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AN EXPOSITION ON EVOLUTION AND DEVELOPMENT OF EDUCATIONAL LAW AND POLICY IN NIGERIA

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Abstract

Accessibility of quality education remains a dream in Nigeria despite the robust educational policy and the available legal frame work. Failure in the proper implementation of the existing policy and application of the enabling laws gave room for the influx of private schools which are not accessible to ordinary Nigerian due to exorbitant fees. The provision of the constitution and classification of Education under chapter II as a surpassed Fundamental right is not helpful. It is in view of the above that, this work traces the evolution and development of education policy and law from the pre-colonial era. The work finds that Nigeria as a country has over the years developed good policy and legal framework for the standardization of its education sector and recommends political will for the implementation of the available law and policy for the improvement of the Nigerian Education Sector.

KEYWORDS: EDUCATION, LAW, POLICY, RIGHT, NIGERIA

0.1 INTRODUCTION

Education as a tool for societal development should be seen as a fundamental right of citizens. Nigeria as a country has developed over the time policy and legal frameworks for the sustenance of quality education for the citizens. It is therefore imperative to trace the genesis and styles of education in Nigeria and the evolution of educational law and policies in Nigeria with a view to properly analyze the trend of educational laws and policies in Nigeria. This work therefore traces the history of education in Nigeria from the pre-colonial era. It begins with the African traditional education system to the emergence of Islamic education and the Christian/Western education. The work goes further to trace the evolution of educational law and policies from the 1882 Ordinance and the development. It explains the impact of the various ordinances and codes on the development of education in Nigeria.

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Meanwhile, policy has been likened to a decision made to be implemented or carried out to achieve certain goal. The term policy also implies some long-term purpose based decisions in a broad subject field such as, the land tenure policy and educational policy. It is perceived as a cohesive set of responses to a problem at hand or a foreseen one. Governments usually propound policies and plans for their developmental activities such as programmes and projects otherwise called public policies.² Policy could be private or public, educational policy is an example of the latter which is the most relevant one to this research.

Public Policy is a course of action adopted and pursue by a government. Public policies in this regard connote policies in respect of public affairs and public interests with the exception of private matters.³ It is a purposive and consistent course of action produced as a response to a perceived problem of a constituency, formulated by a specific political process, and adopted, implemented, and enforced by a public agency.⁴ It could be simply referred to as the principles which guide the action of government or what government does. In the light of the above, policy can be defined as a set of decision which is prepared toward a long-term purpose or mainly to address a particular problem. Such decisions by government are stipulated for legislation which would be applicable to the populace in the interest of the public and not a section of people. Educational policy is therefore an example of such governmental decision to be regulated and effectuated by legislation. In Nigeria, educational policy⁵ and legal framework are to be the driving mechanism for the protection of the citizen's right to education and promote adequate provision of basic education. It is in the light of the above that the evolution and development of educational policy in Nigeria is traced alongside the educational legal regime in this research work.

Since the concern of this work is the primary and secondary education, the work gives account of the emergence of physical schooling by explaining the

2. See Stephen Sandford, "Better Livestock Policies for Africa". (International Livestock Centre for Africa, ILCA, 1987) available at <http://www.fao.org> also <http://www.wisegeek.com>. (Accessed on 20 December, 2014).
3. See Garoot Suleiman Eissa, Abdul Raufu Ambali, *A Primer in Public Policy Analysis; Techniques and Methods*, (Malaysia: IIUM Press, 2012), 1.
4. For definitions of policy and public policies, available at <http://profwork.org/pp/study/define.html> (Accessed on 21 December, 2014).
5. Spillane, James P. "School Districts Matter: Local Educational Authorities and State Instructional Policy." *Educational Policy* 10, no. 1 (1996): 63-87. Taylor, Sandra. *Educational Policy and the Politics of Change*, (U.K: Psychology Press, 1997), also see Adams, David Wallace. *Education for Extinction: American Indians and the Boarding School Experience, 1875-1928*. (University Press of Kansas, 2501) W. 15th St., Lawrence, KS 66049, 1995, Spring, Joel H. *The Sorting Machine: National Educational Policy since 1945*. (New York: McKay 1976) and Lingard, Bob, Fazal Rizvi, and Sandra Taylor. *The OECD, Globalisation and Education Policy*, (Pergamon: Lingard, Bob, Fazal Rizvi, and Sandra Taylor. *The OECD, Globalisation and Education Policy*, (Pergamon: Published for IAU Press, 2001).

commencement of primary education, its management and the relevant regulations for its administration. The second tier of education i.e. secondary education will be discussed in the same manner.

0.2 GENERAL HISTORY OF EDUCATION IN NIGERIA

On the history of Africa and its educational background, G. Jackson⁶ said that contrary to a misconception which still prevails, the art of literature has been part of Africans culture with which they were familiar for many years before their contact with the Western world. He claimed that education and civilisation have been part of the African people for long, because the forefathers of the Africans who eventually became slaves in the United States lived in a society where university life was fairly common and scholars were beheld with reverence.⁷

Arguments have also negated the assertion that Africa was only introduced to formal education by the advent of Islamic and Western schooling or other alien schooling systems. Rather the transmission of value and the act of knowing, understanding and studying in Africa began in Egypt in the history of early civilisation.⁸

Africa, just like many other societies has its own way of training and educating its youths before the arrival of the two famous religions (Islam and Christianity). The continent was operating the traditional education, otherwise called indigenous educational system. Though without the formal schooling system,⁹ well educated, integrated and informed citizens of the Old African community were those warriors, hunters and any other with a specific skills which made him a special and noble therein.¹⁰

As an integral part of the African community, education has been part of the Nigerian culture centuries before the invasion by the imperialists. The prevailing educational styles then was in form of vocational training, cultural and

6. G. Jackson, *Introduction to African Civilisation*, (Citadel Press, Kensington Publishing Corp., 1970), at 20 available at <http://srufaculty.sru.edu>, (accessed on 6th January, 2015).

