



GoogleAnalytics



GoogleScholars



Open Research Europe

ESTABLISHING THE LEGAL AND REGULATORY FRAMEWORK ON EDUCATION IN NIGERIA

· Oyovwikerhi Imoni-Ogbe [LLM, B.L]

Doctoral candidate in Faculty of Law Delta State University Abraka, Oleh Campus Delta state. Presently lecturer in Law Department of Jurisprudence and International Law, College of Law, Western Delta University, Oghara, Delta State.

<kimoniogbe@wdu.edu.ng>

<<https://orcid.org/0009-0002-6207-0680>>

10.5281/zenodo.21450318

Abstract

Apart from the Constitution of the Federal Republic of Nigeria (CFRN) 1999 and the African Charter on Human and People's Rights (Ratification and Enforcement) Act 1983, there are other statutes enacted by the National Assembly of Nigeria for the actualisation of the educational objectives in Nigeria. Against this background, the author undertook, in atomistic detail, a contemporary discourse on the subsisting frameworks regulating, promoting and protecting education in Nigeria. The paper examined such frameworks as the Compulsory, Free Universal Basic Education Act 2004; Child Rights Act 2003; National Secondary Education Commission Act 1985; National Board for Technical Education Act 1977; National Commission for Nomadic Education Act 1989; National Commission for Mass Literacy; Adult and Non-Formal Education Act 1990; National Commission for Colleges of Education Act 1989; National Universities Commission Act 1974; Education (National Minimum Standards and Establishment of Institutions) Act 1985, National Educational Research and Development Council Act 1987 and the National Teacher's Institute Act 1978, which cumulatively operated in regulating, protecting and promoting education in Nigeria. The author argued on the adequacy or inadequacy of laws regulating, promoting and protecting education in Nigeria. The author maintained that though the laws regulating and promoting education in Nigeria are numerous, some of the provisions of these laws are inadequate, unclear and ambiguous. The paper concluded that having a portent and vibrant framework would facilitate and enhance the quality of education, to wit: accessibility and impacting of knowledge.

Key words: Legal, Regulatory, Framework, Education, National education, Basic-education

© Terms and conditions of access and use can be found at <https://www.kbsjournals.com/index.php/kbsj>

1. Introduction

The major purpose of criminal law is to *inter-alia*, forbid and prevents conduct that unjustifiably inflicts or threatens substantial harm to individuals or public interest.¹ It is for this purpose and to ensure justice that criminals are punished. However, the punishment of crimes must go through a process accepted as just in order for justice to be seen as manifestly done. A deviation from a just process in prosecuting offenders can mar the whole decision to

¹ U. J. Idem, & N. E. Udofia "Sentencing and administration of Criminal Justice in Nigeria," (2018) Vol. 4 (1) Pp. 001-010 January, 2018. Donnish Journal of law and Conflict Resolution Available at <https://www.researchagete.net/publication/347452115_sentencing_and_the_Administration_of_Criminal_Justice_in_Nigeria> (Accessed May 23, 2022)

the extent of setting the offender free. Therefore, in the pursuit of justice, it is not only necessary to prosecute offenders, but such prosecution must be in accordance with proper judicial process.

The Administration and Criminal Justice Act² was enacted in 2015 by the former President Goodluck Jonathan's Administration in order to unify and transform the Criminal Justice System in Nigeria. It repealed the Criminal Procedure Act and the Criminal Procedure Code of the Southern and Northern Nigeria respectively.

The primary objective of the act is to guarantee a competent and efficient structure in the criminal administration of justice in Nigeria in a bid to advance the expeditious dispensation of justice and to deter the further commission of crime, thereby protecting the rights and interests of suspects, defendants, victims and the society at large. The then Chief Justice of Nigeria, Honourable Justice Walter Onnoghen, once observed that 'delay in the administration of justice is a major challenge facing the Nigerian Judiciary.' Delay has over the years, no doubt been a cog in the wheel of effective and brisk dispensation of criminal justice in Nigeria. The Act was therefore enacted to cure and address this issue as well as concerns.

The Act is made up of 495 sections divided into 49 parts which spread across virtually every major aspect of criminal justice system. Consequent on the above, there is need to examine the contents of the Act, more particularly, the provisional sections, guiding the administration of criminal justice in Nigeria. It is expected that a proper and thorough implementation of the Act would revolutionize the criminal justice system in Nigeria. Furthermore, it is expected that a critical examination of some of these provisions will operate to uncover several lacunae inherent in the Act, which may render the Act inefficient. There also exist challenges which may impede the successful implementation of the provisions of the Act. This paper seeks to discuss some of the provisions in the ACJA that allows for the effective and speedy dispensation of Criminal cases. It also goes further to discuss the loopholes and challenges that may be a clog in the wheel of implementation of the Act.

2.ACJA Provisions as catalyst for effective dispensation of justice

Some of the problems faced in the Nigeria Criminal system were solved by the ACJ. The first of them is providing a uniform Criminal Justice Procedural rule for the whole of the country as opposed to the two divergent systems of law that existed prior to the ACJ.

The ACJ Act has fixed the absurd length of time for the commencement and conclusion of actions in certain courts. Section 110 provides for a timeline in which criminal trials must be commenced and concluded in Magistrates' Courts. The Act stipulates that a Criminal trial must commence within thirty days of filing and the trial must be concluded within a

² [Hereafter, The ACJA]

reasonable time. It goes further to provide that in the case where a trial is not commenced within stipulated time (30 days) and concluded within 180 of arraignment, the particulars of the charge shall be forwarded to the Chief Judge containing the reasons why such an action was not commenced or concluded within the stipulated time. It would therefore follow that in accordance with the Act; reasonable time means not more than 180 days of arraignment. The Act also provided that the interval between each adjournment shall not exceed 14 working days.³ Where it becomes impracticable to conclude the trial after both parties have exhausted five adjournments each, section 396 (5) operate to the effect that the interval between courts is also mandated to award reasonable costs. This is aimed at discouraging frivolous adjournments.⁴

An important factor that hindered the effective and speedy dispensation of justice in our court system over the years has been cases tried *de novo* because the judge presiding over the case got elevated to a Superior court. The legislators considered this issue while drafting the ACJ and treated it. Section 396 (7) allows a judge of the High Court who has been elevated to the Court of Appeal to preside as a High Court judge for the purpose of concluding a criminal case pending before the judge at the time of the elevation. The case shall however be concluded within a reasonable time. The ACJ also makes provisions for a mandatory return every 90 days of persons held in custody for more than 180 days after the date of arraignment.⁵

3. The Innovative features of the ACJA 2015

As a matter of fact, there are certain innovative features flowing from the ACJA. Some of these provisions were introduced in order to cure the defects inherent in the two legislations applicable to the Northern and Southern parts of the country.

