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# THE EMERGING TREND OF STUDENT'S PARTICIPATION RIGHTS IN THE CHANGING FACES OF HIGHER EDUCATION IN NIGERIA

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*The issue as to whether students are holders of rights in the changing faces of higher education in Nigeria has been a subject of great debate by scholars in human rights law and educational administration. These debates relate to whether students only have an interest which should be protected or a choice which can be exercised as right holders. However, the choice of exercising this interest is inherent in the student's right to participation which entails a right to express a view especially in areas of decision making relating to education and welfare. The author noted in this study that even though issues of student's welfare and education are engaged on the platform of rights, there is controversy as to whether students should participate in decisions that will change the face of higher education. This paper argues that adopting a right-based*

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*approach which recognizes the evolving competence of students and that allows full participation of students in decision making process in higher education in these respects strictly complies with international human rights practices on right to education. The paper concluded by making some recommendations useful to tackle the technical and legal intricacies occasioned by a weak educational culture.*

**Keywords:** *Students, Participation, Rights, Changing Faces, Higher Education*

## I. INTRODUCTION

A serious discourse on student participation rights in Nigeria is timely and appropriate, it is timely because student rights in Higher Education in Nigeria has deteriorated in the last decade. Also, this discourse is equally appropriate in the light of the fact that student rights may be seen as those rights ranging from Civil, Constitutional, Contractual and Consumer rights that regulates Students be freedom as well as allowing them to make use of their educational knowledge. It is instructively to note that Student rights comprises the right to free speech and association, equality, safety, autonomy, due process and as well privacy which regulates several treatments on Students either by their lecturers University Management. Thus, the emphasis on Student rights of participation derives essentially from the fact that in a broader sense, some kind of student rights or applicable in educational environment is provided under the laws of that country. Nevertheless, as we often hear from the academic world, student, still do not actively participate or become passive in the university governance despite encouragements and various awareness campaigns on campus to stimulate active participation from the students. However, this concern on students' rights to participate in the university governance, has informed this study to investigate the culture of student participation in the university governance. Thus, the objective of the study is to identify forms and level of participation and to examine the factors that influenced students to actively participate in the governance of the university. This paper highlights the reasons for student's apathy in the governance of the university. The discussion is based on doctrinal research methodology.

Basically, this paper examines student's right to participate in Article 12 of the United Nations Convention on the Rights of the Child<sup>1</sup>

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<sup>1</sup> Article 12 of the United Nations Convention on the Rights of the Child (1989).

in other words argue for distinctions between the level of participation by the students and as well as the level of enforcement of these rights. It must be emphasized that the Article's primary aim is to offer educators, lawyers, university administrators, and scholars' innovative perspectives to assist in analyzing student's controversial expressions in the university and in shaping just and educative policies that will enhance university governance and growth.

Prior to the ratification of the Convention on the Rights of the Child, international human rights laws have granted students special protection from abuse neglect, exploitation and guaranteed their social and economic rights, such as education, healthcare, and an adequate standard of living<sup>3</sup> Achieving the full realization of this rights, the Convention on the Rights of the Child synthesized standards scattered among many international documents and introduced an additional and revolutionary dimensions to the rights of children in international law, which recognized children as agents who share the power to shape their own lives.<sup>4</sup> In the same vein, the right to participation as provided in Article 12 of the Convention is the core of the innovative approach that the Convention on the Right of the Child promoted<sup>5</sup> The provisions of Article 12 of the Convention on the Right of the Child as re-stated in Articles 14 and 15 of the same convention is emphases on the right to participation and a better standard of freedom.

This is given further impetus by the universal declaration of Human Rights (UDHR)<sup>6</sup> in its preamble which declares freedom from fear and want as one of the highest aspirations of common people. Specifically, articles 19, 27 and 29 (3) of the Universal Declaration of Human Rights<sup>7</sup> (UDHR) guarantee everyone the right to freedom of opinion and expression, the right to freely participate and the duties to the community. It is clear that the right to participation and the freedom of Speech offer two normative frameworks for analyzing student's expressions and participation. In view of the importance of the subject, the question has always always been does the two concepts above have the same justifications? How does it relate to educational settings? These are the questions that inform this study.