7. Ibid.

8. Itibari M. Zulu, "Critical Indigenous African Education and Knowledge", *The Journal of Pan African Studies*, Vol. 1, No. 3 (March 2006) at 35. Also Available at <http://www.jpanafrican.com>. (Accessed on 5th January, 2015).

9. Oyeleke Oluniyi, Akinyeye, Clara Olajumoke, "Curriculum Development in Nigeria; Historical Perspectives", *Journal of Educational and Social Research*, Vol.3(1), January, 1013, 73.

10. Asaac N. Mazonde, "Culture and Education in the Development of Africa" Available at, <http://unpan1.un.org>. (Accessed on 5th January, 2015), 3.

religious trainings.¹¹ Nigerian people before colonisation attached serious importance to education, even though it was not a formalised schooling and as at then not perceived from the perspective of human right. Traditionally, the cultural setting of the Nigerian people imbibed teaching and learning.¹² For the purpose of preparing the youths for adulthood and fitness for participation in societal activities, community-oriented traditional education was in place where people were informally thought different cultural and societal activities including survival skills¹³ such as farming, arts and crafts, politics and religion.

Educational history in Nigeria could therefore be traced back to the pre-colonial era. Islam is claimed to have predated Christianity in Nigeria for over 300 years.¹⁴ It suffices therefore to say that, centuries before the arrival of the imperialists, there had been a conveniently established Islamic administrative and legal system in the northern part of Nigeria.¹⁵ Within this system was an Islamic educational setting in form of a schooling system. It has been opined that the pre-colonial Islamic education was formalised considering its features, ranging from taking place in a specific place at a specified time and under the supervision of a specialist (teacher) and it was in different categories. Under the system, the Islamic Education usually took place either in a place near the

11. A. BabsFafunwa, *History of Education in Nigeria*, (Ibadan: NPS Educational Publisher, 1974), 19.

12. M.A Mkpa "Overview of Educational Development: Pre-colonial to Present Day" available at <http://www.onlinenigeria.com>. accessed on 8th January 2015.

13. See Brief History of Education in Nigeria, *International Standing Conference for the History of Education*, available at <http://blitzlondon.blogspot.com>. Accessed on 30th April, 2014. There are varieties of cultural heritage in Nigeria, knowledge of which is incorporated into the people from tender age. This ordinarily varies from one community to the other due to the divergent cultural background of the society. Farming and trading are however uniform cultural practices which cut across all the people in despite their diversities. Hunting is peculiar to some while wrestling is the cultural heritage of some of these communities. Vocational trainings such as blacksmith and cloth weaving and dying are known with some and fishing is the major survival work of some. All these and others are not inborn but the practices of the Nigerian people which were passed to generations through trainings. See also Henry O. Owolabi. "Technical and Vocational Education in Nigeria," *Perspectives on History of Education in Nigeria*, (ed) J.O.O Abiri, (Nigeria: Emola-Jay Communications Inco. 2003), 108.

14. Fafunwa, 210.

15. See Adebayo Rafiu Ibrahim, "Muslim Educational Reform in Southern Nigeria," in *Muslim Educational Reform Activities in Nigeria*, (eds) B.A.Umar, S.Shehu, M.U.Malumfashi (Kano, Nigeria: Benchmark Publishers Limited, 2005), 128. It is noteworthy that, Northern Nigeria was northern protectorate as created by the British colonial Master in 1900. It is a region predominantly occupied by Hausa Fulani tribes. The present northern Nigeria comprises of 19 states which includes; Adamawa, Bauchi, Benue, Borno, Gombe, Jigawa, Kano, Kaduna, Katsina and Kebbi. Others are Kogi, Kwara, Nasarawa, Niger, Plateau, Sokoto/Taraba, Yobe and Zamfara. See Northern Nigeria Tourism, <http://www.northernnigeriatourism.com>. Accessed 30th April, 2014. These states were compressed under the protectorate but subsequent creation of states scatters it to form the present number of states. During the period under reference, Sokoto Caliphate was the centre of the northern culture while the other prominent ones were the Bornu Empire and the Kano Empire. See. A. BukhariSokoto, The formidable foundation of sokoto caliphate and its insight, <http://sakkwatanci.blogspot.com>. Accessed on 30th April, 2014 In view of the existing Islamic legal and administrative systems, the supervising British Master (Lord Lugard) has this to say about the Sokoto Caliphate See also Apata, Z. O., Lugard and the Creation of Provincial Administration in Northern Nigeria 1900-1918, (African Study monographs,) 11(3): 143-152, 4. See Paul, E.L, Hogendorn, J. S., "Revolutionary Mahdism and Resistance to Colonial Rule in the Sokoto Caliphate," 1905-6, *Journal of African History*, Vol. 31, No.2 (1990), 217-244. Also IsmailaLere, "Traditional Institutions in North from 1914 to date," Daily Trust, published on Friday 3rd January, 2014, <http://dailytrust.info/news>. Accessed on the 30th April, 2014.

mosque, under the tree or in a designated place within the premises of the teacher.

