Review of Decided Cases Bothering on Teachers’ Misconduct in Schools and Their Implications for Educational Management

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Abstract
This paper critically reviewed cases bothering on teachers’ misconduct in schools and their implications for Educational Management. Three cases of teachers’ misconduct were reviewed; the first reviewed case bothered on forgery of Teachers’ Grade 11 Certificate (TC11 Certificate) which led to the dismissal of the erring teacher, the reviewed second case bothered on sex scandal between a teacher and one of his pupils; the presiding Magistrate had declared the action of the teacher a professional misconduct and recommended some punishments for the teacher and the third case, reviewed a professional misconduct bothering on assault on a student by a teacher. The researcher found out from the reviewed cases that, the provision of teachers’ code of conduct which stipulates how best teachers ought to conduct themselves while discharging their duties seemed to have not completely achieved that aim, as teachers are often sued for one professional misconduct and another which in most cases is not decided in their favours and different disciplinary measures taken against them. It was suggested amongst others that; Teachers should avoid laying claims to qualifications they do not possess as that amounts to giving false information about oneself which is punishable by law.

Keywords: Review, Teachers’ misconduct, Implications, Educational management.


Introduction
Teachers constitute significant factors in the teaching and learning process. This is because the strength of any education system largely depends on the quality in all ramifications of the teachers. In every profession, there are codes or rules of professional conduct which regulate the practice of that profession. This is premised on the fact that law is the regime that orders human activities and relations through systematic application of the force of politically organized society or through social pressure backed by force (Gamer, 2010). It could also be seen as rules of human...
conduct that are acceptable as obligatory. Functionally, law is normative as it regulates, guides and evaluates human conduct. It therefore helps society determine the extent to which specific acts, commission and omissions conform to acceptable standard of behaviour or otherwise (Asuru, 2012).

In realization of the attendant coercion and or denial of rights and or privileges, members of the target society regulate their conducts in order not to run foul of the law. Law saves society the hazard of living in the hitherto state of nature where right and life was brutish, nasty and short (Russel, 2010). Law is therefore used as a means of social engineering, thus aggregating the interests of members in the interest of all. Unfortunately, teaching as a profession in Nigeria had before now not been privileged to have a specialized legislation that prescribes the boundaries of behaviour of its practitioner and the attendant punishment on breach of the code. It is in this direction that the establishment of the Teachers Registration Council of Nigeria (TRCN) is seen as a welcome development aimed at truly professionalizing teaching and moving it to enviable heights. This has become imperative in view of the daily reports of acts that are inconsistent with the standard of behaviour expected of teachers. In recent times, cases of examination malpractices in all its ramifications, sexual harassment, forgery, extortion, stealing, cultism and cult-related activities, abuse of office and assault, by teachers have been on the increase. Furthermore, some teachers have neglected to perform their duties and have changed from being teachers to cheaters TRCN in (Asuru, 2008).

In realization of the need to enforce professional standards among teachers and in line with what obtains in other professions and international practices, the Act in Section 9 provides for the establishment of the Teachers Disciplinary Committee (TDC) and Teachers Investigating Panel (TIP). Section 9 (3) provides for the establishment of the TIP in each 36 states and the Federal Capital Territory. The TDC is charged with the responsibility of considering and determining cases referred to it by the TIP, while the TIP’s function is primarily to establish a prima facie case. The TDC has a corresponding or co-ordinate jurisdiction with the High Court as appeals from its decision go directly to the Court of appeal within 28 days (Asuru, 2008).

As in other professions, some minimum ethical standards are expected of a professional teacher (Nwagwu, 2011). Schools are guided by statutes, policies, rules and regulations which are made available to all members of the community as staff guide, students rule etcetera. But, according to Asuru (2010), our schools today have been turned to a bizarre theatre of sorts where all forms of ignoble, despicable and criminal acts are perpetrated by teachers, students and others. Specifically, the Teachers code of conduct prescribes the minimum ethical standards expected of teachers. By the publication, teachers were deemed to have constructive notice of what constitutes acts and omissions that are punishable by the Act. The publication of the code of conduct is predicated on powers conferred on the Council by Section 9 (6) of the Act. Furthermore, Section 10 (1) (a), (b) and (c) provide for such acts as infamous conduct, prior conviction and fraudulent registration as constituting acts that are punishable. Some of the specific acts, commissions and omissions adjudged to be misconduct are forgery or mutilation of official documents, fighting, assault, intimidation, harassment (sexual or otherwise), examination malpractices, and illegal collection of money. Others are bribery, stealing, touting, disobedience of lawful order, extortion, employing unqualified teacher, and teaching without registration TRCN in (Asuru, 2008).

