

# THE CONCEPT OF UNIVERSITY LAW & ITS PLACE IN GOOD GOVERNANCE AND EFFICIENCY OF A UNIVERSITY

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# Objectives of Keynote Address

- Why is good governance important to higher education?
- What is the interface of Law and Good Governance and how do we translate good governance into academic leadership?
- What are the diverse interests within the university community, and how relevant is this to models of governance?
- What are those legal tools shaping the governance of universities in Nigeria?
- What are the issues and concerns confronting academic leaders?
- What legal skills are needed in utilizing the tools to meet the issues and concerns?

# Importance of Good Governance to Higher Education

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- The core business and objective of Higher Education is **“creation of knowledge” “knowledge transfer”, and “personal growth and transformation”**.
- University is a fragmented organization–increased governance complexity
  - (i) Good governance assures the quality of decision-making.
  - (ii) Good governance provides the framework for its variegated group of stakeholders.
  - (iii) Good governance allows the university to be efficient and sustainable in the long-term as a result of the following:
    - | **Adherence to purpose** | **Dedication to the interest of stakeholders** | **Transparency** | **Accountability** | **Robust well-informed decision-making** | **Accommodation of diversity.**

# Interface of Law & Good Governance

- The interface of law with good governance is what gives efficiency to systems.
- The framework of law guides on:
  - (i) How the system resolves issues and makes decisions;
  - (ii) Involvement, contribution, and communication between the stakeholders;
  - (iii) Ways in which rights and responsibilities are shared;
  - (iv) How policies and procedures are evolved for decision-making;
  - (v) Checks and balances that should be in place to eliminate the abuse of office.
- Overall, decisions are made with everyone's best interest in mind.

# Translating Good Governance Into Academic Leadership

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- Why is Academic leadership complex and difficult ?
  - (i) Community of egg-heads and other critical third parties.
  - (ii) Strong intellectual tradition of disputation of issues - [organized anarchies].
  - (iii) Academic institutions not running in a stable environment.
  - (iv) Ceaseless transformation: New directions in teaching, learning, research, and service.
  - (v) Expectation of strengthening quality and performance with lean funds.
- Yet, constantly reminded that the economic competitiveness of the nation and the quality of life of her citizens rests on the quality and performance of its academic institutions.

# Understanding the Complex Stakeholder Context (Internal and External)

Statutory Organs	Academic Units	Non-Academic Units	Sub-Units of Registry (By way of example)	Other Stakeholders Unions
<ul style="list-style-type: none"> <li>• Governing Council.</li> <li>• Senate</li> <li>• Congregation</li> <li>• Convocation</li> </ul>	<ul style="list-style-type: none"> <li>• Faculties/Colleges /Schools</li> <li>• Departments</li> <li>• Academic Centres, Units</li> </ul>	<ul style="list-style-type: none"> <li>• Registry</li> <li>• Bursary</li> <li>• Works and Physical Planning</li> <li>• Health Services</li> <li>• Academic planning</li> </ul>	<ul style="list-style-type: none"> <li>• Exams &amp; Records</li> <li>• Senate Secretariat</li> <li>• Council Matters</li> <li>• Students Affairs</li> <li>• Faculty/School/College Offices</li> <li>• ASE</li> <li>• NASE</li> <li>• SWT &amp; D</li> <li>• Legal Unit</li> </ul>	<ul style="list-style-type: none"> <li>• Government/ Proprietor</li> <li>• Staff Unions</li> <li>• Students Union</li> <li>• Alumni</li> <li>• Members of the Public</li> <li>• Partners</li> <li>• Third-Party Regulators</li> <li>• Parents</li> </ul>

# Models of University Governance

Models	Nature	Weakness	Strength
Bureaucratic	Hierarchical roles and formal chains of command	Preoccupation with formal power and hierarchical structures than the informal power relationships that often exists. Preoccupation with policy execution over policy formulation	Relevant to the mini-city states appearance of today's universities.
Collegial	Commitment to the concept of a community of scholars whose collegiality guides their interactions and institutional decision-making.	Multiple constituencies compete within the decision-making environment with no indication of who hold primacy.	Accountability of multiple constituencies in a harmonious way.
Political (Legislative Framework)	Prescribed systems of review and consultation to guide the diverse interest groups; Decision-making is fragmented depending on the nature of the decision to be made.	Developed in an era predating the for-profit education sector. Predated advent of unions with functional authority that confronts formal authority. Dwindling resources of the state are impacting on autonomy.	



# The Tools Shaping Governance of Universities

**Nigeria operates a federal system and by virtue of the 1999 Constitution (as Amended) Education is on the concurrent legislative list.**

Federal	State	Private
(i) Enabling Act that deals with the establishment, constitution, functions & responsibilities of the various constituents and functionaries.	<ul style="list-style-type: none"><li>Enabling Law deals with the establishment constitution, functions, and responsibilities of the various constituents and functionaries.</li></ul>	<ul style="list-style-type: none"><li>Incorporated as legal entities</li></ul>
<p>(ii) Universities (Miscellaneous Provisions) Act No. 11 of 1993 [Amended in 1993, 2003, 2007, 2012]</p> <ul style="list-style-type: none"><li>Tenure of Council and power of Visitor to dissolve incompetent Council.</li><li>Independence of University Councils.</li><li>Inapplicability of Establishment circulars that are inconsistent.</li><li>Process of appointment/removal of Vice Chancellor &amp; other Principal Officers.</li><li>Composition of Senate.</li><li>Visitor &amp; Visitation.</li><li>Students participation.</li><li>Autonomy of universities.</li><li>Tenure of Principal Officers is limited to a single term of 5 years.</li><li>Retiring age of academic officers on the professorial cadre increased to 70 years/non-academics to 65 years.</li></ul>		<ul style="list-style-type: none"><li>Not applicable to private universities.</li><li>A number of the provisions are captured in contracts of service/ employment.</li></ul>



