

Nigerian Primary and Post Primary Teachers' Utility of the Due Process of Law

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ABSTRACT The paper focused on the utility of the due process of law by teachers as a protection and corrective measure in case of problems between teachers and the system served. The writer reviewed how 'right' and the due process can be related as well as the essence of the due process when considering the crucial areas as portrayed in the paper. In the process, the writer utilized available cases and necessary administrative examples which thus, amplified, substantiated and assisted in the analysis of the areas considered. Finally, the writer suggested that based on possible changes in the society, there is the need to examine and revise past statutes, laws, edicts and decrees to improve some problematic areas faced by teachers in the teaching profession. This approach will not only ensure and allow harmony, peace and promote respect for each individual's right in the teaching profession but, also ensure satisfaction among teachers.

INTRODUCTION

Teachers, like other citizens in Nigeria, are protected by the Constitution of the land. In section 36 of the 1999 Constitution, it is stated that in the process of determining a person's civil rights and obligations, which may include 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 or other tribunal that is established by law and constituted in such manner as to secure its independence and impartiality (Nigerian Constitution 1999). In view of this concept, different authorities who have written extensively in the area of 'Due process' view it differently such that Nwagwu (1987) indicated that, a person whose rights and obligations have been affected must no doubt be given a chance to make representation to an appropriate authority before any final verdict is passed on the person. Kemerer and Walsh (1996) also noted that the concept of 'Due Process' includes the notion that no State shall be able to deprive a person the right to life, liberty, and property without taking the right step which is fair trial. Unfortunately, certain decisions that have been taken by government officials have trampled on peoples' fundamental rights.

Due process can also be seen as a regular course of administration of justice which is done through the courts (Alexander et al. 1969). This course of action normally follows specific rules

that are laid down thereby enhancing the protection of individuals and private rights. In the same vein, Mamchak and Mamchak (1982) stated that due process is the following of prescribed laid down procedures which have legal tones in actions that may possibly be taken against either individuals or groups of persons.

In view of the technicality of the term 'Due process', experts who are lawyers, judges and trained administrators can read and interpret this term without difficulty. However, the layman can be kept well above water to know the essence of due process by simply following the definitions and explanations provided in the earlier portion of this paper. It is important to be aware and understand both the concept and the term 'Due process' which is subdivided into three areas that may include constitutional, procedural and substantive.

CONCEPT OF DUE PROCESS

It is recognized that just as appraisal is utilized as necessary ingredients for promoting personnel on the job, so is due process applied before an employee could be dismissed. The essence of following due process (fair hearing) in a school system is to avoid unnecessary dismissal of employee and getting involved in litigation. This will prevent the arbitrary abuse of power by employers.

The interpretation of due process by the

courts is like a check that could be placed on the legislative, executive and administrative action that tramples on employees rights (Harris et al. 1979). It may be possible that such an action could be arbitrary, capricious and very unreasonable in nature. Hence, Nwagwu (1987: 65) alerts teachers and administrators that dismissal from service not only damages one's standing, reputation and association with others in the system, it can also rob the dismissed employee chances of being employed into the other government and community service in a state. Therefore, Nwagwu also suggested that it should be clearly stated in contract letters, what is acceptable and unacceptable according to the civil code. However, employees that have had their appointments confirmed and regularized will be protected from such dismissal in service. Castetter shares such protective view and the author discussed the necessary formal steps to be followed before dismissal. These include: charges, notification, a hearing, an appeal and decision (Castetter 1981: 307 - 308).

Teachers as employees of the State need to be fully aware of the application of the due process as a clause that is included in the Nigerian constitution for their protection. This is to disallow any possible dismissal without following both the administrative and judicial process by administrators. In following the principle of due process (fair hearing) the judiciary will encourage and make it possible for education authorities to enforce all statutory requirements as enforced by the Ministry of Education and the State School Board that is within their reach. This can allow for an effective use of a noble discretionary power that is available in both the formation and execution of education policies. This could be reflected through the enforcement of proper rules and regulations in the schools. The teachers and administrators who do not comply properly with the statutory requirement can be brought to book through the 'Due Process' of law.