Twenty-first century is faced with a serious challenge of existing and potential student's participation rights in the changing faces of higher education in Nigeria. However, over the years, students participation rights have acquired an evolving, yet discrete core of its own. This paper examines what constitutes student's participation rights in the governance of higher education in Nigeria, and at what point a student acquires a status to be ascribed with autonomous rights. Internationally, recognition of the significance of the rights of student to education and ofcourse, in the governance of higher education cannot be overemphasized. Thus, Article13 Of the International Covenant on Economic, Social and Cultural Rights provides that:

The state parties to the present covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all Nations and all racial, ethnic or religious groups and further the activities of the United Nations for the maintenance of peace.<sup>2</sup>

In this sense, two sorts of rights apply to students: substantive rights which is the actual rights that students should enjoy and procedural rights which is the method by which students claim their rights. However, paper is concerned with students in higher education who have various rights to exercise in the governance of higher education in Nigeria. In Nigeria presently, the paper noted that the concept of student's participation right is still strange, as the higher education and the National University Commission (NUC) which is the regulatory body are yet to grapple with the need to allow or involve students in decision- making. One reason for the slow pace of law and policies to meet the rights of students' participation in the changing faces of higher education in this regard is rooted in the fact that students lacks basic knowledge in decision – making.

Accordingly, the principal question which will be addressed in this paper is to what extent the rights in the changing faces of higher education has been incorporated into the relevant international, as well as Nigerian legislative framework, and case laws. In order to appropriately respond to the central research question, other related sub-questions will be examined:

- 1) To what extent have the international human rights instruments recognized by Nigeria, incorporated students participation rights in changing faces of higher education in Nigeria?
- 2) To what extent has Nigeria incorporated the relevant human rights standards pertaining to students participation rights in the governance of higher education in Nigeria?

Several methodological approaches have been adopted, including a literature review and an examination of international human rights instruments, their governing bodies and/or the Nigerian legislative framework. This paper commences with an overview of the topic, in order to demonstrate the importance of students participation rights in the

<sup>2</sup> See Article 13(1) of the International Covenant on Economic, Social and Cultural Rights 1993

governance of higher education in Nigeria. Moreso, clarification of certain concepts embedded in the topic which requires proper clarification for a better understanding, subsequently, the evolution of students rights to education in Nigeria and the right to education under the Universal Declaration of Human Rights were also examined. In addition, students participation rights and the role of international convention as well as regulatory framework on higher education in Nigeria were all examined accordingly. The paper concluded by making relevant recommendations that will address this emergency trend.

## II. CONCEPTUAL CLARIFICATION

### A. Who is a student?

The word “student” is been used in different senses. It varies according to the context in which it applies. However, according to Oxford Advanced Learner’s Dictionary, “a student is a person who is studying at a university or college”.<sup>3</sup> In other words, a student is a person who goes to school for learning and acquisition of certain knowledge for his growth and development. A student can be children, teenagers, or adults who are going to school, but it may also be other people who are learning, such as in college or university. Similarly, according to Webster Dictionary,<sup>4</sup> a student is thus:

a person who engaged in or devoted to learning; a learner, a pupil; a scholar; especially, one who attends a school, or who seeks knowledge from professional teachers or from books as, the students of an academy, a college, on a university.

In a similar vein, the term student is defined as an individual who is enrolled in an education programme for the purpose of learning.<sup>5</sup> It should be noted from the foregoing definitions that age-based definitions of a student should not be used as a criterion for ascertaining who is a student in the context of higher education. Thus, since our perceptions of studentship is not fixed, it will ultimately remain a changing concept. As our ideas about student changes, so will our ideas of what rights they

<sup>3</sup> Oxford Advanced Learner’s Dictionary 9<sup>th</sup> ed. (Oxford: Oxford University Press 2012) P. 1556

<sup>4</sup> Merriam Webster’s Collegiate Dictionary (10<sup>th</sup> ed. 1999).

<sup>5</sup> United Nations Educational, Scientific and Cultural Organization Definition of Student, UNESCO Institute of statistics 2020 available at <http://www.uis.unesco.org> accessed 28 March 2020.

should have, what legal capacity and what legal protection they deserved in the changing faces of higher education in Nigeria.

## **B. What is Higher Education?**

In practical terms, higher education also known as tertiary education in some countries refers to all post-secondary education, including both public and private universities, colleges, technical training institutes and vocational schools. It should be noted that higher education otherwise known as tertiary education builds on secondary education by providing learning activities in specialized fields of education.