- I. Unlawful Arrest
- II. Plea Bargain.⁶
- III. Trial of Corporation⁷
- IV. Suspended Sentence and Community Service.⁸
- V. Speedy Trials
- VI. Electronic Recordings of Confessional Statements.⁹
- VII. Remand Time.¹⁰
- VIII. Compensation to Victims of Crime

³ Section 395 (4)

⁴ Section 396 (6)

⁵ Section 111

⁶ Section 270 ACIA (2015)

⁷ Section 477 ACIA (2015)

⁸ Section 460 ACIA (2015)

⁹ Section 15(4) ACIA (2015)

¹⁰ Section 296 ACIA (2015)

However, there are observable lacunae in the ACT, notwithstanding the numerous merits and achievements of the ACJA. The Act is not perfect as it contains certain loopholes and shortcomings. The first of these comes with the abolishment of the Criminal Procedure Act and Criminal Procedure code.

Two questions arise from this: First, with its abrogation of the CPA and CPC, what then happens to Area Courts, Upper Area Courts and Magistrate Courts as the Federal Government does not regulate these Courts? The second is a question of what Criminal Procedure Law will apply there?¹¹

It is important to consider these questions as the present situation of things reveals that apart from the FCT where Magistrate Courts are regulated by the Federal Government, Magistrate Courts were enacted by the Magistrates' Courts' Laws of the various states of the Federation, Area Courts by the Area Courts' Laws of the various Northern States while the High Courts of the various States were specifically created by the Constitution of the Federal Republic of Nigeria 1999. The criminal procedure in these other courts was guided by the Criminal Procedure code and the Criminal procedure Act. The ACJA having repealed the Act and the Code, failed to address this question in view of the fact that ACJA applies only to Federal Court.¹²

The ACJA also provides for the execution of pregnant women found guilty of a capital offence after delivery and weaning of their babies.¹³ This should be revisited considering and having regard to the position of international frameworks and perspectives on conviction of pregnant women. Furthermore, criminal legislation in the past and in some States of the Federation provided that a death sentence shall not be passed on a woman who is pregnant and convicted of a capital offence, but her death sentence shall be substituted with imprisonment for life.¹⁴ This position is even more commendable and should be adopted by the ACJA. It could be argued that the ACJA has, by sentencing a pregnant woman to death and staying execution till delivery and weaning of the baby, proved more retributive than all the other legislation because in the act, it has failed to consider the welfare of the child who will grow up without the love of a biological mother. Such a child may in fact grow up to see the law as evil, thus giving rise to a rebellious disposition. Furthermore, the execution of a

¹¹ Rose Ugbe., & A. Agi., "A Critique of the Nigerian Administration of Criminal Justice At 2015 and Challenges in the implementation of the Act" Available at https://www.researchgate.net/publication/341313899_A_CRITIQUE_OF_THE_NIGERIA_ADMINISTRATI_ON_OF_CRIMINAL_JUSTICE_ACT_2015_AND_CHALLENGES_IN_THE_IMPLEMENTATION_OF_THE_ACT> Accessed May 23, 2022

¹² See I. Mariazu, 'A Critique of Administration of Criminal Justice Act (ACJA) 2015' Available at <https://www.pressreader.com/nigeria/thistday/20151006/281792807850335> Accessed May 23 2022.

¹³ Section 404

¹⁴ See Section 368(2) of the repealed Criminal Procedure Act.

woman after her baby is weaned negates the provision of restorative justice. The woman may become reformed and eligible for parole.

Other shortcomings of the Act include the lack of proper definition of the meaning of infanticide which is provided for section 232 and expressly distinguished from Murder. Some have also argued that the act is not so gender sensitive as it still makes use of the Male pronouns such as “he, his & himself.”

Lastly, the act make provision for trial in the absence of a defendant, who after been granted bail, jumps bail and fails to attend court without reasonable explanation.¹⁵ This is a welcome development and a defendant can no longer stall proceedings against him just by refusing to turn up for his trial. If he does not, the trial will continue and he will be convicted but sentencing will be kept in abeyance until he is arrested or submits to court. However, what happens where at trail, bail is refused for capital offence and the defendant escapes from detention. Should trial continue? Can this provision be invoked to defend continuation of trial in his absence? The drafters of the law need to look into this and fix the lacuna as defendants may take advantage of it, engineer jail breaks and disappear into thin air while in detention before bail is granted to them.

4. Conclusion

From the foregoing discussion, it is clear that one of the challenges facing administration of criminal justice in Nigeria is the slow pace which Criminal Justice is delivered. This, of course, is not peculiar to our nation, for every country has its own share of challenges. But, in Nigeria, there is no doubt that sentencing is a difficult matter considering the technicalities that delay the trial process. The administration of criminal justice Act was enacted basically to remedy this problem.

