

THE LAW AND THE EDUCATION OF THE NIGERIAN CITIZEN

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Abstract

The adoption of education as an instrument needed to foster the unity of Nigeria and correct the imbalances in inter-state development by the federal government cannot be overlooked. This paper has made an attempt to define what law and education are. Some 1999 constitutional provisions that affect the education of the Nigerian citizens are cited. Thus, section 18(3) says government shall eradicate illiteracy, make education free and compulsory for all Nigerians. Furthermore, some recommendations on how the citizen's right to receive education can be protected are made. Thus, the education of a Nigerian child should transcend political/economic considerations. Secondly, the various tiers of government should regard the provision of education as obligatory so that education is free to all the citizens at all levels. In conclusion, it is noted that although it is not yet a right to receive education in Nigeria, education for the Nigerian citizen up to the post primary school level is theoretically imperative. This will equip him to participate in the socio-economic and political development of the country.

Introduction

Education in Nigeria *is* no more a private enterprise, but a huge government venture that has witnessed a progressive evolution of government intervention and an active participation. The Federal Government of Nigeria has adopted education as an instrument for fostering the unity of the nation and for correcting the imbalances in inter-state and infra-state development.

According to Okunamiri (2001), education can be used as an industry that produces the manpower required for social, political and economic transformation/development of a nation. The more educated the people of a particular country is, the higher the productive efforts (marginal productivity) of its citizens and hence higher national income or per capital income, *ceteris paribus*. In essence, education could be used as a corrective measure to remedy different inequalities that exist in every sphere of life in Nigeria.

Furthermore, education, like any other social, political or economic institution, is subject to state legislation. However, the Laws and the education system in Nigeria have their origin to a large extent in Britain. Britain and France colonized most of the African countries and gradually transferred their own educational and legal systems to their African colonies. Nevertheless, an attempt is made in this paper to examine the basic principles of law that affect the education of the Nigerian citizen.

Nigerian Philosophy of Education

The concept of education is difficult to define since the word is used in so many ways. The image that is commonly visualized when education is mentioned is learning in a formal school system, usually patterned after the Western education. This is a narrow conceptualization of education.

Peters (1970), in trying to answer the question "what is an educational process?" states that education does not refer to any particular process. Rather, it encapsulates criteria to which any one of family of processes must conform. Thus, people can be educated by reading a book, by exploring their environment, by travelling, by conversation or by talk and chalk in the classroom.

Obi (2001) exploring this thought also defines education as the aggregate of all the processes by which a person develops the abilities, attitudes and other forms of behaviour which are of positive value to the society in which he lives. Education is both intrinsic and extrinsic. It is not only what happens inside of you but what is seen outside as a result of what has happened inside. Therefore, education is not just book knowledge, but desirable changes in character and abilities as a result of exposure to life experiences.

Clifford (1990) defines it as the process of social, physical, emotional and spiritual

development. It refers to the transmission of beliefs, values, to its new members. Education in the context of this paper however refers to schooling and the acquisition of qualifications and certificates for the purpose of getting a job and contributing positively to the economic, political and social development of the nation.

No educational policy can be accurately formulated without first identifying the overall philosophy and objectives of the nation. *The national Policy on Education* (1998) has endorsed five main national objectives as the necessary foundations of the Nigerian education.

1. A free and democratic society.
2. A just and egalitarian society.
3. A united and self-reliant nation.
4. A great and dynamic economy.
5. A land of bright and full opportunities for all citizens (*National Policy on Education*, Section 1:1).

The Nigerian philosophy of education therefore aims at the integration of the individual into a sound nation through the primary, secondary and tertiary levels both within and outside the formal school system, accordingly, the educational aims and objectives to which the philosophy is linked are:

1. The inculcation of national consciousness and national unity.
2. The inculcation of the right type of values and attributes for the survival of the individual and the Nigerian society.
3. The training of the mind in the understanding of the world around.
4. The acquisition of appropriate skills, abilities, competencies both mental and physical as equipment of the individual to live and contribute to the development of the society (*National Policy of Education*, Section 1-5).

The Necessity of Law in the Nigerian Society

It is difficult, if not impossible to present a universally acceptable definition of law because of its complex nature. Adeboye (1992) opines that law is sometimes equated with government and a legal system. In this generic sense, law in our society will include the parliament, the courts, the judiciary, the police and the bureaucrats who service the system.

For Dada (1994), "Law is a body of rules, usually designed to regulate human conduct" Once made, law is meant to be obeyed and there are usually sanctions for any act of violation or defiance. For our level, law is thus concerned with the legal process and its constitutional provision, which stipulates the rights of the Nigerian citizen to receive education from the government.

In the opinion of Farrah and Dugdale cited in Obi (2004: 2), Law as an instrument of social order is necessary in the society in the following ways:

5. It facilitates cooperative action, recognizes certain basic underlying interests and provides a framework of rules for giving effect to them. For instance, it recognizes a person's right to private property and to freedom from physical injury. It provides a system for the transfer and inheritance of property and formation of groups for peaceful purposes.
2. It regulates the principal organs of government, provides successions to power and defines who has the right to exercise what kind of power in the society.
3. It communicates and reinforces social values and morality for example, even the most primitive legal order seeks to regulate matters such as homicide and theft.
4. Law maintains public order. Sometimes it is expressed in cliché law and order. Law has evolved as an alternative to private feud and vengeance and as a supplement to the informal social process by which individuals and groups deal with disputes.

