



Teachers' Awareness Of Education Tort Liabilities For Student Discipline In Public Secondary Schools Of Rivers State

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ABSTRACT

This study investigated the extent to which teachers are aware of tort liabilities in relation to student's discipline in Rivers State public senior secondary schools. 2 research questions and 2 hypotheses guided the study. The descriptive survey research design was used. The population for the study was the 286 senior secondary schools in Rivers State. The respondents were the 8962 teachers (2018/2019 session) in these schools. The sample size was 448 teachers made up of 272 females and 176 males. Stratified random sampling was used to draw the sample for the study. A research designed questionnaire titled: "Teachers' Awareness of Education Tort Liabilities Questionnaire" (TAETLQ) was used to elicit responses. The instrument was validated by experts. A reliability coefficient of 0.76 was derived using the Cronbach alpha reliability technique. Mean statistics was used to answer the research questions while the hypotheses were tested using Z-test. Findings revealed that the extent of teachers' awareness of acts that will make them liable of intentional and negligent torts was low. It was therefore recommended that seminars, workshop and conferences on aspects of education law that deals with student discipline be organize by the Rivers State Senior Secondary Schools Board for teachers and other school personnel in order to sensitize and increase the knowledge base of teachers to avoid litigation.

Keywords: Tort Liabilities, Negligence, Assault, Education Law

INTRODUCTION

Every organization operates within the ambits of laws and the school is not an exception. The school as a formal organization has clear established laws that guide the conduct and the activities of its members. These laws form the bases of acceptable standards in the schools. The aspect of law that concerns school is called education law. According to Oloko (2014) education laws are those laws that have been enacted notably for the organization, administration and control of the education system and those who operate in the education system are required to comply with these laws. He further stressed that education law covers legal subject including contract, property, tort, constitutional law and other areas that affects the operation of schools. Such rules and regulations are binding on the students, teachers and other stakeholders within the educational system.

In Nigeria, the Child Right Act, 2003 (Cap C50) section 11(d) states that "no child shall be held in slavery or servitude, while in the care of a parent, legal guardian or school authority or any other person or authority having care of the child". With a reference to the 1999 Constitution of the Federal Republic of Nigeria, any chastisement or discipline that amounts to an inhuman treatment is a breach of the fundamental right to dignity of human person as guaranteed in section 34. Any time an inhuman treatment of students by teachers takes place, a situation of trespass to person (student) occurs.

Achieving educational goals requires discipline, obedience to school authority, rules and regulations, understanding and commitment to the proposition that education is a primary instrument for social and economic advancement of human welfare. Gates (2010) defines discipline as adherence to the various behavioural patterns necessary for maximum performance. Teachers have the right to administer appropriate discipline for the purpose of correction or ensuring proper upbringing of the child. However in schools, most teachers do not even know the common difference between the word discipline and punishment. This therefore makes a kind of chastisement (discipline) from a teacher to a student to amount to a tort or crime. In this case, such a teacher may be involved in assault and battery, which the educational law as related to criminal matters forbids in Nigerian schools. Discipline matters that negate outline procedures have been found to create costly repercussions both on management and the managed (Koko, 2015). The question is how many teachers know about these laws and the provision therein as regards to right to punish students, defamation, tort liability, etc.

Conceptual Framework

Tort liability

Torts imply a civil wrong. Torts occur in school when people interfere with other peoples' right even without knowing it. Eferkeye (2004) describes tort as a civil wrong other than breach of contract for which a remedy may be obtained, usually in form of damages, a breach of a duty that the law imposes in persons who stand in a particular relation to one another. Tort liability is a law that governs the obligations we owe to others simply by virtue of their status as persons. Much of tort law concerns compensation for personal injuries which one person inflicts, intentionally or otherwise on another (Mccarthy and Cambron McCabe, 2000). Tort law is a form of corrective justice: its principal function is to compensate victims for injuries inflicted by wrong doer, who by virtue of their conduct, have breached a duty owed to the injured party. From the above definitions tort is summarized as a civil wrong refer to as interference with the private right or life in existence of others and in response, the person against which tort is done initiates and maintains an act so as to make you compensate him or her. Torts can be grouped into two major categories which are typically seen in education-related cases called intentional tort and negligent tort.

