

# Education Laws Implementation in Nigeria: Problems and Way Forward

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**Abstract:** This paper discussed the challenges facing the implementation of education laws in Nigeria. Secondary data were used in the study. The secondary data were collected from online and print publications. The paper concluded that fund, lack of political will, corruption, shortage of human resources and inadequate materials resources are the problems militating against implementation of educational laws in the Nigeria. Based on these problems, the paper hereby recommends that government should increase the budgetary allocation to education to support full implementation of education laws in educational institutions in Nigeria. Government public officer should develop the political will to ensure full implementation of education laws. Technological tools should deploy to fight corruption in the ministries and agencies of education. Government should employ more teachers, supervisors and lawyers in the schools to ensure full implementation of the education laws. Government should provide all the materials resources needed for full implementation of the laws in the educational institutions in Nigeria.

**Keywords:** Laws, Educational laws, Education.



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## Introduction

The schools whether private or public, is a public institution established by law and with certain prescribed functions. In legal consideration, they are public institutions in the sense that they are established to serve the public. The school can, therefore, be considered a corporate body. This means that it can sue or be sued. Accordingly, those who operate and manage the educational systems or institutions must have to discharge their functions and responsibilities within the

provisions of the rules and regulations as embodied in the various States and Federal Government Education Laws, Codes, Ordinances, Decrees and Edicts (NOUN, 2012).

The education system, as a social organisation, is administered and managed through laws, rules and regulations. These are intended to provide a framework for controlling the behaviour and activities of members of the organisation. The ultimate purpose is to ensure that law and order prevail and thus a conducive environment is established for the efficient and effective achievement of the goals and objectives of the organisation. Education laws are very important in the education system because of the multiplicity of objectives and the large numbers of people with different backgrounds involved. These include school administrators, teachers, students and parents. There are also community leaders and members; government officials, agencies and parastatals who are stakeholders assigned specific functions, roles and responsibilities (NOUN, 2012).

It is often amazing that many of the people who are active participants in the education system or who have strong interest in what goes on in the education system do not have adequate knowledge of the laws that govern the administration of the system. Yoloye (1993) lamented that most of those in the business of education know very little about the laws under which they operate. He asserted that educationists tended to regard legal matters, in whatever form, as the business of lawyers. The point, however, is that we do not have to become professional lawyers in order to understand and appreciate the importance of education laws. It will be difficult to operate as planners, administrators, teachers, supervisors, inspectors and even as students if we are ignorant of the laws, rules and regulations that govern operations of the education system.

### **Education Laws**

Education laws are simply those laws that have been enacted specifically for the organisation, administration and control of the education system. Although those who operate in the education enterprise are citizens governed by the laws of the land, criminal or civil as the case may be, they are also expected to comply with laws designed exclusively to regulate what we can do or not do in the process of teaching, learning and management. The education laws are necessary because educational establishment or institution is a social organisation with many individuals and groups as stakeholders. There are many complex aims and objectives to achieve and numerous diverse interests, aspirations and expectations to satisfy. The need to regulate social interaction and behaviour appears obvious or imperative (NOUN 2012).

Education laws are simply those laws that have been enacted specifically for the organization and administration and control of the education system. He explained that education laws were promulgated as ordinances during the colonial era, and during the military regime, the education laws were issued as decrees or edicts by the federal government (Nwagu 2003). Education laws have been promulgated as Ordinances during the colonial era. During military regimes, the education laws were released as Decrees if made by the Federal Government, or as Edicts if made by State Government. In periods of representative or democratic civil rule, parliaments enact laws in the form of Acts. It is important for all concerned with the management of the education system to be conversant with education laws and how these govern our activities and programmes. Education law is one aspect of the vastly complex system of social control. It may be defined as those areas of jurisprudence which focus on educational activities the operation of public and private elementary, secondary and tertiary institutions. According to Dibra A (2021) Educational law refers to the body of laws and regulations that govern the field of education. It encompasses a wide range of legal issues related to educational institutions, students, teachers, administrators, and the educational system as a whole. Educational law addresses matters such as student rights, teacher responsibilities, curriculum development, school funding, discrimination, and other legal aspects associated with the educational sector. From the above, educational laws are official laws formulated to aid effective administration and management of education in a country or state.

Educational laws are sets of laws, rules and policies designed and formulated passed into laws to be used for the management of education in a country.

