

MANAGEMENT OF STUDENT DISCIPLINE IN NIGERIAN SECONDARY SCHOOLS: IN LOCO PARENTIS AND TEACHERS' RESPONSIBILITIES

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Abstract

Discipline and punishment are Siamese twins that are indispensable to the control of secondary school students and achievement of educational goals in Nigeria. This paper examined teachers' responsibilities in-loco parentis and the importance of maintaining discipline in Nigerian secondary schools. Since time immemorial, the doctrine of 'in-loco parentis' has empowered teachers to act in the place of parents to enable the control of students' conduct. It therefore explained the meaning of the concepts "discipline in totality, its purpose, doctrine of in-loco parentis, and its usefulness in encouraging moral, physical, and intellectual development among secondary school students. It also emphasized punishment as a tool of student control and discipline, types of punishment, legality of punishment and the implications in schools. Finally, the study revealed the limitations of the doctrine in loco parentis, which are supported with some precedent cases at different courts.

Introduction

The school as a place where teaching and learning process are carried out, is an integral social unit within a larger society. To be an acceptable member of the society, one needs to conform to norms and values of

the society in which one is a member. This conformity can only be inculcated through adequately maintenance of discipline both in school and the society itself, therefore students control and discipline are essential ingredients for the accomplishment of school goals. Without proper control of students through establishment of disciplinary measures it will be difficult to maintain law and order in our various schools.

The main purpose of discipline is to teach children age appropriate behaviour and self-control. Children require freedom to grow and to learn, but they will not succeed on unrestricted liberty. The goal of discipline is to set reasonable limits which protect children from harm and teach them what is safe and what is not. If children are to grow up into responsible, reliable, and trustworthy adults, they must learn the social, moral, and ethical standards that are considered acceptable in our society. They must also learn to respect the rights and property of others (Obadara, 2010). Children brought up without discipline may become selfish, greedy, dishonest, disliked, uncooperative and insecure. Undisciplined children constantly demand attention. They may be inconsiderate or disrespectful to others. Some are destructive, aggressive, and rude. A child allowed to disobey without punishment is unlikely to develop much respect for rules as he/she grows older. Although it is impossible to describe rules for discipline that are appropriate for every situation, some principles are well established.

In its most general sense, discipline refers to systematic instruction given to a disciple. To discipline thus means to instruct a person to follow a particular code of conduct "order". Usually, the phrase 'to discipline' carries a negative connotation. This is because enforcement of order - that is, ensuring instructions are carried out - is often regulated through punishment (Lake, 1999). Discipline is the instant willingness and obedience to all orders, respect for authority, self-reliance and teamwork. The ability to do the right thing even when no one is watching or suffer the consequences of guilt which produces pain in our bodies, through pain comes discipline.

The word discipline comes from a Latin word meaning "to teach," but it is a certain type of teaching. Discipline is the training that develops self-control, character, and efficiency, or is the result of such training (Obadara, 2010). Discipline, rightly viewed, is a character

builder rather than a destroyer of individuality. Discipline may consist of training men and women of a community or an organization to behave in certain ways under certain circumstances. It enables such people to work as a unit with maximum efficiency. To encourage them toward this end, the use of motivation and correction through reward and punishment can be adopted.

Those who are negligent or indifferent in such organization can also be punished by fines, restriction, confinement, demotion, and other forms of disciplinary action. Discipline implies adherence to control exerted for the good of the whole - the compliance with rules or policies intended for the orderly coordination of effort. A well-disciplined organization is one whose members work with enthusiasm, willingness, and zest as individuals and as a group, to fulfill the mission of the organization with expectation of success (Middleton, 2005). Discipline, obviously, is indispensable to every organization. Without it almost any effort would be defeated by lack of organisation.

The purpose of discipline in the school organization is to enhance the capacity and efficiency of each school to achieve educational objectives. For these reasons, school authorities in the country establish rules and regulations in the manner of the larger society to guide and control the behaviour of their students with the view to setting a high standard of discipline favourable to education process. Its aim is to train and control a body of human beings for concerted action to attain a common goal. Discipline trains each individual to fit into the organization as a whole. The members of the organization understand one another through the sharing of common knowledge.