Intentional Tort

Intentional torts are usually offenses committed by a person who attempts or intends to do harm. Alexander as cited in Igwe (2014) opined that for intent to exist, the individual must be aware that injury will be the result of the act. Some common types of intentional torts in the classroom are assault, battery, slander, libel etc.

Negligence Tort Liability

Negligence tort are neither intended nor anticipated like intentional tort which is intended. Therefore negligence can be seen as the omission to do something which a reasonable man could do. It is a breach of duty. In other words, when you fail to do what you are supposed to do especially as it concern the right and protection of individuals under your care. Examples of torts of negligence are: broken toilet not well mended leading to the injury or death of a child or a dangerous gas in the laboratory without warning from the teacher causing blindness to a child in the school or not administering first aid or calling for help when a child is injured, flogging a student and causing a permanent injury on the student etc.

Review of a Case of Intentional and Negligent Torts Liabilities

Corporal Punishment, Assault, Battery and Negligence

Elizabeth Aliri (Suing By Her Friend)

Benadeth Aliri Plaintiff/Respondent

Vs

1. John Ekeogu 1st Defendant/Applicant

2. The Director of School Imo State 2nd Defendant/Applicant

3. State School Management Board 3rd Defendant/Applicant

Source: High Court Owerri (J. Ogu Ojoaawu) 16/11/89 Suit No. How/200/87

Facts: The plaintiff/respondent was a primary five pupil of Community Primary school Okeke, Imo State and the applicant/defendant, a teacher of the plaintiff/respondent. On the 2nd of December, 1985, a thief was caught in a palm produce depot near the Community Primary School where the applicant was a teacher and the respondent was one of his class pupils. The thief was being beaten up by furious members of the public and the applicant instructed his class pupils including the respondent to go and see how thieves are treated so as to learn a lesson. The class pupils obeyed and went to the said depot. Soon after the bell signaled for the pupil to resume classes, all of them including the respondent began to run back to the school. As they were doing so, the defendant/applicant picked a cane and began to flog the pupils. In the process landed the cane on the left eye of the respondent injuring the left eye and the respondent was abandoned to cry in pain.

Decision

The judge in response to the issues stated that the applicant acted outside his official duty as a teacher when he sent the respondent and other pupils out from his class to go on their own outside the school compound to watch the commission of assault on a thief at a palm produce depot. The judge also stated a possible lesson for the students was that the pupils could take the law into their own hands without record to appropriate authority. Such a lesson was detrimental to the moral upbringing of the pupils. He further admitted that the applicant caused the responded grievous harm by injuring or causing permanent disfiguration to her eye with a cane. Grievous harm is a felony punishable with imprisonment for life under Section 332 (a) of the Criminal Code Cap 30. Assuming that the applicant has authority to flog the respondent such authority does not extent to inflicting grievous harm on the respondent so as to cause her permanent injury to her left eye. The applicant acted in excess and outside his authority and engaged in a criminal act when he hit the left eye of the respondent with a cane causing her permanent injury.

Judgment Held

For the reasons given and satisfied that the applicant committed a felonious act, the judge held that that applicant though a public officer, cannot take cover under the Pubic Officer Protection Law Cap 106. Consequently, the judge ordered the applicant, John Ekeogu, to file his statement of defense to his action within 21 days of his ruling. The costs are N100.00. But John Ekeogu appealed instead and the court of appeal still confirmed the ruling of the lower court.

CASE

JOY ADUWA

VS

E. A. OKPEHIE

Source: (High Court of Justice Benin City Suit No. B/76/83,) Igwe (2003) cited Karibi (2014). The Claimant brought an action in assault and battery

In this suit, Mrs. Joy Aduwa was claiming N34,000.00 being special and general damages against the Defendant Mr. Anthony Okperhie who was her Geography teacher. The Defendant was alleged to have caused her injuries and pains when he struck her with an 80 leaves exercise book, although the testimony in court indicated that she retaliated. The Court held that her claim holds no water, as a parent is deemed at common law to have delegated to the teacher power to discipline a pupil so far as it is necessary for the welfare and discipline of the child, and that Joy's case was not exceptional.

