THE ROLE OF UNIVERSITY GOVERNING COUNCIL IN PROMOTING ETHICAL PRACTICES IN DECISION MAKING; BY PROF. YUSUF ALI SAN FCIArb', AT THE GOVERNING COUNCIL RETREAT OF THE KWARA STATE UNIVERSITY, MALETE ON THE 14TH FEBRUARY, 2025

INTRODUCTION

In the evolving landscape of higher education, Universities serve as critical Institutions for fostering knowledge, innovation, and societal development. However, the effectiveness of universities in achieving these goals is often shaped by the ethical standards and practices upheld in their decision-making processes. The Governing Council of a University plays a pivotal role in ensuring that decisions made at the Institutional level align with ethical principles, academic integrity, and the broader public good.

The Governing Council, typically is composed of Academic and Non-Academic leaders, has the responsibility of overseeing strategic decisions that impact not only the academic environment but also the financial, social, and organizational aspects of the University. As Institutions of higher learning increasingly face challenges such as financial pressures, globalization, and public scrutiny, the need for strong ethical guidance in decision-making becomes even more crucial

CONCEPT OF GOVERNANCE

Governance in higher institutions is the means by which Institutions of higher education (tertiary or post-secondary education) are formally organized and managed, though often there is a distinction between definitions of management and governance. Simply. University governance is the way in which Universities are operated. Governance in the field of higher education refers to the legal appropriation of decision making power within the universities between the various governance structures (Council, Management, Faculty, Academic Committees, Senates, and Boards) and administrative structures (departments, programs, presidents, and vice presidents). Furthermore, governance refers to the division of responsibility and accountability with regard to the authority to reach decisions. [2]Governing structures for higher education are highly

[1]Kuliya Ngeri of Ilorin Emirate

[2]Corcoran, S. (2004). Duty, discretion and conflict: University governance and the legal obligations of university boards. Australian Universities' Review, 46(2), 30-37.
differentiated throughout the world, but the different models nonetheless share a common heritage.

UNIVERSITY GOVERNANCE IN NIGERIA

Kwara State University, like other government owned universities, is set up under a law, and in this case, the legal basis or the **fons et origo** of the University is the Kwara State University Law, No. 13 of 2008. Under the Law, the University consists of the Principal Officers and bodies set out in Section 6(1) of the Law. The State Governor is the **Visitor of the University** and has powers to conduct a visitation of the University, at least, once every five years.[5]

The Council is the supreme governing authority of the University that is responsible for those policy decisions which have financial implications, the general management of the affairs of the University, in particular, the public relations of the University and The control of the property and expenditure of the University. The Council has powers to do anything, which, in its opinion, is calculated to facilitate the carrying-on of the activities of the University, including the regulation of the affairs and conduct of The University.[8] The powers of the Council also extend to approval of courses of instruction for the University,[9] approval of the establishment of campuses, colleges, faculties etc. [10]

The University Senate is the organ saddled with the formulation of academic policies including the organization and control of all academic activities of the University. The Senate is the coordinating body for recommendations from the various faculties and departments. It consists of the Vice-Chancellor (Chairman), all Professors, Deans and Heads of Department, the Librarian and representatives of Congregation."

---

[3]Altbach, G.P. (2005). "Patterns in Higher Education Development". In Altbach, P.G.; Berdahl, R.O.; Gumport, P.J. American Higher Education in the Twenty-First Century: Social, Political, and Economic Challenges (2nd ed.). Baltimore: The Johns Hopkins University Press.
A

[4]See the Kwara State of Nigeria Gazette Extraordinary, No. 3, Vol. 43, 15th February, 2009- Supplement Part A

[5]See Section 13 of the Law.

[6]See Section 4 (h), (o) (p) of the Law.

[7]See Section 10(2) of the Law, which establishes the Finance and General Purposes Committee of the Council.
See also Section 26(3) & (4)

[8]See generally, section 10 of the Law.

[9]See Section 3(e) of the Law.

[10]See Sections 4 (a), 11(4) and 12(1) of the Law.

[11]See generally, Section 11 of the Law.