TYPES OF DUE PROCESS

Due process is subdivided into the following sub-areas. These include: the Constitutional, Procedural and Substantive Due Process.

Constitutional Due Process

First, the constitutional due process can be seen from two angles which include the positive

and negative aspects. The positive aspect states that nobody may be deprived of life, liberty and property without being exposed to the process which is entrenched in the Nigerian constitution. On the other hand, the negative aspect of the due process is considered by the writer, as a process whereby, the state cannot take away life, liberty and property from an individual without granting the person a fair hearing, through the due process of law. The difference between the positive and the negative is that the former does not make provision for people's safety and protection while the latter indicates that though the state is ultimate yet the benefit of doubt is given to individuals to defend oneself in case of a crime. Invariably, it should be realized that teachers have access to the due process strictly as a safety valve in the teaching profession. However, the writer wants to examine how well this process has been utilized and followed. The Nigerian Constitution of 1999, has section 33 and 36 (Nigerian Constitution 1999) that bear relevance to a person being fairly tried before his or her right may be taken away from the individual.

Procedural Due Process

Secondly, the procedural due process relates more to the 36th section of the Nigerian Constitution of 1999. In this section, it summarily states that everybody should be informed of the offence, given a fair chance for both an impartial hearing and defense before a judgment is passed on the individual. The essence of the procedural due process is that it excludes bias and follows for natural justice to prevail in any administrative set up whereby either a teacher or a group of teachers are faced with either problems in the system.

Substantive Due Process

Thirdly, the substantive due process relates more to section 34 of the Nigerian Constitution of 1999. This summarily states that everybody should be given some dignity especially by avoiding any element of inhuman treatment. The individual may not be held in captivity and should not be made to do any compulsory labour. Though, substantive due process normally involves a calculated cost and achieving an object that include problems which are addressed to

create comfort for the citizens. In sum, it is a means to an end which enables the individuals to be very much aware of the occurrence of events.

The Relationship of Right and Due Process

The application of natural justice by teachers indicates, that they generally should be exposed to a right based on the due process of law. The concept denotes an advantage which accrues to a person who is guided by specific regulations in an organization such as the school system. Since people in the school system are exposed to rules and regulations, one would sometimes be compelled to tolerate certain imposing views and sanctions which could be trampling on each individual right. The point of disagreement between the individual and possibly the employer can encourage conflict as well as create unhealthy situations for the employee and the immediate superiors. Eze sees it as an act of an infringement which called for a legal sanction in most cases (Eze 1984). This is why such acts are considered to be compelling somebody specifically either from doing or not performing action against another person's interest. In other words, the fundamental rights of people not only just exist but are protected and sanctioned by the rule of law since relationship between individuals are involved.

However, though, due process has been earlier established in the paper, it may be amplified that it simply involves exposing an individual to a normal course of action in seeking for redress and justice. This includes protecting one's interest and providing peace to all human beings as required by law. The similarities and difference that so exist may be viewed based on the following explanations.

Both 'right' and 'due process' protect the common man's existence, disallow unnecessary interference, humiliation and creates peaceful existence. This is so, since certain basic rules, regulations and laws are followed to ensure that nobody is oppressed. In case of interference on somebody's peace, such a person would possibly seek for both protection of the law and redress in court. On the other hand, the differences that exist between 'right' and 'due process' appear very thin yet meaningful. A person's right would involve moral obligations, interests and duties all which are backed up by the law without which it becomes difficult to accomplish. However, a

person's right which means, where one's right stops another person's right begins.