The relevance of educational law is significant for several reasons:

1. **Legal Framework for Education:** Educational law provides the legal framework within which educational institutions operate. Understanding these laws is essential for teachers to ensure compliance with regulations and contribute to the effective functioning of the education system.
2. **Teacher Rights and Responsibilities:** Educational law outlines the rights and responsibilities of teachers, addressing issues such as employment conditions, professional conduct, and the legal rights of educators. Teachers in a teacher education program need to be aware of these aspects to navigate their roles effectively.
3. **Student Rights and Protections:** Teachers must be knowledgeable about laws protecting students' rights and ensuring a safe and inclusive learning environment. This includes laws addressing issues such as student privacy, freedom of speech, and protection against discrimination.
4. **Curriculum and Educational Policies:** Educational law plays a role in shaping curriculum development, educational policies, and standards. Teachers need to understand these legal aspects to implement effective teaching strategies and contribute to the improvement of the education system.
5. **Special Education Laws:** Teachers often encounter students with diverse needs, including those with disabilities. Educational law includes provisions for special education, ensuring that teachers are aware of and adhere to legal requirements to provide appropriate support for all students.
6. **Discipline and Classroom Management:** Educational law also addresses issues related to discipline and classroom management. Teachers need to be aware of the legal boundaries regarding disciplinary actions to maintain a positive and lawful learning environment (Dibra 2021).

The importance of education law according to .....includes the following;

- (i) They act as codes of instruction which regulate educational policies and programmes;
- (ii) It directs and regulates the students;
- (iii) It directs and regulates the teachers;
- (iv) It direct and regulates the stakeholders for effective administration of educational policies and planning.
- (v) It guides against corruption and maladministration (Ken, 2018).

Going deeply in looking at the importance of education law, it has been said that, there is the need to carefully expand this importance in covering of wider varieties of issues which can be appreciated thus;

It is not in doubt that every school must be accountable for all its activities just like any business outfit. Because of this, need for accountability and responsibility, modern day education require every schools to meet up certain basic regulations which are in the form of education law.

- (ii) There is the need for every School to comply with appropriate education laws and government policies and such rules must not be broken in order to avoid sanctions.

(iii) Certainly schools will be involved in buying goods and services and there is no doubt that the basic knowledge of law of contract is required in order to be at the safer side. The breach of contract or signing of illegal contract may spell doom for an institution.

(iv) The teachers will be involved in the discipline of students and it is important for a modern day teacher to know what constitutes discipline of a student as at today and what can be said not to constitute discipline of a student.

(v) There is the need to have an idea of construction, planning and ecological laws. There is the need to comply with the law. If you want to modify the structure of your building or an entire new building or even the play fields.

(vi) There is the need to know the employment law and to be sure that there exist no breach of the terms of the employment contract by the employer and the employees. Overall, a comprehensive understanding of educational law is crucial for teachers in Nigeria's teacher education programs to navigate their roles responsibly, contribute to a positive learning environment, and ensure compliance with legal requirements in the field of education. Overall, a comprehensive understanding of educational law is crucial for school administrators, teachers and students in Nigeria's. It helps to contribute to a positive learning environment, and ensure compliance with legal requirements in the field of education.

### **Forms of Education Laws in Nigeria**

There are various forms of educational laws in Nigeria. Emmanuel, (2024) has put forth the following:

#### **Sources of Law**

Generally, law can be defined as a body of rules and regulations that guide the activities of the people in a certain society. Sources of law in Nigeria are categorised as either primary and secondary sources. Primary sources of law are such sources which are authoritative such as legislations, case laws and customary laws while secondary sources usually contain explanation on the primary sources such as textbooks, articles, newspapers etc.

Legislations refers to law made by a law making body and can either be primary or subsidiary. Primary legislations or Statues are made by the major law making organ of Government in a country which in Nigeria is the National Assembly which makes Acts and the State Houses of Assembly which makes Laws. Subsidiary Legislations are made by other bodies usually pursuant to a power conferred on them under a primary legislations and they include rules of procedures made by courts, bye laws made by local governments, regulations made by ministries and departments, executive orders made by the executive among others.

Case laws are legal principles established or discussed in cases while customary laws refers to legal principles accepted among members of a community which has been duly recognized by the courts. Drawing from this, education law can be defined as the body of rules, regulations, policies and cases that guide the education sector in order to make it quality, inclusive and accessible.

#### **Legislations**

Examples of education statues or legislations include: The 1999 Constitution of the Federal Republic of Nigeria (as amended), The Criminal & The Penal Codes, The Education (National Minimum standards and Establishment of Institutions) Act 1985, The Compulsory, Free, Universal Basic Education Act 2004, The Child Rights Act 2003, The Discrimination Against Persons (Prohibition) Act 2018, The Tertiary Education Trust Fund (TETFund) Act 2011, The Teachers Registration Council of Nigeria Act 1993, The Joint Admission and Matriculation Act 1978, The Examination Malpractice Act 1999, The National Library Act 1964 (as amended) etc. and lately The Student Loans (Access to Higher Education) Act 2024.