Osborne (2018) reported a **similar case: Dr. Barry Comeaux** a substitute teacher's actions was said to have constituted an assault and battery on **Frame: a student**. Students, who were disruptive during a test, were asked to leave and they did. Frame spoke aloud after and was also asked to leave. Frame responded by slowly standing up to face Comeaux. Simultaneously, Comeaux grabbed Frame by the arm to assist him out of the classroom. The combined actions threw Frame off-balance and caused him to stumble backwards down the aisle where he hit the podium and eventually came to a halt against the blackboard. Frame was then removed from the classroom.

Frame argued that Comeaux attacked him and that the attack was unprovoked. Even if provoked, Frame argued, Corneaux actions were excessive in the light of the situation.

The **Court, in Frame v. Comeaux, 735 50, 2d 753 (I act. App. 1999)** found that although Comeaux committed a battery, he was justified in doing so. Frames actions were apparently sufficient to provoke Comeaux to forcefully remove Frame from the classroom. Moreover, the Court found it was

necessary for Comeaux to remove Frame, not only to maintain order but also to facilitate the learning process.

In contrast, a Court in Connecticut found the teacher guilty of Assault and Battery when the teacher slammed a student against a chalkboard and then against a wall. The teacher used excessive force, displayed a clear lack of self-control and severely injured the student as reported in **Sausone v. Beethel, 429 A 2d 820 (Conn. 1980)** by Educator Resources retrieved from <http://eduscope.esu.edu>.

Statement of the problem

Teachers play a significant role in inculcating students discipline in schools. However they should be reasonable in administering discipline. Unfortunately many reports indicate that some teachers do not adequately play this roles especially in and outside class pedagogical aspects, supervisory and as well as observing the legality of punishment. Opinions are that teachers still administer corporal punishment, assault, harass, detain student against their will and even threaten them. In Nigeria, like many other countries, the liberty afforded teachers to discipline students does not stop them from being liable when the offence is considered excessive, cruel, and disproportionate to age and with the intent to do harm to the student. The fact that teachers' are given the authority to discipline students, does not give them the right to infringe on their right or injure them. Parents are becoming more enlightened and critical about how student are cared for and are ready to seek redress in court whenever the rights of their children are violated. Hence, it is worrisome to observe an increase in court cases instituted by parents against teachers in such issues as intentional tort of assault, battery, and defamation and negligence. It is therefore imperative to ask: Are teachers aware of acts that will make them liable of intentional and negligent torts?

Purpose of the Study

1. To ascertain the extent of teachers' awareness of acts that will make them liable of intentional torts in relation to students' discipline in Rivers state secondary schools.
2. To determine the extent of teachers' awareness of acts that will make them liable of negligent torts in relation to students' discipline in Rivers state secondary schools?

Research Questions

1. What is the extent of teachers' awareness of acts that will make them liable of intentional torts in relation to students' discipline in Rivers state secondary schools?
2. What is the extent of teachers' awareness of acts that will make them liable of negligent torts in relation to students' discipline in Rivers state secondary schools?

Hypotheses

H₀₁: There is no significant difference between the opinions of female and male teachers on the extent of teachers' awareness of acts that will make them liable of intentional torts in relation to students' discipline in Rivers state secondary schools

H₀₂: There is no significant difference between the opinions of female and male teachers on the extent of teachers' awareness on acts that will make them liable of negligent torts in relation to students' discipline in Rivers state secondary schools

