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# **FEDERAL MINISTRY OF EDUCATION**

**ABUJA - NIGERIA**

**RE: CALL FOR INPUTS FROM THE SPECIAL RAPPORTEUR ON THE RIGHT TO EDUCATION**

The Federal Ministry of Education (FME) of the Federal Government of Nigeria (FGN) is the apex regulatory body responsible for educational administration, planning, and monitoring of all levels of education in Nigeria. State Ministries of Education (SME) have similar responsibilities at the individual State Government level. Educational service delivery is on the concurrent legislative list in Nigeria that empowers the government at the three levels to establish and run educational institutions in the country.

**DEFINITION AND PROTECTION OF ACADEMIC FREEDOM**

Nigeria does not have specific constitutional provisions solely dedicated to academic freedom. However, academic freedom is generally protected through constitutional provisions that guarantee freedom of expression, the right to education, and other related rights as stipulated in the 1999 Constitution (as amended).

**Freedom of Expression**: Section 39 of the Constitution guarantees the right to freedom of expression, which includes the freedom to hold opinions and to receive and impart ideas and information without interference. This right is fundamental to academic freedom.

**Right to Education**: Section 18 of the Constitution recognizes the right to education. This provision ensures that individuals have the right to access educational institutions and pursue academic activities without unjust interference.

Academic freedom refers to the freedom of scholars to conduct research, advance the frontiers of knowledge, and disseminate the results of their research without hindrance. It enables academics to think freely, to speculate, and to experiment with new ideas. The Nigeria National Policy on Education (2013) states inter-alia that the traditional academic freedom for institutions includes the rights to:

1. Select their students except where the law prescribes otherwise;
2. Appoint their staff;
3. Teach, select areas of research; and
4. Determine the content of courses.

Academic freedom generally extends to all staff of academic institutions (professors, researchers, etc.), teachers, and students, although the scope and application may vary based on the level of education and institutions.

All Tertiary Educational Institutions in Nigeria (public and private) have laws establishing them and their academic freedoms are enshrined in their functions and powers defined therein for themselves and for organs and individuals (Governing Boards, including appointing Chief Executives; Senates/Academic Board, including full powers on academic matters; Management) responsible for running them. Additionally, the Federal Government established the National Universities Commission (NUC), National Board for Technical Education (NBTE), and National Commission for Colleges of Education (NCCE) as regulatory bodies for Tertiary Education in Nigeria under the FME. TEIs have freedom as to who they appoint as their staff, what they teach, areas they research, and who they admit as students.

Teachers at various levels of education, from primary to secondary, also enjoy academic freedom. This includes the freedom to choose teaching methods, design lectures, and express opinions within the bounds of professional and ethical responsibilities. On the other hand, academic freedom for students may be more nuanced. While they generally have the right to express their opinions, engage in open discussion, and pursue their studies without undue external pressure; their freedom is often subject to the rules and regulations of the educational institution they are attending. Students' freedom is also influenced by the specific context and policies of the educational environment.

**CHALLENGES TO ACADEMIC FREEDOM**

A major restraint to the right of education provided by section 18 of the 1999 Constitution (as amended) is that section 6(6) (C) of the 1999 Constitution makes the rights provided thereunder non-justiciable (the rights are political, economic, and cultural rights). These rights are contained in Chapter II of the 1999 Constitution under the caption – Fundamental Objectives and Directive Principles of State Policy.

A major challenge to academic freedom is probably a lack of financial autonomy for public Tertiary Educational Institutions in Nigeria. This should not be misconstrued as unwillingness on the part of Governments to fully fund them or to give them financial autonomy. Rather it is a reflection of the history of public institutions in Nigeria. What the realities on the ground (since the last 20 years) have indicated is the need for absolute or at least minimally regulated autonomy for tertiary institutions. This will enhance the ability of public institutions to generate the needed funding (fees and charges) to complement government allocation. This requires a lot of political will despite often resistance from Unions and students. Discussions, albeit informally, about this matter are ongoing.

