



NELFUND *Albatross*: Legitimizing the Frontiers of Students' Legitimate Expectation in Nigeria's Higher Education System

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Abstract. This paper interrogates the emerging legal and policy implications of the Nigerian Education Loan Fund (NELFUND), a scheme established to make higher education affordable and more accessible, but which has also become a concern for students because of the repayment terms it imposes, perceived stringent, deepened by the decrepit state of the educational settings. The doctrine of legitimate expectations, a protected principle in administrative law, is leveraged to show that NELFUND's terms gives students, paradoxically, a legal framework to enforce their entitlements. The paper contends that the commonly perceived notion of the NELFUND loan as a burden highlights students' legitimate expectations of certain rights and protection from Nigerian higher education authorities. NELFUND constructs a clear consumer-provider dynamics in which higher institutions in Nigeria are obligated to deliver quality education, commensurate with the charges indirectly paid through loan financing. It further positioned students as consumers, with legitimate grounds to question institutional accountability within the NELFUND operational structure. The paper proposes

a standardising framework for integrating legitimate-expectation principles into higher-education regulations to enhance student protection while balancing institutional autonomy. In conclusion, this paper reframes the NELFUND *albatross* and proposes that the scheme is a catalyst for legitimizing students' legitimate expectations in Nigeria's education system.

Keywords: NELFUND; University Accountability; Consumer Protection; Higher Education Policy; Legitimate Expectation; Students Loans.

1. Introduction

The notion that higher education constitutes a fundamental right in Nigeria prevails,¹ yet financial constraints often hinder students access from pursuing their academic aspirations. In a bid to bridge this gap, government established the Education Loan Fund (NELFUND),² pursuant to the enactment of the Students Loan (Access to Higher Education) Act,

¹ This is true albeit with certain caveats and contextual considerations. Section 18(1), 1999 Constitution (as amended) does not explicitly mention education as a fundamental right, but it does state that 'government shall direct its policy towards ensuring equal and adequate access to educational opportunities at all levels. However, international instruments ratified by Nigeria, like the African Charter on Human and Peoples Rights (ACHPR) recognise the right to education. Article 17(1) of the ACHPR states, 'every individual shall have the right to

education'. The phrase is also supported by international law and judicial interpretations.

² A transformative shift in the financing architecture of higher education in Nigeria. The Nigerian Education Loan Fund (the NELFUND) is a body established by law to carry out the day-to-day activities of the FUND approved pursuant to the enactment of The Act, 2024, in Nigeria. It is headed by a Managing Director, appointed by the President of Nigeria. See: <https://baice.ac.uk/hub/the-nigerian-education-loan-fund-a-path-to-inclusion-or-a-debt-trap/> accessed 1st December 2025

2024 (the Act).³ An Act of Parliament, with responsibility to provide zero interest loans to Nigerian students in public higher institutions who demonstrate financial need. The fund is designated to pay students institutional charges, upkeep or living expenses, in any higher institution of their choice within Nigeria. In this context, NELFUND is not only a financing mechanism but also a regulatory instrument capable of reshaping accountability relationships within higher education system.

While the initiative is a welcome development, the repayment terms attached to the loans have created uncertainty among students, rendering the loan a perceived 'albatross' around their necks. A situation aptly captured by the analogy of being 'caught between the devil and the dark blue sea, where students are torn between accepting unfavorable loan terms and abandoning their academic pursuits.⁴ NELFUND creates high expectations for students, yet places a potential burden on them. In addition, there is limited scholarly engagement with the scheme's legal implications, especially regarding students' legitimate expectations.⁵

The paper addresses protecting students' legitimate expectations within the precipice of NELFUND. It argues the NELFUND framework has the propensity to empower students to hold university authorities

accountable using the principles enunciated in the doctrine of legitimate expectation.⁶ In recent past, the principles in the doctrine of legitimate, conceptually, were not extensively recognized in Nigeria's administrative justice system.⁷ However, this position has changed with the Supreme Court decision in *Stitch v. A.G. Federation*.⁸ This case birthed the doctrine in Nigeria. Though legitimate expectations are not right per se, breached expectations are now actionable in public administrative law, obliging institutions to honor the services they promised.⁹ The doctrine is now protected, making it mandatory for public institutions, inclusive of higher-education authorities, to deliver on their commitments to students. In these circumstances, what students perceive as a burdensome albatross provides a legal framework that can be invoked to protect their expectations.¹⁰

Higher institutions in Nigeria are however confronted with issues ranging from underfunding, inadequate institutional, instructional and municipal facilities, standard service delivery, and so on, thus raising the questions, whether the institutions will be able to meet their statutory obligations of teaching and providing welfare services to students as promised? This was the focus of the Federal Government of Nigeria Committee on Needs Assessment of Public Universities, 2013. The NEEDS Report,¹¹ entailed a detailed appraisal of the existing situation in the

³The Students Loan (Access to Higher Education) (Repeal and Re-enactment) Act, 2024 (the Act 2024). Like United Kingdom Students Loan Act, directed to expand students access to education and reduce financial exclusion. See <https://nefl-public-assets.s3.eu-west-1.amazonaws.com/1.amazonaws.com/PUBLIC+GUIDELINES+FOR+APPLICANTS+FUND+UNDER+THE+STUDENTS+LOANS+ACT+2024.pdf>
https://www.gov.uk/government/news/student-finance-to-be-radically-transformed-from-2025?utm_source=chatgpt.com, accessed 1st December 2025.