The first category is the elementary class comprising of pupils who read the Qur'an with the use of slate, whereby the pupils sit facing the teacher holding their slates while the teacher sits facing them, reciting verses of the Qur'an to them and they repeat after him.¹⁶ This class ends after perfecting the recitation of the Qur'an and possible memorisation of all or substantial part of it with ceremonious graduation.¹⁷ The other category is the older pupils learning to read and write Arabic script. After graduating from these categories, some further to the learning of the comprehension of the meaning of the Quranic verses and other things like Hadith and so on.¹⁸ It is noteworthy that Islam and education are inseparable because the abstract faith of Islam and its practice is hinged on knowledge.¹⁹ Islam as complete and full life package encompasses religious system, legal system and educational system.²⁰ So the arrival of the colonial master met a working Islamic educational system in Nigeria particularly in the north through where it came in.²¹ In other regions, traditional educational system for the acquisition of different skills was deeply rooted in the people.²²

Additionally, in the fifteenth century, the arrival of the European Christian Missionaries brought about the introduction of the art of reading and writing in English language for the purpose of converting people to Christianity and this

16. Rosnani Hashim, Saheed Ahmad Rufai, Mohd Roslan Mohd Nor, "Traditional Islamic Education in Asia and Africa: A Comparative Study of Malaysia's Pondok, Indonesia's Pesantren and Nigeria's Traditional Madrasah", *World Journal of Islamic History and Civilization*, 1 (2): 94-107, 2011 at 97. Where the writer gave description of the Traditional Madrasah in Nigeria to the effect that it began with the elementary stage of as many as forty pupils where some attends regularly, the teachers were not usually paid as no school fee is charged but most of the teachers have their own vocational jobs such as farming, weaving and trading etc.
17. Mazonde, 76.
18. Muhammad S. Umar, "Profiles of New Islamic Schools in Northern Nigeria" available at <http://pdf.tutorial6.com>. Accessed on 11th January, 2015 at 13.
19. See U. A. Ajidagba, "An Overview of Islamic Education System in Nigeria" available at <http://www.khulafau.org.ng>. Accessed on 11 January, 2015. It is the culture and common practice of the Muslims in this area that children must be given Islamic education before any other vocational training of skill could be aspired for. Even the British colonisation of the territory could neither curtail nor subdue this practice and up to date in some Nigerian communities before children are allowed to be enrolled for western education, they must have acquired reasonable Islamic knowledge commencing with the teaching of recitation of the Holy Quran. The researcher herein is an empirical beneficiary of this system in which his family would not enroll any child for primary education unless and until he or she could conveniently recite the whole of Quran though not memorised.
20. Amr Abdalla, Muhammed Abu-Nimer, Ilham Nasser, Aysa Kadayif, Lynn Kunkle, Saber el-Kilani, "Improving the Quality of Islamic Education in Developing Countries: Innovative Approaches", *Creative Associates International, Inc.* (2006), 4.
21. See Olaoti, I. Y. "Problems and Prospects of Islamisation of Education in Nigeria". Source through: www.I-epistemology.net. Online Resources on Islamic Worldwide and Knowledge (2010).
22. See Samuel Johnson, *The History of Yorubas: From the Earliest Time to the Beginning of the British Protectorate*, (Lagos: C.M.S (Nigeria) Bookshop, 1921), 117-125. Where the author explains the skills and professions of the people of the Western part of Nigeria, otherwise known as the Yoruba land before the imperialists to include; Agriculture, commerce, weaving, leather working, carving, music medicine and some others. In addition to few of the above mentioned skilled works, women were trained to engage in pottery, manufacturing beads, dyeing, hair dressing, palm oil and nut oil making as well as the making of shea butter from the shea fruit. All these are categorized under trade and professions of the people, practice of which was possible through training and acquisition of knowledge.

only had its way in the southern part of Nigeria. In the nineteenth century on the arrival of the colonialist, what could be described as Western/Christian education was introduced. The missionaries and the colonialists spoke English language, hence it became convenient for them to harmonise and consequently western education was fondly referred to as missionary education.²³ It suffices to say that during the period under reference, there was no any formal or conventional educational law, policy or regulation. What was in place then were the customary regulations for the traditional education, Islamic regulations for the Islamic system of education and the Christian regulations for the missionary education. Islamic education was widely spread in the Northern Nigeria while the traditional education and the missionary education gained position in the Southern part of the Country. However, the Western/Christian education was vehemently resisted in the Northern Nigeria due to its objective of propagating evangelism and converting people to Christianity.

The Christian education was supported and given priority over and above the Islamic education because English was the common language of both the missionaries and the colonialists and the latter saw the former as machinery to enhance their own mission. The Western/Christian education as at that time was only concerned with the production of evangelical teachers and that is why the curriculum of their educational system focused mainly on reading, writing, arithmetic and singing.²⁴ This was the position not until about the eleventh century when educational developmental moves were made among other things by the British Colonial master to formalise education by promulgating educational laws and regulations in the country.

23. Olaoti, 220.

24. J.U. Nwagwu, "Influence of Globalisation on Human Resource Development in Nigeria", *Journal of Technology and Education in Nigeria*, Vol.10, (1) (2005), 27-31.