They are bound together by a unity of will and interest that is expressed by their willingness to follow and obey their leader (Reaves, 2000).

School discipline refers to regulation of children and the maintenance of order "rules" in schools. These rules may, for example, define the expected standards of clothing, timekeeping, social behaviour, homework or assignments, and work ethic. The term may also refer to the punishment that is the consequence of violating the behaviour code, or to the administration of such punishment, rather than to behaving within the school rules. As part of their natural development, children sometimes challenge or test parental and adult expectations and authority. Sometimes, children simply choose to

misbehave in order to gain something e.g. attention, an object, power, peer approval. This is a significant part of the growth process of children, yet it should not be without consequence. Discipline is how children learn right from wrong, acceptable from unacceptable (Obadara, 2010).

Parental or adult discipline of children should be designed to help children engage better with others and to modify or control their behaviour. Providing appropriate discipline to children is one of the most essential responsibilities of a parent and teacher as well. Also, the provision of consistent and positive discipline helps children grow into responsible adults. According to the Committee for Children (2004), the purpose of discipline is to encourage moral, physical, and intellectual development and a sense of responsibility in children. Ultimately, older children will do the right thing, not because they fear external reprisal, but because they have internalized a standard initially presented by parents and other caretakers. In other words the purpose of discipline is to encourage students who are not reaching the desired standard of behaviour or work performance to improve and maintain an acceptable level. Good discipline is therefore vital in all human organizations; its purposes are the following

1. Discipline is a necessary condition for a conducive environment for productive school work.
2. It facilitates obedience to the rules and regulations, and respect for constituted authority.
3. It enhances efficient and effective attainment of educational goals and objectives.
4. It enforces compliance and responsiveness through the use of punishment intended to correct or train.
5. Discipline inculcates an accepted character or pattern of behaviour into the members of the society.
6. It brings about control of behaviour resulting in self-control and in turn produces upright, loyal and respectful citizens.
7. It regulates the practice of an organization towards acceptable norms and values of the larger society.

Discipline has as its goal the development of internal controls that helps the child relate to others in a positive and responsible way.

Doctrine of In-loco Parentis

The term “In loco parentis” is a Latin word meaning “in place of parents” or “instead of a parent” as described by the Oxford Dictionary of Rhymes (2006). It is a term or doctrine whereby someone has been given all the rights to behave, act and be a parent without going through adoption formality. Alexander and Alexander (1998) describe the term as “a legal doctrine describing a relationship similar to that of parent to a child. It refers to an individual who assumes parental status and responsibilities for another individual, usually a young person, without formally adopting that person”. It is a legal term which literally means in the place of a parent. It means that a teacher/school must show the same duty of care towards a pupil as would a reasonable parent.

The doctrine “in loco parentis” refers to the legal responsibility of a person or organization to take on some of the functions and responsibilities of a parent. It is borrowed from the English ideal of schools having not only educational but also moral responsibility for students. Originally derived from British common law, it is applied in two separate areas of the law. First, it allows institutions such as colleges and schools to act in the best interests of the students as they see fit, although not allowing what would be considered violations of the students' civil liberties. Second, this doctrine can provide a non-biological parent to be given the legal rights and responsibilities of a biological parent if they have held themselves out as the parent. The teachers have the responsibilities or roles of a parent during the time students are under their charge imply that they are in the legal position of a guardian. Anyone who serves in loco parentis may be considered to have responsibilities of guardianship, either formal or informal, over minors. The *in loco parentis* doctrine is distinct from the doctrine of *parens patriae*, the psychological parent doctrine, and adoption. In the United States, the parental liberty doctrine imposes constraints upon the operation of the *in loco parentis* doctrine (Lake, 2001).