## **The Constitution of the Federal Republic of Nigeria**

The foremost law on education in Nigeria is the 1999 Constitution the Federal Republic of Nigeria (as amended). According to Section 18 (1) government shall direct its policy towards ensuring that there are equal and adequate educational opportunities at all levels. Subsection 3 also provides that government shall strive to eradicate illiteracy; and to this end government shall as and when practicable provide (a) free, compulsory and universal primary education, (b) free secondary education (c) free university education and free adult literacy programme. This means that education in Nigeria covers from young learners to adults.

### **Education (National Minimum Standards and Establishment of Institutions) Act**

The next law is the Education (National Minimum standards and Establishment of Institutions) Act. It defines the purpose of all levels of education including pre-primary education, primary education, secondary education, non-degree teacher education, technical education, higher education, special education and adult education and specifies that the Minister, alone or in consultation with other bodies or another body like the National Universities Commission is in charge of prescribing minimum standards for each level of education. It also prescribed the conditions that must be met for the establishment of a higher institution of learning or any institution of learning in the Federal Capital Territory.

### **Compulsory, free, universal basic education act**

Furthermore, the Compulsory, Free, Universal Basic Education Act guarantees compulsory, free and universal education for all children up to junior secondary school while parents have the duty of sending their children to school. It establishes the Universal Basic Education Commission, provides for the Federal Government block grant of not less than 2% of its Consolidated Revenue Fund to fund the implementation of the Act although for any State to qualify for the Federal Government Block Grant, such State shall contribute not less than 50% of the total cost of projects as its commitment in the execution of the project.

### **Child Rights Act**

Also, the Child Rights Act also guarantees the right to free, compulsory and universal basic education and provides that it shall be the duty of the Government in Nigeria to provide such education. Parents are however required to ensure their children finish primary and junior secondary school and go to secondary school or learn a trade. It also provides that a female child who becomes pregnant, before completing her education shall be given the opportunity, after delivery, to continue with her education, on the basis of her individual ability.

### **Discrimination Against Persons With Disabilities (Prohibition) Act**

In addition, the Discrimination Against Persons with Disabilities (Prohibition) Act provides that a person shall have an unfettered right to education without segregation or discrimination in any form and shall enjoy free education up to junior secondary school level. All public schools are required to be inclusive of and accessible to persons with disabilities.

### **Teachers Registration Council of Nigeria Act**

Additionally, The Teachers Registration Council of Nigeria Act establishes the Teachers Registration Council of Nigeria which is in charge of regulating the teaching profession and most notably, determining the qualifications of teachers, registering teachers and maintaining a register of teachers.

### **Tertiary Education Trust Fund Act**

Moreover, the Tertiary Education Trust Fund Act imposed on companies in Nigeria an annual tertiary education tax to be administered by the Tertiary Education Trust Fund (in this Act for the

rehabilitation, restoration and consolidation of tertiary education in Nigeria. This currently stands at 3% under the Finance Act 2023.

The tax imposed shall be distributed to Federal and State tertiary educational institutions specifically for the provision or maintenance of essential physical infrastructure for teaching and learning, instructional material and equipment, research and publication, academic staff training and development and any other need which, in the opinion of the Board of Trustees, is critical and essential for the improvement of quality and maintenance of standards in the higher educational institutions.

The disbursement shall be on the basis of ensuring the funding of all public tertiary educational institutions, equality among the 6 geo-political zones of the Federation in the case of special intervention and equality among the States of the Federation in the case of regular intervention and the distribution of funds shall be in the ratio of 2:1:1 as between Universities, Polytechnics and Colleges of Education.

### **Policies**

There is also a collection of policies guiding education sector in Nigeria and this include The National Policy on Education 2013, National Policy on Special Needs Education 2015, National Teacher Education Policy 2014, National Policy on ICT in Education 2019, National Policy on Safety, Security and Violence-Free Schools 2021, National Policy on Inclusive Education 2023, Digital Learning Policy among others.

### **Case Laws**

Important cases in the field of education law include LEDAP v Federal Ministry of Education<sup>1</sup> where the court established the right to education in Nigeria and held that while the right to education was not justiciable under the 1999 Constitution (as amended), it has become justiciable under the Compulsory, Free, Universal Basic Education Act. There are also the cases of Unilorin v Adesina<sup>2</sup> and Unilorin v Akinola<sup>3</sup> where the court affirmed the right of a student who wrote and exam to see the result among others (Emmanuel, 2024).

### **Challenges facing implementation of Educational Laws in Nigeria**

There are many challenges facing the implementation of education laws in Nigeria. Some of these challenges includes; fund, lack of political will, corruption, shortage of human resources and inadequate materials resources.

