



## EXAMINING EDUCATION LAW OF TORTS IN PUBLIC SECONDARY SCHOOLS IN ANAMBRA STATE

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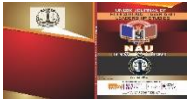
### ABSTRACT

*This study investigated the teachers' awareness of education law of torts in public secondary schools in Anambra State. The study was guided by two research questions. The study adopted descriptive survey research design. The population of the study comprised all the public secondary schools in Anambra State numbering 266 with 5133 teachers made up of 756 males and 4377 females. Using stratified random sampling technique, 1856 teachers were selected which is 36.1%. The instrument for the study was designed by the researcher and named "Education Law of Torts Questionnaire" (ELTQ) and used to elicit information from the participants. Validity of the instrument was certified by three experts from relevant fields. The reliability of the instrument was carried out using Cronbach Alpha which yielded coefficient of 0.79 which was considered appropriate for the study. Result analysis was done using statistics mean. The findings revealed that most teachers in the public secondary schools in Anambra State are not aware of education law of torts. It is therefore recommended that the appropriate educational agency should as a matter of urgency organize seminars and conferences the education law of torts for teachers in public secondary schools in Anambra State. This is to acquaint them with the full meaning and the implications of any breach on fundamental human right.*

**Keywords:** Education law, Torts, Discipline and Secondary schools.

### Introduction

School is the convergence of people from various homes who were brought up/trained by different parents at different locations and under different conditions. It therefore becomes very imperative that there is need for checks and balances if the educational objectives must be attained. These checks and balances come in form of rules and regulations guiding the school operation which ensures that fundamental human rights are not trampled upon. In the presence of rules and



regulations that guide the conducts of the school actors, there is orderliness, peace and development in the school operations leading to optimal goal realization. In a situation where there is no law or rules and regulation, there is chaos, rancor and clash of interests in the flow of events, programmes and activities leading to unattained educational objectives. It is based on this narrative that this study becomes vital.

According to Iloka (2023); Nwakoby and Ilodigwe (2022); Ibe (2022); Ibe, Nwakoby & Ihediuche (2024), education law deals with what the students and other school personnel are expected to do as well as what they are expected not to do for the school objectives to be met. It directs the behavior of the school community members in such a way that there will be no victor no vanquished in the implementation of education policy. It keeps every of the school community on track for effective and efficient management. In view of the above discuss, Nwakoby and Nwakoby (2023) acknowledged that education law focused on the dos and don'ts and what the law holds against the culprits. Similarly, Ojimba (2024); Okoye (2017); Okoye (2016) reiterated that all schools in Nigerian educational system were established through due legal process. This implies that before the erection of educational institutions, it is guided by the rules and regulations. School activities are carried out under the orbit of the law. The essence of the education law is to ensure that all the school personnel are guided by the code of conduct so as to achieve stated goals at the long run.

### **The concept of education law/importance of education law**

Education law is seen as the code of conducts, rules and regulations which dictates the behavior of the school players. It is a lay down principle which must be followed by the members to achieve educational objectives without interfering with other peoples' fundamental human rights. Ojimba (2023); Okeke and Okaforcha (2020); Iloka (2022) defined education law as that part of the law in a state or city which is channeled to oversee the school administration which public and private primary and secondary schools, tertiary institutions are included. Okaforcha and Okeke (2020); Ibe and Udeoji (2019) Ucheagwu-Okoye (2019) acknowledged the essence of education law in school operation thus postulated that education and law are intertwined and no one could stand in isolation. Okaforcha and Okeke (2019); Ezeaku (2014); Ucheagwu-Okoye and Nwadukwe (2021) aptly put that without rules and regulations, school goals would remain unmet. In the scholar's perspective, in the absence of rules and regulations (education law), the students, teachers and administrator are not answerable for their actions and inactions.

Amuda-Kannike went further to outline the essence of education law as under listed;

1. It is the codes of conduct on instruction which regulates educational policies, events and activities.
2. It guides and directs the students
3. It guides and directs the teachers
4. It directs and regulate the stakeholder's foe effective and efficient implementation of educational policies and programmes
5. It helps to ameliorate corruption and mismanagement.



### **Law of tort**

The word tort is derived from the Latin word “tortum” which means something that is warped or twisted. Torts comprised civil wrong. Tort is a portion of private law which deals with any instance of harmful behavior like physical attack or interfering in ones’ possession. According to Ilodigwe and Nwakoby (2021); Iloka (2021); Nwakoby (2023) tort is the commission or omission which gives rise to injury or harm to another and amounts to civil wrong for which courts enforce legal responsibility. Injury is the foray of any legal right while harm refers to loss or damage which the person suffers. To Okaforcha and Okeke (2019); Ezeaku (2012); Okeke (2023); Okoye (2018) tort law is the body of rules and regulations which deals on remedying harms caused by a person’s wrongful or injurious actions. This goes to explicate the people are liable for their actions and inactions.