The Faculty Board broadly controls the academic programme of each college or faculty subject to Senate approval.12 Although Senate is the supreme academic parliament of the University, in order that it may not be overburdened by details, a level of autonomy is given to each College or Faculty in the management, control and finance, subject, of course to the direction of the Senate and the Council. [13]

Other bodies that take part in University governance include the **Congregation**[14] and the **Convocation**. [15] They have the general functions of serving as a forum for discussing any problems or issue relating to the University. The Congregation in particular is entitled to elect a member to represent it on the Council.

The Convocation is made up of all the Officers, academic and non-academic members of staff with University degrees etc. It is the graduating ceremonial organ of the University. The principal function of the Chancellor is at the convocation. He leads the convocation and, as the titular head, he/she makes a speech during convocation ceremonies. In the Chancellor's absence at a graduation ceremony, the Vice Chancellor holds forth. The Chancellor does not preside over any other meetings or functions of the University, only at the convocation.

The bodies identified above are those involved in the structure of governance as it formally exists under the Kwara State University Law, 2008.

ROLE OF THE VISITOR IN THE UNIVERSITY

As earlier hinted, in the Nigerian University system, the Visitor in any Federal University is the President. In state universities, the Visitor is the Governor of that state, while in private universities, the Visitor is the Founder of the university.

The powers of the Visitor, though enormous, is strictly supervisory. For example, the Visitor of the university appoints the Chancellor, Pro-Chancellor, and some members of the Governing Council [16] and by virtue of Section 31 of the Law, the University cannot dispose of any immovable property belonging to the University without the written consent of the Governor. [17]

---

[12] See Section 12(2) of the Law.

[13]See Section 12(5) of the Law. See also Article 7 of the Statute contained in the Third Schedule to the Law.

[14]See Article 5 of the Statute contained in the Third Schedule to the Law.

[15]See Article 6 of the Statute contained in the Third Schedule to the Law.

[16]See the First Schedule to the Law.

In consonance with the principle of autonomy for universities, the powers of the Visitor notwithstanding, the position of the law, as contained in the **Universities Autonomy Act[18]**, though applicable to Federal Universities alone, is that he cannot exercise the power to dissolve the Council except where the Council is found to be **incompetent and corrupt**. The Visitor cannot dissolve any Council without this requirement being first fulfilled and, if he does, a suit may lie at the instance of aggrieved Council members to challenge the dissolution. A similar provision contained in the Kwara State University law states that Members of Council shall hold office for a term of five years only. [19] The Visitor can revoke the appointment of any member who has missed Council meetings for three consecutive times or who has been convicted of an offence or declared bankrupt or found wanting in another organization, or who is incapacitated by physical or mental illness.[20] It would seem that the Visitor cannot exercise the power of removal in this case too, except the conditions set out in the law are present.

The importance of the need for the Visitor to act within his powers and respect the autonomy of the University has been stressed in a number of cases. In the case of **Okaru v. Ndili[21]** it was held that where the head of state doubles as a Visitor, he is in one capacity dealing with matter of state and in another capacity dealing with affairs of university. In the latter capacity, he is the Visitor, pure and simple. See also the case of **Anyah v. Iyayi. [22] In Olaofe v. University of Ibadan, [23]** the Court held that the office of the visitor is a creation of statute. Thus, a Visitor cannot have more powers beyond that conferred by the law that creates a university. It therefore goes to say that if the President or Governor takes over the duty of the Council to appoint a Vice-Chancellor, he has acted ultra-vires.

---

[17] The requirement for consent does not extend to lease, mortgage or tenancy for a term not exceeding twenty-one years.

[18] See Section 2A of the Universities (Miscellaneous Provisions) (Amendment) Act 2003, otherwise called the Universities Autonomy Act, gazetted by the Federal Republic of Nigerian Official Gazette No. 10, Volume 94 of
12th January 2007 as Act No. 1 of 2007,

[19]See Article 1(1) of Statute No. 1 contained in the Third Schedule to the Law

[20] See Article 1(4) (a-c) of Statute No. 1 contained in the Third Schedule to the Law

[21](1989), 4 NWLR (Pt. 118) Pg. 700.