In loco parentis is a legal doctrine describing a relationship similar to that of a parent to a child. It refers to an individual who assumes parental status and responsibilities for another individual, usually a young person, without formally adopting that person. For example, legal guardians are said to stand in loco parentis with respect to their wards, creating a relationship that has special implications for

insurance (Jackson, 1991). This doctrine therefore gives the teachers power to control and discipline students. Since time immemorial, the doctrine of 'in-loco-parentis' has empowered teachers to act in the place of parents to enable the control of students' conduct.

By far the most common usage of in loco parentis relates to teachers and students. For hundreds of years, the English common-law concept shaped the rights and responsibilities of public school teachers: until the late nineteenth century, their legal authority over students was as broad as that of parents. Changes in United States education, concurrent with a broader reading by courts of the rights of students, began bringing the concept into disrepute by the 1960s. Cultural changes, however, brought a resurgence of the doctrine in the twenty-first century (Obadara, 2010).

When you leave your child at the school gates you are in effect agreeing to allow the teachers and other staff at the school to act 'in loco parentis'. In addition, you act in loco parentis when your child's friends come to stay, or if you take your children and other people's children on a trip to a local park, for example. Babysitters, child minders, nursery assistants, crèche supervisors and holiday camp supervisors also assume a duty of care during the course of their employment.

Punishment as a Tool of Student Control and Discipline

Punishment, according to Obadara (2010), is a response to behaviours that are deemed unacceptable by an individual or a group (such as parents, an organization, and/or society). Some people see it as an intention to correct the problematic behaviour, while others argue that punishment is enacted upon an offending individual simply as a means to retaliate against his or her offending actions. In Psychology, punishment is the reduction of behaviour through application of an adverse stimulus (positive punishment) or removal of a pleasant stimulus (negative punishment). Making an offending student loses recess or play privileges are examples of negative punishment, while extra chores or spanking are examples of positive punishment. The definition requires that punishment is only determined after the fact by the reduction in behaviour; if the offending behaviour of the subject does not decrease then it is not considered punishment.

Punishment is the application of an (aversive) stimulus in an effort to reduce the frequency of a behaviour. (Or, more properly, a punishment just is any stimulus which, when applied, reduces the incidence of a given behaviour). According to the findings of most operant behaviourists (McCole, 1999), it does not work nearly as well as reinforcement. Punishment occurs when a certain aversive stimulus is made contingent upon certain behaviour. We note the difference between punishment and negative reinforcement. In the latter the behaviour is made contingent with the withdrawal of an aversive situation. As a consequence, negative reinforcement increases the probability of the behaviour. Even though punishment is not the "best" way to manage behaviour; there are some ways to improve it success. For example, the punisher should be in close temporal contiguity with the undesired action and care should be taken to take out any appetitive reinforcer of the environment.

At any ground in which punishment is administered, it is important that punishment should be *retributive*, that is, it should represent an expression of displeasure by the society at the offence committed by a person. Also, the punishment should serve as a *deterrent*, that is, it should aim at preventing that person and other people from committing that offence in future. Lastly, the punishment should be *reformatory*, that is, it should represent an effort to make the offender a better disciplined and acceptable member of the society.

Types of Punishment in Schools

Punishment involves a sanction or penalty as a consequence of a child's unacceptable behaviour and is used to extinguish behaviour. Punishment combines control, force and physical pain to get children to behave in acceptable ways. It is characterised by external control and can involve force or coercion. Punishment does not necessarily require mutual respect or trust between the punisher and the child or student. Some examples of physical punishment are:

- Punching, kicking, shaking, harsh spankings or slaps
- Throwing objects that can injure a child
- Threatening a child with physical harm
- Placing a child in a locked or confined space
- Depriving a child of basic needs

There is a significant risk of injury to the child when a punisher uses physical punishment. There is no doubt that effective discipline can be achieved without physical punishment. Physical punishment can cause physical harm, permanent physical disabilities and occasionally death. There is a risk of emotional problems developing in the future. Many children who have been punished as a child grow up to become abusive to their children and their family as an adult. The following are the classifications of various types of punishment.