In the school system, tort comes in different dimensions. It could be that the school administrator (principal) or teachers causes harmful behavior which involves physical contact or emotional trauma to the student. This act of tort is actionable in the law court. It is for this reason that Okaforcha and Okeke (2018); Ezeaku (2019); Nwabashili, Iloka and Ucheagwu-Okoye (2022); Okeke (2022) lucidly inferred that education personnel have the duty not to cause harm to others. In other words, each of the school actors should deem it fit not to breach the law of tort by an unreasonable risk to the safety of others. If by any means the risk is generated and it culminates into injury, the law imposes liability to the accused. As noted by Nwakoby (2024); Nwakoby and Chukwujekwu (2020), the scholars further emphasized that in a case where a student suffers harm whether by accident or through intentional act, the school authority/teachers are liable under the civil wrong more so when the harm/injury emanated from the negligence of duty. The court therefore reserves the right to administer justice considering the elements of torts.

### **Types of Torts**

1. Assault; this occurs when someone threatens or tried to ham another person (s) but without physical contact.
2. Battery; this is the situation whereby the defendant not only threatens but also applies physical contact to another person.
3. Intentional infliction of emotional distress; this is where the accused knowingly intended to cause harm to another person(s). This can be physical harm or emotional trauma.
4. False imprisonment; this is the situation whereby someone’s freedom of movement is restricted.

### **Elements of Torts in Education Law**

1. The school personnel have a duty to act in a way that did not cause the injury to the students
2. The teacher committed a breach of that duty
3. An injury occurred



4. The breach of duty is the immediate cause of the injury (Ojimba 2021; Okaforcha and Okeke 2018; Ezeaku and Obikeze 2018).

In view of the above expositions, teachers should be proactive in their dealings with their students. This is because it is their legal duties to protect the students from any foreseeable harm. This is done by ensuring that broken chairs, tables and windows should be urgently repaired to avoid any harm. Dangerous objects should be kept away from students. In the laboratories, there should be adequate provision of injury prevention measures in case of spilling of chemicals etc. In support of the above view point, Ibe (2019); Okoye (2017); Ezeaku (2013); Okoye and Ucheagwu-Okoye (2021) affirmed that the teacher has the duty to protect, supervise and instruct the students while taking into cognizance the health status of the students. Invariably to enable the teacher administer disciplinary measures under the orbit of tort law.

### **Problem Statement**

School is the place where students from various family backgrounds gather for the purpose of teaching and learning. They exhibit various attitudes which the teacher needs to curtail for effective teaching/learning outcome. This implies that there must be some disciplinary acts the teacher should employ to ensure decorum in teaching/learning delivery process. The disciplinary measures must be in line with what education law specifies so as not to fall victim of legal subjugation while carrying out their rightful duties. It is based on the above expression that Nwogu and Nwakoby (2021); Ughamadu, Okaforcha and Okeke (2015) posited that the concept of education law is not trendy in Nigeria. The scholar further expressed that most teachers in Nigerian schools are not duly aware of the essence of education law as it relates to school operations. Since teachers are involved in the students' discipline in one way or the other, there is absolute need for the modern-day teacher to be conversant with what constitutes discipline and legal means of administering punishments in schools. This is to enable the teachers and other school personnel scale through in the face of litigation. It therefore becomes very necessary that teachers should be aware of the tort law and various ways of carrying out their tort law without any breach hence this study.

### **Research Questions**

1. What is the extent of awareness of law of tort by public secondary school teachers in Anambra State?
2. What are the various ways of carrying out teachers' tort law?

### **Methods**

This study investigated the teachers' awareness of education law of torts in public secondary schools in Anambra State. The study was guided by two research questions. The study adopted descriptive survey research design. The population of the study comprised all the public secondary schools in Anambra State numbering 266 with 5133 teachers made up of 756 males and 4377 females. Using stratified random sampling technique, 1856 teachers were selected which is 36.1%. The instrument for the study was designed by the researcher and named "Education Law of Torts



Questionnaire” (ELTQ) and used to elicit information from the participants. Validity of the instrument was certified by three experts from relevant fields. The reliability of the instrument was carried out using Cronbach Alpha which yielded coefficient of 0.79 which was considered appropriate for the study. The results of the data collected were weighted and analyzed using statistical mean. The criterion mean was positioned at 2.50 for aware while anything short of that is adjudged not at all aware.