# The Tools Shaping Governance of Universities.....

Federal	State	Private
<p>(iii) Education (National Minimum Standards and Establishment of Institutions) Act, 1985.</p> <ul style="list-style-type: none"> <li>Vested power in the National Universities Commission to license and lay down minimum standards for universities/other Institutions of higher learning.</li> <li>Accreditation (program &amp; institution).</li> </ul>	<ul style="list-style-type: none"> <li>Directly applicable to State Universities.</li> </ul>	<ul style="list-style-type: none"> <li>Directly applicable to Private Universities.</li> </ul>
<p>(iv) Joint Admission and Matriculation Board Act, 1989</p> <ul style="list-style-type: none"> <li>Established JAMB to administer a centralized admissions system for Universities, Polytechnics and Colleges of Education.</li> </ul>	<ul style="list-style-type: none"> <li>Directly applicable to State Universities.</li> </ul>	<ul style="list-style-type: none"> <li>Directly applicable to Private Universities.</li> </ul>
<p>(v) Tertiary Education Trust Fund (Establishment, etc) Act, 2011.</p> <ul style="list-style-type: none"> <li>Management of Education Tax for disbursement to Public Tertiary Education Institutions.</li> </ul>	<ul style="list-style-type: none"> <li>Directly applicable to State Universities.</li> </ul>	<ul style="list-style-type: none"> <li>Not applicable to Private Universities.</li> </ul>

# The Tools Shaping Governance of Universities.....

Federal	State	Private
(vi) Statutes made by the University	<ul style="list-style-type: none"> <li>Statutes made by the University</li> </ul>	<ul style="list-style-type: none"> <li>Not-applicable to private Universities.</li> </ul>
(vii) Council's power to make statutes subject to confirmation of the Minister and NASS	<ul style="list-style-type: none"> <li>Council's power to assent to statutes is subject to the approval of the Visitor.</li> </ul>	<ul style="list-style-type: none"> <li>Council has powers to make policies for the university.</li> </ul>
(viii) Staff Conditions of Service and Scheme of Service.	<ul style="list-style-type: none"> <li>State Universities have similar documents.</li> </ul>	<ul style="list-style-type: none"> <li>Private universities have similar documents.</li> <li>Some have robust Contracts of Service.</li> </ul>
(ix) Rules, requirements, and policies agreed to by employer and employee.	<ul style="list-style-type: none"> <li>State universities have similar documents.</li> </ul>	<ul style="list-style-type: none"> <li>Private universities have similar documents.</li> </ul>

# A Peep At Some Recurring Issues and Concerns

## RECURRING ISSUES

- Local Staff Unions' strikes e.g., Collective bargaining, transparency and due process in decision-making, etc.
- Complaints about work environment/ Discrimination
- Student unrest, e.g., rules of conduct, nonconductive environment, sexual harassment, etc.
- Disciplinary process (staff and students)
- Academic staff doing the work of non-academic staff or vice versa

## CONCERNS

- Institutional Autonomy and Accountability
- NUC/JAMB as case studies
- Academic Freedom
- Funding and quality of education
- Government undue interference in admission, recruitment of staff, etc.

# Leadership Legal Skills Guiding Governance

- Understand the nature of stakeholders' interaction.  
| Democratic ideals | Shared governance | Committee System | Other Engagements
- The consciousness of the applicable tools to achieve consistency/ fairness.
- Strict adherence to the Rule of Law and Due Process (ascendancy of law and respect for component institutions in a system of governance).
  - (i) *Supremacy*: Respect and comply with the law even when you disagree. [Seek “Reform” rather than “Bend” the Law]
  - (ii) *Impartial Justice*: When interests conflict, allow legal determination of rights/duties.
  - (iii) *Equality*: Everyone must have access to the protection of the law.
  - (iv) *Pre-dominance of legal spirit*: The leader must also operate within the law.
- Afford the opportunity of a “fair hearing” before applying sanction.

# Some Suggestions for Reform

- **Composition of Governing Council** - enabling law need to be clear on qualification of members in order to infuse professionalism and experience;
- **Enabling law** must make adequate provision for sources of university funds and leave Council with autonomy that is accountable;
- **Independence of Council** to carry out its functions must not be impeded by unguided provisions for removal ;
- **Relationship of University Council and Court of Governors of the College of Medicine** should be properly clarified. Court of Governors must fully be responsible to Council
- **Appointment, tenure and role of the College Secretary and Financial Controller ( College of Medicine)** needs to be properly clarified. Their powers must not overreach that of the Registrar and the Bursar;
- **Provision conferring constitution of medical board towards invalidating a sick staff** should be carefully reviewed.

# Conclusion

A better understanding of the components and factors that interlink law and good governance together in our universities will without doubt result in the efficiency of our institutions. As academic leaders, understanding the complex stakeholder context, decision-making structures, and allocation of responsibilities within the university sector is non-negotiable. That is what VICBHE Module 6 seeks to achieve.

## I Thank You All