Corporal Punishment

Corporal punishment is the deliberate infliction of pain intended as correction or punishment or as retribution for an offence, or for the purpose of disciplining or reforming a wrongdoer, or to deter attitudes or behaviour deemed unacceptable. The term usually refers to methodically striking the offender with an implement, whether in judicial, domestic, or educational settings. Historically, most punishments, whether in judicial, domestic or educational settings were corporal in basis. The corporal or physical punishment of children refers to a wide range of parenting practices intended to cause physical pain. These include such acts as pinching, shaking, slapping, punching and kicking children, and, with or without the use of objects like belts, cords and brushes, spanking, hitting and beating children. Each act can be mild or severe, depending upon their force and duration.

All such acts constitute violence directed toward children, because violence is defined as an "act carried out with the intention, or perceived intention, of causing physical pain or injury to another person" (Strauss, 1994). The practice is generally held to differ from *torture* in that it is applied for disciplinary reasons and is therefore intended to be limited, rather than intended to totally destroy the will of the victim. Severe or prolonged forms of corporal punishment are, however, more or less indistinguishable from torture.

Physical Torture

This punishment is close to corporal punishment but slightly different from it in a way that it does not involve canning, flogging or whipping. Rather, it involves the infliction of physical pain through knocks on the head or other parts of the body, or any other forms of torture.

Torture, according to the United Nations Convention Against Torture, is any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him, or a third person, information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity (Straus, Sugarman, & Giles-Sims, 1997).

It does not include pain or suffering arising only from, inherent in, or incidental to, lawful sanctions. In addition to state-sponsored torture, individuals or groups may be motivated to inflict torture on others for similar reasons to those of a state; however, the motive for torture can also be for the sadistic gratification of the torturer, as was the case in the Moors murders. Torture is prohibited under international law and the domestic laws of most countries. Amnesty International estimates that at least 81 world governments currently practice torture, some openly.

Ostracism

Ostracism is usually referred to as "the silent treatment" - is the actions of individuals or groups that ignore, exclude or reject others. Ostracism is intended to deprive the target of the sense of belonging. It has been called "social death." This is the punishment that involves the rejection and eviction of the offender from the school or the classroom. It is an act banishing, excluding or expelling offender from school.

Verbal Punishment

Verbal punishment is any time that the parent's/teacher's rage is directed to a child in a way that the parent/teacher has not controlled himself and does not have adequate boundaries about his rage, and is blaming, chastising and threatening the child/student. It involves using derogatory or derisive words that are meant to bring the offender to disgrace among his mates e.g. ridiculing or insulting the student in the classroom.

Restitution Punishment

This entails compelling the offender to repair, replace or restore damaged or pilfered article or destroying the offender's property, especially where its possession or use has been prohibited by school rules and regulations.

Manual Work

This involves making the offender to perform manual work or other tasks that are completely unrelated to the offence committed. This includes cutting of grass, digging pits, washing toilets, carrying sand, fetching water with leaky container etc.

Legality of Punishment

Different forms of punishment are effective for various forms of offence. There are cases in which retribution, prevention/deterrence, and rehabilitation are all suitable. A legal system is necessary in our society and the maintenance of this system requires punishment. However, the main focus of all punishments should be to improve society as a whole. As citizens of a community we abide by an implied social contract theory. This theory is simply that society makes rules, so that we can be civilised and that as citizens we should follow these rules. This social contract theory supports the idea that law without punishment is worthless (Obadara, 2010).

Prevention and deterrence should be the most common forms of punishment. Assuring that a criminal will not recommit a crime is absolutely vital to our society. In the case of a minor infraction, the criminal should be sent to jail in order to stop him/her from reverting to the same thing again. In the case of a major infraction, such as certain murder cases, capital punishment should be used. The case must be tried in court and if the person is found guilty they should be executed. If capital punishment was used repeatedly as a consequence for murder, criminals would know the possible severity of the punishment and in some cases would deter the criminal from crime.

