fundamental human right as enshrined in 1999 constitution of Federal Republic of Nigeria are vital part of Nigeria Education Law. In an effort to prevent and resolve student disciplinary problems and ensure efficient functioning of the schools, each State is vested with the power to promulgate Education policy within its jurisdiction. Such Education policy must be within the constitution of Federal Republic of Nigeria. At school level, Education policy is made more specific as rules and regulations governing the operation and administration of the school system. The violation of these rules and regulation by a student is tantamount to act of indiscipline and such student is sanction or punished. Most of the teachers in secondary schools are ignorant of the rules and regulations governing their employment and the school system in which they work. Consequently they are not aware of the legal implications of their actions. Education Law in Nigeria vested the overall disciplinary control of students upon the school administrators and completely neglected the role of the classroom teachers. The growing awareness of the fundamental human right as it is relevant to Education Law couple with the process and procedure of administering punishment on the student who contravene the school rules and regulations have made the discipline of the students cumbersome and almost impossible. Hence instead of Education Law to curb indiscipline in secondary school, it is aggravating it.

### **RECOMMENDATIONS:**

A disciplined mind is an asset to any society, and the school is part of the process for training the youth in other to produce a balanced and disciplined citizen. It is therefore imperative to make the following recommendations as their implementation will go a long way in improving the level of discipline in secondary schools thereby facilitate the achievement of educational objectives at that level.

Teachers' ignorant of Nigerian Education Law couple with growing in parents' awareness of fundamental human rights as it is relevant to school system has led to litigations between parents and teachers as a result of school discipline. It is therefore recommended that a course in Education Law be introduced to tertiary

institutions especially for education students and seminars/conferences on Education Law be organized for on-the-job teachers. This is to expose both the prospective and on-the-job teachers to their rights, duties and rules and regulations governing their job.

Classroom teachers should be empowered by law to discipline student who exhibits disruptive behaviours especially during the teaching and learning processes. The type of punishment to be administered for a specific offence should be specified in order to discourage miscarriage of justice. The misconducts that may require suspension or expulsion should be referred to the Principal.

The administration of corporal punishment should not be totally ruled out in the control and discipline of students. The right and authority of a teacher to inflict punishment on students for offences, who breach school rules and regulations, is enhanced by section 35, sub section (1d) of the Constitution of the Federal Republic of Nigeria (1999) which specifies peoples' right to personal liberty; and instances in which a person who has not attained the age of eighteen may be deprived of his right to personal liberty specifically, for educative and welfare purposes. When developing the policy on corporal punishment, it is recommended that the following guidelines should be considered:

- The particular offenses that will result in corporal punishment should be specified and the nature of the corporal punishment which will be permitted should be made explicit.
- If possible, a neutral party, specifically identified, should administer the punishment, rather than the person who is in conflict with the student.
- Corporal punishment should not be used on a continuing basis for those students whose behavior does not improve after it has initially been administered.

Parents and schools share the responsibility of promoting values and standards which are expected to help younger people to establish sound behavioral codes for their lives. It is important that parents work in-cooperate with their child's school, and not just leave the school alone in the dark. Discipline problems can be dealt with much more effectively if both parties could share the similar and ideal vision which, leads to prolific missions. Parents should have it as duty to assist the school in enforcing the standards of student conduct and compulsory school attendance in order that education may be conducted in an atmosphere free of disruption and threat to persons or property, and supportive of individual rights.

The concept of matching the punishment with the rule violation requires that the rules be presented in written format and that the punishment for violations be specified. Rules must also relate to the stated function of education or the school process. To do this each school should have a prospectus/handbook where the school rules and regulation are stated and the corresponding punishment for violating a particular rule. The prospectus/handbook should be made available to students, teachers as well as the parents.

In an effort to prevent and resolve students' discipline problems and ensure efficient functioning of schools, there should be reasonable disciplinary policies and procedures. The present Education law undermines order in schools by enabling students and parents to threaten a lawsuit against teachers whenever the children are disciplined for misconduct. The legal system must strike a better balance between the claimed rights of individuals and the legitimate interests of society as a whole. Native norms and cultural discipline should not be ignored but rather be incorporated into the secondary schools' curriculum and practices.

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