0.3 EVOLUTION AND DEVELOPMENT OF EDUCATIONAL LAW AND POLICY

From the pre-colonial era until the eleventh century when the British colonial master in conjunction with the European Christian Missionaries introduced the western/Christian education in Nigeria, which was the third tier of education in Nigeria then, in addition to the existing traditional and Islamic system of educations, there was no any formal policy, law or legislation for the administration of the educational system not until 1882. Prior to this time, control of schools was in the hands of the missionaries for a long time. They were the founders who ran the schools from the school fees paid by the parents, subscriptions from churches and grants from missionary societies, as the colonial government did not prioritise education then.²⁵

Commencement of the formulation of educational law and policy in Nigeria is creditable to the colonial administrations. Since the amalgamation of the Lagos colony, Southern Protectorate and the Northern Protectorates in 1914 consequent upon which it was named Nigeria, the territory remained British colony until 1960 when it got independence. Indirect rule was the system of administration adopted by the colonial administrators in governing the territory.

The colonial administration recognised Islamic system of education in the then Northern protectorate where the alien Western/Christian education was rejected due to its religious implication on the predominantly Muslim populated protectorate. With time, the colonial administration fashioned the educational system in line with the British style of education by introducing the primary, secondary and higher education system.

0.4 PRE-INDEPENDENCE DEVELOPMENTS

The colonial administration regulated the Nigerian educational system via various Education Ordinances and codes. The era of educational law and policies

25. Adeyemi, T.O., "Financing Education in Nigeria: An Analytical Review" *Am. J. Mgmt. Sci.*, (2011), 2 (3): 295-303,296.

in Nigeria therefore began in the year 1882 by the promulgation of the 1882 Education Ordinance.²⁶ This Ordinance was made for the British West African Territories including Lagos, Gold Coast (now Ghana), Sierra Leone and the Gambia. This was the first ever Education Ordinance applicable to the colony of Nigeria.²⁷

The implication of this Ordinance was that, it introduced educational financing policy and government participation in education whereby the state provided financial assistance for the maintenance and running of schools. Among the policies introduced into the system by the Ordinance was the establishment of a General Board of Education vested with the power to establish local boards. Method of granting teachers certificates, system of grant-in-aid and annual evaluation of pupils were also introduced.²⁸ The Ordinance in addition prescribed the award of grants to Organisations and disciplines with recommendation of special grant for schools with high standard of general excellence and some other beneficial grants.²⁹

Few years later when improvement was deemed necessary, particularly as a result of the separation of Lagos Colony from the Gold Coast in 1886, in order for the Lagos Colony to operate on its own, there was the need to have a Nigerian Education Ordinance. The 1887 Education Ordinance was promulgated. This Ordinance introduced public examinations in school, subject

26. See Stephen S., "Better Livestock Policies for Africa" (International Livestock Centre for Africa, ILCA, 1987) available at <http://www.fao.org> also <http://www.wisegeek.com> Accessed on 20 December 2014. See also Garoot S. E., Ambali A.R., "A Primer in Public Policy Analysis: Techniques and Methods" (Malaysia: IIUM Press, 2014), 1. It is a purposive and consistent course of action produced as a response to a perceived problem of a constituency, formulated by a specific political process, and adopted, implemented, and enforced by a public agency. It could be simply referred to as the principles which guide the action of government or what government does. In the light of the above, policy can be defined as a set of decision which is prepared toward a long-term purpose or mainly to address a particular problem. Such decisions by government are stipulated for legislation which would be applicable to the populace in the interest of the public and not a section of people.
27. Martins Fabunmi, "Historical Analysis of Educational Policy Formulation in Nigeria: implications for Educational Planning and Policy", *International Journal of African and American Studies*, Vol. IV, No. 2, July, (2005), 2.
28. See David L. W., Aidan R.V., *Policy Analysis: Concept and Practice*, (New Jersey: Prentice-Hall, Inc., 1989), 146. In addition, Among the attributes of policies in the above definitions is that it is a purposive course of action and most be focused. In view of several components accorded to the concept, scholars have itemised numerous features otherwise called characteristics of a good policy few of which will be succinctly explained. Being purposive is a foremost attribute of a good policy and as such it is usually in response to policy demand by the people, outcome of which must have been clearly stated and assumptions are explicit. In the development of a good policy, due process has to be observed whereby stakeholders would have been included and public interest is given high priority. Furthermore, a good public policy would have incorporated its outcomes in a measurable manner with the capacity and machineries to evaluate the inbuilt outcomes. A good policy must be effective and efficient having been appropriately funded with measures for clear and accurate accountability in accordance with the enabling laws and regulations and must be enforceable. See Micheal D. L., "Effective policy-17 Characteristics of Good Policy" available at <http://ezinearticles.com>, also on <http://martinslibrary.blogspot.com>, <http://www.sfrpc.com>. Accessed on 27 December, 2014.
29. Kanelechi C. K., Nwangwa, Tope Omotere, "The New Roles of School Managers in Managing Educational Changes in Nigerian Schools" *European Scientific Journal* Vol. 9, No. 25, (2013), 4.

to attainment of requisite percentage of performances. This new proposal made schools to enhance their programmes to meet the examination requirements. It was the same year that grading system was introduced. Similar to the 1882 Ordinance, the 1887 Education Ordinance created Education Board and stipulated the rates and conditions for the award of grants, regulations on examinations, classification of teachers' certificates and the procedure of granting scholarship for schools were introduced. With the 1887 Ordinance, the colonial government started playing significant roles in the management of education in Nigeria.³⁰ Among the effects of this Ordinance was that, a laid down standard must be met by schools to qualify for grant-in-aid. This required standard consequently hindered the expansion of schools by the missions who could not meet up and as a result, illegal schools sprang up.