The Act Section 10 (6) of the act specifies that the TDC may where it thinks fit, reprimand the person or order the Registrar to strike his or her name off the relevant
part of the register. It is also pertinent to state that the Council should have advice, reprimand or cause criminal prosecution to be instituted in accordance with the relevant laws (Asuru, 2008).

**What is Teachers’ Misconduct?**

Teachers’ misconduct is an unethical behavior exhibited by teachers. Misconduct includes any behaviour that breaches the employment contract such as bullying or deliberate undermining behaviour; any sexual misconduct- whether of a sexual nature or sexually motivated abuse of trust by the teachers. A deviation from codes or rules regulating the practice of the teaching profession by a teacher is also termed teachers’ misconduct. It occurs in various forms and ranges in harshness from accusations of direct harm to students (such as, physical or sexual abuse) to an act detrimental to the education profession such as:

1. Falsifying documentation of continuing education courses;
2. Cheating on a professional examination;
3. Misappropriation of school fund;
4. Assault on students;
5. Conviction of felony;
6. Bribery, corruption or exploitation of children’s services for personal ends; etcetera.

Acts or offences specified as professional misconduct by the various Schools Management Boards are varied but also similar cases and are often listed in the education laws or codes of the states. If the allegation of misconduct against a teacher is a serious one that would warrant severe disciplinary action such as demotion, removal of his or her name from the register of teachers or termination or dismissal, the teacher against whom the allegation is made must be given a fair hearing (Hanks, Nemerson and Herz, 2010).

With the number of cases bothering on misconduct as cited in Peretomode (2019), one cannot help but wonder why teachers get entangled in scandalous acts which in most cases attract different types of disciplinary measures thereby, putting the teaching profession in a bad light. However, it is the intension of this paper to review decided cases bothering on teachers’ misconduct in secondary schools and their implications for educational management and make appropriate suggestions that could curb the unpleasant situation often reported in schools.

**Decided Cases Bothering on Teachers’ Misconduct**

**Case 1: Professional Misconduct – Claim to Possession of Qualifications which One does not Have - Forgery of Teachers’ Grade 11 Certificate (TC11 Certificate) – A Criminal Offence**

**Introduction of case:** Case 1 was a case of fraud bothering on forgery of a TC11 certificate preferred by the Defendant – Teaching Service Board, Bendel State against the plaintiff - Mrs, Grace Omonigbo Ufua, a former tutor at Niger College, Benin City, which led to her dismissal from the Teaching Service Board of Bendel State. The case with suit number B/320/86 was presided by Justice J. A. Obi of High Court, Benin City on the 30th of June, 1987.
Main issue: Whether the termination of the plaintiff’s appointment by the defendant (Teaching Service Board) was legal irrespective of claims by the plaintiff to possess the TC11 Certificate.

Facts of the case: The Teaching Service Board, terminated the appointment of Mrs. Grace Omonigho Ufua when the Board discovered through series of interviews and personal invitation of the plaintiff to produce the original copies of her purported TC11 Certificate which she claimed she obtained in 1978. It was discovered that she has fraudulently procured the position and emoluments paid to her. In this regard, the defendant (Bendel Teaching Service Board) apart from putting the plaintiff to the strictest proof that she holds the Teachers’Grade 11 Certificate of any kind, called evidence to show that the plaintiff failed the Teachers’ Grade 11 Certificate examination in 1978 and thereby gave notice to produce the original of the said certificate she allegedly got from the Auchi Teachers’ College, Auchi.