Furthermore, it aims at learning at a high level of complexity and specialization. However, higher education includes what is commonly understood as academic education but also includes advanced vocational or professional education. Also, it is essential to note that higher education is instrumental in fostering growth, reducing poverty and boosting shared prosperity. It is therefore clear that higher education institutions without some distance from society at large would run a serious risk of losing their capacity to reason in terms of principle, to take a long term view somewhat detached from the immediate issues of the day and to identify sustainable solutions to the most serious and long term challenges facing our society.

## **C. The Concept “Student Rights to Education”**

Essentially, student rights are those rights, such as civil, constitutional contractual and consumer rights, which regulate student rights and freedoms and ofcourse, allow students to make use of their educational investment. Moreso, it includes such things as the right to free speech and association, to due process, equality, autonomy, safety, privacy, and accountability which regulate the treatment of students by their lecturer and/or administrators.

With regards to these rights, it is important to note that there is very little scholarship about student rights throughout the world. Thus, most countries have some kind of student rights or rights that apply in educational setting enshrined in their laws and proceduralized by their court precedents. It is interesting to note that some countries like Romania, in the European Union, have Comprehensive student bills of rights which outline both rights and how they are to be proceduralized. In other vein, most countries, however, like the United States and Canada, do not have a cohesive bill of rights and students must use the

courts to determine how rights precedents in one area apply in their own jurisdictions.

Furthermore, to ensure the observance of legal and human rights obligations to student rights to education, student rights to education has been recognized as a human rights in a number of international and regional conventions, including the international covenant on Economic, Social and Cultural Rights<sup>6</sup> which recognizes a right to free compulsory primary education for all, an obligation to develop secondary education accessible to all, by the progressive introduction of free secondary education, as well as an obligation to develop equitable access to higher education.

The obligation to fulfill student rights to education also requires a responsibility to provide basic education for individuals who have not completed primary education from the school and college levels. In addition to these access to education provisions, the right to education encompasses the obligation of the students to avoid discrimination<sup>7</sup> at all levels of the educational system, to set minimum standards of education and to improve the quality of education. Further obligations at the regional levels on the right to education was provided under the African Charter on Human and Peoples Rights which requires State Parties to formulate, implement and periodically review standards that recognize every individual to have the right to education.<sup>8</sup>

### III. THE EVOLUTION OF STUDENT'S RIGHTS TO EDUCATION IN NIGERIA

The issue on the evolution of student's rights to education in Nigeria is significant in every context, however, the paper will first of all examine the evolution of higher education in Nigeria briefly before discussing further on the evolution of student's right to education in Nigeria which is the main concern of this paper. It should be noted that the history of University in Nigeria is traceable to the Elliot Commission of 1943, which metamorphosed to the establishment of University College Ibadan in 1948. However, this university college was an affiliate of the University of the London.<sup>9</sup> Moreso, in April 1959, the Federal Government Commissioned an inquiry known as (the Ashby Commission) to advise it on the higher education needs of the country for its first two decades. The paper noted that before the submission of the

<sup>6</sup> International Covenant on Economic, Social and Cultural Rights 1966

<sup>7</sup> Article 5(e)(v) of International Convention on the Elimination of All Forms of Racial Discrimination 1989.

<sup>8</sup> Article 17(1) African Charter on Human and People's Rights 1979.

<sup>9</sup> V.C. Ike, "University Development in Africa: The Nigerian Experience" (University Press Ibadan 1976)

report, the Eastern Region Government established its own university at Nsukka known as University of Nigeria in 1960. However, the implementation of the Ashy Report led to the establishment of University of Ife (now Obafemi Awolowo University, Ile-Ife) in 1962 by the Western Region, while in 1962 Ahmadu Bello University, Zaria was established by the Northern region of Nigeria and as well in 1962 the University of Lagos was established by the Federal Government. In the light of the above development, the University College, Ibadan became a full-fledged University in 1962.<sup>10</sup> This implies that the University of Lagos became the first two Federal Universities in Nigeria, while the three universities remained regional Universities. Having briefly examined the evolution of University education in Nigeria, the paper will now delve into the main discourse which is centered on the evolution of students rights to education. It should be pointed out that Nigeria is a signatory to most of the international treaties and conventions recognizing various rights, and must work towards granting and protecting these rights as committed by the relevant instruments.