After the amalgamation of the protectorates in 1914, the Governor-General, Lord Fredrick Lugard was not pleased with the existing educational system and in his effort to cater for the whole country having prioritised education, the Education Ordinance of 1916 and the Codes were approved on the 21st and 24th of December, 1916 respectively. Among the distinguished features of this Ordinance is that, its application covered the whole country, it paved way for the increased financial participation by the government, a laudable cooperation between the government and the missions and asserted government's firm control over education. The approved code gave room for religious instruction as examinable subject in schools and the amendment of Ordinance No 8 of 1919 asserts more power of inspection of all school and power of closure of non-performing schools.³¹

March, 1925 marked a landmark development of education in Nigeria. This is as a result of the 1920 Phelps-Stoke Commission on Education in Africa. This was the year a memorandum on education policy in British Tropical Africa was dispatched to the colonies as a basis for the British Colonial education policy.

30. Franca U. Udey, V. O. Ebuara, U. I. Ekpoh, A. O. Edet "Management and Administration of Nigerian Education System: Problems, Challenges and the Way Forward", Being paper presented at the 11th International Conference of Educational Management Association of South Africa (EMASA) 7th-9th August, 2009.

31. See Folasade R. Sulaiman, "Internationalization in Education: The British Colonial Policies on Education in Nigeria 1882-1926", *Journal of Sociological Research*, (2012), Vol.3, No. 2, 92.

The report of the above mentioned commission motivated the British Colonial Administration to develop and demonstrate great interest in Africa Education, hence it gave birth to the first educational policy. The policy encompasses recommendations of the Phelps-Stoke Commission upon which the Education Ordinance of 1926 was promulgated.³² The Ordinance made registration of teachers a condition for teaching in any school within the territory of the colony and its provinces. It disallowed opening of school without prior approval of the Director of Education and the Board of Education as well, also closure of any school whose operation is detrimental to the interest of the host community. The Ordinance defined the functions of supervisors; it recommended the expansion of the existing board to include the Director, the Deputy Directors of Education, the Assistant Director, ten representatives of the missions and other relevant educational agencies. The Ordinance regulates the minimum pay for the teachers in the assisted schools.³³

In 1944, a director of Education was appointed to review the ten years plan and report on the procedure for assessing grant-in-aid provided for in the earlier Ordinances. The report of the review led to the promulgation of yet another Ordinance, hence the Education Ordinance of 1948 which decentralised educational administration. It was this Ordinance that created a Central board of Education and four Regional Boards in each region of the country i.e., Eastern Region, Western region, Northern Region and Lagos. The establishment of Local Education Committee and Local Education Authority was among the recommendations of the Ordinance.

In order to give efficacy to the provisions of the 1948 Education Ordinance and to make the established regional education board functional well, the 1952 Education Ordinance was brought on board. The new Ordinance emphasised the overall responsibility of the Central Government on education

32. Sam A. Dada Olisa, "Re-Branding Education in Nigeria: A Call to Action" Being the Keynote Address at the 14th Annual Convention and Charles Okoye Memorial Dinner and Fundraising Banquet of C.K.C. Onitcha Alumni Association In America. Los Angeles, California on the 24th of July, (2010), 7.

33. Fabunmi, 60

and enabled the regional boards to develop their respective educational policies. It was this Ordinance that abolished the colonial board and modified the regional boards earlier established by the previous Ordinances. Consequently, all schools were subjected to inspection by the regional director, his representatives, inspector general or his representatives.³⁴

In a later development, by the introduction of the regional education board, particularly when Nigeria became a federation in 1954 with Lagos as the Federal Capital Territory with three other regions; Eastern Region, Western Region and the Northern Region. As a federation, there was need for a constitution hence the adoption of the 1954 Constitution as the Ground-Norm. The said constitution contained the Exclusive legislative list, Concurrent legislative list and Residual legislative list. By implication, it empowered each region to make its own laws and this was the beginning of regional educational laws in Nigeria, examples are the Western Region Education Law 1955, the Northern Region Education Law of 1956 and the Lagos Education Ordinance of 1957.³⁵

0.5 POST-INDEPENDENCE DEVELOPMENTS

In April, 1959, a Commission called Ashby Commission was constituted to investigate and report the needed manpower in the education sector covering the period of twenty years, from 1960 to 1980. Headed by Sir, Eric Ashby, the commission did the assigned job and gave its reports with the recommendations that; there was the need to expand and improve the primary and secondary education; it recommended the upgrading of the University College, Ibadan to a full-fledged university and the establishment of additional three universities at

34. Ibid.

35. Ruth UwaifoOyelere, "Africa's Education Enigma? The Nigerian story" A Discussion Paper series, Discussion Paper No.3097, IZA October, 2007 at 8 available at <http://ftp.iza.org>. Accessed on 11 January, 2015. The writer emphasized that UPE was a nation-wide program designed to increase educational attainment by providing tuition free education. It is further explained that the program first introduced when the nation was segmented into four regions and the first region to implement it was the former Western region for reason of a choice of policy. It was actually initiated in Lagos as the then capital, Eastern region joined later, only the Northern region was left out of the program policy.