Regardless of the fact that the Administration of Criminal Justice Act arrived with innovations which are expected to help promote quick dispensation of justice, some of its provisions are inadequate, especially when juxtaposed with subsisting international instruments. On the other hand, it is obvious that some provisions of the Act are retributive or inconsistent with the provisions of the constitution.¹⁶

It was examined the issue of conviction of pregnant women. Arguments were put forward to condemn the provision on grounds that a death sentence shall not be passed on a woman who is pregnant and convicted of a capital offence, but her death sentence shall be substituted with imprisonment for life. This thinking was premised on the fact that sentencing a pregnant woman to death and staying execution till delivery and weaning of the baby, proved more

¹⁵ Section 352(4)

¹⁶ The Constitution of the Federal Republic of Nigeria, 1999

retributive in nature, in comparison to defunct legislations, having failed to consider the welfare of the child who will grow up without the love of a biological mother.

Notwithstanding the subsisting lacunae in ACJA 2015, there are however, rooms for further improvement:

- I. The Act should be reviewed to entrench international best practices. Some provisions of the Act that are optional should be made mandatory to ensure compliance.
- II. Subsidiary legislation should be made to aid in the implementation of the Act. If this recommendation is accommodated, the real intention and objectives of the ACJA will be achieved.



1. Introduction

The Constitution of the Federal Republic of Nigeria provides for education in Chapter II and it is entitled as 'Fundamental Objectives and Directive Principles of State Policies.'¹⁷ Section 18 of the said Constitution provides for 'Educational Objectives.'¹⁸ In line with the defunct provision of section 12(1) of 1979 CFRN,¹⁹ the Nigerian government enacted the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act of 1983²⁰ to give effect to the African Charter on Human and People's Rights.²¹ Significantly, article 17 of the said Charter provide for the right to education.²² In pursuance of the inhering spirit of combined Section 18 of the CFRN 1999 and Article 17 of the African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act of 1983, the National Assembly of Nigeria enacted other laws for the regulation, protection and promotion of the right to education in Nigeria.

This article undertakes a contemporary discourse on the existing laws regulating, promoting and protecting education in Nigeria by examining the combined effect of legislations on Compulsory, Free Universal Basic Education Act 2004; Child Rights Act 2003; National Secondary Education

¹⁷. [Hereafter, The CFRN 1999]

¹⁸. *Ibid.*, at S. 18

¹⁹. Defunct Constitution of the Federal Republic of Nigeria 1979, S. 12(1)

²⁰. African Charter on Human and Peoples' Rights (Ratification and Enforcement) Act of 1983

²¹. The Origins of the African Charter on Human and Peoples' Rights' <<https://boydellandbrewer.com/blog/african-studies/the-origins-of-the-african-charter-on-human-and-peoples-rights-2/>> accessed 20 April 2024.

²². African Charter, Art 17

Commission Act 1985; National Board for Technical Education Act 1977; National Commission for Nomadic Education Act 1989; National Commission for Mass Literacy; Adult and Non-Formal Education Act 1990; National Commission for Colleges of Education Act 1989; National Universities Commission Act 1974; Education (National Minimum Standards and Establishment of Institutions) Act 1985; National Educational Research and Development Council Act 1987; and the National Teacher's Institute Act 1978 as key enactments regulating protecting and promoting education in Nigeria.

2. Conceptual framework

In this part of the article, the following concepts would be explained: legal and regulatory framework, and education.

A. Legal and Regulatory Framework

A legal and regulatory framework is a set of constitutional, legislative, regulatory, jurisprudential and managerial rules that together establish a right or legal topic of discourse. The objective of legal framework is to proffer analysis from a comparative perspective, specific issues related to legal and administrative regulations which are fundamental to a right or legal topic in discourse. They are legal mechanisms that exist on national and international levels.²³ They can be mandatory and coercive (national laws and regulations, contractual obligations) or voluntary (integrity pacts, codes of conduct, arms control agreements).²⁴

B. Education

Education is the discipline that is concerned with methods of teaching and learning in schools or school-like environments as opposed to various non-formal and informal means of socialization.²⁵ Education can be thought of as the transmission of the values and accumulated knowledge of a society.²⁶ In this sense, it is equivalent to what social scientists term socialization or enculturation.²⁷ Education is designed to guide humans in learning a culture, moulding their behaviour in the ways of adulthood, and directing them toward their eventual role in society.²⁸

3. Scope of framework on Education in Nigeria

In this part of this article, some selected enactments of the National Assembly of Nigeria shall be discussed as key enactments regulating, protecting and promoting education in Nigeria.

I. The Compulsory, Free Universal Basic Education Act, 2004

The Compulsory, Free Universal Basic Education Act, 2004²⁹ is an Act of the National Assembly of Nigeria and its main purpose is to provide free, compulsory and universal basic education for every child of Primary and Junior-Secondary school age by every government in Nigeria.³⁰

²³ 'Regulatory Framework' <<https://securitysectorintegrity.com/standards-and-regulations/procurement-monitoring-evaluation/#:~:text=Regulatory%20frameworks%20are%20legal%20mechanisms,conduct%2C%20arms%20control%20agreements>> accessed April 20, 2024

²⁴ *Ibid*

²⁵ 'Education' <<https://www.britannica.com/topic/education>> accessed 20 April 2024.

²⁶ *Ibid*

²⁷ *Ibid*

²⁸ *Ibid*.

²⁹ [Hereafter, The UBE Act] Cap C.52 Law of the Federation of Nigeria (LFN) 2004

³⁰ *Ibid.*, S. 2 (1). Reference to "every government" in the Act is a reference to the three tiers of Government in

Primary schools have been the exclusive preserve of the Local Governments.³¹ However, in some States, the local government administration could not or struggled to fund Primary school education within their local government. Secondary school education was the function of the State Governments³² except where the federal government intervened by way of establishment of unity schools and technical colleges in some States. The Compulsory, Free Universal Basic Education Act was in fulfilment of Nigeria's obligation under international law in relation to the International Covenant on Economic, Social and Cultural Rights 1966 which guarantees that, "the States-Parties to the present Covenant recognize that, with a view to achieving the full realization of this right: (a) Primary education shall be compulsory and available free to all".³³