### **Funding challenge**

The poor funding is a major challenge to effective implementation of educational laws in Nigeria. Educational laws requires adequate funding for policy implementation. It determines largely the quality of laws to be involved as well as implementation. The quality and adequacy of other educational resources and activities rest on the adequacy and utilization of allocated funds. The vision and direction of educational laws is seriously guided by the available funds. Implementation of education laws can either be done manually or technologically, depending on the money available. The extent of data and information gathering, collation, processing, analysis and interpretation that guide policy analysis and formulation is much dependent on funding (Ogunode, Ayeni, and Daniels, 2024b). Ogunode, Akinyode, and Ayoko, (2022a) and NOUN (2010) noted that many educational laws in Nigeria have been fully implemented because of the large funds required to implement the laws. The educational policies and laws require adequate and regular funding to boost to ensure its implementation. Funds required for the implementation of education laws are not always adequate in the budget. The money required to procure human and material resources for the full implementation of the laws is not adequate. ....noted that a lot of monies are needed to build classrooms, laboratories, workshops and other plants. Apart from

building, a large sum of money is also needed to purchase the non-building facilities and equipment such as books, reagents, furniture, etc.

### **Lack of political will**

Lack of political will is another problem militating against the implementation of education laws in Nigeria. Political will is the total willingness to devote government resources to carry out policies and actual the aims of the policies. Political will is needed for full implementation of educational laws in Nigerian educational institutions. Ogunode, and Afolabi (2024) ascertained that he lack of political will has affected implementation of educational policies and laws in Nigeria.

### **Corruption**

Corruption have penetrated the educational institutions in Nigeria. Corruption is hampering the implementation of educational laws. Corruption in education system in Nigeria itself has created a vicious circle of deficit culture so intensive, that virtually all good plans, moves and budgetary provisions for improved facilities in the education system ended up being misappropriated without corresponding provisions of the infrastructure being budgeted for (Nwaokugha & Ezeugwu, 2017). In 2020, Transparency International maintained in their annual report that 66 percent of the money Nigerian government's allocate to education is stolen by corrupt officials. According to the report, corruption is commonplace in education systems across the Economic Community of West African States (ECOWAS, (Premium Times 2020). Also, UNESCO (2014) reports on *Teaching and Learning: Achieving Quality for All* shows that Nigeria is among the 37 countries that are losing money spent on education, because children are not learning. UNESCO disclosed that the menace is already costing governments USD 129 billion a year. It stressed further that despite the money being spent, rejuvenation of primary education is not so soon because of poor-quality education that cannot ensure that children learn (NEEDS, 2014). Corruption has affected effective implementation of education programmes, policies and laws (Ogunode, & Ukozor, 2022;Ogunode, & Abubakar,2021).

### **Shortage of human resources**

Human resources are very important for the implementation of educational laws in the schools. Huma resources needed for successful implementation of educational laws in Nigeria. The human resources contain the students, the teachers, non-teachers, school administrators and lawyers. Their number and quality are crucial to implementation of educational laws in Nigeria. The legal personnel's, school administrators and teachers level of expertise and technical know-how are essential component of laws procedure. The information on students and school personnel are equally essential in guiding the lawyers.

### **Inadequate materials resources**

Another major problem serving as barrier to effective implementation of educational laws in Nigeria is inadequate materials. Resources can be described as the necessary inputs into the productive processes of any system. The quality and quantity of resource inputs into a system will largely determine the quality of outputs or products from such system. Educational laws requires huge resources for its implementation. The inadequacy of materials resources from the non-availability of the human resources in educational institutions affects the implementation of laws. Even, in cases where the training can be held outside the country, there might not be enough monetary resources allocated for such training. Government needs to embrace training of her personnel as she (government) stands the chance of benefiting maximally from the beneficiaries of such training on planning of educational programmes. Material resources include facilities and equipments for planning, and for the teaching-learning activities. The knowledge of the infrastructural facilities, such as classroom, laboratory and workshop buildings; and library and

health facilities is crucial to planning. They also include the instructional materials like furniture, reagents, books, equipment and so on. The school general rules and school policies and laws are strategic components of educational laws (Yaro, 2017; Yekini, 2013)..

### Conclusion and Recommendations

This paper discussed the challenges facing the implementation of education laws in Nigeria. The paper concluded that fund, lack of political will, corruption, shortage of human resources and inadequate materials resources are the problems militating against implementation of educational laws in the Nigeria.

Based on these problems, the paper hereby recommends that government should increase the budgetary allocation to education to support full implementation of education laws in educational institutions in Nigeria. Government public officer should develop the political will to ensure full implementation of education laws. Technological tools should deploy to fight corruption in the ministries and agencies of education. Government should employ more teacher's supervisors and lawyers in the schools to ensure full implementation of the education laws. Government should provide all the materials resources needed for full implementation of the laws in the educational institutions in Nigeria.

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