[22](1993) 7 NWLR (Pt. 305) 290

[23] (2001) 10 NWLR (Pt. 720) Pg. 126

As a corollary, a system of governance that will work in the 21st century University cannot be an extension of the exercise of powers by a visitor acting in his executive position. As rightly put by Professor Fafunwa:
'The Government interference in university administration and policy has reached an alarming proportion and both the N.U.C. and the University Councils and Senates are fast becoming mere appendages. The permanent secretaries in the Federal Ministries of Education, establishment, finance and in the federal cabinet office have tremendous influence over university governance. They wield enormous power and when they sneeze, the universities jump. '[24]

COMPOSITION OF MANAGEMENT OF THE UNIVERSITY

Another important component of governance in the University is the Management Committee. The Kwara State University Law provides for the establishment of such management and administrative Committees as the Council and the Vice-Chancellor may deem fit for the smooth discharge of their respective functions. 25 The composition of the Management Committee is set out under Article 4 of Statute No. 1 contained in the Third Schedule to the Law.
Although the functions of the Management Committee are as conferred by the Council, as democratic establishments, universities' decisions on governance must reflect the opinion of a cross section of the staff and students, if such decisions are to be accepted. The Management Committee has a representation of a wide range of section heads drawn from different segments of the University. The Management Committee assists the Council and Senate in arriving at useful and meaningful decisions that can facilitate the proper management and growth of the university system.[26]

---

[24]Fafunwa, B., 'Nigerian Varsities: Problems and Challenges.' National Concord, 12 January, 1983 referred to in Titus Oshagbemi 'Leadership and Management in Universities: Britain and Nigeria' Walter de Gruyter GmbH
& Co KG

[25] See Section 10(7) of the Law.

DISCIPLINE IN THE UNIVERSITY

An important aspect of governance in the University is the exercise of the power of discipline on staff and students, granted by the law establishing the University. Section 15 gives the Visitor power to remove a Council member from office on the recommendation of the Council. The Council also has power to remove members of staff from office or employment.[27] The Vice-Chancellor has the power to remove a University examiner found wanting, after affording the examiner the opportunity to make representation in person. [28] The Vice-Chancellor has the power to rusticate or expel, from the University, a student found guilty of misconduct not amounting to a crime. [29]

It cannot be over-emphasized that, in exercising the power of discipline over either a member of Council or member of Staff or student, it is important to adhere strictly to the rules of fair hearing and or rule of natural justice. The law reports are replete with cases where the decision to expel a student or staff was quashed by the courts for failure to apply the principles of fair hearing. The cases of **EPEROKUN V. UNILAG30, GARBA V UNIVERSITY OF MAIDUGURI**[31]and **OLORUNTOBA-OJU V. DOPAMU**[32]are examples of such cases.

STEP BY STEP PROCEDURE TO BE FOLLOWED IN THE DISCIPLINE OF A MEMBER OF STAFF OF THE UNIVERSITY, OTHER THAN THE VICE CHANCELLOR

- Give notice to the person, of reasons why it is believed that he should be removed from office.
- Afford him an opportunity of making representations in person on the matter.

---

[26] Ebi 'Committee System Impact on University Management in Nigeria' available at https://www.streetdirectory.com/travel guide/107022/phoenix university/committee system impact on university management in nigeria.html

[27]See Section 16 of the Law.

[28]See Section 17 of the Law.

[29] See Section 18 of the Law.

[31]Supra note 1.

[32]Supra note 2.

[33]Supra.note 3.

- Afford him the opportunity to cross examine every witness who gives evidence against him. This aspect in not provided for in the Law but the courts have stressed its importance as an important principle of fair hearing. See the case **of PROFESSOR J.A. AKINYANJU V. UNIVERSITY OF ILORIN & ANOR.33**
- If the member of staff in question or any three members of the Council so request within the period of one month beginning with the date of the notice, make arrangements for a joint committee of the Council and the Senate to investigate the matter and to report on it to the Council; and for the person in question to be afforded an opportunity of appearing before and being heard by the investigating committee with respect to the matter.
- If the Council, after considering the report of the investigating committee, is satisfied that the person in question should be removed as aforesaid, the Council may so remove him by an instrument in writing signed on the directions of the Council. Note that the Council's satisfaction must be based on the report and recommendation made to it by the investigating committee and not on extraneous considerations. If the report is favourable to the Staff and the Council nonetheless removes him, this may be successfully challenged in court on the ground that there is nothing in the report to justify the action of Council. It is a different thing if there are manifest inconsistencies in the report which would justify the Council's action. In the case of PROFESSOR J.A. AKINYANJU V. UNIVERSITY OF ILORIN & ANOR34, the plaintiff's appointment was terminated not based on proof of allegation of involvement in students' demonstration which the SDAC was directed to investigate but for an alleged insubordination and indecorum the plaintiff exhibited when he appeared before the body. His dismissal was set aside by the courts.