The purpose of the intervention of the Federal Government of Nigeria in matters of Primary and Junior-Secondary school, in addition to the reason stated above, is "only to assist the States and local governments in Nigeria for the purposes of uniform and qualitative basic education throughout Nigeria."³⁴ The Act defines Universal Basic Education to mean:

Early childhood care and education, the nine years of formal schooling, adult literacy and non-formal education, skills acquisition programmes and the education of special groups such as nomads and migrants, girl child and women, *almagiri*, street children and disabled groups.³⁵

A major creation of the Act is the establishment of the Universal Basic Education Commission for the Federation of Nigeria. It establishes State Universal Basic Education Board for each of the States and the Local Government Education Authority in each Local Government Area.³⁶ The Act also provides for the financing of the Universal Basic Education in Section 11 thus:

- (1) The implementation of the Universal Basic Education shall be financed from:
 - (a) Federal Government block grant of not less than 2% of its Consolidated Revenue Fund;
 - (b) Funds or contributions in form of Federal guaranteed credits; and
 - (c) Local and international donor grants,
- (2) For any State to qualify for the Federal Government block grant pursuant to sub-section 1(1) of this section, such State shall contribute

Nigeria, Federal, State and Local Government

³¹. CFRN 1999, Fourth Schedule, Para 2 (a)

³². *Ibid*, Second Schedule, Part II, Para 30

³³. The United Nations (UN) International Covenant on Economic, Social and Cultural Rights adopted 16th December 1966 by the UN General Assembly Resolution 2200A (XXII), Art. 13 (2)(A). This followed the "common standard of achievement" proclaimed in the earlier UN Universal Declaration of Human Rights 1948 on the right to education which shall be free at least in the elementary and fundamental stages while elementary education was made compulsory in the territory of member States of the UN, art 26(1)

³⁴. The UBE Act, S. 1. This was also in fulfilment of Nigeria's obligation under ICESCR 1966. It provides that: Each State-Party to the present Covenant which at the time of becoming a Party, has not been able to secure in its metropolitan territory or other territories under its jurisdiction compulsory primary education, free of charge, undertakes, within two years, to work out and adopt a detailed plan of action for the progressive implementation, within a reasonable number of years, to be fixed in the plan of the principle of compulsory education free of charge for all

³⁵. Universal Basic Education Act, Cap. C. 52, LFN 2004, S. 15

³⁶. *Ibid.*, Ss. 7, 12 and 13 respectively

not less than 50% of the total cost of projects as its commitment in the execution of the project.

- (3) The administration and disbursement of funds shall be through the State Universal Basic Education Board.³⁷

The Act also made it mandatory for every parent to ensure that his child or ward attends and completes his Primary school education and Junior-Secondary school education, by endeavouring to send the child to Primary and Junior-Secondary schools.³⁸ It provides that public Primary and Junior-Secondary school shall be free of charge in a bid to ensure that every parent should ensure that his child receives full-time education suitable to his age, ability and aptitude by attending school regularly.³⁹

The Act prohibits and makes it an offence for any parent to refuse to send his child or ward to the free and compulsory Primary and Junior-Secondary schools.⁴⁰ Persons are prohibited from receiving any fee for Primary and Junior-Secondary education contrary to the provisions of the Act.⁴¹ Commenting on the provisions of this Act, it was noted that:

It is pertinent to note that it (the Act) says nothing of pre-primary education. This is a rather unfortunate exclusion. In modern times, especially in urban centres where men and women work in the formal sectors of the economy it is no longer realistic to leave out early childhood education from our educational laws and policies. Generally, the children in this category fall between the ages of 2 and 6 years.⁴²

However, the Act is commendable in that basic education is not only compulsory and free but also universal. It should be noted that universal basic education includes skills acquisition into early childhood care and education but it is doubtful if early childhood care and education can be said to include adult literacy and non-formal education as contemplated under the Act.⁴³

II. Child Rights Act 2003

The Child Rights Act 2003 is an important regulation by way of an Act of the National Assembly in the area of education.⁴⁴ It provides that the best interest of the child shall be of paramount consideration in all actions concerning the child in Nigeria.⁴⁵

This Act is a direct response by Nigeria to the international obligation to domesticate and enforce the Child's Right Convention.⁴⁶ It guarantees the right of a child to free, compulsory and universal basic

³⁷. *Ibid.*, S. 11

³⁸. *Ibid.*, S. 2 (2) (a) & (b)

³⁹. *Ibid.*, Ss. 3 and 4

⁴⁰. *Ibid.*, S. 4. On first conviction, a parent is to be reprimanded. On second conviction, a parent is to pay a fine of ₦2,000 or serve a term of two months in prison or to both. On third or subsequent convictions, he is to pay a fine of ₦5,000 or be sent to prison for 2 months or to both.

⁴¹. *Ibid.*, S. 3. An offender who is convicted for obtaining any fee is liable to a fine no exceeding ₦10,000 or to imprisonment for a term of 3 months or to both

⁴². I. O. Omoruyi, 'The Legal Regime of Universal Basic Education in Nigeria: A Critical Appraisal' *Nigerian Education Law Journal* (2008) 1 (1) 26

⁴³. Universal Basic Education Act (n 19) s 15. On the definition of Universal Basic Education

⁴⁴. The Child Rights Act 2003, Cap. C.50 LFN 2004

⁴⁵. *Ibid.*, S. 1. It provides that: "In every action concerning a child, whether undertaken by an individual, public or private body, institutions or service, court of law, or administrative or legislative authority, the best interest of the child shall be the primary consideration."

