



S.J. AdeKeye

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# JUDICIAL APPROACH TOWARDS SOLVING EXAMINATION MALPRACTICES IN NIGERIAN EDUCATIONAL SYSTEM.

By

Mahmud K. Adebayo Esq.<sup>35</sup> and Adekeye, D.S.<sup>36</sup>

## ABSTRACT

*The Nigerian Educational System has been in a state of confusion and disarray as a result of inconsistencies, non-implementation of educational policies, corruption and corrupt practices perpetrated by the stake holders. There has been a clarion call by all and sundry to re-examine and appraise the Nigerian Educational System in line with current trends, international standards and proffers a way forward to make the system more functional, more relevant and a transformative education from a legal perspective as a solution against all dissatisfactions and malpractices.*

## INTRODUCTION

Cursorily, formal education in Nigeria was introduced and under the control of Christian missionaries for nearly forty years i.e (1842-1881). They administered and formulated educational policies. The Church Missionary was credited to be the first to open a training institution in Abeokuta, present Ogun-State, in 1895. The institute was later moved to Oyo Empire, presents Oyo-State in 1869, and later became St Andrew's College, Oyo. Other Training Institutions followed, like the Hope Waddel Institute Calabar, in 1861, Baptist Training Centre, 1897 at Ogbomosho, St Paul's Training Centre Awka, 1904, Oron Training Institute, 1905, and so on.

According to Oluwajuwonlo, (2004) these were institutions established by the missionaries for the training of Teachers. These institutions provided the much needed leadership in the production of primary school teachers in Nigeria. Also curriculum emphasis was on theology and religion. At a point, it became clear that the country manpower needs cannot be met; this led to the intervention of the colonial government in education especially with the various Ordinances of 1882, 1887, 1904, and 1926 respectively. This development was followed by the setting up of Ashby Commission 1962, which recommended the establishment of regional universities in the country, for instance in Lagos, Ibadan, Ife, and Zaria. These regional universities later transformed into the first generation universities in Nigeria.

As at present, there are about 130 Universities in the country comprising of Federal, States and Private Institutions.

## OBJECTIVES OF THE PAPER

In view of the adverse effect that examination malpractices have on the educational system, it becomes necessary in this paper to attempt a cursory look at the

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inconsistencies in Nigeria educational policies by the government; the non-implementation of these policies; the historical and contemporary realities of Nigeria educational system; the effect of examination malpractices, and concludes by proffering solutions to examination malpractices malaise from the judicial perspective.

### **INCONSISTENCIES IN GOVERNMENT POLICIES**

The various efforts of the missionaries and the colonial government towards the early development of teaching education in Nigeria are worthy of note. First of all, the Colonial Government was more interested in the development of education in general by enacting laws and policies in order to give direction and clear government responsibilities for education. Secondly, Professional standards and appropriate curricular for training of teachers were set up by both missionaries and the colonial government Education Officers, and thirdly, education of the youths was no longer limited to the southern part of the country where the missionary first had contact. In the Northern part, similar centers for training of teachers were equally established in order to encourage education of the children.

In the views of Salami, (2002) laudable, the efforts of the missionaries might be, there were short comings, and for instance, (i) Instructions in schools were limited to religion, reading, arithmetic, and writing to the neglect of other learning that could pave way for all round development of learner. (ii) Much emphasis was placed on book and examination to the detriment of other needs of the society and the individuals. (iii) There was no uniformity in the system of education for a long time. (iv) The introduction of indirect rule accounted for the imbalance in the educational development up till today as different system of administration was being practiced for both North and South which was not ideal of a nascent federation then. (v) Emphasis was placed on certificate for most white collar jobs, while technical education was neglected and relegated to the background.

The general dissatisfaction with the existing educational system which had become irrelevant to national needs, aspirations and goals led to the National curriculum conference of 1969 where Nigerians from all walks of life debated their own aims and contents of education in the country.