METHODS

The research design used for this study was the descriptive survey design. The population for the study was the 286 senior secondary schools in Rivers state. The respondents were the 8962 teachers (2018/2019 session) in these schools. The sample size was 448 teachers made up of 176 males and 272 female which was 5% of the population. Stratified random sampling was used to draw the sample for the study. A research's designed questionnaire titled: "Teachers' Awareness of Education Tort Liabilities Questionnaire" (TAETLQ) was used to elicit responses from the respondents. The questionnaire had two sections. Section A contained demographic data of the respondents while section B contained the questionnaire variables on the teachers' awareness of education tort liabilities for student discipline. The TAELT has 11 items and response pattern was structured on a four 4 point Likert type scale of Great Extent, Moderate Extent, Low Extent and Not at all with values 4, 3, 2, and 1 respectively. Cronbach alpha was used to determine the reliability of the instrument and a reliability coefficient of 0.76 was obtained. Mean statistic was used to answer the research questions. The criterion mean was 2.5. Any statement below 2.5 was rejected and above 2.5 was accepted. The hypotheses were tested using z-test statistics at 0.05 levels of significance. Any response therefore, with a calculated z-value above 1.96 was rejected and below 1.96 was accepted.

RESULTS

Research Question 1: *What is the extent of teachers' awareness of acts that will make them liable of intentional torts in relation to students' discipline in Rivers state secondary schools?*

Table 1: Mean (X), Standard Deviation and Rank Order of Respondents' Opinions on the Extent of Teachers' Awareness of Acts that will make them Liable of Intentional Torts in Relation to Students Discipline in Rivers State Secondary Schools

S/N	QUESTIONNAIRE ITEMS	FEMALES		MALES		MEAN $\frac{\sum X}{N}$ (\bar{X}_1)(\bar{X}_2)	RANK		REMARK
		\bar{X}_1	SD ₁	\bar{X}_2	SD ₂		REMARKS	ORDER	
1	I am aware that I may be held liable if I disregards foreseeable injury on a student when administering discipline	2.40	0.56	2.43	0.57	2.41	4th	Low Extent	Disagreed
2	I am aware that I may be held liable for flogging a student	2.68	0.47	2.70	0.72	2.69	1st	High Extent	Agreed
3	I am aware that I may be held liable for making a false statement that expose a student to shame, ridicule or contempt	2.17	0.92	2.00	0.84	2.10	6th	Low Extent	Disagreed
4	I am aware that I may be held liable for forcibly dragging a student to the principal's office to report an offence	2.55		2.56	1.03	2.56	3rd	High Extent	Disagreed
5	I am aware that I may be held liable for holding a student in slavery (placing a student in a small confined space or behind the door).	2.21		2.01	0.83	2.11	5th	Low Extent	Disagreed
6	I am aware that I may be held liable for shaving a student's hair, cutting the dress to fit in the name of appropriate grooming	2.54	0.43	2.64	0.82	2.60	2nd	High extent	
Aggregate		2.42	0.72	2.39	0.81	2.40	Low extent		Disagreed

From Table 1, out of the 6 items, respondents agreed that teachers will be held liable for 3 of the items which were: if they flogged a student (2.69) ranking as the highest by the mean score rating. It was followed by teachers may be held liable for shaving a student's hair, cutting the dress to fit in the name of appropriate grooming (2.60) and teachers may be held liable for forcibly dragging a student to the principal's office to report an offence (2.56). Respondents disagreed that teachers are aware of the following acts of tort liability: if they disregards foreseeable injury on a student when administering discipline, for holding a student in slavery (placing a student in a small confined space or behind the door) and for making a false statement that expose a student to shame, ridicule or contempt. Hence the low mean scores of 2.41, 2.11 and 2.10 respectively below the criterion mean of 2.5. The aggregate mean of 2.40 further showed that the extent of teachers' awareness of acts that will make them liable of intentional torts is low.