Another major challenge to academic freedom for tertiary institutions is the issue of quality assurance. Laws have vested the various regulatory bodies with powers to undertake accreditation of academic programmes with the sole objective of ensuring and guaranteeing quality. In practice, the exercises are conducted by academics on a peer-review basis. Sometimes tertiary institutions see this as a challenge, while the Government sees it as a necessary guarantee of quality. Additionally, the issue of approval of academic programmes by specified regulatory bodies as requirements for takeoff is also seen by the institutions as a challenge. However, this is also a quality assurance mechanism put in place to ensure and guarantee quality. The issue remains that for the Government, through its regulators to abandon or refine these twin tools; the institutions must ensure that they develop to a level that their internal quality assurances are believable, acceptable, and credible. Suffice it to say that the need for regulatory bodies on quality assurance shall remain a desired need; and has indeed been copied by some African countries.

Academic freedom could be challenged at the basic level (primary and secondary schools) as the curriculum is centrally determined.

In some regions of Nigeria, recent security concerns and conflicts can impact academic activities/freedom. Threats from extremist groups or other security challenges may restrict academic staff and students from freely expressing their views.

**AUTONOMY OF EDUCATION INSTITUTIONS**

Administrative autonomy for Federal and State public institutions in terms of governance and appointment of Management officers has largely been given. Universities, for example, are backed by the Universities (Miscellaneous Provisions) (Amendment) Act 2023, otherwise called the Universities Autonomy Act No. 1, 2007. The Governing Councils of tertiary institutions have the statutory powers of appointment, promotion, and discipline of all categories of staff, while the Managements are responsible for the day-to-day running of the Institutions. Administrative autonomy permits flexibility in the combination of inputs and hence improves quality. Private Universities have full academic, administrative, and financial autonomy. Outside this, however, the tertiary institutions are subject to the application of Civil Service rules and other laws made by Federal and State Governments.

However, financial autonomy for Federal public institutions remains a challenge. The Federal Government is the absolute funder of its tertiary institutions, while it maintains a zero-tuition policy. With the growth in the number of TEIs, the FGN is recently finding it more constraining to fully fund them.

State-owned tertiary institutions enjoy more robust funding characterized in the majority of cases by reduced Government funding and their freedom to charge fees to meet their needs.

At the primary and secondary school levels, autonomy is limited. Educational policies and curricula are often set by Government authorities, with less flexibility for individual institutions. However, schools still have some autonomy in areas like teaching methods and extracurricular activities.

The 1999 Constitution (as amended) does not explicitly guarantee academic freedom. There are restrictions on the presence of Police and Military personnel entering into educational institutions as elaborated in the National Policy on Safety in the Institutions.

**FUNDING**

The funding for public educational institutions is from the Government at different levels, as well as Special Interventions from government agencies such as the Tertiary Education Trust Fund (TETFund), Petroleum Trust Development Fund (PTDF), National Information Technology Development Agency (NITDA), Central Bank of Nigeria (CBN), and Development Partners (World Bank, European Union, African Development Bank). Generally speaking, funds are regulated through the public sector financial regulations of the Government, including procurement guidelines. The process of monitoring fund application by public educational institutions is transparent and includes annual returns to the Auditor-General (Federal and State) and the National and State legislatures.

The processes of financial monitoring and accountability do not interfere with academic freedom in the sense that beyond the broad allocations identified above, the Universities are not constrained in selecting the specific projects to apply their funds.

**SURVEILLANCE**

There are presently no major surveillance instruments and tools deployed in Nigerian educational institutions. There is no surveillance of academic freedom by public authorities in Nigeria. In some instances, there are CCTV, solar lights, and drones (very few) for security surveillance and monitoring on campuses. Some institutions have police posts to minimize crimes. In addition, private security companies are engaged to assist in ensuring safety on the campuses.

**FREEDOM OF EXPRESSION IN TEACHING AND ACCESS TO BOOKS**

Teachers and professors in Nigerian educational institutions enjoy freedom of expression in their teaching and other activities, as well as in selecting textbooks and resources for their courses as long as it does not threaten national security. Teachers and professors in Nigeria choose instructional materials for teaching based on the contents of the approved curricula depending on the education level. However, each institution has guidelines, a code of ethics, and conditions of service for its workforce.

In primary and secondary education, curriculum decisions are typically influenced by educational boards and policies. Although with inputs from teachers but invariably limit teachers' choices. Teachers often have a set list of approved learning materials. At the TEIs, lecturers, and professors have more flexibility in choosing textbooks and other instructional materials.

**Prof. Tahir Mamman, *OON, SAN***

**Honourable Minister of Education,**

**Federal Ministry of Education**