⁴ Imoedemhe, W., A Review of the Students' Loans (Access to Higher Education) (Repeal and Re – Enactment) Act, 2024, *NILDS-Legal Issue Brief*, Issue 4, May 2024, <https://ir.nilds.gov.ng/handle/123456789/1558>.

⁵ Imoedemhe, W, *The Legitimate Expectations of Students of Nigerian Higher Institutions: Issues, Challenges and Pathway*, (2025), Tertiary Education

Trust Fund (TetFund) Sponsored Book, Abuja, Nigeria, pp 1-297, cover extensively issues of students' legitimate expectations in Nigerian Higher Institutions.

⁶ The doctrine was first introduced into public law by Lord Denning, MR in the case of *Schmidt v. Secretary of State for Home Affairs* (1969) 1 Ch 149

⁷ Ibid, (fn.5). University authorities do not seem to recognise the concept in administering students' disciplinary rules and its application in the judiciary is episodic.

⁸ (1986) 5 NWLR (Pt. 46), 941

⁹ Ibid. (fn. 4). See also *Schmidt* (fn. 6)

¹⁰ Imoedemhe, ibid, (fn. 5)

¹¹ See the Report of the Committee on Needs Assessment of Nigerian Public Universities, 2013. One of the issues addressed in the Report was the Needs Assessment of Nigerian Universities. Its first term of reference was to carry out a detailed appraisal of existing physical facilities for teaching and learning in the universities, particularly their capacity and functionality. At this time, Nigeria had 74 public universities in Nigeria (37 federal, 37 private). The

universities and what was needed for their transformation. The Committee's Report found that physical facilities for teaching and learning in Nigeria universities are inadequate, dilapidated, overstretched and overcrowded and improvised.¹² The question that arises then is, when universities are unable to deliver on their obligations and representation to students, what is the remedy for the student, having committed to the NELFUND loan? Should students therefore pay for what *happens only* when the *paid-for services* are inadequate, or absent? The situation appears further undermined with NELFUND guidelines which focus more on regulatory penalties when students default on repayment, with a lesser emphasis on remedying failure of university authorities to fulfil their obligations or meet service delivery standards promised the students.

It is however argued that students' new role of committing to their educational resources, facilitated by NELFUND loans, now entitles them to enforceable remedies in three ways. First, students' income-contingent loans affirm their entitlement to certain legitimate expectations. This is without prejudice to the prevailing circumstances in Nigerian public universities, where university authorities renege to provide essential instructional facilities,¹³ exemplified in *Chima v. University of Benin*.¹⁴ Here, certain students had protested, requesting for the upgrading of their lecture theatres, a statutory obligation of the university, yet the students were expelled. Second, where institutions default to fulfil promised obligations, it causes students' untold hardship. Relying on the principles of legitimate expectations, students ought to be protected against harm caused from no fault of theirs. This was the situation in *Ottah v. Rivers State University of Science and Technology*.¹⁵ A student was unilaterally expelled from school, following discovery of her partial hearing impairment after admission. Thirdly, NELFUND's role as a financial intermediary obligates it to ensure institutional compliance to published assurances. In

this respect, the Federal Competition and Consumer Protection Act (FCCPA) 2018,¹⁶ affords protection for unfair institutional practice or violation of students' rights, fees and even services.

This paper is organised into six sections. The first is the introduction, which outlines the central focus of the study: an analysis of income-contingent loans provided to eligible students in Nigerian higher institutions and their implications. It examines the obligation of higher institutions to deliver the educational services they promise and highlights the consequences of failing to meet these commitments. The second section contextualises the key concepts that shape the evolving regulatory framework for higher education financing and students' rights in Nigeria, including NELFUND, university accountability, legitimate expectations, and student consumer protection. The third section sets out the theoretical framework underpinning the study, forming the basis of the argument that university authorities must honour their commitments and that NELFUND has a critical role in ensuring the protection of students' expectations. The fourth section interrogates the perception of NELFUND as an 'albatross,' which leads into the fifth section that affirms the enforceability of legitimate expectations under NELFUND, underscoring its relevance and importance in safeguarding students' rights. The sixth section addresses the core question of the paper: whether the provisions of NELFUND legitimise students' legitimate expectations. The final section concludes by arguing that NELFUND is not a burden, but rather a mechanism that supports what students are reasonably entitled to expect.