FUNDING FOR UNIVERSITIES

An important part of any form of governance is funding. Section 26 of the Law provides for the expected sources of finance for the expenditure of the University for the first 5 years.

---

[33](2011) ALL FWLR (PT.569) 1080

[34]Supra note 35.

The State Government was expected to provide 70%, while the Local Government Councils in the State were to provide 30% of the sums required. The University is however allowed to source for additional funding from tuition fees, development levies, endowment funds, Educational tax fund, internal revenue etc.

The 21st century compliant universities are less dependent on tuition and direct government grants. They depend more on donations, partnerships with industry etc. A look at the foremost universities in the United States and United Kingdom reveals that a huge chunk of their funding comes from endowments.

1. United States

a. Harvard - 40.9 billion dollars.

b. University of Texas -30.9 billion dollars.

c. Yale -30.31 billion dollars

d. Stanford University - 27.7 billion dollars

e. Princeton University - 26.1 billion dollars

f. Massachusetts - 17.57 billion dollars35

2. United Kingdom

a. Cambridge - 6.9 billion pounds

b. Oxford-6.1 billion pounds

c. Imperial College - 178.1s million pounds

d. University College, London - 118 million pounds.[36]

I would like to commend the Management of KWASU for their entrepreneurial focus and drive which has no doubt led to a sizeable income being generated from within the University. A University that will do well financially in the current realities cannot and should not rely on government and tuition for funding. This would go a long way to guarantee some level of independence for the governing structure of the University.

Alumni contributions: it is important to add at this point that Alumni can contribute to the development and advancement of the University either through donations, endowment, scholarship funds, annual giving, class gift etc. however it is only a student with pleasant memories of the institution that will think of coming back to give back.

-Emma Kerr, '10 Universities With the Biggest Endowments' available at https://www.usnews.com/education/best-colleges/the-short-list-college/articles/10-universities-with-the bierest-endowments

List of UK universities by endowment. Available at https://www.wikiwand.com/en/List of UK universities by endowment

NEW ROLES FOR THE COUNCIL AND MANAGEMENT OF THE UNIVERSITY.

Universities are progressing and adapting to the realities of the 21st Century, so must the way they are governed. As rightly stated by James Duderstadt:

"Today it is appropriate to question whether the key participants in shared governance-the lay governing board, elected faculty governance, and academic administrators-have the expertise, the discipline, the authority, and the accountability necessary to cope with the powerful social, economic, and technological forces driving change in our society and its institutions."

(Underlining mine for emphasis) [37]

The 21st century University needs a form of governance that will retain the best of what universities have traditionally stood for while responding positively to new pressures and priorities. A university leadership that will stand the test of time in the 21st century requires principle, vigor and passion. The wheels of the University of today deserves to be manned by a constellation of scholars, learners, leaders, managers and other dedicated stakeholders. [38]

Critical to good governance **is open consultation, communication and shared participation** in decision making. Good collegial relationships and mutual respect among all parties the faculty, professional and support staff, students and administrative officers. and representatives of external stakeholders will ensure success in university governance. The 21st century system of governance requires more representation and involvement, it is therefore, best to involve all stakeholders in governance of the university. Commendably, the Kwara State University Law imposes a duty on the University to keep the students informed on matters concerning their welfare.[39] The University is also required to give the students reasons for a change or intended change of policy. when requested by the students.

James J. Duderstadt 'A University for the 21st Century University of Michigan Press, 2000.