Research Question 2: *What is the extent of teachers' awareness of acts that will make them liable of negligent torts in relation to student discipline in Rivers state secondary school?*

Table 2: Mean (X), Standard Deviation, Mean Set and Rank Order Of Respondents' Opinions on the Extent of Teachers' Awareness of Acts that will make them Liable of Negligent Torts in Relation to Student Discipline

S/ N	QUESTIONNAIRE ITEMS	FEMALES		MALES		MEAN SET (\bar{X}_1)(\bar{X}_2)	RANK REMARKS ORDER	REMARK
		$N_1 = 272$ \bar{X}_1	SD_1	$N_2 = 176$ \bar{X}_2	SD_2			
7	I am aware that I may be held liable if a student sustained injury as a result of corporal punishment	2.70	0.78	2.64	0.82	2.67	1st High Extent	Disagreed
8	I am aware that I may be held liable for accidents arising from failure to report defective equipment or school facility	1.98	0.48	1.87	1.06	1.92	5th Low Extent	Agreed
9	I am aware that I may be held liable for mocking a student academic performance (shaming a student)	2.53	0.58	2.40	0.56	2.50	3rd High Extent	Disagreed
10	I am aware that I may be held liable if I fail to provide adequate supervision when disciplining a child or a class and injury occurs	2.43	0.43	2.00	0.84	2.22	4th Low Extent	Disagreed
11	I am aware that I may be held liable if I fail to provide first aid when a student sustain injury during discipline	2.68	0.47	2.54	0.52	2.61	2nd High Extent	Disagreed
	Aggregate	2.50	0.55	2.29	0.76	2.40	Low Extent	Disagreed

From Table 2, respondents agreed that they are aware that teachers will be held liable for the following items: if a student sustained injury as a result of corporal punishment, if they fail to provide first aid when a student sustain injury during discipline and for mocking a student academic performance (shaming a student) with high mean scores of 2.67, 2.61 and 2.50 respectively above and equal to the criterion mean of 2.5. Respondents disagreed that they are aware that teachers may be held liable for the following: if they fail to provide adequate supervision when disciplining a child or a class and injury occurs and that they may be held liable for accidents arising from failure to report defective equipment or school facility. Hence the low mean scores of 2.22 and 1.92 respectively below the criterion mean of 2.5. The aggregate mean of 2.40 further showed that the extent of teachers' awareness of acts that will make them liable of negligent torts is low.

Hypothesis

H0₁: There is no significant difference between the opinions of female and male teachers on the extent of teachers' awareness of acts that will make them liable of intentional torts in relation to students' discipline in Rivers state secondary schools.

Table 3: Z-Test Analysis of Difference between the Mean Scores in Opinions of Female and Male Teachers on the Extent of Teachers' Awareness on Acts that will make them Liable of Intentional Torts in Relation to Students' Discipline

Respondents	N	\bar{X}	SD	Df	Z-cal	Z-critical	Decision
Females	272	2.42	0.72	446	0.43	1.96	H ₀₁ was accepted
Males	176	2.39	0.81				
Total	448						

Table 3 shows a summary of mean, standard deviation and z-test of difference between the opinions of female and male teachers on the extent of awareness of teachers on acts that make them liable of intentional torts in Rivers state secondary schools. At 446 degrees of freedom and at 0.05 alpha level of significance the calculated Z score value of 0.43 was less than the Z-critical of 1.96, hence the null hypothesis was upheld while the alternate hypothesis was rejected. Therefore, there is no significant difference between the opinions of female and male teachers on the extent of teachers' awareness on acts that will make them liable of intentional torts in relation to students' discipline in Rivers state secondary schools.

H0₂: There is no significant difference between the opinions of female and male teachers on the extent of teachers' awareness of acts that will make them liable of negligent torts in relation to students' discipline in Rivers state secondary schools.

