

**DISCIPLINE,**  
**NIGERIAN UNIVERSITIES**

**AND**

**THE LAW**



By  
**C. O. OKONKWO (SAN)**

NIGERIAN INSTITUTE OF ADVANCED LEGAL STUDIES

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A. G. Obantwa (F.A.S.)

Professor of Law, University of Ife,  
Ife, Nigeria

1986  
Nigerian Institute of Advanced Legal Studies,  
Lagos.

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**C.O. Okonkwo (SAN)**  
*(Professor of Law, University of Nigeria  
Enugu Campus)*

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## Foreword

The topic of this year's Annual Lecture is of profound contemporary relevance in the face of the persistent crises in the universities and indeed the entire gamut of Nigeria's education sector. The grim picture in the sector is graphically depicted in the incessant work stoppages, long closures resulting in truncated academic calendars, and the complete breakdown of discipline, learning and scholarship. These have been aggravated by the phenomenon of secret cults and the violence and brutality associated with the gang warfare and campus terrorism they perpetrate. The wave of serious crimes has risen sharply with murder, rape, arson and grievous assaults becoming very commonplace in all campuses.

While these tendencies may mirror the social economic dislocations in the wider society, they take on added poignancy because they cast serious doubts on an upcoming generation expected to become the leaders of tomorrow. Two broad questions are pertinent. First, what are the fundamental causes of the near collapse in the entire education sector? Second, what is to be done?

These are not questions fully addressed in the present lecture as it takes on a more limited mandate. But the problems of enforcing discipline which the lecture takes on constitute one of the major concerns and manifestations of crisis in Nigerian education today. Misconduct on the part of staff and students and sometimes parents has totally compromised the integrity of both the admissions and examination processes to such point that certificates are the only thing that most students graduate with. Neither the intellectual nor moral discipline that education should impart is acquired. Of course, part of the problem here is that the national education policy underplays the importance of moral training as a crucial component of complete education.

There are also several other factors that have contributed to the decadence or even decay in the country's education sector. To mention but a few, education has not in the first place received the level of policy direction, commitment and support in institutional, material and financial terms, needed to put it on a sound, sustainable course. Inadequate policy formulation coupled with institutional mismanagement or

maladministration has resulted in the proliferation of universities, littered with unviable programmes, inadequate facilities and insufficient and dissatisfied teaching staff. As a consequence a grave situation has arisen in most if not all of the Nigerian Universities in which academic activities cannot be carried on.

Secondly, policy making has not been systematic and coherent, resulting in ad-hoc or panic measures taken in the heat of crisis such as the democratisation of key appointments in the universities. This has resulted in inter-tribal and other primordial skirmishes orchestrated by purveyors of sectional or other particularistic interests. The dirty politicking and endless schemings have destroyed academic excellence and discipline, with many junior academics challenging seniors to positions of academic leadership.

Lastly, the level of external interference has become both pernicious and vicious. At one level, political fights or struggles in the outer society are often carried into campuses with the aim of recruiting staff and students mainly to fight the establishment. At another level, parents and influential members of society, including those in government, invade the campuses to subvert internal processes to favour their wards, resulting in corruption of staff and cherished academic standards and traditions. The prevailing economic hardships have made many staff to either desert the schools or give it less than their full endeavour. Others are simply willing to do anything to cope, including trading of handouts and marks.

The attitudes and orientation of the staff and students have also encouraged other negative tendencies like examination leakages and malpractices, sexual harassment and organised delinquency.

Immediate steps must be taken to arrest the rot. The drift has to be stopped before the educational system crumbles altogether. The starting point is to sanitise the system by fostering discipline and creating a stable, congenial environment for teaching, learning and research.