Mrs. Ufua Grace challenged the legality of the action of the Teaching Service Board, Benin City in terminating her appointment whereas she possessed a TC11 Certificate obtained from Auchi Teachers’ College in 1978. She further argued that she did not forge her TC11 Certificate and as a result she wanted a court declaration that her dismissal by the defendant as per letter reference No. SOR/Vol.11/1/163 dated 16th June 1983 is wrongful, illegal, unconstitutional, null and void and of no effect. A declaration that the plaintiff is still in the service of the Bendel State Teaching Service Board and entitled to her full salaries and allowances with effect from the date of the purported dismissal. In the alternative, the plaintiff claims ₦100,000.00 (one hundred thousand naira) being general and special damages for wrongful dismissal. Ufua was a teacher in the first instance by virtue of her Modern 111 qualification.

Ruling: In his judgement, the High Court Judge, Justice J. A. Obi declared that Mrs. Grace Omonigho Ufua was fraudulent in procuring the original of her TC11 certificate, with which she got herself promoted quiet unjustly. He added, “I cannot conceive of any more serious professional misconduct than the shameless and altogether baseless presentation that she possesses educational qualification which she does not”. Her claim to TC11 was totally rejected. By her fraud and or false representation, Ufua, said the judge, has lost both moral and legal justification for continued retention in office.

Ufua’s action failed and was accordingly dismissed in its entirely, with costs assessed at ₦250.00.


Case 2: Having Carnal Knowledge of a Pupil is Professional Misconduct

Introduction of case: This case revolved around a teacher – Mr. Okechukwu Idika Nwankwo (the defendant), who had a canal knowledge of a pupil attending a school at which he was a staff and the father of Miss Njoku (the victim), Mr. Boniface Njoku, who is also the plaintiff in the case. The judgement of this case with a suit number Em/32/1977 was delivered on Wednesday, 28th April, 1977 before Magistrate H. O. Umezuoke at Magistrate Court Ezzamgbo

Main issue: Whether the teacher, Mr. Okechukwu Nwankwo is fit to remain as a teacher of a school having raped a student he ought to protect.

Facts of the case: Mr. Okechukwu Nwankwo, a teacher in Community Secondary School, Ezeagu, was alleged to have canal knowledge of a girl in his school by name Cecilia Njoku. Mr. Nwankwo was caught having sexual intercourse with Miss Njoku. The news of their sexual intercourse spread through the whole village so much so that
Miss Njoku and her family became objects of caricature. Miss Njoku and her family hardly raised their heads in public.

Under this circumstance, Mr. Njoku had no alternative but to institute a court action against Mr. Nwankwo. The Principal and the State Education Board pleaded with Mr. Njoku to withdraw the case, but all appeals did not dissuade him.

The plaintiff sought that the court should:
1. Declare Mr. Nwankwo morally unqualified to be a teacher for engaging in professional misconduct;
2. Order for the immediate dismissal of Mr. Nwankwo from the teaching profession; and,
3. Ask Mr. Nwankwo to pay him ₦5,000.00 (Five Thousand Naira) damages for bringing his family to disrepute.

**Ruling:** The court ruled on the following counts:

1. That since Miss Njoku admitted before the court that the defendant did not force her into sex, the point of recommending the defendant for dismissal cannot arise. However, the defendant should be transferred from the school to another school to avert any unforeseen dangerous action from the parents of Miss Njoku.
2. That Mr. Nwankwo (the defendant) has engaged in professional misconduct, and is therefore recommended by the court for six months without pay. The principal should also report from time to time to the appropriate educational authorities as to the conduct of the defendant.
3. In as much as Miss Njoku is above 14, and since the case of non-consent was not raised in the case by Miss Njoku, the law cannot guarantee the plaintiff of any damages. However, the issue of damages would have applied if Miss Njoku was forced into sexual intercourse by the defendant.

**Source of the cited case:** Igwe (2015).

**Case 3: A Teacher who Commits a Felonious Act Cannot Take Cover under the Officer Protection Law**

**Introduction of case:** This case bothered on a felonious act committed by a school teacher which resulted to the loss of a student’s left eye. The case was between Elizabeth Aliri (suing by her friend) Benadeth Aliri (Plaintiff/ Respondent), John Ekeogu (Defendant/Applicant), The Director of Schools, Imo State (Defendant) and the State Schools’ Management Board Owerri. Ogu Ugoagwu J. of the High Court of Owerri Judicial Division in Imo State on the 16th of November, 1988 ruled over this case with the suit number HOW/200/87. The ruling was later appealed by the John Ekeogu (Defendant/Applicant).