The difference between 'due process' and right is mainly when one considers that before any of the rights are taken from an individual, somebody is exposed to a course of administrative and judicial process. In most cases, consideration is given strongly to the three aspects of 'due process' which include constitutional, procedural and substantive. It is only when 'due process' is not followed that abuse of a person's human right has been violated. However, a person's right is absolute since such a person is an integral part of the society or organization, the society or organization provides law, rules and regulations which people comply with in an attempt not to either intentionally or unintentionally hurt others which is regarded as an infringement of people's right. In reality, all persons have certain rights which individuals must respect so as to allow for peaceful existence and harmony. However, when a right is abused under specific conditions, it may be either a state, organization or another individuals, certain procedures must be followed before such a right can be withdrawn. Cransten is of the opinion that nobody can be denied human right except proper justice is carried out. The author further specified that certain elements which include some deeds need not to be done, people's freedom should not be encroached upon especially since, certain rights are considered very precious (Cransten 1907).

In the light of the discussion, emphasis will now be made on how 'due process' is utilized by teachers in case of professional misconduct, termination of appointment, dismissal from service, teacher's disciplinary process through possible suspension, interdiction, demotion and revocation of teaching certificate.

Identifying Cases of Due Process

The situations that were analyzed to demonstrate the areas as per the school setting may vary from the state to state but have been backed by similar statutes ensuring the enforcement of 'due process'

The elements of 'due process' can be established from two angles which include

- (a) Administrative machinery is normally set up to investigate such an offence. In case, the investigation proves such an employee of committing the offence then such a person

- is initially warned, secondly suspended, thirdly, demoted and finally dismissed. In most situations, such an employee is not satisfied with such an administrative decision at the administrative level since the members are senior administrative officials who are in the same organization.
- (b) A judicial process is required to rule on the issue. During such a conflict, the court normally stays out until a formal request is sought by the aggrieved employee who seeks the court to examine such an issue that is at stake and provide a clarification.

METHODOLOGY

Due process involves a long process since it involves both administrative and judicial processes. Though the method is lengthy, it is the way to seek redress which has been proven and decided by cases that have been found useful in research. In a similar research, Iyayi (2002:16) utilized the decision making model that involved two personnel cases and relocation. The cases studied were of secondary source in nature. The cases had been influenced by the Lammers and Hickson's (1981: 426) approach. This indicated that decisions made at the top was based on superior-subordinate relationship although, a one man's decision as Iyayi indicated is far easier to carry out.

In this work, the writer has utilized cases which have been decided judicially. This is to indicate that before property, life and liberty can be taken away from an individual, due process needs to be followed. The first two cases involve termination and dismissal of employees respectively while the other two cases involve injury and acquisition of property. In all four cases, the judicial process was followed and the judgments were guided by the Nigerian Constitution.

The first case was directed from both primary and secondary sources as well as a review of the data. The primary and secondary data were from a case entitled *Oyedeji v Fasheun* Suit number AB/90/73 and *Ogun State, Law Review (OG.S.L.R.)* 31st March, 1976, Volume 2 (1977).

This is *Oyedeji's* contract case in which the plaintiff was prematurely terminated. It was because the employee was absent from duty. The plaintiff allegedly left the school for marking of the West African Senior School Certificate Examination scripts without permission from the defendant, Mr. Fasheun, the employer.

The second case was that of dismissal of a teacher which came from a primary source and review data. The primary source is a case entitled *Ufua, Grace Omonigho (Mrs.) v Teacher Service Board* Suit ^NB/320/86. The plaintiff brought a law suit against the Teaching Service Board, Benin City for wrongfully dismissing her from a teaching position. The dismissal was done without her being given a fair hearing.

The third case involved an injury which came from a primary source and a review of the data. The main source is the case entitled *Fasai Kukoyi and Moibi Kukoyi v State Board of Education and I.A. Ikhure* Suit ^B/127/26. The plaintiffs sued because of wrongful assault, which caused damaged and loss of vision to the first plaintiff.