⁴⁶. The United Nations Covenant on the Rights of the Child adopted 20th November 1989 by the UN General Assembly Resolution 44/25 Article 4 of the Convention states that: "States-Parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present

education. It places an obligation on the government of Nigeria to provide such education.⁴⁷ It mandates every parent or guardian to ensure that his child or ward attends and completes his Primary school education and Junior-Secondary education.⁴⁸ It imposes an obligation on every parent, guardian or person who has the care and custody of a child who has completed his basic education to endeavour to send the child to a Senior-Secondary school or to encourage the child to learn an appropriate trade while the employer provides the necessities for learning the trade.⁴⁹

The Act also provides that the female child who becomes pregnant before completing her education should be given the opportunity to complete same after delivery on the basis of her individual ability.⁵⁰ It makes it an offence for any parent, guardian or person who has care and custody of a child to fail in the duty imposed on them on the free, compulsory and universal education of the child. It provides that such a parent, guardian or person shall be liable on conviction for the first time to be reprimanded and ordered to undertake community service. On second conviction, the convict shall be liable to a fine of two thousand naira or imprisonment for a term not exceeding one month or to both such fine and imprisonment. The convict shall on third or subsequent convictions, be liable to pay a fine not exceeding five thousand naira or imprisonment for a term not exceeding two months or to the said fine and imprisonment.⁵¹

It should be noted however that the provisions of Section 15 of the Child's Right Act 2003 do not apply to children with mental disabilities.⁵² The court is empowered to make a care and supervision order in favour of any child because education supervision orders are some of the orders the court should make in favour of a Nigerian child in accordance with the Act.

III. National Secondary Education Commission Act 1990

National Secondary Education Commission Act 1999 is an Act of the National Assembly of Nigeria that has qualitative education as its goal.⁵³ It established the National Secondary Education Commission and the State Secondary Education Boards. It makes the functions and powers of the Commission subject to the provisions of the Education (National Minimum Standards and Establishment of Institutions) Act 1985.⁵⁴ The Act provides for the functions and powers of the Commission thus:

- (a) Prescribe the minimum standards for Secondary education throughout Nigeria;
- (b) Inquire into and advise the Federal Government on the funding of Secondary education in Nigeria;
- (c) Manage the National Secondary Education Fund established under this Act and allocate the amount in the fund to –

convention”

⁴⁷. Child's Rights Act (n 28), S. 15 (1)

⁴⁸. *Ibid.*, S. 15(2) (b)

⁴⁹. *Ibid.*, S. 15(3) and (4)

⁵⁰. *Ibid.*, S. 15(5)

⁵¹. *Ibid.*, S 15(6) a, b and c

⁵². *Ibid.*, S. 15(7). It is Section 16 that makes provisions for the right of a child in need of special protection measures.

⁵³. National Secondary Education Commission Act 1999, Cap. N 73 LFN 2004. It came into effect on 26 May 1999 and was first promulgated as a Decree (No. 47 of 1999) by the Federal Military Government in 1999.

⁵⁴. Education (National Minimum Standards and Establishment of Institutions) Act, Cap LFN 1990

- (i) The State Secondary Education Boards and the Federal capital territory Secondary Education Board established under this Act, and
- (ii) Any agency responsible for Federal Government sponsored special Secondary education projects, in accordance with the formula prescribed in this Act, or as the President may, from time to time, prescribe;
- (d) Collate, after consultation with all the State Governments, periodic master plans for a balanced and co-ordinated development of Secondary education in Nigeria which shall include proposals to the Federal Government for equal and adequate Secondary education opportunity in Nigeria;
- (e) Collate, analyse and publish information relating to Secondary education in Nigeria;
- (f) Carry out a regular personnel audit in each State of the Federation and the Federal Capital Territory, Abuja; and
- (g) Carry out such other activities that are relevant and conducive to the discharge of its functions under this Act.⁵⁵

It also established the State Secondary Education Boards for each State of the Federation and the Federal Capital Territory, Abuja.⁵⁶ It provides for the functions and powers of Education Boards thus:

- (a) The management of Secondary schools in the State;
- (b) The recruitment, appointment, promotion and discipline of teaching and non-teaching staff on grade level 07 and above;
- (c) Posting and deployment of staff, including inter-State transfer;
- (d) Disbursing funds accruing to it from both Federal and State government sources;
- (e) Setting up an effective functional supervisory unit;
- (f) Undertaking new capital projects;
- (g) Training and re-training of teaching and non-teaching staff;
- (h) Assessing and funding of salaries and allowances of teaching and non-teaching staff based on the scheme of service approved by the State government;
- (i) Ensuring that annual reports are rendered by heads of schools on teachers appointed to assist them;
- (j) Preparing testimonials and certificate of service for teaching and non-teaching staff, whenever necessary;
- (k) Dealing with leave matters, including annual vacation;
- (l) Carry out such other functions as the Commission may from time to time, assign to it.⁵⁷

It should be noted that funding of education, especially Secondary school education, has always been a recurring problem in Nigeria. In a bid to solve this problem, the Act established the National

⁵⁵. National Secondary Education Commission Act 1999, S. 6

⁵⁶. *Ibid.*, S. 11

⁵⁷. *Ibid.*, S. 12

Secondary Education Fund to solve the problem of lack of funding for Secondary education in Nigeria.⁵⁸ It provides that the sources of the National Secondary Education Fund shall include:

- (a) All allocation to Secondary education from the Federation Account;
- (b) Allocation to Secondary education from the Education Tax Fund as provided for in the Education Tax Act;
- (c) All money received by the Commission from endowments and fund raising activities relating to Secondary education; and
- (d) All sums received as foreign aid for Secondary education in Nigeria.⁵⁹

The Act empowers the Commission to disburse the amount in the National Fund⁶⁰ to the Secondary Education Boards in equal proportion or in such other proportion as the President may determine from time to time.⁶¹ It give the Commission the power, except as otherwise directed by the Federal Government, to stop further disbursement of funds to a State Secondary Education Board if the Commission is satisfied that the money disbursed was not applied by the State Secondary Education Board in accordance with the provisions of the Act.⁶² In summary, the National Secondary Education Commission Act 1999 supports free education as well as qualitative education in Nigeria.