Gayle, Dennis John et al 'Governance in the Twenty-First Century University: Approaches to Effective Leadership and Strategic Management.' ASHE-ERIC Higher Education Report. Josey-Bass Adult and Higher Education Series. Vol. 30 No. 1.

See Section 19 of the Law.

As an example of the principle of open consultation. communication and shared participation in decision making, it is also commendable and worthy of mention that the KWASU Law also provides for a University Consultative Committee, which is to function as a forum for regular dialogue and consultation on matters affecting the welfare of the University Community and to advise the Vice-Chancellor on it. The Committee is headed by a Deputy Vice Chancellor and comprises of representatives from the academic, administrative, junior staff and students.

University governance should be tailored towards making policies that will ensure that teaching and researches carried out in the institutions reflect the need of the society. Societies often make demands on higher education and intelligentsia. When the United States (U. S.) was facing the oil crises of 1974-1975, the government fell back on their universities for advice and strategies that reversed the situation. Similarly, there was pressure for expansion of enrolment and increment of faculty staff on American Universities. after the Second World War. These challenges were ultimately dealt with successfully. In Nigeria currently, there are challenges of economic depression, inflation, in security e.t.c which are issues the University can do well by proffering solutions in order to justity its existence and funding. It is time to change the narrative of the Nigerian graduate as one with no special skill to contribute to the development of the Nation, having been trained in subjects and courses that could be of little or no use to the graduate or his country.

It is therefore imperative that, for the University to attain the goals of the founding fathers and be fit for purpose and promote ethical practice in decision-making, the following are minimum irreducible goals that must be attained:

I. **Transparency and accountability**: Establish and communicate clear policies and procedures for decision making, also ensuring to keep accurate records
II. **Fairness and Impartiality:** Manage conflict of interest, ensure diverse representation and develop fair processes.
III. **Integrity and honesty**: Establish a suitable code of conduct and conduct regular audits of the organs of the University on ethical performance.

See Section 20 of the Law.
Ibid Note 18.

IV. **Responsibility and accountability**: Define clear roles,
establish decision making frameworks and hold members accountable.

V.**Continuous** i**mprovement:** Provide ethics training, review

and revise policies and engage stockholders. In addition to the above the following are also important issues that must be addressed

a. The Principal Officers must be knowledgeable about university administration.

b. The Council must be made up of people with impeccable integrity, honesty, knowledge and incorruptible credentials.

c. The culture of learning, research and 'can do' must be ingrained in the academic staff.

d. University is exactly what it is, a universal place of interchange of ideas and learning. Quota system should have no place in the recruitment of members of the faculties.

Funding is critical and the bedrock of successful university deliveries. It is imperative to look for and secure adequate funding for its programmes, e. especially research.

f. The Principal Officers must know, understand and abide by the function allocation in the Law setting up the University. This is the only way that peace and concord will be guaranteed in the University.

g. Discipline, within the Council Management, the Staff and Students, is a sine qua non to the peaceful delivery of the mandate of the University.

h. The workers and students' unions must exhibit a high level of responsible unionism.

i. Favoritism, nepotism and tribalism must have no place in the employment of capable people to positions, especially in the academic and higher echelon of the administrative staff.

j. The fee structure in a State university must match the realities of the times, if the University is to survive.

CONCLUSION

In this paper we have tried to show the existing form of governance by making a brief discussion of the concept and going through the law setting up the University to show the officers involved in the governance of the university. The issues of discipline and funding were also looked into as important aspects of governance. We have also made suggestions as to the minimum irreducible goals that are expected of university governance in promoting ethical practices in decision making.

It is my hope that, at the end of this paper, you will come up with strategies and solutions on governance, that will ensure that the university, henceforth, is not just preparing young people for adult life but lifelong learning, research on demand for both government and industry. A University must persistently appraise the efficacy of its governance and administration and consult with partners such as government, private bodies, students and staff unions and others to ensure that it is able to fulfill its mission effectively, now and in the future.

It is my hope that you will leave this retreat with ideas for University governance that will emphasize academic freedom and autonomy, adding value to student education and academic advancement, public accountability and social responsibility, transparency, ethics and integrity.

Thank you, for your attentive listening.

Prof. Yusuf Ali, SAN, FCIArb.
Kuliya Ngeri of Ilorin Emirate