The final document of this expression and conference came into existence in 1977 as the National Policy on Education (revised in 1981, 1989, and 2004) .Therein education was conceived as an instrument 'per excellence' in achieving national unity, objectives and goals without taken into consideration in terms of culture, religion, social, geographical diversities and ethnic affiliations. The policy derives its philosophy from basically five main conceived national goals, which are:- a) free and democratic society, b) a just and egalitarian society, c) a united, strong, and self reliant nation, d) a great and dynamic economy; and e) a land of bright opportunities for all

According to the National Policy on Education (2004), the policy consists of 13 sections and takes care of the various types and sections and issues that were considered critical to the education sector. The highlights are: the education structure is 6-3-3-4, that is, six years of primary education, three years of junior secondary education, three years of senior secondary education and four years of university education. This has been reviewed by the immediate past Administration of Chief Olusegun Obasanjo to 9-



3-4 that is, nine years at the primary school including the junior secondary education, three years of senior secondary education, and still four years of university education.

Furthermore, the education system, which is expected to be functional, also includes citizenship training right from primary level. The intention is to equip the children whose education will terminate at the primary school level with knowledge of general studies as well as, social and civic skills, which they will sue to function as useful citizens in the community. In addition to these, the education system is supposed to be job oriented; this showed why the junior secondary school (JSS) curriculum contains only integrated studies and prevocational courses. The goal is that at the end of the JSS studies, students will branch out, depending on their ability, interest and academic performance into different academics, business and technical programmes which include art, science, and social sciences academic subjects. The product of JSS can also advance into the Grade II Teacher's college for professional courses in education.

The policy further provides that the system be given a scientific and technological orientation by insisting that a sound basis for scientific and reflective thinking be laid right from the primary level. It also provides that admission into the nation's tertiary institutions should be based on the ratio of 60% for science and technological courses, while 40% for others. The policy also abolished the primary leaving school certificate examination, and headmasters now based certificate at this level on continuous overall guidance oriented assessment.

Guidance counseling services are to be provided at all levels of the educational system. Life long education will be the basis for the nation's educational policies. Also in line with this policy, each child is expected to learn at least one of the three major indigenous Nigerian languages in addition to child's mother tongue in the interest of national unity in diversity also, a Teachers Registration Council aimed at giving legal backing to the teaching as a profession was to be established. Meanwhile, the National Certificate of Education has been declared as the minimum teaching qualification in the Nigerian schools. Efforts will also be made to relate education to the overall community needs. To this end Government will conduct a documentation of the social norms of various communities and ensure distribution of the results through the Ministries of Education and Information. Teachers Resources Centers, Curriculum Development Centers, Educational Resources Centers, Audio-Visual Aids Centers, Language Centers, Science and Mathematics Center, and Workshops and Libraries are to be established at Federal, State, and Local Government Levels.

Lastly, Government objective is to make education free for all at all levels. The financing of education should be a joint responsibility of the Federal, State, and Local Government Councils. In this connection, Government welcomes and encourages the participation of Local communities, individuals and other organizations.

It would be appreciated that in spite of these laudable objectives of the National Policy and the success recorded so far, the prompting question is where have we missed the point? What can be done to salvage our decaying educational situation infested with corruption and examination malpractices?

The inconsistencies in government policy have manifested in the distorted academic calendar of our schools and institutions; which was initially from January- the almighty June, and later changed from October -June. Also in addition, the educational



system was changed from 6-5-2-3 to 6-3-3-4; and now 9-3-4, all as a by-product failure to achieve the most desired results in the educational system. Also, there is a proposal to re-introduce the Higher School Certificate (HSc) programme that was discarded sometime ago, without any research or assessment into its needs as rightly observed by Maduka (1993).

### **NON IMPLEMENTATION OF EDUCATIONAL POLICIES**

The non-implementation of the National Policy on Education which has among its lofty objectives the followings; an advocacy for bursary for teachers, a separate salary structure for teachers, the introduction of information technology into the school system, the repositioning of science education, technology and vocational education in our schools. The adoption of education as an instrument per excellence for achieving National Development.

However, in spite of its strength, there are so many holes in the Policy, which has made the implementation of the policy impossible. For instance, the incongruous position of the colleges of education in the policy on education and non-relevance of some courses in the colleges of education. For instance, the non Junior Secondary School courses like wood work.