IV. National Board for Technical Education Act 1977⁶³

National Board for Technical Education Act 1977 was enacted to, among other things;

- (a) Advise the Federal Government on, and to co-ordinate all aspects of technical and vocational education falling outside the universities and to make recommendations on the national policy necessary for the full development of technical and vocational education for the training of technicians, craftsmen and other middle-level and skilled manpower;
- (b) Determine after consultation with the National Manpower Board, the Industrial Training Fund and such bodies as it considers appropriate, the skilled and middle-level manpower needs of the country in the industrial, commercial and other relevant fields for the purpose of planning training facilities and in particular to prepare periodic master plans for the balance and co-ordinated development of polytechnics and colleges of technology etc.⁶⁴

⁵⁸. *Ibid.*, S. 10 (1)

⁵⁹. *Ibid.*, S. 10 (1) (a)-(d)

⁶⁰. The National Fund established by the Act is a distributable pool for all the Secondary Education Boards established by the Act in each State of the Federation and the Federal Capital Territory, Abuja. The National Fund is different from the Fund of the Commission established under section 15 of the Act which is for the day-to-day administration of the Commission. Each Education board is to establish and maintain a separate account into which the fund shall be paid and credited all payments made to it from the Federal or State Governments or any other source. It is from this Education Board Fund, in section 14, that the Board disburses all expenses relating to the management of Secondary education in each State of the Federation, and the Federal Capital Territory, Abuja. Section 14 is not clear as to the fund of the administration of the Board as is done with the Commission in Section 15

⁶¹. National Secondary Education Commission Act, S. 10 (2)

⁶². *Ibid.*, S. 10 (3)

⁶³. National Board for Technical Education Act 1977, Cap N9 LFN 2004

⁶⁴. *Ibid.*, S 5

The Act establishes the National Board for Technical Education Fund from which money is to be disbursed to polytechnics and colleges of technology for the purposes of actualizing technical education in Nigeria.⁶⁵ A separate fund, however, is also established by the Act for the day to day administration of the Board.⁶⁶

The Act was enacted because the importance of technical education in every economy cannot be overemphasized. This is more so as technical education provides the needed technical and middle level manpower without which the economy cannot be strong.

The Act provides for the right step in the right direction towards using education as a blueprint for development *via* technology.

V. National Commission for Nomadic Education Act 1989

National Commission for Nomadic Education Act 1989⁶⁷ was enacted to, among other things, establish, manage and maintain Primary schools for nomadic children. At inception, the Act established three Nomadic Education Centres at the University of Jos, Usmanu Danfodio University, Sokoto and the University of Maiduguri.⁶⁸ It provides that the Centre which is at the University of Jos has the following functions:

Conduct research into nomadic life-styles, including their occupations, the role of women, economic activities, migratory patterns and their demographic distributions, relationship with sedentary community population and attitudes to education, experimental education methodologies and evaluate programmes relating to nomads.⁶⁹

It also provides that the Nomadic Education Centre at the Usmanu Danfodio University, Sokoto:

Shall receive from the Centre at the University of Jos and from any other sources such as may be required by it to develop:

- (a) The curriculum for nomadic education;
- (b) Reading and teaching materials;
- (c) Teacher training programmes;
- (d) Outreach programme, including electronic; and
- (e) Resource materials.⁷⁰

Further, it provides that the Nomadic Education Centre at the University of Maiduguri is to receive from the Centre at the University of Jos and from any other sources, such data as may be required by it to:

- (a) Develop and maintain nomadic education teacher training programmes; and
- (b) Develop and maintain nomadic education outreach programmes, including electronically mediated ones, and to do this in collaboration

⁶⁵. *Ibid.*, S. 10

⁶⁶. *Ibid.*, Ss. 11 and 12

⁶⁷. National Commission for Nomadic Education Act 1989, Cap N20 LFN 2004

⁶⁸. *Ibid.*, S. 10 (1)

⁶⁹. *Ibid.*, S. 10 (3)

⁷⁰. *Ibid.*, S. 10 (4)

with other centres as well as other institutions, such as the National Teachers Institute and the National Education Technology Centre.⁷¹

The Act created the National Nomadic Education Fund from which appropriate grants are to be made to State Governments, Local Governments, Universities and other agencies and communities in pursuit of the objectives of nomadic education.⁷²

Its aim is to use nomadic education to cater for children whose parents move from place to place, tending their livestock. The Act is an all-inclusive legislation whereby those who ordinarily would not attend school due to their nomadic lifestyles are given the opportunity of, at least, acquiring basic education.

VI. National Commission for Mass Literacy, Adult and Non-Formal Education Act 1990

The National Commission for Mass Literacy, Adult and Non-Formal Education Act 1990⁷³ established the Commission for Mass Literacy, Adult and Non-Formal Education. The Act also established the Governing Board to provide the general policy guidelines for the day-to-day administration of the Commission.⁷⁴ The Act vested the Commission for Mass Literacy, Adult and Non-Formal Education with numerous functions which include some of the following:

- (a) Work in co-operation with all concerned to eradicate illiteracy in Nigeria;
- (b) Design and promote strategies and programmes for the conduct and implementation of a National Mass Literacy Campaign in consultation with appropriate agencies of the Federal and State Governments, the universities and non-governmental agencies;
- (c) Monitor and co-ordinate activities relating to the National Mass Literacy Campaign in order to ensure the rapid and successful eradication of illiteracy in Nigeria;

The ideal of Mass literacy, adult and non-formal education is to educate the older members of the society who had no opportunity to be educated at their tender years and those who have no capacity, intellectually, for formal education. This ideal emphasizes the importance of adult and non-formal education. It should be noted that the ideal of mass literacy, adult and non-formal education has the potential to make everybody in Nigeria literate and to also increase the level of enlightenment for a higher standard of living.

VII. National Commission for Colleges of Education Act 1989

The National Commission for Colleges of Education Act 1989⁷⁵ was enacted to, amongst other things, to advise the Federal Government on all aspects of teacher education falling outside the universities and polytechnics. The Act has a very long list of functions of the Commission and Supplementary functions of the Commission.⁷⁶ The Act is intended to help produce teachers for Primary and Secondary schools through the institutions of the Colleges of Education. The proper training of teachers has a big advantage on the educational system since the teachers needs to be in good stead to impart and impact positively on their pupils and students.