Table 4: Z-Test Analysis of Difference between the Mean Scores in Opinions of Female and Male Teachers on the Extent of Teachers' Awareness of Acts that will make them Liable of Negligent Torts in Relation to Students' Discipline

Respondents	N	\bar{X}	SD	Df	Z-cal	Z-critical	Decision
Female Teachers	272	2.50	0.55	446	3.50	1.96	H ₀₁ was rejected
Male Teachers	176	2.29	0.76				
Total	448						

Table 4 shows a summary of mean, standard deviation and z-test of difference between the opinions of female and male teachers on the extent of awareness of acts that will make them liable of torts of negligence in Rives state secondary schools. At 446 degrees of freedom and at 0.05 alpha level of significance the calculated Z score value of 3.50 was more than the Z-critical of 1.96, hence the null hypothesis was rejected while the alternate hypothesis was accepted. Therefore, there is a significant difference between the opinion of female and male teachers on the extent of teachers' awareness on acts that will make them liable of negligent torts in relation to students' discipline in Rivers state secondary schools.

Summary of Findings

1. The extent of teachers' awareness of acts that will make them liable of intentional torts in relation to discipline in Rivers state secondary schools is low
2. The extent of teachers' awareness of acts that will make them liable of negligent torts in relation to discipline in Rivers state secondary schools is low.
3. There is no significant difference between the opinions of female and male teachers on the extent of teachers' awareness of acts that will make them liable of intentional torts in relation to students' discipline in Rivers state secondary schools.
4. There is a significant difference between the opinions of female and male teachers on the extent of teachers' awareness of acts that will make them liable of negligent torts in relation to students' discipline in Rivers state secondary schools.

DISCUSSION

The study showed that the extent of teachers' awareness of acts that will make them liable of intentional torts in relation to discipline in Rivers state secondary schools is low. This is in tandem with the study of Weke and Ngolube (2018). In their study on teachers' awareness of child right acts in Rivers state, it was revealed that teachers engage in acts that violate the right of their pupils when administering discipline. This study is also in agreement with the works of Oyero (2011) who asserted that many teachers are not aware of acts that constitute intentional torts liability. The finding of this study is also in line with the findings of Ekundaya (2014) who observed that, the relationship between teacher and students impose a duty of care on teachers and this duty extends to protection from harm where the risk of injury is foreseeable and not to intentionally cause the harm. The findings of this study imply that teachers are not sensitized on education laws and torts liabilities. It was also revealed that there is no significant difference between the opinions of female and male teachers on the extent of teachers' awareness of acts that will make them liable of intentional torts in relation to students' discipline in Rivers state secondary schools. This implies that both male and female teachers have the same perception as it pertained to teachers' awareness of intentional torts liabilities.

Another result obtained from the study revealed that the extent of teachers' awareness of acts that will make them liable of negligent torts in relation to discipline in Rivers state secondary schools is low. This is in agreement with the findings of Osah and Okekeuche (2018). Their study showed that the level of school personnel awareness on acts that will make them liable of torts of negligence in relation to safety issues in Rivers state public secondary schools is very low. The finding of the present study is also similar to the works of Mkpandioke and Ukpai (2016). Their study revealed that secondary school personnel do not possess adequate knowledge of the basic principles of education law in Nigeria. Teachers have responsibility to administer discipline, while at it; it is also their responsibility to provide reasonable and prudent protection for students. They may be held liable in tort for injuries arising from their negligence when administering discipline whether they are aware or not. There is a significant difference between the opinions of female and male teachers on the extent of teachers' awareness on acts that will make them liable of negligent torts in relation to students' discipline in Rivers state secondary schools. This implies that why the female teachers are to a reasonable extent aware of the acts that constitute torts of negligence, the male teachers are not.

RECOMMENDATIONS

1. Seminars, workshop and conferences on aspects of education law that deals with student discipline should be organized by the Rivers Senior State Secondary Schools Board for teachers and other school personnel in order to sensitize and increase the knowledge base of teachers to avoid litigation
2. The curriculum contents of institutions graduating teachers should be revisited to include the study of education law and other related matters as a compulsory subject.

CONCLUSION

In general, we owe a duty to all others not to injure them. We breach that duty when we create an unreasonable risk to the safety of another. The law imposes liability upon us when a risk we create causes injury to another. Therefore, teachers need to understand their roles, rights and limitations as well as the legal implications of their actions when dealing with students. High level of awareness will greatly reduce or possibly eradicate litigations resulting from torts liabilities in the education system.

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