Also, an important factor in terms of understanding the real issues relating to the rights to education is that educational right is an integral part of those expectedly guaranteed rights which need serious attention in the area of enforcement. Right to education as human rights has its legal basis in the international human rights instruments and as a matter of policy, education as human right is regulated by various United Nations Conventions via its specialized agencies such as the United Nations Educational, Scientific and Cultural Organization (UNESCO), International Labour Organization (ILO) respectively. This however, implies that the protection of the right to education at the international, regional and national levels are the sole responsibility of the state parties involved, recognizing that the state has the primary responsibility for guaranteeing compliance with international standards on the necessary respect for and protection of the rights to education.

Among the various legislations in place, it is clear that treaties, declarations, resolution and adopted standard rules are the legal framework and policies that established and protect the right to education. It is important to highlight that the right to education gained proper recognition and protection through the adoption of series of instruments after the birth of the United Nations in 1948 and the provisions of these instruments became the framework for the

<sup>10</sup> J.B Babalola, A.O Jaiyeoba; and A. Okediran, "University Autonomy and Financial Reforms in Nigeria: Historical Background, issues and Recommendations from Experience". In J.B Babalola and B.O Emunemu (eds) *Issues in Higher Education: Research Evidence from Sub-Saharan African*. (Lagos: Bolabay Publications 2007)

recognition and protection of human rights generally <sup>11</sup> and the right to education in particular at the global level. It is imperative to add that the emergence of the right to education stemmed from the fact that school personnel in higher education needs to be conscious of this, bearing in mind that their actions or inactions may cause an infringement upon the rights of the students and may constitute human rights violation.<sup>12</sup>

#### IV. THE RIGHT TO EDUCATION IN THE UNIVERSAL DECLARATION OF HUMAN RIGHTS

As has been enumerated above, the right to education is reflected in International Law Treaties and Conventions.<sup>13</sup> However, Article 26 provides thus:

Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory, while technical and vocational education shall be made generally available and Higher Education shall be equally accessible to all on the basis of merit. Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms.

In addition, the Article further provides that:

It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace. Parents have a prior right to choose the kind of education that shall be given to their children.<sup>14</sup>

It must be pointed out that the right to education has been reaffirmed in the 1960 United Nations Education, Scientific and Cultural

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<sup>11</sup> Article 1(3) of the United Nation Charter 1945 and Article 55(2) of the United Charter 1945.

<sup>12</sup> F.O. Arop, "Evolution of Human Rights Violation in Student Personnel Administration in Secondary Schools in Cross Rivers State practice, 3(16), (2011), 48-52.

<sup>13</sup> Article 26 of the Universal Declaration of Human Rights 1948, Articles 13 and 14 of the International Covenant on Economic, Social and Cultural Rights, 1976.

<sup>14</sup> *Ibid*

Organization Convention against discrimination in Education,<sup>15</sup> the 1981 Convention on the Elimination of All Forms of Discrimination Against women,<sup>16</sup> the 2006 Convention on the Rights of Persons with Disabilities,<sup>17</sup> and the African Charter on Human and People's Rights.<sup>18</sup> Conversely, in Europe, Article 2 of the First Protocol of 20 March 1952 to the European Convention on Human Rights States that "The right to education is recognized as a human right and is understood to establish an entitlement to education". In a similar fashion, the International Convention on Economic, Social and Cultural Rights however, provides that the right to free, compulsory primary education for all, an obligation to develop secondary education accessible to all in particular by the progressive introduction of free secondary education, as well as an obligation to develop equitable access to higher education in particular by the progressive introduction of free higher education.

In view of the above, the paper however, noted that the right to education also includes a responsibility to provide basic education for individuals who have not completed primary education. In addition to these access to education provisions, the right to education encompasses also the obligation to eliminate discrimination at all levels of the educational system, to set minimum standards, and to improve quality. Thus, Article 10 of the European Social Charter guarantees the right to vocational education.<sup>19</sup> It must be emphasized that in formulating the right to education, Article 26 in its most contentiously debated section says that the right to education should be linked to three specific educational goals:

- 1) The full development of the human personality and the strengthening of respect for human rights and fundamental freedoms,
- 2) The promotion of understanding, tolerance and friendship among all nations, racial or religious groups; and
- 3) The furthering of the activities of the United Nations for the maintenance of peace.<sup>20</sup>

Aside from above, it would appear that the educational directives of Article 26 point to three distinguishable goals. Thus, the fundamental issue here is that using the above tripartite framework affords a glimpse at present day examples of human rights education directed to each of the three goals provided under article 26 of the Universal Declaration of Human Rights. In this regard, one issue that also generally needs to be noted in terms of human rights education today is that education involves

<sup>15</sup> United Nations Education, Scientific and Cultural Organization Convention, 1960.