Lastly, the fourth case is that of property acquisition which is based on the primary source and review of data. The primary source is a case entitled *Archbishop Anthony Olubunmi Okogie and six others v Attorney General Lagos State* ^IID/17M/80. The suit was brought by the plaintiffs since, the Lagos State Government in a circular letter dated 26th, 1980 purported to abolish private ownership of both primary and secondary schools in the State. Generally, the different cases utilized in this paper involved such broad questions;

1. What is the summary of the case?
2. What are the major issues brought before the court?
3. What was the decision of the Court?
4. How did the court reason in their ruling?

Causes of Due Process

Case Number 1: Suit ^NAB/90/73- Wrongful termination of appointment by an employer (E.A. Oyedeji, Plaintiff v J.O. Fasheun, Defendant).

The case relates on Mr. Oyedeji (the plaintiff) who was employed and a termination of the contract was abrupt. This was because Mr. Oyedeji was away from school as the principal without "proper" clearance from the Proprietor of Ebenezer Grammar School Abeokuta Mr. Fasheun. The contract of employment that was wrongfully terminated by the defendant was based on the ground that the plaintiff allegedly left the school to mark the West African School Certificate Examination Scripts at Ile-Ife. This assignment is regarded as an official request from the examination body of the nation.

The issues raised before the court included the following, whether the contract that was prematurely terminated was proper? Is it justifiable to dismiss an employee because an employee was absent from duty on a particular occasion? What damages would the plaintiff be entitled to for wrongful termination of his appointment before the expiration of the contract?

In the light of the above questions, the court ruled that the plaintiff had been carrying out the functions properly and received the prescribed remuneration. The verdict was in favour of the plaintiff, Mr. Oyedeji and was awarded the sum of 2,722.40 as special and general damages. In the process of ruling, the presiding judge cited the precedent case of *Baster v London and Counting printing work* (1899) I.Q.B.. 901. Furthermore, the *Grabedine v Jame-Kani* (1961) ALL N.L.R. 177 to substantiate the ruling. In it, the judge stated that an employee cannot be dismissed simply because a mistake was made. However, it was pointed that the case before the court was neither that of forgetfulness nor one of incompetence but that of absence from duty. Consequently, it lead to abrupt termination of appointment.

Case Number 2: Suit ^NB/320/86. Dismissal of a teacher from the Teaching Service (Ufua, Grace Omonigho (Mrs.) Plaintiff v Teaching Service Board, Benin City, Defendant).

A case was brought before the court by Mrs. Grace .O. Ufua, allegedly indicating wrongful dismissal from her job as a teacher by the employer the Teaching Service Board, Benin City. The dismissal was done without granting the plaintiff an opportunity to defend herself thereby, breaching the principle of fair hearing. The Plaintiff was a teacher at Niger College, Benin City had earlier been employed with a modern III Certificate but the appointment was terminated. The teacher later made a false representation of a Teacher's Grade II Certificate, which made it possible for her appointment to be re-instated and salary was readjusted on the basis of her new status. Based on this, she was paid arrears and other money totaling ₦8,052.83 (eight thousand and fifty two naira, eighty three kobo). It was discovered that the certificate presented was fake and claim is false therefore, she was asked to refund the sum of money fraudulently earned. However, she refused to fulfill making a refund which lead to her dismissal from the job. Ufua then sued the Board claiming that her

certificate was not fake. The State Teaching Service Board as defendant pleaded justified dismissing the teacher who presented the Teacher's Grade II Certificate, when she reapplied for reinstatement and readjustment of salary on February 15th 1982. The teacher willfully misled her employer by providing such documentation.

Therefore, the major issue before the court was to determine whether or not the basis for the plaintiff's dismissal was founded, namely; a false representation that she was the holder of Teacher's Certificate Grade II. In deciding, the judge rejected the plaintiff's claims and dismissed her case in all its entirety with costs assessed at N250.00 (Two hundred and fifty Naira). The ruling was based on the plaintiff's incredible evidence, which established that she possessed a TC II. This was patently proven instance of professional misconduct that required a summary dismissal by the Board. The judge further stated that by her fraud and false representation, she lost both moral and legal justification to retain her position as a teacher. The court also reasoned and dismissed justification to retain her position as a teacher. The court also reasoned and dismissed the issue of breach principle of Natural Justice; Fair hearing since by the statute the Teaching Service Commission still retained the power to dismiss an erring teacher. The judge substantiated the ruling by citing a precedent case *Glynnv Keele University* and another (1971) 2 AER 89. This is where it was held that the plaintiff who sued has been punished by his university authority for misconduct which he committed and had suffered no injustice. The fact that Glynn had been deprived of a right to make a plea in court was insufficient to justify setting aside the decision to punish him.