**Main issues:** Whether the applicant acted in the execution of his duty as a teacher when he sent the respondent and co-pupils in his class to watch the beating of a thief by an irate public who had taken the law into their own hands.

**Fact of the case:** The plaintiff was a primary five pupil of Community Primary School, Ohekelem, Imo State and the applicant/defendant was a teacher at the said school and the teacher of the plaintiff/respondent. On 2nd December, 1985, a thief was caught in a palm produce depot near the Community Primary School Ohekelem where the applicant was a teacher and the respondent was one of his class pupils. The thief was being beaten up by an irate member of the public. The applicant “instructed his class
pupils, including the plaintiff (that is, the respondent) to go and see how thieves are treated so as to learn a lesson therefrom”. The class pupils obeyed and went to the said depot. Soon after the bell rang for the pupils to resume classes, all of them, including the respondent, began to run back to the school. As they were doing so the applicant picked a cane and began to flog the pupils. In the process he incidentally flogged the left eye of the respondent injuring the left eye. He abandoned her while she was crying out in pain and anguish. Another pupil, Ngozi Nweke, acted as a good Samaritan and took the respondent home on a motor bike for treatment for her injured left eye. The respondent lost the eye in spite of the treatment given to her. The applicant/defendant admitted the above facts.

In her writ of summons filed on 20/7/87 (about 18 months, 2 weeks and 4 days after the injury occurred) the respondent claimed against the applicant, 2nd and 3rd defendants jointly and severally.

The sum of ₦100,000.00 (One Hundred Thousand Naira) being special and general damages for assault and battery and negligence, in that on the 2nd day of December 1985, the 1st defendant who is a servant of, and under the control and employment of the 2nd defendants, as a teacher at the community primary school Ohekelem, Ngor Okpara within jurisdiction which resulted in the loss of her left eye.

On notice, the applicant/defendant filed a motion on the 12th April, 1988, praying the honourable court for an order to dismiss the plaintiff/respondent’s suit on the basis that:

1. the action instituted by the plaintiff/respondent against the 1st defendant is nullity as it is statutory time-barred under section 2 of the Public Officers Protected laws cap, 106, laws of Eastern Nigeria, 1963 as applicable to Imo State.
2. “Where any action, prosecution, or other proceeding is commenced against any person for any act done in pursuance or execution or intended execution of any law or of any public duty or authority, or in respect of any alleged neglect or default in the execution of any such law, duty or authority, the following provisions shall have effect.
3. The action, prosecution, or proceeding shall not lie or be instituted unless it is commenced within 3 months next after the act, neglect or default complained of, or in case of a continuance of damage or injury, within three months next after the ceasing thereof”.

Ruling: Although, the Public Officers protection law 106, section 2 provides that where any action prosecution, or other proceeding is commenced against any person for any act done in pursuance of execution of any public duty, the action shall not hold unless it is started three months after the act is committed, the court held that for the reasons given and satisfied that the applicant committed a felonious act, the applicant though a public officer cannot hide under the public officers protection law cap, 106. In view of this, the Judge ordered the defendant to file his statement of defence as regards his action within 21 days of his ruling and awarded a cost of ₦100.00 against the defendant.

But John Ekeogu appealed instead and the court of appeal confirmed the ruling of the lower court. To better understand the reasoning of the court and the legal issues involved in this case, the judgement of the court of Appeal is summarized and provided below.
Introduction of case: This is an appeal by John Ekeogu against the ruling of Ugoagwu J. of the High Court of Owerri Judicial Division in Imo State delivered on 16th November 1988. The parties involved are John Ekeogu and Elizabeth Aliri (suing by her friend, Benadeth Aliri)

Main issue: Whether the appellant’s act of flogging the respondent in the manner admitted by the appellant on the statement of claim was an act done in pursuance or execution or intended executive of any law or of any public duty or authority.

Facts of the case: The respondents, as plaintiff in the High Court of Imo State, Owerri sued the appellant as well as the Director of Schools, Imo State and the State Schools Management Board claiming ₦4,000.00 as special damages for medical bills paid by the respondent’s mother and ₦96,00.00 as general damages for assault, battery and negligence which resulted in the permanent loss of the respondent’s left eye.