Nsuka, Ife and Zaria to cater for other regions.³⁶ It was also the recommendation of the commission that the University Commission be established to ensure uniformity in the academic pursuit of the established universities.³⁷

1966 was the beginning of what is known as the era of Education Edicts in Nigeria up to 1979. This was when the then Federal Military Government through Decree No. 14 of 1967 created twelve states out of the four existing regions and Lagos retained its status as the federal Capital. More states were later created in the year 1976 making the states of the federation nineteen. This development afforded each state the opportunity to promulgate edicts and formulate policy for the management and regulation of education in their respective domains. States can amend their education laws at their convenience in order to suit the educational needs of the people and all the state edicts were replica in contents.³⁸

In 1979, a presidential system of government was ushered in, a development that brought about the adoption of the 1979 Constitution. The constitution was the ground education law then. It spelt out the objectives of education in Nigeria and put education on the concurrent legislative list. Going by the provision of the 1979 constitution therefore, authorities and responsibilities of the provision of education were shared among the three tiers of government, i.e Federal, State and the Local governments. However, more powers were given to the federal government than the other two tiers in the areas of post primary, professional, technological and university educations, while the states also have total control of those within their territories and some states transferred the administration of

36. Higher education is the third tier of the Nigerian educational structure, it is otherwise known as the post-secondary education. It began in Nigeria during the colonial era when there were just two post-secondary institutions namely: Yaba Higher College founded in 1934, now Yaba College of Technology and the present University of Ibadan which was then an affiliation of the University of London as College of University of London established in 1948. Higher education in Nigeria got its boost through the famous 1959 Ashby commission's recommendation which consequently upgraded the University College Ibadan to a full-fledged university and establishment of three other Universities at Nsukka, Ife and Zaria. Higher education includes all forms of post-secondary education given in tertiary institutions in the educational structure of Nigeria. For the purpose of higher education, there are series of tertiary institutions in Nigeria where such education is given. This includes; Universities, Polytechnics and Colleges of Technology, Colleges of Education, Advanced Teachers Training Colleges and other similar institutions of higher learning. The above referred Ashby commission report gave birth to the main management body of the Nigerian University in 1959 i.e. the University Commission which was saddled with the responsibility of overseeing the management, running and operation of universities in Nigeria.

37. Rhoda Olapeoduwaiye, Patricia OviguerayeEtejere, "Education Reforms in Nigeria: The Need for a Legal Framework" available at <http://www.education.unilorin.edu.ng>. Accessed on 14 January, 2015.

38. Alphonsus A. Azike, "Historical Analysis of Constitutional Provision for Education in Nigeria (1976-2011): Implication for Educational Administration" *Part II: Social Sciences and Humanities, Academic Research International*, Vol. 4 No. 3, May, 2013, 372.

primary education to their Local Government Councils.

The return of military administration in 1983 occasioned the promulgation of decrees for the regulation and administration of education in Nigeria. For instance; Decree No. 16 of 1985 created National Minimum Standards and Establishment of Institutions; Decree No. 20 of 1986 changed the school calendar from January to December to October to September; Decree No. 26 of 1988 proscribed the Academic Staff Union of University (ASUU) and prohibited it from participating in trade union activities, the proscription which was eventually revoked by Decree No. 36 of 1990.³⁹

The re-emergence of the civil rule in 1999 culminated into the adoption of the Constitution of the Federal republic of Nigeria (Promulgation) Decree of 1999. The 1999 Federal Constitution and the third edition of the National Policy on Education (FRG 1998) re-emphasised the objectives of education in Nigeria. Subsequent amendment to the Federal Constitution did not change its structure on the education matter, particularly the Chapter 11 of the Constitution.

For the purpose of setting out the goals of the Nigerian Education in clear terms, for the benefit of the citizens, a seminar of experts in educational matters and interest groups was convened in 1973. After serious deliberations by the participating educational experts and agents, on what should be the national policy on education for Nigeria as a sovereign and independent nation, a draft document was issued which was later subjected to comments from states and other stakeholders and the final document was afterward produced titled the National Policy on Education and published in 1977. After the first edition, in corresponding with social change and educational demand of every time, the 2nd and 3rd editions were published in 1981 and 1988. With the aim of updating the 3rd edition to inculcate new ideas and innovations, the current 4th edition of 2014 was published.

39. Fabunmi, 60.

0.6 EVOLUTION OF PRIMARY EDUCATION IN NIGERIA

Primary education has been defined as the education given in institutions to children within the age bracket of 6 to 11.⁴⁰ This is in conformity with the perspective from which primary education has been seen by the International Standard Classification of Education as elementary education, otherwise referred to as education programmes projection, designed to give pupils the basic skills of reading, writing and mathematics and basic understanding of other sources of knowledge.⁴¹ Formal education in Nigeria was the effort of the European Missionaries as early as 1842. They established and run the schools, particularly founded by the Methodist Church of Scotland, the Church Mission Society (CMS) and the Roman Catholics. Since the curriculum of the schools as at that time was nothing more than the reflection of the definition of primary education stated above, it suffices to say that primary education began with them.

As at 1882 therefore, the CMS had established up to seventeen elementary schools within the colony of Lagos.⁴² Primary Education is the oldest of all the education system in Nigeria and it is the link between the pre-primary and secondary education. Primary education is the foundation upon which all other educational edifices are built. It is the most important and most patronised. In 1996, the number of primary schools in Nigeria was 48,242 and it rose to 74,982 in the year 2003 both public and private schools.⁴³

In 2009, the Roadmap for Nigeria Education Sector reported that through the figure adapted from the 2006 National Personnel Audit of the sector, the figure of the existing public primary schools in the country was put at 54, 434 while that of public Junior Secondary Schools were 7, 129 with total enrolment of 3, 266, 780. It reported that according to another data from the 2006 School Census, the number of primary schools was 87, 941 with the enrolment figure of 13, 302, 269 (54.5% of male pupils) and 11, 302, 265 (45.5% of female pupils).