<sup>16</sup> The Convention on the Elimination Against Women, 1981.

<sup>17</sup> Article 24 of the Convention on the Rights of Persons with Disabilities 2006.

<sup>18</sup> Article 17 of the African Charter on Human and Peoples Rights 1979.

<sup>19</sup> See Article 10 of the European Social Charter 1992.

<sup>20</sup> Article 26 of the Universal Declaration of Human Rights 1948

more people than any other institutionalized activity worldwide, according to the United Nations Special Rapporteur on the Right to Education. Thus, in her 2002 report to the United Nations Commission on Human Rights, Katarina Toma Evski said that: "while a commitment to institutionalized education is globally ubiquitous, the commitment everywhere is "to hardware at the expense of software".<sup>21</sup>

However, in this context, this means once again that the supporting structures at the international level include the United Nations Education, Scientific and Cultural Organization (UNESCO) Division of Human Rights, Democracy, Peace and Tolerance which provide strategies for teaching human rights on an international and regional level. One should also bear in mind that Regional Support for human rights education are evident in the work of the European Union, the Asian Regional Resource Centre, the All African Annual workshop on Human Rights Education and the publications and instructional programmes of the inter-American Human Rights Institute.

As has been mentioned, beyond those obligations applicable at the international and regional levels of the right to education, it should be pointed out that one of the major challenges facing the provision of education in Nigeria is the inadequacy of the educational law which does not provide for or recognized education as a right in the Nigerian law. Thus, this inadequacy did not empower the judicial arm the opportunity to protect the people's educational rights through the pronouncements of the court. In this regard, education is neither recognized, guaranteed nor protected as a right under the Nigeria Constitution.<sup>22</sup> Also the non-inclusion of education as a right under Chapter IV of the constitution constitute a serious challenge for the educational rights.<sup>23</sup> This created an impression that that since it is not within the items contained in the Bill of Rights,<sup>24</sup> it is however, not a "right", hence no action could arise there from regarding it's violation.<sup>25</sup>

## V. STUDENT'S PARTICIPATION RIGHTS IN THE CHANGING FACES OF HIGHER EDUCATION IN NIGERIA

As rightly observed in this paper, the right to education of the student as provided under the Universal Declaration of Human Rights and other

<sup>21</sup> K.Toma Evski, Annual Report of the Special Rapporteur on the Rights Resolution 2001/29, paragraph 46,C/CN.4/2002/60.

<sup>22</sup> See the Constitution of the Federal Republic of Nigeria, 1999.

<sup>23</sup> See Chapter II and IV of the Constitution of the Federal Republic of Nigeria 1999.

<sup>24</sup> See Sections 33 and 34, Chapter IV of the Constitution of the Federal Republic of Nigeria, 1999.

<sup>25</sup> See Sections 13 and 6(6)(c) of the Constitution of Federal Republic of Nigeria 1999.

regional or national legislations does not expressly provide for students participation rights in the governance of higher education in Nigeria. The paper however noted that the level of students' participation in governance of higher education in Nigeria is very low. This low level of students participation might not be unconnected with the fact that many university management failed to involve students in the administration of their institution. According to Ezekwem:

Students who have the larger number of the university community should be well represented on all university committees for real democratization of the decision-making process. Also student's union participation in governance should be well encouraged and made generally very effective.<sup>26</sup>

Nevertheless, it may be worth noting that in the governance of higher education institutions, we are used to taking students participation rights so much for granted that it is easy to forget that in most European Countries, this representation in its current form is little more than a generation old. It can thus be argued that while previous generations of students fought for representation, there is an impression that the current student generation does not make much use of the rights gained. However, it would be helpful to know whether this impression is in fact substantiated by facts and if so, why present day students are to a large extent disconnected atleast from institutional governance and perhaps even from institutional life. Furthermore, the paper noted that there was significant difference in students participation in governance of Federal and State Universities. Thus, Federal University has higher level of students participation in university governance than in State Universities. According to Longing,