Domestic corporal punishment, i.e. of children and adolescents by their parents, is usually referred to colloquially as "spanking", "smacking" or "slapping". In some parts of the world, it is increasingly controversial. Legal corporal punishment of school students for misbehaviour involves striking the student on the buttocks or the palm

of the hand in a premeditated ceremony with an implement specially kept for the purpose such as a paddle, or with the open hand.

It is not to be confused with cases where a teacher lashes out on the spur of the moment, which is not "corporal punishment" but violence or brutality, and is illegal almost everywhere. Corporal punishment used to be prevalent in schools in many parts of the world, but in recent decades it has been outlawed in nearly all of Europe, and in Japan, Canada, South Africa, New Zealand and other countries. It remains commonplace and lawful in many Asian and African countries. Some countries retain judicial corporal punishment, including a number of former British territories such as Botswana, Malaysia, Singapore and Tanzania. In Malaysia and Singapore, for certain specified offences, males are routinely sentenced to caning.

A number of countries with an Islamic legal system, such as Saudi Arabia, Iran, Sudan and Northern Nigeria, employ judicial whipping for a range of offences. As of 2009, some regions of Pakistan are experiencing a breakdown of law and government, leading to a reintroduction of corporal punishment by *ad hoc* Islamicist court (McCole, 1999). As well as floggings, Saudi Arabia uses amputations or mutilation as a method of punishment (Walsh, 2009). Such penalties are highly controversial. However, the term "corporal punishment" has since the 19th century usually meant caning, flogging or whipping rather than other kinds of physical penalties such as amputation.

In sections 32 to 42 of chapter IV of the 1999 constitution of the Federal Republic of Nigeria (Federal Republic of Nigeria, 1999) is enshrined the fundamental rights of the citizen. It has been noted in recent times that school authorities and teachers in Nigeria do not take enough care in exercising their role in- loco-parentis and to safeguard students within the school system. Most teachers are unaware of their rights, let alone those of students. Similarly, many are ignorant of the school system, the rules and regulations governing the school system and legal knowledge of students' rights. This is obvious for the fact that in Nigeria, most school teachers have never read the Nigerian constitution nor even the laws, rules and regulations governing the administration of the school system, and in caring for the students.

However, Nakpodia (2007) in a Latin maxim opined that 'Ignorantia Juris est lata culpa' meaning ignorance of the law is not an excuse, is quite apt. Many teachers are not aware of their rights, duties,

obligations and responsibilities under the law and more especially actions on students. Also, they do not know and appreciate the general principals and provisions of law and regulations as they apply in handling issues of order and student's discipline in school. In this age of enlightenment, such ignorance may no doubt be costly, if not disastrous to the individual, the education and students' rights within the system. On this plane, students' rights should be safeguarded to enable students understand the legal aspects of education, learn the basic principles of law and develop some degree of competence in applying them to educational problems and also recognize situations in which it is not safe to proceed without competent legal advice. (Peretomode, 1992).

The doctrine of *in loco parentis* has given the teachers the right to administer punishment because they stand in place of parents. Yet it is absolutely pertinent to critically examine the use of punishment as an instrument of discipline in the school because parents and students are now more enlightened and conscious of their fundamental human rights and the due process of law. Therefore, the teachers should be mindful of these in the course of performing their function in schools. No doubt that the teachers should be acquainted with some of the punishments administered in schools that may infringe on the rights of the students.

Fundamental Rights of the Students and Punishments and Practices that Infringe them in Schools

S/ No	Fundamental Rights	Punishments/Practices in Schools that Violate Student Rights
1.	Section 33 Right to Life	*Any corporal punishment that leads to the loss of student life or causes him permanent deformity. * Dangerous condition of school plant or environment that may claim student's life or cause serious injury to students etc. *Any act of physical torture.
2.	Section 34 Right to dignity of human person	*Use of derogatory or dirty languages on a student before his colleagues. * Teacher's assault and battery on the