This lecture, being delivered at this Institute is therefore primordially important for a number of reasons. First, it is consistent with the Institute's statutory mandate as the apex legal research centre in the country, that it should provide the forum for an elevated, scholarly legal analysis that not only focuses on the educational crises but also on some suggested solutions to them. Secondly, the distinguished lecturer is a

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### Introduction

Until the mid-seventies, universities felt confidently in control of matters of internal discipline. Students could be rusticated, expelled or otherwise punished, without external interference, for various kinds of misconduct, including examination malpractice, theft, assault, malicious damage to university property etc. Administrative staff could also be punished for various kinds of misconduct. Punishments included down-grading, termination of appointment and dismissal. Very occasionally, academic staff were dealt with for misconduct but under more careful procedure. In all, the decisions were hardly contested in the courts and, therefore, attracted little publicity.

Even cases of student demonstrations involving destruction of university property and personal injuries were handled mainly as internal matters. When these occurred, the universities were closed for a while, then reopened, with students giving the usual undertaking of good conduct in future, paying for damages done and, perhaps, with some expulsions in proven cases of very serious misconduct. University autonomy in matters of internal discipline was practically unchallenged then. By the end of the seventies, this state of affairs began to change. The increasing wave of crime in Nigeria was mirrored in the universities.<sup>1</sup>

In addition to the more familiar types of misconduct, universities now have to contend with much more serious offences such as murder, arson, rape, grievous assaults and worse of all, perhaps, the gang warfare and mayhem brought about by the activities of secret societies. The

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1. See Dr. P.N.C. Okigbo, *Crisis in the Temple*, 30th Anniversary Public Lecture, March 1992 (University of Lagos) at p. 12 - "The University community, everywhere in the world reflects and mirrors the dominant values in the society in which the institutions operate. Our higher educational institutions cannot be different."

increasing wave of misconduct in the universities evoked stern disciplinary actions by the authorities. These were challenged in the courts by affected persons, mostly on the ground of procedural unfairness or non-compliance with laid down rules. Judicial intervention was thus invited into matters of discipline, hitherto believed to be a preserve of the universities.

The outcome of judicial decisions has left the universities uncertain about the scope and extent of their disciplinary powers. It has left them often reluctant to take prompt disciplinary measures when the occasion warrants it. Above all, it is doubtful whether the present state of the law does not sometimes do more harm than good to the interests of those the courts seek to protect.

I will attempt to discuss these and related issues in this lecture dealing first with issues of student discipline and then staff discipline.

### **Disciplinary Powers over Students**

Although they live within the citadel of learning, students are subject to the ordinary laws of the land and are accountable under these laws for their misdeeds. Nevertheless, the various laws which establish universities provide for disciplinary control of the students by the university authorities.<sup>2</sup> Wide disciplinary powers are conferred on the Vice-Chancellors and Governing Councils of universities. These are designed to maintain peace, order and good conduct in these institutions and to enable them achieve the objectives for which they are established. The relevant provisions are substantially similar. My references will be mainly to the provisions of the University of Calabar Act.<sup>3</sup>

Section 17 of the Act provides:

- (1) Subject to the provisions of this section, where it appears to the Vice-Chancellor that any student of the University has been guilty of misconduct, the Vice-Chancellor may, without prejudice to any other disciplinary powers conferred on him by

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2. See J.A. Ojo, *Law and University Administration in Nigeria*, (Lagos, Malthouse Press Ltd. 1990) pp. 126-136.

3. Cap. 453 LFN 1990.



statute or regulations, direct -

- (a) that the student shall not, during such period as may be specified in the direction, participate in such activities of the University, or make use of such facilities of the University, as may be so specified; or
  - (b) that the activities of the student shall, during such period as may be specified in the direction, be restricted in such manner as may be so specified; or
  - (c) that the student be rusticated for such period as may be specified in the direction; or
  - (d) that the student be expelled from the University.
- (2) Where a direction is given under subsection (1)(c) or (d) of this section in respect of any student, the student may, within the prescribed period and in the prescribed manner, appeal from the direction to the council; and where such an appeal is brought, the council shall, after causing such inquiry to be made in the matter as the council considers just, either confirm or set aside the direction or modify it in such manner as the council thinks fit.
- (3) The fact that an appeal from a direction is brought in pursuance of the last foregoing subsection shall not affect the question of the direction while the appeal is pending.
- (4) The Vice-Chancellor may delegate his powers under this section to a disciplinary board consisting of such members of the University as he may nominate.