It could be as result of the Federal Universities using the same uniform standard for their student's involvement in the governance while each State University decides on their mode of governance.<sup>27</sup>

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<sup>26</sup> E.C. Ezekwem, "Students Unionism and University Administration in Nigeria" (2006). Available at <http://publisher.com/proposals/568/index/html>.accessed31march,2020

<sup>27</sup> T.C. Longing, "Institutional Governance: A Call for a Collaborative Decision-Making in American Higher Education", (Baston, M.A Maker Publishing Co. 2002)

In the same vein, Adesanoye<sup>28</sup> is of the view that complementarily between students participation in university governance and organizational effectiveness in the university system can enhance university growth and development due to the mutual understanding existing between them. While undoubtedly important, it should be noted that the right to education although provided under the Nigerian Constitution neither guarantee nor protected or provided expressly their participation in the governance of higher education in Nigeria. Also other subsidiary legislations on education that are relevant in this study such as National University Commission Act 28 and the Joint Admission and Matriculation Board Act<sup>29</sup> however failed to provide for students participation rights or remedy for any breach on the part of the University. From the perspective above, it suffices to say that the law on education in Nigeria is inadequate, this is because, if Chapter II of the Constitution cannot be enforced and does not provide expressly students participation rights in the governance of higher education in Nigeria, then it will be rightly said that the said law deserves reformation.

The consequential effect of the above scenario indicates that there is no legal provision for student representation on the governing bodies of the institutions. However, legal regulation of such representation at the faculty and departmental levels is less common and at the national level, provision for student representation is found only in a narrow majority of cases. Also, in the one case, where the university or faculty appoints students representatives, a legal change seems to be on its way. One can ofcourse ask to what extent the student unions making the appointments are representative of the student body at large, but that is a question of practice rather than formal provision. In another vein, one may asked: why should students influence institutional governance? It is interesting to note that there is an increasing tendency to think of students as clients. This paradigm does, however, have profound implications for the relationship between students and the institutions at which they study.

Also taken to the extreme, the idea of students as clients contradict the more traditional idea of students as members of the academic community. However, as members of academic community students share a responsibility for their education and for the institution which provides the framework for this education. Despite this non-inclusion of students participation rights in the governance of higher education in Nigeria in several Nigerian legislations regulating higher education, it is interesting to note that the obligation associated with any right exists on a continuum which ranges from the duty to the aspiration, and as one sees clearly in economic, social and cultural rights, the full

<sup>28</sup> A.P. Adesanoye, "A Study of Students Participation in School Management. A Case Study of Some Secondary School in Ikale Local Government Area of Ondo State; An un Published M.Ed Thesis. Obafemi Awolowo University Ile-Ife (2000).

<sup>29</sup> National University Commission Act 2004

realization of the right requires action to focus on progression towards the aspiration.

Further, the paper argues that since human rights law establishes rights that every child (student) should enjoy at all times the right to education, then it may be worth noting that such rights should be extended to their rights to participate in the governance of higher education in Nigeria. Thus, in the Praha Communiqué, ministers also affirmed that:

Students should participate in and influence the organization and content of education at universities and other higher education institutions and that students are full members of the higher education community.<sup>30</sup>

In this light, the state has an obligation to ensure the inclusion of students participation rights in their state legislations on education and furthermore to ensure that their exercise does not comprise the student's best interests. It is essential that students be present in participatory processes of designing, re-designing or re-thinking, educational systems, in order that these fully reflect their right to education. This however, would help ensure that all students have the opportunity to access and genuinely benefit from an appropriate education.

## VI. HOW DEMOCRATIC IS UNIVERSITY GOVERNANCE?

In practical terms, it is a general belief that students hold a substantial number of seats on the governing bodies of the universities in Nigeria, but regrettably, it is not so. Thus, in its pure democratic connotation, especially as it concerns Nigeria Universities, seat on the governing bodies are not distributed according to numerical strength. In other words, the democratic principle of one person, one vote is of course, not the norm in university administration in Nigeria, but however, the sole responsibility of the National University Commission who made the appointment of the University governing bodies.<sup>31</sup>

The above expression indicate, inter alia, that in the university governance, the democratic principles is only applicable to Academic Staff, perceived as having the main responsibility for the key missions of the university administration. Technically speaking, it is only the academic staff who are qualified to elect members either to the University

<sup>30</sup> See National Union of Students in Praha Conference 2001, available at <http://www.esib.org> accessed 15 April 2020.