Case Number 3: Suit ^N(B/127/76)- Wrongful Assault (Fasai Kukoyi and Moibi Kukoyi, Plaintiffs v State Board of Education and I.A. Ikhure, Defendants).

The case brought before the court involved the first plaintiff who was a student of Emokpea Model Primary School, Benin City. The second defendant was a teacher in charge of primary IB in which the 1st plaintiff and plaintiff 2nd witness were pupils in the school. On September 22nd, 1975 the second defendant wrongfully assaulted the first plaintiff on the right eye. Due to the matter stated, the first plaintiff sustained several personal injuries and suffered loss and damage. The plaintiff therefore, brought action against the

defendants jointly and severally for the sum of (N80,160.00) as special and general damages for assault and battery on the first plaintiff.

The issues raised before the court were; whether the action brought in this case was state barred. Whether the 2nd defendant was a public officer and could claim protection law CAP 106, Volume 5 Laws of the Western region of Nigeria 1959 applicable in Bendel State. Whether the 2nd defendant is acting illegally and outside the scope of his employment when he struck the 1st plaintiff with a cane. This is based on the provision of part a paragraph 15 of the first scheduled to the Education Edict of the Mid western Region now Delta and Edo states.

Based on the above issues, the court ruled that the submission of the defendant in which the action is statutory barred is erroneous. The court also held that the purpose be raised in defence where by the defence may not avail the defendants. This may be because how either of them had pleaded. Furthermore, the court ruled that on the third issue, the defendant was merely to rouse the 1st plaintiff from sleep and not to intentionally inflict corporal punishment on the 1st plaintiff. Hence, the defendants' action could be within the scope of their duty. Lastly, the court ruled that based on the submission presented by both sides, the act of the 2nd defendant amounted to assault. This is civil assault and cannot be regarded as criminal in nature. Therefore, the court held both the 2nd and 1st defendants liable in damages. However, the 1st defendant is liable on the doctrine of respondent superior. The court therefore awarded to the plaintiff against the defendants as general damages. This was the loss of sight in the 1st plaintiff's eyes ₦23 special damage for expenses provided by the 2nd plaintiff for medical care at the hospital

In the process of ruling, the judge stated that although the action was three months later, the status, which the defendants relied on still, protect them as public officers of the school system. This is so done because such officials are not belonging to statutory corporation or public corporation while reliance was placed on the Education Edict of Western Nigeria section 42. The court also reasoned that because of the averment of statutory defense which did not sufficiently set out as it should by the party on whose behalf it was raised. Furthermore, the court reasoned that rousing one from sleep is not prohibited under the Edict especially done by a teacher. Though a teacher roused the plaintiff but

without the intention of inflicting corporal punishment causing injuries on the pupil.

Case Number 4: suit NID/17M/80- Abolition of Private school (Archbishop Anthony O. Okogie and others; Plaintiffs v Attorney General of Lagos State; Defendant).

The case brought before the court relates to the circular addressed to all private primary and secondary schools proprietors by the Lagos State Government dated March 26th, 1980. This is directly stating that all private schools should be abolished on September 1st, 1980 in accordance with the Lagos State government policy on free education. The action was challenged by the plaintiffs as unconstitutional and consisting an infringement of their fundamental rights of freedom of expression which include holding opinion, receive and impart ideas without interference. The high court's ruling was referred to the court of Appeal for proper and adequate judicial interpretation as well as application of sections 17 and 18 which are fundamental objectives. These are stated in chapter IV section 36 of the 1999 Constitution of the Republic of Nigeria as the fundamental rights.

