

## HISTORICAL ANALYSIS OF CONSTITUTIONAL PROVISION FOR EDUCATION IN NIGERIA (1976 -2011): IMPLICATION FOR EDUCATIONAL ADMINISTRATION

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### ABSTRACT

*This paper is a trend analysis of the constitutional provisions of education in Nigeria and examines the implication for educational administration. It traces the educational laws from 1882-2010. Before 1914 there was relatively no clear direction of the British colonial administration. With the amalgamation in 1914 the British government introduced the indirect rule system in Nigeria and Lord Lugard's administration emphasized on secular education mostly in northern Nigeria, this might have led to the gap in the level of educational development between the south and the north. This has implication for both administration and policy formulation, in Nigeria, by the early 1950s, with the regional government in place; various regions were able to enact laws for the development of education in these regions. These laws were made to suite the various socio-cultural, economic situations of these regions, these led to the 1969 curriculum conference and the subsequent implementation of the National Policy on Education. The policy sought to introduce a functional technology based education which would sustain the economy. These Nigerian experiences have a lot of implication for educational administrators, who should be aware of the local attributes or peculiarities of the Nigerian society. Our educational policies should be able to promote unity, equity and overall development of education.*

**Keywords:** Historical analysis, Constitutional provision, Education, Administration, Implication and Nigeria

### INTRODUCTION

Every society has its own system for training and educating its youths, and education for life has being one of man's most persistent concerns. And in trying to find solutions to educational problems with the aim of improving or developing the educational system, man delves into the past. It is often said that a people with no knowledge of their past, would blindly go into the future without guide or precedence to help shape their curse or objective. There are certain historical antecedents which have impact or effect on the development of educational administration and planning.

Unlike the France, the British did not set out to govern the colonies acquired in Africa with any thought, plan or strategy for educational development. Each colony was administered on an adhoc basis. Much reliance was placed on the official who was on the spot in the territory concerned. From the beginning when the British took control of governing to 1914 when the south and the north was amalgamated different forms of relationship between the territories and the colonizers where adopted in various areas by different administration. It was in 1914 when the north and the south were amalgamated that indirect rule was introduced in all parts of the country. Indirect rule was an administrative system which was introduced by Lord Lugard into Nigeria. This was a system of administration which uses the traditional authority

as middle men between the colonial administrators and the people. It recognizes the traditional structure and uses such for the administration of the colonies and protectorate. It therefore recognizes the Islamic education and advocated for secular education in the northern protectorate thereby restricting the Christian missionaries from spreading both Christianity and western education to the region. This might have account for the gap in the level of educational development between the north and the south. This also has a lot of implications on the development of educational administration in Nigeria.

The colonial administration adopted the British form of education in Nigeria and administered same through the use of educational ordinance, codes and memorandum such enacted codes includes 1882, 1887, 1916, 1922, 1926, 1948 etc. during this period the laws were imposed by the colonialist as the people were not actively involved in the formulation, these codes and ordinance where used as guide lines to administer education in Nigeria. They served as the basis for educational law, techniques and administration in Nigeria. John Macpherson who succeeded Governor Richard in 1948, felt not much constitutional progress have been made in Nigeria, therefore introduced the Macpherson's constitution in 1951 which put education in a concurrent list which made both the central and regional government to legislate on education. This is the beginning of the involvement of various arms of government in education and as such has a lot of impact in the present day educational administration and policy. Presently we have 36 state governments and the federal government each of these could legislate on education. During the period of representative government (1950s) the various regions into which the country was divided were given some autonomy in enactment of education laws. This was the first time the term law was used as the normal processes in law. Between 1966 and 1979, 1983 and 1999, the various rules and regulations relating to education were referred to as decrees at the federal level and edicts at the state level.

## **EDUCATION LAW IN NIGERIA**

The legal foundation of education in Nigeria, which helps in the administration of education in Nigeria, includes the following;

1. The education ordinance of 1882,
2. The Nigerian education ordinance of 1887,
3. Education ordinance of 1916,
4. Phelps – stokes report of 1922,
5. Education ordinance of 1926,
6. Memorandum on the education of African communities 1935,
7. Imperial memorandum on mass education in African societies 1943,
8. Elliot commission report 1943,
9. Philipson report 1948,
10. Dike commission report 1959,
11. Ashby commission report 1959,
12. The 1960 independence constitution ,
13. Banjo commission 1960,
14. Old man commission 1961,
15. 1964 regulations,
16. Taiwo commission 1969,

17. Somade committee report 1969,
18. National policy on education 1977,
19. 1979 Nigerian constitution,
20. 1999 Nigerian constitution,
21. 2004 Universal Basic Education Act.