<sup>31</sup> See The National University Commission Act No. 1 of 1974

Senate or the Governing Council of the University, whereas students are not better represented. The paper however, argues if this is in contradiction to democratic principles, or is it simply that it is possible to define competence or representation in the context of the university policies, but not in that of civil society, in which all members have an equal opportunity or participation? It should be noted that such practices is not unique to universities.

Indeed, the point is ofcourse, not that universities, scholars or students are inherently undemocratic. Also the paper noted that the weighting of votes practices in the university governing body policy as well as the introduction of competence tests, such as literacy tests, into general elections are generally seen as undemocratic and even as attempts to shut out less favoured groups from voting.<sup>32</sup> Foremost in this regard is that the basis for weighted representation of specific groups in the university governance is generally regarded as undemocratic. It is indisputable that academic staff, students, administrative and technical staff are not necessarily homogenous groups given bloc voting.

Inspite of these international declarations, standards and policies as well as persuasive laws existing in Nigeria, Nigerian municipal law has not responded reasonably and sufficiently to guaranteeing the student's rights to participate in Higher education governance and policy making. This paper argues that there are several conceptual and structural differences between the right to participation and freedom of speech in schools. In that sense, it should be pointed out that this disparity emanates from the character of the right to participation as a dialogic right that captures voices that strive for influence. It is also the view of this paper that school policy that realizes the right to participation and freedom of speech acknowledges student's position as actual citizens rather than potential citizens in the making<sup>8</sup>. Similarly, it is the humble view of this paper that this development should form part and parcel of citizenship education which is committed to education in, not just education for, democreacy<sup>9</sup>. It is instructive to note that when students exercise their right to participation speech, by so doing, they develop political literacy, critical thinking and civic skills useful for future use especially in the area of negotiation and policy making and formulations<sup>10</sup>. On the other hand, it must be stressed that any participatory experience acquired in school by students are among the most powerful predictors of future civic responsibility<sup>11</sup>. The reliance on Meira Levisohn's books<sup>12</sup>, exemplifies the fact that when students voices are heard and respected they develop a better attitude towards the school settings<sup>13</sup>. The literal meaning of this statement is that, it can be established that superficial execution of policies that realize children's rights could increase alienation or distrust instead of helping to resolve the problems.<sup>14</sup>

<sup>32</sup> See The Literacy Tests used in the United States Deep South in Parts of the 20<sup>th</sup> Century

It is to be noted that human rights justification for the rights to participation in higher education governance and freedom of speech, which emphasizes the interrelation of these rights to human dignity and autonomy cannot be over-emphasized such factors such as age or schooling may limit the right to participation and freedom of speech in some circumstances, and should not restrain the duty to respect, protect and accept them as human rights.

Also it has been argued that the right to participation has a transformative potential that may act as a multiplier of rights thereby increasing the person's capacity to enjoy all other similar rights<sup>15</sup>. According to Akomolafe and Ibijola<sup>16</sup> students participation in university governance makes the student body have a sense of belonging and most especially to see themselves as part of the decision-making process in the university system gives student greater feelings of self direction and has a positive relationship with motivation. It can be established that the debate on student involvement in university governance has been influenced by various perspectives in terms of its modern origins in student political activism, with respect to student's role and position in universities, in relation to democratic principles and the purposes of higher education undemocratic societies, and on the grounds of the potential positive consequences of student participation.<sup>17</sup>

In addition to the foregoing for children and young people, knowing that they have the right to be heard in decision which affect them boosts not only their sense of security, but also their self-confidence. However, this opens the way to developing and applying the skills, language and concepts that empower them to claim their rights and to advocate for the rights of children everywhere.