The respondent filed her statement of claim on the 30th October, 1987 wherein she averred that the appellant without any justification hit her left eye with a cane causing her permanent injury. The first defendant who is the present appellant, filled a motion on notice on 12th April, 1988 under Order 29 rules 1 and 3 of the High Court Rules of Eastern Nigeria applicable to Imo State praying the court for an order dismissing the suit on grounds of law to wit.

That the action instituted by the plaintiff/respondent against the first defendant/appellant is a nullity as it is statutorily time-barred under Section 2 of the Public Officers Protection Law Cap, 106 Laws of Eastern Nigeria 1963 as applicable to Imo State.

After hearing argument from counsel for both parties, the trial l Judge pursuant to Order 29 rule 3 of the High Court rules aforesaid held that the appellant was not protected by the Public Officers Protection Law and ordered that the appellant should file his statement of defence to the action within 21 days from the date of the ruling.

The appellant, dissatisfied with the trial Judge’s ruling appealed to the Court of Appeal.

Order 29 Rules 1, 2, and 3 of the High Court of Eastern Nigeria (Civil Procedure). Rules applicable in Imo State as follows: -

1. Where a defendant conceives that he has a good legal or equitable defence to the suit, so that even if the allegation of the plaintiff were admitted or established, yet the plaintiff would not be entitled to any decree against the defendants, he may raise this defence by a motion that the suit be dismissed without any answer upon question of the fact being required from him.

2. For the purpose of such application, the defendant shall be taken as admitting the truth of the plaintiff’s allegation and no evidence respecting matters of fact and no discussion of question of fact shall be allowed.

3. The court on hearing the application, shall either discuss the suit or order the defendant to answer to plaintiff’s allegations of fact, and shall make such order as to costs as shall be just.

The relevant parts of 2(a) of the Public Officers Protection Law Cap, 106, Laws of Eastern Nigeria, 1963 as applicable in Imo State provides as follows:

Where any action, prosecution, or other proceeding is commenced against any person for any act done in pursuance or execution or intended execution of any law or of any
public duty or authority or in respect of any alleged neglect or default in the execution of any such law, duty or authority, the following provisions shall have effects.

a) The action, prosecution, or proceeding shall not lie or be instituted unless it is commenced within three months next after the act, neglect or default complained of…

4. On Scope of the Public Officers Protection Law: Section 2 of the Public Officers Protection Law gives cover to a public officer who has acted within the confines of his public duty. Once the public officer steps outside the bounds of his public authority, he is open to prosecution, and protection afforded under the ordinary law that governs those who do not come under the Public Officers Protection Law: In other words, such Public Officers can be sued outside the limited period of 3 months: The Public Officers Protection Law is not a license for the commission of criminal acts under which a public officer will then seek sanctuary without answering the very grave allegation levied against him which he is assumed to have admitted as true at the stage of demurrer.

5. On Scope of the Public Officers Protection Law: For section 2(a) of the Public Officers Protection Law to avail any person two condition must exist:

a) It must be established that the person against whom the action is commenced is a public officer, and

b) The act done by the person in respect of which the action was commenced must be an act done in pursuance or execution of any law or of any public duty or authority.

On the admitted facts on the statement of claim in this case, it is established that the appellant was a public officer but it was clearly admitted for the purpose of demurrer that the act done by the appellant was not done in intended execution of a public duty within the meaning of section 2 of the enactment (Ademola HV Thomas (1946) 12 W.A.C.A. 81 at 89 referred to and relied upon). (p. 355, paras C:5).

6. On Scope of the Public Officers Protection Law: In the instant case, the appellant acted outside his authority when he hit the left eye of the respondent with a cane causing her permanent injury and should therefore file his statement of defence to the respondent’s action (Egbe versus Adefarasin (1985) N.W.I.R. (Pt.3) 549 distinguished). (P.355, paras A and F). Per Kolawole, J.C.A. at page 353, paras E-F.