Remarkably, according to a report by Onyechere, (1996), the Nigerian University system between 1948 and 1973, was enlisted in the say top five percent of qualified graduates in the African Sub-region. The Universities overseas offered training for non-doctoral degree holders. Great Scholars and Teachers from top overseas institutions were part of the teaching pool in Nigerian Universities, Polytechnics and Colleges of education. The welfare scheme for teachers was very attractive and facilities, such as books were available to support instructional process in the universities. These combined to enhance good quality and quantity, the output of Nigerian universities was about the best in the world. These was the position up to late 1980's

It is no doubt that in the 1980s, Nigeria had established a well regarded higher education system offering instruction at an international standard in a number of disciplinary areas. The Universities of Ibadan and Ahmadu Bello for example earned global recognition for their research in tropical health and agriculture. More so, the government we had in the 1970s was focused on developing the economy, building refineries, roads, steel rolling mills, and funding research in the universities. The country's per capital income was placed among the best in the League of Nations as compared to present day realities where 2/3 of the population is trying to survive on less than one dollar per day.

The sparkling educational system of Nigeria, and indeed the reputation of Nigerian universities became a thing of the past under successive military governments during the late 1980s-1990s. For instance, enrollment grew at an astronomical rate and more universities were established and government interference in university administration became more rampant. For example, we had cases where Vice-Chancellors and the Military Sole Administrators were appointed by the government. University powers and autonomy were eroded, incentives and rewards for research, teaching excellence and associated innovations gradually disappeared leading to a brain drain, low research output and quality, management structures rigidified.



According to a report by Onyechere (1996), between 1990 and 1997, real value of government allocations to universities declined by 27% and enrollment grew by 97%. The downward pressure on staff salaries together with deteriorating working conditions and political repression on campuses generated a series of staff and students' strikes during the 1990s culminating in year long closures of university system between 1992-1996, even primary and secondary school teachers were not left out from month's strikes as concluded by Obanya, (2002).

The country continued to suffer educationally, and various woes started beguiling the country as identified by El-Rufai (2006). For instance, declining morale, flight of talents, poverty, ill-equipped libraries, and the open and shut syndrome, violence and cultism, explosion of students' enrollments, and a self triggering explosion of the value system. According to an immediate President (Chief Olusegun Obasanjo (2006), of the country; he noted with regrets the country's literacy level which he puts at 41% 62.5 of the Nation's literate population are male, while girls account for about 62% of the 7.2 million children of primary school age still not in school; this he said is unacceptable.

In the same vein, Prof. B. Fafunwa (2006), once lamented that the comatose state of the Nation's educational system and urges the Federal Government to be more committed to the upliftment of the sector through manpower enhancement for a better tomorrow. He found out that there were shortages of teachers in key subjects like mathematics/vocational subjects too.

## **EXAMINATION MALPRACTICES AND OTHER CORRUPT PRACTICES**

Examination malpractices as a form of corruption and corrupt practices have crept into the fabrics of all levels of the educational enterprise in the country. In defining examination malpractices attempts have been made by experts, authors, and text writers to define it from various perspectives. For instance, according to Olayinka, (1993) examination malpractices are misconducts or improper practice in any examination with a view to obtaining good results through fraudulent actions. Oluyeba and Daramola (1993), equally defined examination malpractices as an irregular behavior exhibited by candidates or anybody charged with the conduct of examination in or outside the examination hall, during or after such examinations.

A functional definition of examination malpractices is given as:

*"Any act or wrong doing or neglect that contravenes the rules of acceptable practices before, during, and after an examination by anybody in anyway"*

It was recorded by Azinge, (1993) that the problem of examination malpractices in Nigeria seems to be old as the introduction of formal system of education. The first major incidence of examination malpractices was in 1914, when the Senior Cambridge Local Examination leaked. This scenario took an unprecedented surge in 1963, when two public examinations into Federal Government unity schools of 1967, 1977, 1981, and 1987 leaked. These leakages then attracted the attention of the Federal Government, which led to the promulgation of Decree 27 of 1973, and Miscellaneous Decree 20 of 1984, to curb Examination Malpractices, and the latter Decree 20 which prescribed 21 years jail term of imprisonment for offenders.

These and other measures put in place still do not deter people from engaging in examination malpractices. For example, in the WEAC conducted examination of 1991,



30,982 students were involved in examination malpractices; while only 35,479 cases were reported in 1992. Thus the number of offenders and related offences resulting in cancellation of results is quite disheartening (National Concorde Newspaper Report, 1998)

According to a news paper publication of National Concorde revealed how teachers help students to engage in examination malpractices by coaching them before examination and the changing of incorrect answers afterwards. This trend according to this report is being used by the schools involved to improve their position in the performance table, which have become a key indicator for parents choosing a school for their children.