### **NIGERIAN EDUCATION 1970-1990**

The National curriculum conference in 1969, was a major landmark in the history of Nigeria, the conference reviewed the old and identified new national goals for Nigerian Education. However the recommendation of this conference was left for over 3 years probably due to the civil war before some of the amplified, improved recommendations was adopted. Of particular interest was the adoption of the 6-3-3-4 system of education, the National Policy on Education and the introduction of the Universal Primary Education (UPE) in 1976. This probably was the main innovation in Nigerian post independence educational development. This policies were laudable and progressive, however its implementation was faulty, and hence has implication for the educational administrators. Some of the reasons for its failure could have been;

- i. Prolonged civil war and the reconstruction, rehabilitation, and reconciliation period.
- ii. Non involvement of all stake holders during the implementation stage which must have led to the overpopulation and lack of instructional materials, lack of teachers and infrastructures for effective teaching and learning.
- iii. Delay in the legalization or legitimization of the policy establishing the National Policy on Education and the Universal Primary Education.
- iv. Poor funding of education by the three- tiers of government.

Moreover, this period witnessed unprecedented growth at all levels of education. With creation of states thus increasing the legislative bodies, each state promulgated an edict for the regulation of education and amendment of this edict where necessary, examples include; East Central State Public Education Edict No 5 of 1970, Lagos state's Education Edict No. 20 of 1971 and Mid- Western state's Education Edict No 5, of 1973. (Fabunmi, 2005) These states laid down rules and regulation in respect of:

- i. Administration of education
- ii. The statutory system of public education
- iii. Local education authorities
- iv. Primary education
- v. Establishment or closure of schools
- vi. Teacher
- vii. Inspection of schools
- viii. Financial provisions
- ix. Religion, race and curriculum
- x. Other auxiliary matters. (Fafunwa 1982)

The period also witnessed the lurching of the Universal Primary Education which led to phenomenal growth in pupils' enrolment and the expansion of primary education with a corresponding increase in financial involvement by all tiers of government. By 1979 the legal

basis for education was the constitution. The objectives of education as provided in chapter 11, section 18 subsections 1-3 are;

- a. Free compulsory and universal primary education
- b. Free secondary education
- c. Free university education
- d. Free adult literacy programme

Like the 1972 federal military government memorandum on education the 1979 constitution place education on the concurrent list. Hence the responsibility on education falls on the three tiers of government. Grants were given to states by federal government. And financing of primary education was shared between these tiers of government. The states have total control of primary, post primary, technical and other forms of education within their territories. However by 1983 the military returned to power and several decrees was promulgated to guide and regulate the conduct of education. Among these are decree number 16 of 1985 which was promulgated on the national minimum standards and establishment of institution. Decree No. 20 of 1986 which changed the school calendar from January to December to October to September and the implementation of the 6:3:3:4 system of education also the decree 31 of 1988 which established the National Primary Education commission. However this period witnessed the decline of education with the closure in 1983 of all private owned universities and the merging of some universities, poor condition of service of the teachers etc.

#### **EDUCATION LAW FROM 1990-2010**

This period witnessed certain fundamental changes in our educational policy and administration and a period of rigmarole or indecision which included the prescription with decree No.26 of 1988 of ASSU (Academic Staff Union of Universities) and subsequent revoking the prescription with decree No. 36 Of 1990 also the National Primary Education Commission which established the minimum standard of primary Education in 1988 was abolished in 1991 and re-established in 1993. Furthermore, the introduction of the 1999 constitution which stipulates the objectives of education and review of the National Policy on Education and subsequent lurching of the Universal Basic Education in 1999 and review or relunching of the UBE in 2004. Some of the components of the Universal Basic Education include;

- i. Early child care and socialization
- ii. Functional literacy for adults over 50 years of age
- iii. Any programme for people who left school before they could learn how to write
- iv. Programme of nomadic education

The main goals of the universal basic education include;

- i. Universalize access to basic education
- ii. Engender a conducive learning environment
- iii. Eradicate illiteracy in Nigeria within a very short period