I am firmly of the view that a public officer is only protected under Section 2(a) of the Public Officers Protection Law in respect of acts done in pursuance or execution or intended execution of any Law of any public duty. If a public officer driving his vehicle on the highway, knocks down a pedestrian, he cannot if any action, prosecution or other proceeding is commenced against him, call in aid the provisions of Section 2(a) of the Public Officers Protection Law Cap 106 Laws of Eastern Nigeria simply because he is a public officer, such action for which he seeks protection must be done in pursuance of a public duty.


Implications of the Cited Cases for Educational Management

Case 1, bothered on forgery of a teachers’ grade 11 certificate (TC11 certificate) by the plaintiff- Mrs. Grace Omonigbo Ufua. The appointment of Mrs. Ufua, into the
teaching profession with a forged TC 11 certificate may have greatly affected the impartation of the right knowledge to the students which equally, will result in producing students without skills, abilities, specified knowledge and the required training expected for a particular class. It is obvious Mrs. Ufuwa, did not go through necessary teaching professional training to teach in a school. Undoubtedly to a large extent, having someone with a forged certificate like Mrs. Ufuwa, would have been very detrimental in the realization of the quality control and assurance standard goal set by the educational managers and authority.

Again, the penetration of Mrs. Ufuwa, into a school with a forged TC11 certificate leaves the society with the idea which portends that, the educational management and authority did not do well enough especially, in terms of due diligence and scrutiny to check infiltration and use of forged certificate to teach in school. With teachers like Mrs. Ufuwa, the overall objectives, effective and functional teaching and learning in schools cannot be achieved.

The second case bothered on a sexual misconduct involving a teacher (Mr. Nwankwo) and a student (Miss. Njoku). Although, the court found out that the plaintiff’s daughter was not forced into having sex with her teacher (the defendant), it is a gross misconduct for a teacher to engage in a sexual activity with his students. The behaviour exhibited by Mr. Nwankwo, undermined the professional ethical dictates. Obviously, a matter of this profile would make the parents of the girl in question and the society to see, accuse or label the educational management and authority of not performing their duties efficiently in guiding, protecting and intimating their students of the consequences of early sex. This social problem or menace could give rise to collapse of discipline and seriousness towards their school work. This could also pose a threat to the realization of predetermined objectives of educational management.

Unarguably, a promiscuous teacher does not command the required level of respect amongst his students, this can cause him emotional trauma and influence his educational service delivery. On the other hand, his action will negatively influence the attitude of the students towards learning from him thereby, defeating the set educational goals. Definitely, this would bring the image and dignity of the educational management and authority at stake.

For case 3, the teacher in acting in loco parentis must ensure to avoid legal action by an offending student disciplined for violating a rule, perhaps, by in good faith and accordingly. Secondly, in order to prevent the possibility of a court of law charging the teacher for assault and battery in course of punishing and disciplining his students, the teacher should not physically assault the student irrespective of the gravity of the offence committed, except possibly in self-defense as a result of a deliberate attack by the student.

**Conclusion**

Having looked at the three reviewed cases which bothered on forgery, sex scandal and infliction of injury on student and the ruling of the said cases. The researcher posits that, approaching the court when a teacher overstepped his or her limit in dealing with students or failed to conduct him or herself in a manner expected of him or her is a crucial effort to maintaining peace amongst warring factions in schools. The researcher is of the view that, dismissal and imposition of fine on a teacher who was found guilty of forgery is not enough in its entirety; imprisonment of the victim ought to have accompanied the punishment meted on such fraudulent teachers. Again, the
recommendation made by the Magistrate, who presided over the second case is not torturing enough, involving in such scandalous act ought to have incurred suspension and demotion of the teacher involved to serve as deterrent to intending teachers. Lastly, a teacher who inflicted an eternal injury such as the case of the student in case three should be dismissed and be made to rot away in jail. Therefore, every teacher must be of good conduct while discharging their duties and abide by the codes or rules of professional conduct regulating the practice of teaching in order to avoid being sued.

Suggestions

1. Teachers should avoid laying claims to qualifications they do not possess as that amounts to giving false information about oneself which is punishable by law.
2. Teachers should discard the habit of being sexually involved with their students as that could reduce the respect they enjoy from their students.
3. Teachers should be stopped from using object of any kind in punishing students because many students have been deformed in some parts of their bodies due to such actions.

References