### **CAUSES OF EXAMINATION MALPRACTICES**

The causes of examination malpractices could be linked to the much hues and cries of the ills in the society. Experts have identified major causes of examination malpractice to be:- (a) over crowding in schools for example a ratio of 1 teacher to 85-100 pupils as opposed to an average of 1 teacher/lecture to 50 pupils/students a standard set by the Nigerian University Commission and the United Nation body on education UNESCO; (b) inadequate qualified teachers/lecturers as occasioned by the brain drain syndrome of early 90's and tribalism, favoritism, nepotism, sectionalism, and religious bigotry in the recruitment, training, and promotion of teachers/lecturers in our institutions of higher learning; (c) inadequate teaching and learning facilities, which made students ill-equipped for examinations, lack of accommodating class rooms or lecture halls, no chemicals in the laboratories, or non-availability of teaching aids like projectors; (d) lack of parental control or upbringing on their wards, more so is the contributions of some parents who pay for live papers and hire people to sit for examinations on behalf of their wards. (El-Rufai, 2006)

Other causes of examination malpractices could be immorality in the wider society, inadequate supervision of teachers by inspectors, poor teaching in schools, and non-completion of syllabus before examination, tying promotion of teachers to success of candidates at public examinations, absence of guidance and counseling services in schools, lack of confidence on the part of teachers and students, high enrolment fees in schools, the desire to be successful at all cost. In addition, according to Bunsu, (1996) others may include constant closure of schools, inadequate proper tutelage and poor teaching style, over-emphasis on examination and certificates, poor living conditions, non- provision of extra curriculum activities, staff and students dysfunctional behavior that could jeopardize the realization of set objectives. Gbenedio, (1993) also subscribed to this view.

### **FORMS OF EXAMINATION MALPRACTICES**

According to Ivowi, (1996) examination malpractices may take different forms based on description and/or nomenclature, these forms are not however exhaustive, but an analysis of the major ones. These forms are as follows:-

(a) Collusion, (b) impersonation, (c) smuggling of answer scripts, (d) examination leakages, (e) mass cheating, (f) insult/assault on examination officials, (g) irregular activities in and outside the examination hall, (h) expo's, (i) contractors, (j) dubbing,



(k) super print, (l) bullets, (m) microchips, (n) hi-tech, (o) networking, (p) refusal to submit answer script at the end of examination.

The perpetrators of examination malpractices ranges from the parents/guardians who pay for live papers or bribe examiners or invigilators; teachers/headmasters, who collects money and turn a blind eye, lazy students who do not take their studies seriously and still wants to get best scores. The examiners who set and mark the paper are also inclusive, the printer of the examination questions, official of the examining body who process the question papers, supervisors/invigilators at the centers, law enforcement agencies, the society as well due to the quest for materialism.

The consequences of examination malpractices on the students especially are enormous. For instance, it will be recalled that in the year 2005, the Joint Admission and Matriculation Board cancelled 95,000 university matriculation examination results. The JAMB Registrar, in the Guardian Newspaper of Thursday (2005) remarked:-

*"it is unfortunate that the board is being forced to withhold many results this year because of the large scale irregularities and malpractice discovered during the processing of the results, all of which took place at the centers during the course of the examination; this is quite unhealthy for the education sector."*

## **JUDICIAL APPROACH**

The Examination Malpractices Act (2004) creates offences relating to examination malpractices and prescribed penalties for such offences. The following constitutes an act of examination malpractices punishable under the Act: cheating; a person who in anticipation of before or at any examination by any fraudulent trick or device, or by any false pretence or with any intent to cheat or secure any unfair advantage for himself or to unjustly enrich himself or any other person buys, sells, procures or otherwise deal with any question paper in respect of any particular examination, is guilty of an offence and is liable on conviction to a fine of N100,000=k or imprisonment for a term not exceeding three years or to both. In case the offender is a principal, teacher, invigilator, supervisor, examiner or an agent or employee, it carries an imprisonment for a term of four years without an option of fine.