However, as contained in the official Reference of the Federal Republic of Nigeria Gazette (2004), the act provides for compulsory universal basic education and stipulates penalties for parents who fail to comply with the provision. On the issue of relevance of the school curriculum to the society Ehindero (2000) Adesina (2000) have raised doubts as it has been observed that there is a growing rate of poverty which is an indicator of problems in the

system. It was therefore suggested that it should be so structured that each individual will be equipped to perform some six life roles e.g. role as an individual, as a producer, citizen, national consumer and as a family member. As far as the provision of human and material resources are concerned, Adebimpe (2001) opined that for the UBE to succeed, adequate provision should be made to produce sufficient qualified teachers and make them relevant within the limit of their area of specialization. Salaries need to be paid as at when due because it serves as a motivation factor towards productivity. Education in Nigeria is an instrument per excellence for effecting national development. It has witnessed active participation by non-government agencies, communities and individuals as well as government intervention. It is therefore desirable for the Nation to spell out in clear and unequivocal terms the philosophy and objectives that underline its investment in education. The National Policy on Education seeks to fulfill that role. (NPE 2005:1). This statement suggests the government's bold attempt at state control of education. The national objectives of Nigeria as stated in the National Policy on Education (2005:2) include the building of;

1. A free and democratic society
2. A just and egalitarian society
3. A united, strong and self-reliant nation
4. A great and dynamic economy; and
5. A land of bright and full opportunities for all citizens.

The above form the center point of the philosophy of Nigerian Education. It aims at integrating the individual Nigerian as sound and effective citizen, by providing equal educational opportunities for all citizens.

Factors Militating Against Effective Educational Administration and Planning in Nigeria.

- i. Inconsistent Educational Policies; between 1977 and 2004 various policies were enacted, these are indication of the changing socio-economic and political factors but these affect the planning and administration of educational programmes. Many plans have been jettisoned before they were ready for implementation is course of government directives and counter directives.
- ii. Lack of Accurate Statistical Data; this have been one of the major problems of educational planners and administration. The almost absence of these data makes not only educational planning but other forms of planning in Nigeria unproductive.
- iii. Poor Planning Technique; according to Adeyemi and Oguntimehin (2000) there are in adequate experts in Nigeria in the area of educational Planning. There are small units in the ministries of education which are responsible for educational planning. These units are often staffed with educational officers who rose from the rank. Almost all does not have training in educational planning or statistics. Therefore cannot correctly interpret the information gathered in educational situation of the country.
- iv. Poor Funding of education Programmes; over the years the government budget on education is quite meager. Hence there is hardly enough fund for planning unit of educational sector to embark on serious reforms or innovations.

## IMPLICATION FOR EDUCATIONAL PLANNING AND ADMINISTRATION

The historical analysis of the constitutional provision for education in Nigeria has a lot of implication for educational administration and planning as it could be said that a blind past is a blurred future. It could be noted that most of the colonial education ordinance were imitation of educational act of England at that time, as Leach observed in Fafunwa (1974) the

missionaries had to come with the Latin service book in one hand and the Latin grammar in the other. He went further to say that the native priest had not only been taught the tongue in which their services were performed, but their converts had to be taught the elements of religion. Therefore did not take into consideration our local attributes or characteristics as a result it was relatively not functional. This led to the call from nationalist for a review; this was the foundation of education in Nigeria. In the formulation of policies it is essential or important to integrate the good parts of the earlier education laws, the needs at the present time for future proposals in formulating a new policy. In 1956, during the free education of the western region and in 1957 in the Eastern region one of the problems faced by education administrators was the unpredictable increase in the population of the pupils, this again resurfaced in 1976 during the universal primary education, this indicates a reactionary approach by our administrator, and implies that our administrators did not take into consideration certain fundamental aspect as regards our population growth and the needs of improved infrastructure and the social needs of the country. Furthermore between 1979 and 1983, there were conflicting educational programs while in some states education was free and in others education was not, therefore left education at the mercy of political will, this must have led the military government to suspend the universal primary education program and subsequent introduction of the Universal Basic Education in 1999. Some of the problems highlighted by some of the colonial commission's report notably Phlep-Stokes commission still exist in our educational system these are;

- i. Multiplication of schools and lack of supervision
- ii. Varied quality of schools
- iii. Education is not portraying to a very large extent our culture and tradition among others.