## Results

1. What is the extent of awareness of law of tort by public secondary school teachers in Anambra State?

**Table 1:** The extent of awareness of law of tort by public secondary school teachers in Anambra State.

s/n	Item statement	Fully aware	Slightly aware	Somewhat aware	Not at all aware	Mean	Decision
1.	Negligence	360	320	678	498	2.29	Not at all aware
2	Intentional tort	286	359	600	611	2.17	Not at all aware
3	Unintentional tort	298	267	568	723	2.07	Not at all aware
4	Assault	345	238	583	690	2.12	Not at all aware
5	Battery	332	421	602	500	2.31	Not at all aware
6	False imprisonment	289	333	523	711	2.10	Not at all aware
7	Defamation	366	356	582	552	2.28	Not at all aware
8	Strict liability tort	297	432	605	522	2.27	Not at all aware
9	Trespass	299	412	607	538	2.25	Not at all aware
10	Fault	361	423	652	420	2.39	Not at all aware
	Grand mean					1.76	Not at all aware

Table 1 presents the results on the extent of awareness of the tort law by public secondary school teachers in Anambra State. Following the table, all the respondents opinioned that they were not aware of various types of tort law such as negligence, intentional, unintentional, assault, battery, defamation, verbal abuse, false imprisonment, fault strict liability. This is evinced with all the mean scores ranging from 2.07 to 2.39 which fall below the criterion mean of 2.50 which is an indication that most public secondary school teachers are not at all aware of the tort law. The grand mean gave rise to 1.76.

2. What are the various ways of carrying out teachers’ tort law?

**Table 2:** The various ways of carrying out teachers’ tort law

s/n	Item statement; as a teacher I do the following for my students	Strongly Agree	Agreed	Disagree	Strongly Agree	Mean	Decision
1.	Keep an eye on the students during break period	249	345	657	605	2.12	Disagree
2	Ensure that broken furniture is removed from access ways	326	352	623	555	2.24	Disagree
3	Institute prevention control measures in the laboratories	300	401	588	567	2.23	Disagree
4	Do not restrict students’ freedom of movement	523	399	489	445	2.53	Agree
5	Punishment is based on the gravity of the offence	444	578	480	354	2.59	Agree
6	The health status of the students is considered in discipline	465	423	456	512	2.45	Disagree
7	Students are not verbally abused	620	389	521	326	2.70	Agree
8	Students are given freedom of speech	562	487	355	452	2.62	Agree
9	Students have equal rights in the classroom	555	579	435	287	2.75	Agree
10	The strength of the students is considered during discipline	467	653	421	315	2.68	Agree
	Grand mean					2.49	Disagree





Table 2 shows the result analysis on the various ways of carrying out teachers' tort law in public secondary schools in Anambra State. Items with serial numbers 4, 5, 7, 8, 9 and 10 agree that teachers perform their tort law in the public secondary schools in Anambra State by: avoiding restriction of students' movement, aligning punishment with the offence, avoiding verbal abuse, allowing freedom of speech, equal rights during instructions and considering students' strength when administering discipline. These results were proven to be within the criterion mean of 2.50 with the scores ranging from 2.53-2.75. On the contrary, items with serial numbers 1, 2, 3 and 6 disagree on the various ways of carrying out teachers' tort law in public secondary schools in Anambra State. The scores fall below the criterion mean of 2.50 as they range from 2.12-2.45. The grand mean yielded 2.49.

### Discussions

The first finding of this study was that most teachers in public secondary schools in Anambra State are not at all aware of the tort law. Tort law is essential in schools especially for teachers who more often than not are found in the administration of school discipline. The teacher out of ignorance of civil wrong could plunge themselves into tort liability in the face of litigation. It is premised on this that Chike Okosa, Ibe and Ojimba (2023); Okeke and Okaforcha (2018) maintained that educational personnel have the legitimate duty to perform their roles without creating unreasonable risk to the safety of others. The second finding of this study indicates that most teachers in public secondary schools in Anambra State do not agree on the various ways of carrying out teachers' tort law. This attitude has led to the breach of the fundamental human right which is actionable in the law court. Consequently, teachers fall victim of tort liabilities as whenever there is law suit against them. It is only when teachers adhere to various ways of carrying out their legitimate roles that education objectives would be attained. Ezeaku (2012); Okoye (2021); Ani, Iloka and Nwakoby, (2021) aptly put that without rules and regulations, school goals would remain unmet. Nwakoby and Nwakoby (2022); Ojimba (2020); Ehigiator and Ucheagwu-Okoye (2021) went further to emphasize that legitimacy in performance of teachers' duties act like a compass that directs teachers conduct in the school.

### Conclusion

It is the conclusion of the study that most teachers are not at all aware of the existence of tort law and do not perform their roles in line with the tort law. Tort law as a civil wrong goes with consequences which teachers should endeavour to avoid if the educational objectives must be achieved. Abiding by the tort law provides adequate environment for effective and efficient teaching learning delivery process.

### Recommendations

Based on the result analysis and the findings, the following recommendations were made:

1. The appropriate educational agency should quickly organize seminars and conferences for public secondary school teachers to acquaint with the elements of tort law and the implication for any breach.



2. Intermittent visit to schools should be carried out by the ministry of education personnel to ensure that teachers adhere to tort law in the discharge of their legitimate duties.

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