⁷¹. *Ibid.*, S. 10(5)

⁷². *Ibid.*, S 11

⁷³. National Commission for Mass Literacy, Adult and Non-Formal Education Act 1990, Cap N18 LFN 2004

⁷⁴. *Ibid.*, Ss. 1 and 2

⁷⁵. National Commission for Colleges of Education Act, Cap N17 LFN 2004

⁷⁶. *Ibid.*, Ss. 5 and 6

VIII. National Universities Commission Act 2004

National Universities Commission Act 1974⁷⁷ was enacted to advise the Federal and State Governments on the creation of new universities and other degree-awarding institutions in Nigeria,⁷⁸ among other things. The Act established the National University Commission (NUC) to supervise accreditation of programmes of study, for the sake of maintaining acceptable standards and ensuring quality control, in the Universities. The NUC is also vested with powers to grant quota, that is, the maximum number of students to be admitted by each university based on available facilities and teaching aids.

The NUC also gives guidelines on the qualification of teaching staff in the universities and other degree-awarding institutions in Nigeria. Some of the functions of NUC include the following:

- (a) Make such other investigations relating to higher education as the Commission may consider necessary in the national interest;
- (b) Make such other recommendations to the Federal and State Governments, relating to universities and other degree-awarding institutions as the Commission may consider to be in the national interest;
- (c) Inquire into and advise the Federal Government on the needs, both recurrent and capital, to investigate and study the financial needs of university research and ensure that adequate provision is made for this in the universities.

The Commission is made-up of a Chairman and twenty members.⁷⁹ The Chief Executive Officer of the Commission is the Executive Secretary who is responsible for the day-to-day administration of the affairs of the Commission. The Executive Secretary is appointed by the President to hold office for five years in the first term and he is eligible for a further term of five years in the second instance and no more.⁸⁰ The NUC plays a major role in regulating universities and other degree-awarding institutions in Nigeria in terms of quality of teaching and learning, and funding.

IX. Education (National Minimum Standards and Establishment of Institutions) Act 1985

The Education (National Minimum Standards and Establishment of Institutions) Act 1985⁸¹ was enacted to proliferate substandard schools and to guarantee quality education in Nigeria. The Act provides for the minimum standards for the establishment of Pre-Primary and Primary institutions, Secondary schools and certain categories of teacher education, technical education, universities, and special and adult education.⁸²

The Act also made provisions for persons who can establish institutions of higher learning. In this wise, it provides that the Government of the Federation, a State Government, a Local Government, a

⁷⁷. National Universities Commission Act 1974, Cap N81 LFN 2004

⁷⁸. *Ibid.*, S. 4(1) (a)

⁷⁹. *Ibid.*, S 2

⁸⁰. *Ibid.*, S. 5

⁸¹. Education (National Minimum Standards and Establishment of Institutions) Act 1985, Cap E3 LFN 2004

⁸². *Ibid.*, Ss. 1, 4, 8, 10 and 12

company incorporated in Nigeria, an individual or association of individuals who are citizens of Nigeria, are persons who can establish institution of higher learning.⁸³

The act provides that an application for the establishment of institutions of higher education should be made to the following bodies and persons:

Application for the establishment of an institution for higher learning shall be made to the Minister

- (a) In the case of a university, through the National Universities Commission;
- (b) In the case of a polytechnic, or college of Agriculture, through the National Board for Technical Education;
- (c) In the case of a college of education; through the National Commission for Colleges of Education; and
- (d) In any other case, through the permanent secretary of the Ministry of Education, in accordance with guidelines prescribed for making the application.⁸⁴

The appropriate authority so listed in section 21 of the Act has the power to issue guidelines to relevant institutions in respect of some of the following areas:

- (a) The maximum number of pupils or students that may occupy each class by references to its physical dimension;
- (b) The ratio of pupils or students to each teacher;
- (c) The minimum number of weeks in each school year or academic session during which instruction would be given to pupils or students.

The Act mandates that all the above guidelines or any amendment thereof should be published by notice in the Federal Gazette and given additional publicity apart from such publication in such manner as the appropriate authority may determine.⁸⁵

X. National Educational Research and Development Council Act 1987

This Act 1987⁸⁶ was enacted by the National Assembly establishing a Council to, among other things, encourage, promote and co-ordinate educational research programmes in Nigeria, identify educational problems and determine the priority to be given to them, and to undertake book, language and curriculum development and other ancillary matters.⁸⁷

It should be noted that prior to 1987, there existed other bodies that performed some of the functions of the Nigerian Educational Research and Development Council (Council). In order to avoid duplication, minimize cost, and avoid confusion, those bodies were merged with the Council. The said existing bodies were: the Nigerian Educational Research Council, the Comparative Education Study and Adaptation Centre, the Nigerian Book Development Council, and the Nigerian Language Centre.⁸⁸

The Act made provision for the establishment of a Board with twenty-three members drawn from diverse backgrounds. The Act further provides that the Council shall be headed by an Executive

⁸³. *Ibid.*, S. 20

⁸⁴. *Ibid.*, S. 21

⁸⁵. *Ibid.*, S. 24 (2)

⁸⁶. Nigerian Educational Research and Development Council Act 1987 Cap N105 LFN 2004.

⁸⁷. *Ibid.*, The Long Title to the Act

⁸⁸. *Ibid.*, S. 1(3)

Secretary appointed by the President and he is responsible for the day-to-day administration of the affairs of the Council.

The general responsibilities of the Council include some of the following:

- (a) Encouragement, promotion and co-ordination of educational research programmes carried out in Nigeria;
- (b) Identification of educational problems in Nigeria in which research is needed, and the establishment of the order of priority therefore;
- (c) Encouragement of research into educational problems and for that purpose to undertake, commission, incorporate and finance such research projects as the Council thinks fit.