Furthermore, the Act provides that any person who at any examination, by any fraudulent trick or device or with intent to cheat or secure an unfair advantage for himself or other persons steals or otherwise appropriate a question paper, an answer sheet or a script of any other candidate, commits an offence and is liable on conviction to a fine of N100, 000=K or three years imprisonment or both.

Also, a person who at an examination falsely represents himself to be a candidate sitting for an examination, or writes or attempts to write a paper in the name of some other person whether that person is dead or alive, commits an offence and is liable on conviction to a fine of N100, 000=k, or imprisonment for three years, or both. In a situation where the offender is a principal, teacher, invigilator, supervisor, examiner, it carries an imprisonment for 4 years without an option of fine. Thus in the case of NNAMDI AZIKWE UNIVERSITY V NWAFOR (1991) in this case, the Presiding Judge while reading the lead judgment said thus:-

‘Under Section 385 of the same law, any representation made by words, writing or conduct, of a matter of fact, either past or present, which representation is



fault in fact, and which the person making it knows to be false or does not believe to be true is a false pretence, in the instant case, the respondent was alleged to have been caught copying and exchanging answers scripts with another student during an examination, which raised the issue of conspiracy. The Respondent was accused, while sitting for an examination for a certificate established under the law establishing Nnamdi Azikwe University, of copying from the answer script of another student with intent of representing the copied script as his own mainly to pass examination for awarding a degree in law. The accusation constitutes an offence under Section 392 of the Criminal, Code Law for which a charge cannot be properly brought.

The Act also in its Section 4(1)-(3) talked about a candidate at an examination that leaves the examination hall or any other place appointed for the examination, and mixes up with any other person with intent to cheat or secure any unfair advantages for him or any other person, commits an offence, and is liable on conviction to a fine not exceeding N50,000=k or imprisonment for a term not exceeding three years. In addition, the person shall not be allowed to re-enter the examination hall or any other place to continue with that examination. In case the offender is a principal, teacher, invigilator, supervisor, examiner, or an agent, or employee, the penalty is four years imprisonment without an option of fine.

The Act also makes it an offence in its Section 5 for a person who, at or near an examination hall or any other place appointed for an examination, has in his possession any offensive weapon or other material or uses any offensive weapon, acts or incites any other person to act in disorderly manner, for the purpose of disrupting the conduct of an examination or of harming, intimidating, assaulting or obstructing any person involved in the conduct of the examination, commits an offence and liable on conviction to N100,000=K fine or imprisonment for a term not exceeding three years. If the offender is a principal, teacher, invigilator, examiner, agent or employee of the examination body, it is imprisonment for a term of five years without an option of fine.

Furthermore, under Section 6 of the Act, any candidate who misconduct himself in an examination hall or any other place appointed for examination, or fails to obey any lawful order of the supervisor, invigilator, or agent of the examination body concerned, commits an offence and shall be liable on conviction to a fine not exceeding N50,000=K or imprisonment for a term not exceeding three years.

A person who forges, or fraudulently or without lawful order, alters, or in any other way tampers with, the scores of a candidate as contained in a result slip or certificate duly issued, under section 8 of the Act, commits an offence and is liable on conviction to fine of N100,000=k or for a term of imprisonment not exceeding three years or both. In the case the offender is a principal, teacher, invigilator, supervisor, examiner, agent or employee of the examiner body concerned, to a term of imprisonment for five years without an option of fine.

In addition, the Act also makes provision for a breach of duty when it provides that; a person who for the time being is under a duty to discharge any function with regards to the conduct of an examination, without reasonable caused, before, during, or at an examination fails to perform or discharge that duty, or performs that duty fraudulently, negligently, or perversely or recklessly, or commits an act or omission in breach of that duty; commits an offence and is liable on conviction to a fine of N50,000



or imprisonment for a term not exceeding three years, this is contained in Section 9 of the Act.

Subsection 3 of Section 9 appears to have a direct reference to lecturers/teachers alike, when it provides that; a person employed to print, or charged with the responsibility of printing live question papers, who, without lawful authority, communicates to any person any information contained in any of the question paper, commits an offence and is liable on conviction to imprisonment for a term of five years without an option of fine.