		<p>person of a student.</p> <ul style="list-style-type: none"> * Shaving student's hair or cutting student's skirt to fit in school assembly or classroom in the name of grooming.
3.	Section 35 Right to personal liberty	<ul style="list-style-type: none"> * Unreasonable detention of student after school hours. * Prohibiting a student from taking an examination which he has registered for. * Refusal to issue or sign transfer certificate as approved by the Ministry of Education to a parent or guardian after all fees owed the schools have been paid. * Prohibiting a student from graduation ceremony after satisfactory completion of studies etc.
4.	Section 36: Right to fair hearing	<ul style="list-style-type: none"> *Denial of a student the opportunity to call his witness and to question his accusers or those who must have testified against him. * Punishing a student through suspension or expulsion etc. without giving him opportunity of defending himself against the charges which should be made known to him in advance. *Engaging accusers in the trial of a student. *Appointing a staff who is a party to or having interest in the incident that incriminates a student as a member of the investigating panel. *Shifting from the laid down procedure in punishing a student. * Punishing (expelling or suspending) a student without being formally accused and allowed to state his case.

5.	Section 37 Right to private and family life	<ul style="list-style-type: none"> * Unnecessary or arbitrary searches of student's boxes, lockers or pockets; and seizure of his property. * Reading the mails/letters of the students before delivering them to students
6.	Section 38 Right to freedom of thought, conscience and religion	<ul style="list-style-type: none"> * Compelling students to take part in Sunday service or morning assembly worship where religious observance related to a religion other than their own. * Encouraging the formation a particular religious movement in a school. *Refusal to honour parents'/guardians' request to allow their wards attend only a particular religious denominational service. * Punishing students who refuse to recite the pledge and take part in the flag salute. * Flogging students who refuse to pay charged fee for the harvest celebration of a particular religious denomination.
7.	Section 39 Right to freedom of expression and the press	<ul style="list-style-type: none"> *Preventing students from expressing their opinions in a peaceful manner or in writing a protest letter. * Suspending a student for expressing his views about certain practices or aspects of the school administration * Disallowing the formation of a press club or other social or educative clubs that are not prohibited by the law.
8.	Section 40 Right to peaceful assembly and association	<ul style="list-style-type: none"> * Banning student from carrying out peaceful demonstration or rally in the school. *Forcing membership of a certain social school club on students. * Banning student from forming or

		belonging to social clubs/societies of their choice in school except those prohibited by the law.
9.	Section 41 Right to freedom of movement	* Excessive use of detention or false imprisonment in a school room or office as a form of punishment.
10.	Section 42 Right to freedom from discrimination	* Basing admissions on quota system, particularly admitting candidates with lower test scores, leaving unadmitted those with higher scores on the same test because of State of origin, religion etc. * Denying a qualified student admission in a school on the basis of tribe, religion, political belief, state etc. * Subjecting a student to disabilities or restrictions to which other students are subjected.

Source: Obadara (2010) and Peretomode (1992)

The Teachers' Responsibilities and In-loco Parentis

Hunt (2002) spells out or suggests some roles or duties the teacher is expected to play while acting as a parent. These are as follows.

1. Plan school trips carefully. School's procedure must always be followed strictly in this area making sure that the teacher has adequate staff ratios, making sure that any volunteer is trustworthy.
2. If a teacher is concerned about a child's welfare, the teacher must speak to the teacher in charge of child protection. The teacher must record concerns, remembering that any disclosure must be reported, hence the need to maintain confidentiality.
3. A teacher must refer any child not collected by his or her parent to social services after school hours.
4. A teacher is not obliged to administer medicines to pupils, although the teacher may be asked to oversee children's use of asthma pumps, for example. The teacher must keep a list of pupils who have medical conditions. Unwell children should not

be in school, and parents must provide contact details in case of emergencies.

5. Corporal punishment is unlawful. If children endanger themselves or others, the teacher can use 'reasonable force' to restrain them, but must tread with caution as his actions could be legally challenged and could risk being assaulted.
6. In the worst case, if a teacher is accused of negligence, he must seek advice. As a teacher's employer, the school has vicarious liability and the teacher should not be held responsible where he or she has maintained a professional standard of supervision.