ANALYSIS AND DISCUSSION

A school teacher may only be terminated after necessary exposure to due process of law. The teacher can only be terminated on the same grounds as specified by the code of conduct, which is backed up by the State Education Law. Therefore, the writer needs to identify and differentiate between terminating an employee. The former means revoking or stopping the contract of employment between the two parties. However, dismissal of an employee means employee cannot practice such a profession again since, the right to practice has been withdrawn by fulfilling various administrative and legal requirements. On the other hand, termination of an appointment is restricted to a particular job where one's privilege of holding such an employment has been withdrawn (Harris et al. 1979 and Castetter 1981). However, it does not mean one cannot be involved in the profession anymore. It only means an employee seeking for another appointment within the same profession.

Sections 33rd and 34th of the 1999 constitution provide the child's right and human dignity (Nigerian Constitution 1999). The battery and assault litigation of Fasai Kukoyi v A.I. Ikhure and the Board of Education, Benin City, B/127/76

indicates there was a violation of the terms of contract since, such bodily injuries and permanent damages were inflicted on a pupil. In fact, since a teacher Ikhure was expected to be acting 'in loco parentis' which means protection of the minor. Unfortunately, the loss of sight by the pupil resulted in the court ruling against the teacher and the Board of Education. Eventually, the teacher's appointment was terminated after all necessary measures were taken to recover the compensation paid. The termination of appointment was because such an employee could not reflect the state's interest by complying with the terms of contract.

On the other hand, dismissal is not a very common factor in the teaching profession except in extreme cases which involve criminal activities. This could include subversive activities, falsifications, fraudulent activities and tort liability. In most cases, educators and teachers should generally acquaint themselves with the oath of office. Consequently, such personnel tailor their thinking and behaviour to suit the code of conduct thus, would not act in the manner that would implicate them. In fact, a personnel of this type is not seen where plotting a possible overthrow of government is planned. This is because such a citizen is very much aware that such an act is subversion which is against the constitution of the Land. Alternatively, a teacher who incites pupils through indoctrination thus, not taking into cognizance the national ethic and civic duties such an educator requires dismissal. This is only done after constitutional and procedural due processes have been made available to the teacher concerned.

It is really the duty of the educator to uphold, promote and preserve the national ethics and civics duties of the citizen. This is why educators are well informed on both the code of conduct as stipulated by educational laws and the relevant sections 23rd and 24th of the 1999 Nigerian Constitution. In the final analysis, educators are by implication expected to direct, engrain morality and loyalty into pupils who go through their training since, teachers are acting 'in loco parentis' and trusted to assist the constitution of the land.

Possible Utilization and Implications of the Cases to School Administration

There have been previous discussions on disciplinary measures, which focused on teachers

who did not comply with the professional conducts. These measures included suspension, interdiction and demotion. In each of the above methods that may be applied, the degree of offence dictates the nature of penalty that it may attract. It may also mean that a panel is set up to review the case of each personnel involved, and make proper recommendation to decide the fate of the employee if so required. In case, an individual who is a trained teacher violates the terms of contract, especially where a person makes a careless statement in a radio talk (Graham 1975), and such a teacher's appointment is up for confirmation he/she may be denied confirmation if only proper investigations have been carried out and the employee is found guilty. The essence is that the educational system needs to be protected from seditious utterances and ensure the pupils of the system are not influenced. This means the right of the state takes paramount precedence and interest over individual's right, especially when such interest have not been properly utilized.

However, teachers who have properly maintained good behavior in the course of performing their duties certain rights are accorded them in their local government areas. This means that the employee who serves and exhibits good behavior is accorded all the rights until such an employee resigns, retires or dies. It may also be known that when such a teacher violates a sensitive offence, the teacher should be ready to 'face the music'.