## VII. REGULATORY FRAMEWORK ON UNIVERSITY EDUCATION IN NIGERIA

The Philosophical underpinnings of the right to quality University Education in Nigeria informed the searched for an enduring framework that will produce the desired result. Undoubtedly, in Nigeria, university education is involved in the traditional functions of teaching, research and community services. However, as part of the efforts to ensure qualitative university education in Nigeria, a regulatory body the National Universities Commission which started as an advisory agency in the cabinet office in 1962 later in 1974 became a corporate body with statutory functions and powers by virtue of the National Universities Commission Act No. 1 of 1974.<sup>33</sup>

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<sup>33</sup> *Ibid*

Following the emergence of the National Universities Commission in 1974, the accreditation of courses, approval of courses and programmes, maintenance of minimum academic standards, monitoring of universities, giving guidelines for setting up of universities, monitoring of private and public universities, deterrence of the establishment of illegal campus and implementing appropriate sanctions has remained the sole responsibility of the National Universities Commission.<sup>34</sup> There are also a range of activities which the commission is committed to improving, especially the quality of university programmes through injection of requisite inputs as well as assuring quality process and out puts based on the decree 49 of 1988 that widen its scope.

In addition, it should be noted that the National Universities Commission has the power to lay down minimum standards for the Universities and other higher institutions of learning in Nigeria. Concerning accreditation of their degrees and academic awards,<sup>35</sup> it should be pointed out that this activated a very wide and enormous powers to the National Universities Commission with respect to the supervision and regulation of university education in Nigeria. However, the Act empowers the Executive secretary to oversees the affairs of the commission.

## VIII.CONCLUSION AND RECOMMENDATIONS

Evolving a new concept of student's participation rights, no doubt, will require the cooperation of the academic staff, students, administrative and technical staff. Thus, this will not be difficult to obtain if the various enabling laws strengthens student's participation rights in the governance of higher education in Nigeria. The paper has attempted to provide an insight into the emerging trend of student's participation rights in the changing faces of higher education in Nigeria. The paper observed that the concept has gained both international and legislative prominence in other jurisdictions, Nigerian Universities are yet to address the importance of recognizing the participatory rights of students as a matter of legislation and policy concerns. This is mainly due to the fact that students are still seen as being incompetent or clients. This paradigm does, however, have profound implications on the relationship between students and the institutions at which they study. Thus, the idea of

<sup>34</sup> J.A. Okojie, Higher Education in Nigeria. Being a paper presented at Education in Africa Day, held at House of Commons Palace of West Minister, London 2007

<sup>35</sup> See Section 10(1) of the Education (National Minimum Standards and Establishment of Institutions) Act, Cap. E3, Laws of the Federation, 2004

students as clients contradict the more traditional idea of students as members of the academic community as earlier pointed out in this paper.

Basically, if the student's participation rights must thrive in higher education governance in Nigeria, an atmosphere must be created to allow and respect the views of the student in university governance, as this is the threshold set by international recognition of the rights to education, though not expressly provided. In keeping with the global trends, Nigeria also needs to revisit its educational policy as provided in Chapter IV of the Constitution of the Federal Republic of Nigeria 1999 which however forms part of the Fundamental Objectives and Directive Principles of State Policy. It is imperative to add that creation of Students Bill of Rights as an accepted legislation in Nigeria which will include: access to higher education, students involvement in institutional governance, extracurricular support and curricular quality standards as obtainable in Europe and United States of America will be capable of addressing this emerging trend and agitations. We therefore recommend that:

1. There should be a comprehensive students bills of rights which will outline both rights and how they are to be proceduralized in Nigeria. However, if and when out in place in Nigeria, it is likely that the document will be called a Charter of Student Rights and Freedoms.
2. There should be a review of Chapter Two Section 18 of the constitution of the Federal Republic of Nigeria 1999 bothering on Educational Objectives to include the Nigerian National Student Code of Rights and Responsibilities otherwise will be called "Educational Package Rights"
3. Students representatives should be allowed to vote in all issues and should be allowed to involved in institutional decision-making, than with the reason that students are in competent in the core areas of higher education such as teaching, learning and research.
4. Students should be allowed to participate in and influence the organization and content of education at Universities and other higher education communities.
5. There is a compelling need to rebuild a culture of scholarship that has been neglected in the Nigerian Universities. By so doing, violence and cultism on the campuses will reduce.
6. The paper strongly recommend the inclusion of student's participation rights as subsection 4 of Article 26, of the Universal Declaration of Human Rights 1948 bothering on the right to education. Thus, the full expansion of this article 26 to include student's participation rights in higher education governance was intended to capture the enabling qualities of the right of the students in higher education governance, and ofcourse, education about

human rights to capacitate students to their potential faculties so as to ensure human dignity.

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