Section 10 deals with conspiracy and theft. It provides that any person who conspires with, aids, abets, or counsel any other person to commit an offence; or attempts to commit an offence, or is an accessory after the facts to an act or omission, which constitutes an offence; shall be liable in the same category as the principal offender.

Where a person is charged with an offence under this Act and the evidence establishes an attempt to commit that offence, he may be convicted of having attempted to commit that offence notwithstanding the attempt is not separately charged, and that person shall be convicted and punished for that offence; Section 11 of the Act.

The Act, by virtue of Section 14, specifically confers jurisdiction on the Federal High Court as far as trials of offences under the Act is concerned. The Act also contain a transitional provision, that all part-heard proceedings, relating to a matter for which the court has jurisdiction, which is pending before any court or tribunal on the day of the making of this Act. All new proceeding shall be brought before the new court. A person, who had been tried and convicted or acquitted for an offence charged under any enactment, shall not be tried a second term for the same: Section 15 of the Act.

The Act also established what is known as "an examination body" with the powers to hold, suspend, or cancel the result of a candidate or ban or blacklist a candidate from taking its examination if it is satisfied that the candidate has engaged in any form of examination malpractices; withdraw recognition, suspend, ban, or blacklist or place on probation, a school or an examination centre if it is satisfied that the school or examination centre is involved in any form of examination malpractices; remove the name of ,or withhold payment to a supervisor or an invigilator or any other official employed in the conduct of an examination if it satisfied that the supervisor or invigilator or official has contributed to an examination malpractice.

Thus, in the case of *WEST AFRICAN EXAMINATION COUNCIL V AKINKUNMI (2002)*, Galadima, J.C.A while delivering the lead judgment of the Court held thus: -

Under the West African Examination Council Act, cap. 468 laws of the Federation of Nigeria, 1990, the withdrawal and invalidation of Certificates or cancellation of result which a candidate had obtained in an examination conducted by the council is a punishment for examination malpractice on the part of such candidate.

There are so many controversies surrounding the legality or otherwise of the 'Examination Body' provided for in the Act in dealing with examination malpractices. Thus in the case of *UNIVERSITY OF ILORIN V OLUWADARE (2003)* in that case it was held by Onnoghen J.C.A that:-

Examination malpractice is a serious criminal charge, which can only be tried in a competent criminal court or a tribunal set up under the Constitution. This is so



because the determination of the guilt or Innocence of any person accused of the commission of a criminal offence is within the exclusive jurisdiction of a court of law constituted in the manner prescribed under the Constitution.

In that case, on the 27<sup>th</sup> August, 1998, the respondent sat for ECN 301 (Micro Economics) examination. The examination was conducted by the Appellant. In the course of the examination, one of the invigilators caught the respondent trying to cheat. The invigilator immediately, confronted the Respondent with the incident, and also requested him to make a written statement. The Respondent refused to make a statement. Sequel to this, the Respondent was asked to admit or deny the allegation in writing. He was also requested to appear before the Students Disciplinary Committee to defend himself in respect of the allegation. The Respondent not only denied the allegation in writing, but also appeared before the Disciplinary Committee to defend himself. After the hearing, the Committee deliberated on the Respondent's defence and arrived at the conclusion that the Respondent was guilty of the allegation made against him. The Respondent appealed against the decision to the University Council, but he did not wait for a response before he initiated an action at the Federal High Court, Ilorin.

It was held by the Court among others that:- (a) disciplinary measures against a University Students is an internal affairs of the University, however, when the measures taken relates to a crime committed by a student, it ceases to be an internal affairs of the University;

(b) by virtue of Section 36(1) of the 1999 Constitution of the Federal Republic of Nigeria, in the determination of his civil rights and obligations, including any question or determination by or against any government or authority, a person shall be entitled to a fair hearing within a reasonable time by a Court of competent jurisdiction or a tribunal established by law and constituted in such a manner as to secure independence and impartiality. The Court envisages by the above provision is a Court established under Section 6 of the 1999 Constitution, not a domestic tribunal. It is only such a Court that has the judicial power to try a person alleged to have committed an offence. In the instant case, the Disciplinary Committee before which the Respondent appeared was only an Administrative Tribunal, not a Court.;

(c) Once a person is accused of a criminal offence, he must be tried in a Court of law where the complaints of his accusers can be ventilated in a public and he would be sure of getting a fair hearing. Thus, if an act of misconduct involves a crime against the state, it is no longer a matter of internal discipline, but a matter for a court or tribunal vested with judicial powers to try such offences. It is only after conviction by a proper court for these offences that appropriate disciplinary measures can be meted out against the culprits. In the instant case, the Disciplinary Committee set up by the Appellant erred in purporting to exercise judicial powers vested only in the Courts or tribunals by law as it amounts to a denial of the right of fair hearing to the Respondent. The purported trial is a nullity.