However, the right of teachers' in-loco-parentis is not absolute when considering the control they have over students in the Nigerian school system. It should be realized that when teachers are not absolute in considering the control they have over students in the Nigerian school system within the scope of their duties in terms of reasonable and executing possible rules and regulations, the courts may assist in promoting proper and effective teaching and learning atmosphere in the schools. This is because the courts in democratic societies as in case of Nigeria, as it is all over the world viewed school officials as standing in-loco-parentis, allowing them to regulate the students in any manner since parents agree to delegate school teachers the parental authority to control their children's conduct in a manner which will be of the best interest to the children in the schools. Every Nigerian school has a set of rules and regulations meant to guide students towards good conduct and behaviour in order to maintain general discipline, peace and order, necessary for effective teaching and learning. Under the doctrine "in-loco-parentis" the following indicate the teachers' responsibilities and their limits

- Teachers are not responsible for children after school hours. If a child is not collected after school, the child can be referred to social services.
- Teachers are not required to administer medicine to pupils, but should keep a note of pupils who have medical conditions.
- If a child is endangering themselves or others, the teacher is entitled to use 'reasonable force' to stop them. However, there

are risks involved with this due to the threat of legal challenges and/or being assaulted (Obadara, 2010).

Two important shifts in society and law diminished the effect of this doctrine. One was the evolution of educational standards. Beginning in the late 1800s and advancing rapidly during the mid-1900s, the increasing secularization of schools brought an emphasis on practical education over moral instruction. At a slower rate, courts adapted to this change, according greater rights to students than were previously recognised.

The first major limitation to this doctrine came in the U.S. Supreme Court case *West Virginia State Board of Education v. Barnette* (1943), in which the court ruled that students cannot be forced to salute the America flag. More prominent change came in the 1960s and 1970s in such cases as *Tinker v. Des Moines Independent Community School District* (1969), when the Supreme Court decided that "conduct by the student, in class or out of it, which for any reason - whether it stems from time, place, or type of behaviour - materially disrupts class work or involves substantial disorder or invasion of the rights of others is, of course, not immunised by the constitutional guarantee of freedom of speech".

Many provisions of *in loco parentis* have been upheld over time. *New Jersey v. T.L.O.* (1985) upheld the search of lockers and other personal space while on school property, indicating that students are not afforded the same rights as adults in other settings and stating that while acting *in loco parentis*, school officials are still representatives of the state, not merely as surrogates for the parents, and they cannot claim the parents' immunity from the strictures of the Fourth Amendment." The case upheld the search of a purse while on public school property based upon reasonable suspicion, indicating there is a balancing between the student's legitimate expectation of privacy and the public school's interest in maintaining order and discipline. However, in *Hazelwood School District v. Kuhlmeier* (1988) the Supreme Court similarly ruled that "First Amendment rights of students in the public schools are not automatically coextensive with the rights of adults in other settings, and must be applied in light of the special characteristics of the school environment" and schools may censor school-sponsored publications (such as a school newspaper) if content

is "...inconsistent with its basic educational mission." Other student issues, such as school dress codes, have not yet been tested in the Supreme Court. Private institutions are given significantly more authority over their students than public ones, and are generally allowed to arbitrarily dictate rules. In the Kentucky State Supreme Court case *Gott v. Berea College*, it was upheld that a "college or university may prescribe requirements for admission and rules for the conduct of its students, and one who enters as a student implicitly agrees to conform to such rules of government", while publicly funded institutions could not claim the same ability.

The first to benefit were students in higher education, through rulings such as the landmark *Dixon v. Alabama State Board of Education*, 294 F.2d 150 (5th Cir. 1961). In *Dixon v. Alabama State Board of Education*, the U.S. Court of Appeals for the Fifth Circuit extended Due Process rights to students at tax-supported colleges, ruling that the Constitution "requires notice and some opportunity for hearing" before students can be expelled for misconduct. After *Dixon*, courts largely turned to contract law for adjudicating disputes between students and their institutions.