Another aspect in the maintenance of public order is the suppression of deviant behaviour. This implies that law; serves as a means of social control because freedom is best enjoyed under the law, peoples freedom are bound to be encroached upon by other men in the same or other society. In the socialist's point of view as regards the function of law, Dada (1994) is diametrically opposed to other peoples' opinion. According to them, law functions as an effective means of social

stratification, It is used to express the will of the ruling class over that of the proletariat. The force of law, to them, is on class relations within the society. Accordingly, law protects the rich and suppresses the poor. This concept of law is unacceptable to this researcher and it should be rejected by every right thinking person in the society.

The Constitutional Provisions on Education

Chapter [I of the *1999 Nigerian* ('*institution* deals with the fundamental objectives or directive principles of state policy. Fundamental objectives are the directive principles laid down by the policies which are expected to be pursued by the nation in the effort to realize its ideals. Akande (1982:14) says "that the rationale behind this innovation is that governments in developing countries have tended to be pre-occupied with power and material pre-requisites with scant regard for political ideals as to how society can be organized and be ruled to the best advantage of all".

In *Okojie and other V Attorney General Lagos State I* (see reference List). It was held that the defective principles of state policy in chapter II of the *1999 Nigerian Constitution* have to conform and run subsidiary to the fundamental human rights and that chapter II is subject to legislative powers conferred on the state.

Section 18(1) chapter II of the constitution stipulates that government shall direct its policy towards ensuring that there are equal adequate educational opportunities at all levels. In 18(2). government is required to promote science and technology-while section 18(3) says government shall strive to eradicate illiteracy as soon as possible by providing;

- (a) Free and compulsory universal primary education;
- (b) Free secondary education;
- (c) Free university education.

These provisions however provoke a legal question as to whether a citizen can force government to provide education of any type? This question is best answered by using the following example of Bekwarra Republic .of West Africa. Chapter 1 of the 1900 Bekwarra Constitution, similar to chapter II of the 1999 Nigerian Constitution as amended directs the government (federal, state and local government) to ensure that there are equal opportunities at all levels for all persons.

On January 1st 2000, a son of Mr. (A), a social activist in Bekwarra Republic, was admitted to read law in the University of Abouchishe, on January 31st 2000, Master (B), Mr (A)'s son, went to school and paid only five thousand naira (N5,000) as part of his school fees, out of the sum of nine thousand naira (9,000), that was required. Since Mr. (A) could not afford the full school fees required for his son. Master B was not allowed to register as the student of the university. There upon, Mr. (A) who relies on his right under the 1900 constitution wanted his son to be allowed to register as a student pending when the full fee would be paid. The university authority refused and Mr. (A) approached a lawyer for advice.

Comments

Obi (2004) maintains that the fundamental objectives and directives principles of state policy constitute a political manifesto of the whole constitution and incorporate a few of the fundamental human rights later to be entrenched in chapter IV of the 1999 constitution such as the right of fair hearing, the right of life, right to human dignity, etc.

Also, while section 42(I) of the 1999 constitution makes the fundamental issues in chapter IV justifiable, section 6(6) makes the issues involving the objectives and principle non justifiable, except of course provided for in the provision of the constitution.

Since the issues involving the objectives and the principles as contained in chapter II are not specifically contained in the fundamental rights provisions of chapter IV, it is impossible to invoke section 42(1) special jurisdiction of the High Court in aid of any person who alleges a contravention of His rights within the provisions of chapter II, section 13-22 fundamental objectives and directive objectives of state policy. The right under which Mr. (A) relies under the 1900 Bekwarra constitution, which is similar to chapter II of the 1999 constitution of Nigeria, is not actionable, it is a no-justifiable right. Mr. (A) cannot sue the government or university for not allowing his son who had paid the complete school fees as required by the university to register as a student. Moreover, that there is no right to education, no citizen can force any government to provide any education of any type (Akande,

1982).

However, there are circumstances in which the above advice will be different. Chapter II of the 1999 constitution of Nigeria is subject to legislative powers conferred on the state. If the issue involving the objectives and principles as contained in chapter II are specifically contained in the fundamental human right provisions of chapter IV, it becomes possible to invoke section 42(1) of the special jurisdiction of the High Court in aid of any person who alleges contravention of his right within the provisions of chapter II, section 13-22 fundamental objectives and directive principles of state policy. Also, in this situation, a person has the right to sue, because his right is statutory or justifiable within the provision of chapter IV of the 1999 constitution.

Recommendations

Despite the huge government investment on education, the law leaves-the citizen's right to education in Nigeria unprotected. In order to provide the Nigerian citizen's right to education, the following recommendations are made:

1. There should be clearer statutory intervention to give recognition to the rights under the fundamental objectives and state policy in chapter II of the 1999 constitution.
2. The various tiers of government (the federal, state and local government) should regard the provision of education as obligatory and so have legislative establishment of educational institutions (primary, secondary, technical, vocational and university) so that education will be available to all the citizens.
3. The education of a Nigerian child should transcend political or economic considerations. Education is very fundamental for every human being, since self-realization and self-fulfillment may be impossible without it, the Nigerian government should make it free and compulsory at all levels.
4. In addition to free education programmes, government should re-introduce bursary and scholarship schemes, especially for the benefits of indigent students.

Conclusion

Although, it is not a right for a Nigerian citizen but a privilege to receive education, the provision of education for the Nigerian citizen up to a certain level at least post-primary school, would go a long way in not only facilitating the development of the citizen, but would also equip him to participate in the important task of the socio-economic and political development of his environment. This will become the case in Nigeria if the current Universal Basic Education (UBE) programme was not already exposed to the risks that killed the UPE.

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