It thus appear from this decision that the 'Examination Body' envisaged by Section 16 of the Act cannot legally exercise any judicial power where a culprit is facing a criminal allegation of examination malpractice, except such a criminal act has been vindicate by a proper court of law in this case the Federal High Court, before the Examination Body can now exercise its own powers under the Act.



In addition, by the provision of section 16 of the Act, the examination body may circulate the name of an offending candidate, supervisor, invigilator, official, school, or examination center to other bodies, which may impose similar punishment. The Court, is also conferred with power to search, if the court is satisfied that there is a reasonable ground to suspect that there may be found in any building or other places whatsoever, any question paper, examination paper, score sheet, or information in any other form whatsoever which in its opinion is or may be material to the subject matter of any trial under the Act. The Court may also issue a warrant authorizing any police or any member of the armed forces or any of the security agencies to enter, if necessary by force, the building or other place and every part of the building or place; and search, seize, and remove any question paper, examination paper, score sheet or information found in the building or place. This is provided for in Section 17 of the Act.

It would thus appear that the provision of the Act is all encompassing, and it imposes strict liability offences.

## **CONCLUSION AND RECOMMENDATIONS**

The consequences of examination malpractice on the students especially are enormous. The success of any educational system hinges on proper planning, efficient administration, adequate funding and motivation. The Government needs to provide an enabling environment for teaching and learning for Nigerian education to have its pride of play in the comity of nations.

There is also the need for a transformation of educational sector by refocusing and re-energizing the educational system, which will bring about quality research, governance, and administration and above all, aligning with individuals' needs, aspirations and goals towards a better society.

Against the above discourse, the study recommends that there is urgent need to improve on the reforms in the educational system to ensure better outcomes and results. For instance, the quality of primary school leavers, class size and student ratio should be controlled. In addition, secondary school curriculum, teaching and learning facilities, and materials be improved upon, time utilization and management, discipline and character formation should be streamlined, boarding houses, recreational facilities, should be re-introduced and made compulsory. An opinion subscribed to by Obikeze (2003).

The goals of our tertiary education should be revised and redefined to contribute to national development through high level relevant manpower training. The values of educational system should be channeled to inculcate values for survival of individuals, individual capability appreciative of local and external environment. The students should be geared towards physical and intellectual skill acquisition, which enables them to be self reliant and useful members of the society.

The National Policy on Education should aim at promoting and encouraging scholarship and community services forge and cement national unity. These goals may be pursued through teaching, research and development, virile staff development programmes, generation and dissemination of information/knowledge, a variety of modes of programmes including full time, part time sandwich programmes.

Schools should be more properly funded to discharge the duty imposed on them by law. There should be un-restricted access to the provided for instance the Industrial



Training Fund (ITF); Education Trust Fund (ETF) and Students' Industrial Works Experience Scheme (SIWES). The minimum educational standards requirements for admissions into out tertiary institutions should be maintained.

Furthermore, there should be emphasis on commitment to research by both staffs and students as a process of harnessing and galvanizing all intellectual and scientific forces of inquiry and discovery towards the solutions of perceived societal problems so as to ensure an overall improvement in the condition of life of the citizens.

There should also be a blend in general and special knowledge; an integration of knowledge in science, political, economic, information, technology and law. An enterprising university model should create the ability for one own wealth and endowment to ensure adequate funding and survival.

In future, those that will man the leadership of our tertiary institutions should be men and women of integrity, good character, transparent, honest, with high moral and professional principles, full of innovative and creative ideas. Equally, the recruitment and retention of high quality staff in appropriate numbers and mix into the university system, and students should be allowed to rate their lecturers performance in the teaching and learning processes in order to encourage commitment and scholarship.

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