Other changes came as well. Partly in reaction to free speech movements, courts began to recognise that students at public Colleges and Universities, as well as public secondary schools, were entitled to full enjoyment of their First and Fourth Amendment rights. For example, in ruling that high school students could not be expelled for wearing black armbands to protest the Vietnam War, the U.S. Supreme Court held, in 1969, that students do not "shed their constitutional rights ... at the schoolhouse gate" (*TINKER V. DES MOINES INDEPENDENT COMMUNITY SCHOOL DISTRICT*, 393 U.S. 503, 89 S. Ct. 733, 21 L. Ed. 2d 731). In 1975, the Court held in *Goss v. Lopez*, 419 U.S. 565, 95 S. Ct. 729, 42 L. Ed. 2d 725, that the suspension of high school students for alleged disruptive or disobedient conduct required some sort of notice of charges and a prior hearing.

In Nigeria, an incident in Calabar, the Capital of Cross River State, Nigeria, a teacher at Duke Town secondary school flogged a form one student, Grace Okon Akpan, 12 years old, with a cane and she collapsed and become unconscious. She later died in hospital. Grace was among four other students who were being punished for noise-making in class. In another related incident, captioned TEACHER

NABBED for ALLEGEDLY BEATING PUPIL to DEATH, National Concord (Wednesday, April 20, 1988, p.9) reported that Mr. Luke Madaki, a grade one headmaster in Zangonkafaf district, kachia Local Government area, was arrested by the police and charged to court for allegedly beating a primary school pupil to death.

The pupil, Miss Rebeccah Woje, aged 14 was a primary four pupil at the local Education Department, Mabushikataf. The pupil was accused of stealing one naira from her home, by a colleague. The matter was reported to the headmaster who discovered that the girl actually stole the money. He asked her to lie on a school bench to be flogged and he administered the beating. The girl suffered from severe head injuries and several cuts on her back and buttocks as a result of serious caning received from the headmaster. The girl complained to her parents two days later that she was yet to recover from the punishment meted out her by the school's headmaster. Before arrangements were concluded to take her to hospital which was about 35 kilometers away, the girl died. The autopsy on her revealed that she died from multiple injuries as a result of severe beating (Nakpodia, 2007).

Furthermore, in the case of Kukoyi F vs. AIUkhure and the Benin Board of Education (1977), a student lost one of his eyes consequent upon the corporal punishment administered by his teacher in the classroom. The teacher was charge for tort liability and negligence. The teacher's action constructed the fundamental right of the student the respect for the dignity of the human person, freedom from any form of torture or inhuman or degrading treatment and the right to life. The Benin High Court awarded the student N20,000 as damages.

In another similar case, Elizabeth Aliri vs. John Ekeogu, the plaintiff, a primary school pupil, in the High Court of Imo State schools holden at Owerri, sued the defendant as well as the Director of schools Imo State and the Imo State Schools Management Board, claiming N4,000,00 as special damages for medical bills by her mother and N96,000.00 as general damages assault, battery and negligence which resulted in the permanent loss of the plaintiff' left eye. The teacher John Ekeogu had hit the left eye of little Aliri, an eleven year old primary school pupils with a cane causing her permanent injury in 1987. The flogged of little Aliri was even without justification (Peretomode, 1992).

Conclusion

In conclusion, doctrine of in loco parentis has been in practice from the time immemorial but most teachers in Nigerian Secondary Schools refuse to take cognizance of its importance in the maintenance of discipline among students. There is no doubt that schools in Nigeria understand the dynamic nature of the concept of in loco parentis and develop practices and policies to address it. Yet its implementation at secondary level of education is hindered by the fact that teachers' in-loco-parentis are bound by law, rules and regulations in the process of carrying out school operations. In order to avoid unnecessary litigations, enlightenment of teachers, educators, principals, students, parents and the society in general become very necessary, since the totality of the system must work together. It is therefore important that the educational administrators, that is, the teachers, principals, educators, and the stakeholders in education are exposed to education law or possess little knowledge of education law so as to protect themselves from infringing the fundamental human rights of the students and not to act ultra vires in the course of maintaining discipline and order in schools or in their administration of punishment on students in schools.

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