Unfortunately, in some cases, most teachers have unnecessarily been victims of circumstances and may either be too timid, ignorant and do not want to set precedent for others. This means that personnel of this caliber suffer in silence and are not exposed to the due process of law. It may also be realized that some people who are exposed to administrative due process and have not been satisfied may be too afraid to go further to seek judicial exoneration when unnecessary guilt have been made at the administrative level. Personnel who are faced with such difficulty may be afraid of harassment, intimidation and unpleasant situations created for their immediate and remote families.

As per the Oyediji's case, the implication for school administration is that an employee cannot just be terminated by an employer at will. The terms of contract need be followed before dismissal can be done but, if the employee operates outside the range of the contract, then

the contract can be terminated. Furthermore, by implication the *Oyediji v Fasheun AB/90/73* has a strong backing for the wealth of experience gained by teachers during teaching–learning process, which can enhance students’ performance in subsequent examinations. Therefore, teachers should be encouraged to be part of such an activity and employers need to make provision for teachers to attend such co-ordinations.

The implications of the *Ufua’s* case to administrators are that the Teaching Service Board is a creature of state. Therefore, it is a recognized powerful body which is the guardian of the education interest in the state. This interest involves children custody, progress and their development growth. Hence, the statutory body expects high ethical and moral standard from teachers. The expectance of good behaviour from teacher can raise the hopes of students in teachers especially to discourage students from indulging in forged certificates, fraudulent acts and other criminal involvement. In cases where teachers are found dishonest, immediate sanctions should be taken as to avoid a spread of such action not to influence other students negatively.

Generally, the verdict in *Ikhure’s* case, which was negatively skewed against the defendants, will forever deter both administrators and teachers in the performance of their duties. Unfortunately, teachers may timidly let a lot of corrective measures go without been addressed. Incidentally, pupils and students may take undue advantages of such extreme leniency and cautiousness of the teachers to hurt students when carrying out corporal punishment. The possibility of teachers in instilling discipline and molding characters will reduce. Therefore, government and school authorities need to work out modalities to outline relevant punishments that are commensurate to offences committed by students.

Lastly, *Okogie and others v Lagos State* made it necessary to expose school administrators to know the fundamental rights possessed by students, parents and teachers. School administrators may understand better that while implementing administrative decisions, people should be both mindful and respectful not to infringe on people’s constitutional right i.e., pupils should be allowed to attend schools of their choice. This could either be public or private schools.

The school system should create an avenue for disseminating information on constitutionality

and legality of laws, rules, policies, circulars and regulations. The essence of this is to avoid ignorance of the law and conflicts amongst parties involved in the schools.

The procedure of due process when complied with rescues teachers who are innocent and provides a check against arbitrary dismissal of teachers. Unfortunately, such arbitrariness could be through victimization and faults finding which may be ‘witch hunting’. Therefore, the ‘due process’ may be described as a buffer between the employer and employee. The procedure being followed administratively and judicially can discourage unnecessary embarrassment to both parties in case there is recourse.

CONCLUSIONS AND RECOMMENDATIONS

Based on this research, the writer drew the following conclusions:

- i) As employees and employer, there is need to have protective device since frictions often occur in working environment. In the process of seeking for protection, the due process of law is utilized as cushion to assure that unnecessary punishment is not inflicted on individuals.
- ii) The use of due process may create the climate for harmony, avoid undue squabbles and reduce litigation especially when enlightened teachers, educators, pupils and possibly parents are involved.
- iii) In case, changes need be made, especially when decrees, edits and law have equally been revised to show that rapid progress is required. Changes in society portray not only progress but equal development in the judicial system.

Based on the conclusions drawn in this research, the following recommendations were made:

- i) Due process is strongly advocated and expected to be in use by principals and teachers in Nigerian Primary and Post Primary Schools since it is seen as the common man’s hope.
- ii) Administrators, teachers and students should be encouraged to constantly use appropriate procedure in exercising authority and rights in the school system.
- iii) Administrators and teachers should keep abreast with human rights fundamental principles as to know the changes in amend-

ments and modifications in the Nigerian constitution

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