40. See Section 3 (18), National Policy on Education 4th Edition, 2004.

41. See International Standard Classification of Education (ISCED), 2011, available at <http://www.uis.unesco.org>. Accessed on the 10 January, 2015.

42. See "Nigerian Education Sector Diagnosis": A Condensed Version of a Framework for the Re-engineering the Education sector, Education Sector Analysis Unit, Federal Ministry of Education, May, 2005 available at <http://planipolis.iiep.unesco.org>. accessed on 10 January, 2015.

43. Joshua O. Oni, "Management of Primary Education in Nigeria: Trends, Constraints and Solutions," *The Soc. Sci.*, 4(3): 286-290, (2009), 286.

The data also shown that at the Junior Secondary School level, the difference in the gender disparity in enrolment was 55% males and 45% females. It also shown 500,000 illiterate adults in non-formal schools and 500,000 children in nomadic schools.⁴⁴ It pointed out that more males are enrolled in the primary schools than females in the north at the ratio of 65 to 35 percent respectively. However, near parity is recorded in the south.⁴⁵ The roadmap put the expected enrolment figure of pupils in pre-primary schools at 22m, while 34.92m is expected in primary schools. The expected enrolment figure at the Junior Secondary School according to the roadmap is 9.27m as against 3.23m, and 39.5m is expected in adult schools.⁴⁶

In 2009, the number of Early Childhood Care and Development Education Centres (ECCDE) across the country was 20,698 (35% of 58,595 total primary school). This significantly increased in 2013 to 30,901 (50% of 61,305 total primary schools). By implication, this positively impacted on the number of pupils enrolled into the ECCDE programme.⁴⁷ Between 2009 and 2013, the number of primary schools in the country rose from 58,595 to 61,305. The Junior Secondary Schools rose from 10,410 to 11,874⁴⁸

6.1 Regulations and Regulatory Body for Primary Education in Nigeria

The management of primary education in Nigeria has over the time involved many actors. While the regulation of the system is historically consonant with the earlier discussion in the above sub-topic, the missionaries managed primary education between 1843 and 1882. The colonial government from 1882 to 1940's, the Nigerian regional governments administered it in the 1950's. After the Nigeria independence, it has been the indigenous managers such as the federal, state and local governments that have been in charge of the primary education management. Prior to the Nigeria independence, it was the colonial

44. Victor Sam, "The Position of Education in Nigeria" *The Punch*, 26 March 2009).

45. Ibid.

46. Ibid.

47. See Education for All 2015 National Review Report, page 8. This is a report that was prepared by the relevant national authorities in view of the World Education Forum (Incheon, Republic of Korea, 19-22 May, 2015). It was submitted in response to UNESCO's invitation to its Member States to assess progress made since 2000 towards achieving Education for All (EFA).

48. Ibid page 9. Also see "Education" at <http://www.unicef.org>. Accessed on 31st October 2015.

administration's adoption of the British Form of Education that brought about the schooling system tagged primary, secondary and higher education. Upon the attainment of independence therefore, the colonial system was abolished and the 6-3-3-4 system was introduced. It is to be noted that when the regional governments were managing the educational system, the Western and Eastern Regional Governments enacted laws upon which the Universal Primary Education Scheme was launched in 1955 and 1957.⁴⁹ Also after the independence the Nigerian government discovered that the British style of education was training Nigerian school children to meet the need of the foreign culture rather than their own indigenous cultural need. This was a major rationale behind the 1969 National Conference on Curriculum Development in Lagos, the effort that brought about the production of the current National Policy on Education.⁵⁰ Section four of the policy book provides for primary education, the methods of operating it, the goal of primary education and it specified the managers of the system.⁵¹

The policy document states in a clear term that primary education in Nigeria is a six-year programme to be given in institutions of learning, free and that it is compulsory throughout the country. In 2004, the Universal Basic Education bill was passed by the National Assembly and since the coming into force of the law; government has been seriously involved in the management of primary education through several agents put in place, such as the Federal and State Ministries of Education, their respective departments of primary and secondary education. Also with regard to the Universal Basic Education Commission, there is also at the local government level, the Universal Basic Education Board, the local government education authority, the district education committee and private organizations⁵² however, the major regulatory

49. S.O. Labo-Popoola, A.A. Bello, F.A. Atanda, "Universal Basic Education in Nigeria: Challenges and Way Forward" *The Soc. Sci.*, 4(6):636-643, (2009), 637. Where the author explained that the motive of education for all is credited to the time when Chief Obafemi Awolowo was the premier western region and the Free Universal Education was launched and the Eastern Region premier launched his own, while that of the western region recorded success the eastern region recorded failure.

50. See "Other Educational Developments" available at <http://www.onlinenigeria.com>. Accessed on 10th January, 2015.

51. Dayo Odukoya, "Formulation and Implementation of Educational Policies in Nigeria" available at <http://www.slideshare.net>. Accessed on 10 January, 2015.

52. Teboho Moja, "Nigeria Education Sector Analysis: An Analytical Synthesis of Performance and Main Issues" being a document produced for the World bank in January, 2000 available at <http://siteresources.worldbank.org>. Accessed on 11 January, 2015, 4.