2. Conceptual Clarification

As stated earlier, this section clarifies the key concepts that support the analysis in this paper. Barak asserts correctly that 'interpretations in law has different meanings'.¹⁷ Together, these concepts help describe the new rules and expectations proposed in this paper

work of the Committee covered 61 universities: 27 Federal and 34 State.

¹² Ibid, see findings on physical infrastructure and learning resources.

¹³ Ibid.

¹⁴ (1997) 2 NPILR, 454

¹⁵ Reported in the Nigerian *Global Disability Watch*, 2nd March, 2016, 8; See *Doe v. Francisco Unified School District*, No. 653, 312 (Supreme Court) in: *The Rights of Students: American Civil Liberties Union Handbook*, Avon Publishers, 19. Here, an American

court held that physically challenged students have the right to a publicly supported education suited to their needs.

¹⁶The Federal Competition and Consumer Protection Act (FCCPA) 2018, Sections 17, 123-127 protects promised benefit or policy unless there is an overriding public interest.

¹⁷Barak, A. (2005). *Purposive Interpretation in Law*. Princeton University Press, p.3 <https://doi.org/10.1515/9781400841264>, accessed 20th December

to shape how higher-education financing should work in Nigeria, and what rights students should have.

2.1 NELFUND

NELFUND,¹⁸ is a financial institution established under the Act,¹⁹ as a statutory body responsible for administering interest-free loans to students enrolled in public higher institutions in Nigeria.²⁰ NELFUND powers includes ensuring students and institutions compliance with conditions for disbursement of loans, eligibility and data reporting.²¹ It is conceptualised in this paper both as a public-finance instrument and a governance mechanism, critical in reshaping administrative norms within Nigerian higher education. By ensuring that the various institutions provide accurate students enrolment data, tuition information, and academic records stipulated as prerequisites for participation and accessing approved loans, the Scheme fulfils its mandate to drive institutional transparency and the adoption of best practices consistent with accountability and fairness.²² NELFUND is also obligated to ensure that the loans are repaid by students within stipulated period and defaulters sanctioned and restricted from further credits in line with the Global Standing Instruction (GSI).²³ In sum, it is particularly a significant initiative to expand access to higher education for indigent students.

2.2 University Accountability

Accountability in this paper connotes accepting responsibility. This could be personal or public. Earlier, it was stated that NELFUND activities relates only to students in public higher institutions in Nigeria.²⁴ The reference to public universities in this paper is a representation for other higher institutions in Nigeria identified in the Act.²⁵ Public university accountability is the obligation of the authorities to be responsible for their published statements, representations, practices and decisions made to regulators and the public, and particularly to students.²⁶ These assurances, given by university authorities and relied on by students constitute students legitimate expectations.²⁷ The students' having invested financially in these promises, the university cannot be seem to default in fulfilling them. In *Eze v. A-G. Anambra State*²⁸, the court held that the payment of fees entitled the student to challenge the acts of the school.

The legal framework that enshrines accountability threshold in the operations of higher institutions in Nigeria is multifaceted. These frameworks include the CFRN, 1999, as amended,²⁹ the various enabling Acts establishing higher education institutions in Nigeria,³⁰ the National Universities Commission (NUC),³¹

¹⁸ Ibid, (fn.1). see <https://nelf.gov.ng>, accessed 20th December 2025

¹⁹ Ibid, (fn. 2)

²⁰ Ibid, Sections 3-5. The Act provides the Fund should cover students from public universities, polytechnic, college of education and vocational institutions.

²¹ Ibid, Section 4

²² Ibid, (fn.2). Section 5(1)-(3) mandates NELFUND to ensure higher institutions participating in the Scheme accurate students'

²³ GSI is a system that allows payments to be made real-time. It is efficient and ensures secure transactions. It is used by the Central Bank of Nigeria (CBN) to restrict access to further interbank transaction when customers default. This will be applied to students who default. A great concern to students in higher institutions in Nigeria.

²⁴ Ibid, (fn.2)

²⁵ Ibid

²⁶

<https://www.google.com/search?q=university+accountability+means&oq=university+accountability+means>

²⁷ *Schmidt v. Secretary of State for Home Affairs* (1969) 2 Ch. 149; (1969) 1 All ER 904. This administrative liability for representations made by a public body and relied on, was established in this case.

²⁸ (1985), HCCLR, 1282

²⁹ CFRN, 1999 as amended.

³⁰ Universities (Miscellaneous Provisions) (Amendment) Act 2012, Sections 1-5, specify governing powers, financial management rules, oversight responsibilities, etc.