The Act provides for what it termed the general duty of the Council. The duties include the following:

- (a) Sponsor national and international educational conferences as may be relevant to the functions of the Council under this Act;
- (b) Maintain relationships with corresponding research and development bodies in Nigeria and in other countries;
- (c) Set up pilot curriculum projects in educational institutions;
- (d) Organize teacher educational programmes for new techniques;
- (e) Carry out such other activities likely to assist in the performance of the functions imposed on the Council under this Act.⁸⁹

The Act provides for specific provisions for curriculum and book developments⁹⁰ as special areas that need special attention in the quest for the educational advancement in Nigeria.

a. National Teacher's Institute Act 1978

This Act 1978⁹¹ established the National Teacher's Institute to be managed by the National Teachers' Institute Council for the organization and provision of programmes for the training, development, upgrading and certification of teachers in Nigeria. It made provisions for the general duties of the Council to include:

- (a) Organize and provide programmes for the training, development, upgrading and certification of teachers;
- (b) Conduct postgraduate courses and examinations in education for graduate teachers;
- (c) Carry out research in conjunction with other bodies on any matter relevant to educational development in Nigeria;
- (d) Formulate policies and initiate programmes at all levels of education, design to improve, by way of research, the quality and content of education in Nigeria;
- (e) Assess, from time to time, the training programmes offered by institutions controlled by or associated with the Institute with a view to ascertaining the professional competence of those institutions;

⁸⁹. *Ibid.*, S. 6

⁹⁰. *Ibid.*, Ss. 4 and 5.

⁹¹. National Teachers' Institute Act 1978, Cap N 79 LFN 2004

- (f) Offer such assistance, either alone or in co-operation with educational bodies, as may be requested by the institutions controlled by or associated with the Institute;
- (g) Foster and enhance international cooperation in the education of teachers; and
- (h) Perform such other functions as are necessary or expedient for the full discharge of any of the functions of the Institute under this Act.⁹²

The Act provides that the Institute is to be headed by a Director appointed by the President for its day-to-day management and operations. It further provides that the appointment of the Director by the President shall be subject to the recommendation of the Minister. It also provides that the duties of the Council in relation to the Institute shall be in conformity with the provisions of Section 7(1) of the Act. Section 7(2) of the Act stipulates that the Council should have and exercise some of the following powers:

- (a) Establish and maintain such schools, extra-mural departments and other training units within the Institute as the Council may, from time to time, decide;
- (b) Provide such courses of instruction either alone or in association with such universities and other institutions, whether in Nigeria or not, as the Council may determine, and conduct examinations and award such diplomas and certificates to those reaching a certain standard as a result of those examinations as may seem appropriate to the Council;
- (c) Institute and award fellowships, medals, prizes and other titles.

It is worthy of note that the Institute is one of the reference points in teacher education and the professionalization of teaching in Nigeria as of today.

4. Recommendations

The bane of laws is inadequate provisions in laws. Acts of the National Assembly of Nigeria are no exceptions. A critical recommendation that is worthy of note is that the inadequately, unclear and ambiguous provisions of these Acts regulating, protecting and promoting education in Nigeria should be seriously and urgently addressed by the National Assembly of Nigeria. This is necessary, so as not to create the impression that the Nigeria government itself is not serious with the regulation, protection and promotion of education in Nigeria. Other critical recommendations that are worthy of note include the following:

- I. The Free Universal Basic Education Act 2004 should be amended in its Section 3 to define “stake-holders in education in a Local Government Area” who shall ensure that every parent or person who has the care and custody of a child performs their duty imposed on them under section 2(2) of the Act. This will no doubt properly vest this responsibility on specific officers of a Local Government.

⁹². *Ibid.*, S. 3

- II. The Child Rights Act 2003 should be amended in its Section 198(5) to include a “Supervising Committee” as special officers of the Act that will on a daily basis engage in the visitation of children’s home to ensure full compliance with the provisions of the Act.
- III. The National Secondary Education Commission Act 1999 should be amended to provide for a monitoring body in every state that will ensure the standard envisaged by the provisions of the Act is achieved.
- IV. The National Board for Technical Education Act 1977 should be amended to clearly stipulate a period of time for the word “periodic” as used in Section 5(b), (h) (i), “periodically” as used in Section 10(3)c to stipulate a specific duration for the performance of the acts provided for in the said sections.
- V. The National Commission for Nomadic Education Act 1989 should be amended in its Section 4(e) to clearly list out persons or officers vested with the responsibility of ensuring the effective inspection of nomadic education activities in Nigeria as a function envisaged by the Act.
- VI. The National Commission for Mass Literacy, Adult and Non-Formal Education Act 1990 should be amended in its Section 3(1) l to stipulate a specific duration of period for the organization of conferences, workshops, symposia, lectures and seminars on topical issues related to mass literacy, adult and non-formal education.
- VII. The National Commission for Colleges of Education Act 1989 should be amended to clearly stipulate a period of time for the word “periodic” as used in Section 5(l) Act in review of the terms and conditions of service of personnel in colleges of education.
- VIII. The Federal Government of Nigeria should put more efforts in enforcing the provisions of the above reviewed statutes. This will no doubt help in the actualization of the regulation, protection and promotion of education in Nigeria.

5. Conclusion

The National Assembly of Nigeria recognized the importance of science, industrial research and technology development. It is for this reason that the National Assembly has enacted laws to take care of these very important aspects of education in Nigeria. It should be noted that the National Assembly of Nigeria has enacted numerous Acts regulating, protecting and promoting education in Nigeria. The above statutes have been listed and explained to drive home the article’s position that apart from the CFRN 1999 and the African Charter on Human and People’s Rights (Enforcement and Ratification) Act 1983, there are other laws in Nigeria that make copious provisions for education in Nigeria. However, the author takes the stance that these laws are inadequate, unclear and ambiguous in their provisions as demonstrated in the recommendation section of this article. The recommendations highlighted herein if implemented could facilitate and enhance the regulation, protection and promotion of education in Nigeria.