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mechanism for primary education in Nigeria is the Constitution of the Federal Republic of Nigeria.⁵³

0.7 EVOLUTION OF SECONDARY EDUCATION IN NIGERIA

Secondary education otherwise called post-primary education is the second or stage two in the academic pursuit in Nigeria. Secondary education in Nigeria just like primary was influenced by various factors in Nigeria such as, regionalism, cultural background and the religious inclination of the people. The efforts of the Missionaries according to the historical explanation given above, was majorly at the elementary level, taking cognisance of the curriculum of study which only included the basic acts of reading writing and arithmetic 3Rs. This is because the colonial government as at that time did not show any kin interest in the management of education not until the year 1882. It was eventually the colonial administration that adopted the British style of education in Nigeria, hence the known system of primary, secondary, six form and higher education.

The year 1842 marked the expansion of schooling system and education generally in Nigeria; this was the year that Missionary Societies like the Church Mission Society (CMS), the United Free Church of Scotland, and the American Catholic Mission established various types of schools in Nigeria. Nigerians started experiencing what secondary education is as early as 1859 when the first secondary school was established in the country and many other secondary schools were established in the later part of the 19th century. The duration of study in secondary school during this time was six years and at the end the students will write either the Cambridge or Oxford Examinations.

There was an encouraging expansion in the secondary school education in the 1960's due to the expansion in the primary education and on the recommendation of the Ashby Commission for the increase of secondary school in the country. Hence there was a high increase of enrolment in secondary school

53. See the Chapter II of the Constitution of the Federal Republic of Nigeria 1999 (as amended).

within the year 1960 and 1963. The taking over of schools by the federal government and the introduction of the 6-3-3-4 system via the adoption of the national policy on Education also contributed to the development of secondary school in Nigeria

There are several types of secondary schools which form the structure of secondary school in Nigeria. The first that initiated the structure of secondary school in Nigeria is the Secondary Grammar Schools which was built in Lagos in 1959. Government Secondary school is another type followed by the Grant-Aided Secondary Schools which were mainly community owned schools. Private Secondary Schools are presently the fast growing type, they are fast growing because schools owned by the government otherwise known as public secondary schools have substantially deteriorated in structure and quality. Private Secondary Schools are owned by corporate bodies, religious organisations, individuals or establishments like University, River Basin Development Authority etc.⁵⁴

There was Secondary Modern Schools but no more of its type in the system. Another prominent secondary school is the Secondary Commercial Schools which rivals the grammar schools, these commercial schools offered literary and commercial subjects as the name connotes. Upon the recommendation of Banjo Commission in 1961, what was known as Junior High school was established, though only accepted and established in the Western Region, hence it has no significant impact on the development of secondary school in Nigeria. Comprehensive High School is another form of secondary school, as the name sounds it was a multi-lateral school and technical college. It was first built in Calabar in 1895 by the United Presbyterian Church and later metamorphosed into Hope Waddell Institute. The International School was a secondary school established in Ibadan specifically for the children of the expatriate staff. It was designed to cater for the student's need of hope to return to

54. Abdullahi, O. E., "Secondary Education in Nigeria" available at <http://ilorin.info>. Accessed on 14 January, 2015.

their home countries.

The Federal Government Colleges, otherwise called the Unity Schools is under the direct control of the federal government. The objective of the initiative was to develop sense of unity, patriotism and love for the nation among the youths. At present, almost all the thirty-six states of the federation have a male and a female federal government college.

Another important secondary school is the Special Secondary Schools; this is a unique type different from the others discussed above. There are two segments of this school (i) school for the handicapped and (ii) secondary school for the gifted children. While the former is meant for the children with disabilities that preclude them to function in normal secondary schools, the latter is designated for those children identified to have special academic endowment from their primary school level. Teacher Training Colleges and Technical colleges in history were also established and played a concrete role in the history of secondary education in Nigeria.⁵⁵

The development of regulations in respect of secondary education in Nigeria is historically the same as the primary education discussed above. Government is generally in charge of the formulation of educational policies with series of commissions put in place for the purpose. The national policy on education is a major regulatory mechanism for secondary education in Nigeria.⁵⁶ But unlike the primary education for which a regulatory law was enacted (Universal Basic Education Act) upon which a regulatory body was established (Universal Basic Education commission), secondary education has neither such law nor any such established commission for its regulation.

55. Ibid.

56. See Section five (20-30) of the National Policy on Education, 2004.

3.6 CONCLUSION

This work shows that education is part of African culture and that Nigeria has existing educational system before colonisation and before the emergence of Western education. This vindicates the assertion that education developed before, during and after colonisation. It also shows that educational law and policy developed alongside the Nigerian growth as a country. From the international human rights law perspective, education is one of the rights specifically provided for in various instruments, local legislations inclusive.

The work finds that before the emergence of both the missionaries and the colonial masters in Nigeria, there was no specific or a particular legal and policy framework regulating education in form of blueprint or whitepaper. This is because the existing educational system then was not formal. The research further finds that educational policy began to evolve in 1882 with the promulgation of education ordinance which eventually translated into educational policy of that time. This development spanned through the eras of pre-independence, during and at the post-independence when the indigenous government began the formulation of educational policy and laws were enacted for its sanctity and implementation. This work also evaluates the evolution of primary and secondary education Nigeria, their respective legislative regulations and regulatory bodies from inception to date. Despite the above elucidated robust educational law and policy developed by Nigerian Governments of different era, availability and accessibility of quality education and protection of the Right to Education still remain a dream in Nigeria. The major hindrance for the accomplishment of the purpose is the lack of political will on the part of the successive Nigerian governments.