The inability of various governments not to adhere to policy framework and the frequency of change of political leadership has to a very large extent affected the implementation of educational programs. The Universal Basic Education with its positive attributes of bringing education closer to the people have a major constrain which is the optional method of assessing the funds. This in our young democracy does not given the educational administrators and planners adequate time to project for the future. Therefore goes a long way to affect both planning and implementation of educational programmes and has effect on the implication for educational administrators and planners. UNESCO (2001) reiterated that nations with high illiterate rate and unskilled workforce have fewer development options. For a developing country like Nigeria it is important to take note of the past policy's reason for success and/or failure into account before modifying and implementation of any new policy. The participatory model of educational policy formulation and administration is appropriate (this involves all stake holders i.e. from the local level to the federal level) and there should be an adequate model or method of feedback for evaluation.

## CONCLUSION

Education in Nigeria has gone through some revolutionary changes at the primary, secondary and tertiary levels. The British colonial government did not have a readymade plan for education in their colonies and depended on the officers in charge of the colony to implement whatever he feels was necessary, this resulted in the importation of British acts. This ordinance was not functional and as such did not meet the local peculiarities and aspiration of the local Nigerian people, hence the need for a truly Nigerian educational policy. The Macpherson constitution of 1951 which created the regional government with the authority to

enact and review laws and placing education in the concurrent list helped to create a direction for educational administration in Nigeria.

Following the independence there were basically three legislative list for the four governments (federal, and the three regions) the exclusive list, the concurrent list and the residual list. While the exclusive list was reserved for the federal government, the residual list was for the regions and the federal and the regional government could legislate on the concurrent list provided the federal law shall prevail in the event of any conflict. The education law of various regional government provided general rules and regulations to guide educational enterprises in the various regions. The provisions covered the field of educational administration local authorities, establishment and closure of schools and inspection of schools. Other areas were statutory system of public education, teacher's conditions of service, curriculum, religion and financial provisions. This must have led to the inauguration of a seven man implementation committee headed by Professor Onabamiro for the national policy on education among its terms of reference was to translate the policy into a workable blue-print and to develop programmes for the implementation of the policy. The national policy on education is the first indigenous education policy. This document looked into our educational structure in totality, giving room for technical, vocational and adult education. However, the implementation of these laudable objectives was not adequate, this could have been due to a number of reasons among others are;

1. The delay in the implementation or legitimization of the policy.
2. Lack of foresight by administrators which led to over population, lack of adequate structures and above all lack of teachers.
3. Frequent change of political leadership and lack of focus or priority.

The Universal Basic Education which was launched in 1999, have a better outreach and foundation, it is aimed at bringing education closer to the people and improving on their conditions. However, the UBE have some constrain which among others include the optional method of assessing the funds by the state government and improper method of supervising the various ways these funds are utilized. If parents could be sanctioned for not sending their children to school as stipulated in the UBE act of 2004, state government should be sanctioned for not assessing and/or utilizing the fund appropriately.

### RECOMMENDATIONS

Education all over the world is seen as a process of transmitting the cultural heritage, stabilizing the present and improving or changing the future of the people. Therefore issues and challenges in education should be viewed with utmost consideration and honesty. It is known that these issues and challenges would keep reoccurring from time to time. And it is the responsibility of the administrators to be prepared to face these challenges; hence there is a need for the review of the implementation process of our educational system.

1. There is a need for an adequate feedback system; this can be possible if the supervisory division is adequately armed with the resources needed for efficient operation. For a long time the inspectorate division have been inactive either by conscious or unconscious acts, by the respective administrations. Education without supervision unit is more or less a negative education. The financial, human and material resources have to be improved. One of the objectives of the inspectorate division is to ensure that the policies as stated in the National Policy of Education are strictly adhered to and feedback on the problems and successes are given to the ministry. This would help in the improvement of our educational system.

2. Adequate funding of education by the three tiers of government. In spite of the budgetary allocation by the three tiers of government (which is low) especially for the primary and secondary schools another 2% from the consolidated revenue fund is given to the UBEC and SBEC, even when the state assess these funds they are not utilized where necessary or important.
3. Educational administrators should be involved in the process of policy formation and policy implementation.
4. Assessing the UBE funds by state government should be made compulsory for the overall interest of educational advancement of the country.
5. We need to integrate all forms of education, if we have to achieve the free compulsory education and improve on the national productivity and efficiency. In so doing the makaranta allo have to be integrated into our basic education. We need to improve not only the welfare of the mallam's but the educational status of the makaranta allo.
6. Adequate measures should be taken on proper data analysis and prospects for political change.

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