³¹ National Universities Commission Act (Cap N81 LFN 2004), Sections 4-7. It ensures accountability by regulating programmes, accrediting courses, monitoring quality, regulating fund allocations, etc.

Internal Governing Structures,³² Professional³³ and Financial Regulations guiding the operations of universities.³⁴ These structures collectively ensures that university authorities provide among others, the necessary institutional and instructional resources, adhere to required academic standards, and fulfilling the promises made to students in the various university marketing tools.³⁵

The NEEDS Report³⁶ exacerbate the concern whether Nigerian universities can adequately meet their obligations to students. The Report triggers a wake-up call on university accountability to students following the establishment of NELFUND, the focus of this paper. As will be further discussed in the following section, students' legitimate expectations is conceived on a pattern of conduct, or representations, or promises and so on, by university authorities, thus, makes it unfair for the public authorities to disregard the expectations which such conduct, representations or promises creates.³⁷

2.3 The Doctrine of Legitimate Expectation

The phrase, 'legitimate expectation', was first introduced into the English legal jurisprudence in 1969 when Lord Denning, MR in *Schmidt v. Secretary of State for Home Affairs*³⁸, stated *obiter* that process rights or natural justice principles should be applied to legally protect not only individual rights, interests as prevalent under common law but also breached legitimate expectations under public law. The

pronouncement in *Schmidt*³⁹ conceptualized breached individual expectations and made it a particular concern, actionable in law. It is now widely applied as an administrative law doctrine that protects individuals from arbitrary or unfair changes in policy, procedure and representations made by public authorities.⁴⁰ In *Oghenekome v. Federal University of Technology, Akure*,⁴¹ the court stated that it is settled law that the rules of natural justice enshrined in section 33(1) of the 1979 CFRN, now section 36(1) of the 1999 CFRN, as amended, extends to any decision-maker who determines questions affecting the right or legitimate expectations of an individual.⁴² The doctrine is comprehended on a pattern of conduct, or representation, or a promise. It arises, for example, not because of the breach of an enforceable legal right, but the right which becomes accruable to the individual following the breach of the assurance given, or representation made by the authority in its various documents guiding the conduct of individuals.⁴³ Generally, legitimate expectations simply embody non legal rules.⁴⁴

In this paper, a student's legitimate expectation mean, 'the right, interest or remedy a student might reasonably be entitled to expect or hold following from the representations or assurances given by a university authority about the quality of teaching, learning and living environment or conditions, and other support services of the university; the student, having complied with the university requirements,

³² For instance, Governing Councils, Senate, Internal Audit Units, Quality Assurance Directorates, etc.

³³ For instance, Council of Legal Education (Law), Medical and Dental Council (Medicine), and COREN (Engineering).

³⁴ For instance, Financial Regulations of the Federal Government, Public Procurement Act 2007, Sections 15-18, Fiscal Regulations Act (2007), etc.

³⁵ The various university documents, for instance, prospectus, circulars, handbooks, public advertisements particularly those stipulating admission requirements and university standards. Reliance on these create expectations in students which they are legally entitled to in law.

³⁶ *Ibid.*, (fn.11). The findings were most deplorable. It is critical to note that the Report was published before the establishment of NELFUND raising fundamental concern on Higher institutions meeting the promises they made, the students having committed to repayable loans to satisfy admission requirements.

³⁷ *Ibid.* Imoedemhe, (fn. 5)

³⁸ *Ibid.* (fn. 6)

³⁹ *Ibid.* (fn. 6)

⁴⁰ The doctrine is applied in many jurisdictions to protect procedural legitimate expectations (as applied in *Schmidt*, *ibid.* (fn. 6), and substantive legitimate expectations (as applied in *R. v. North and East Devon Health Authority, ex parte Coughlan*, (2001) QB 213 (CA), where an oral assurance to a disabled patient to remain in her nursing home for life was held to be binding against the public authority in the absence of an overriding public interest

⁴¹ Suit No. FHC/B/101/M2/95 in 2 NIPLR 1017 at1022

⁴² *Ibid.*

⁴³ This is without prejudice to the discretionary exercise of authority by public authorities. See *Adejumo v. Ayanntegbe* [1989] 3 NWLR (Pt. 110) 417 (SC). However, in *Stitch*, *ibid.* (fn. 8), 941-1077, the Nigerian Supreme Court affirmed public authority cannot renege from the promise it made.

⁴⁴ Ahmad, F., & Perry, A., The Coherence of the Doctrine of Legitimate Expectations, *Cambridge Law Journal*, 73 (1) (2014), 63

practices and policies as expressed in the various universities' documents (prospectus, course and departmental handbooks, students' admission brochures, rules and regulations, circulars, web publications and other institutional guide), the breach of which will give the student a *locus standi* to seek a review.⁴⁵

A university authority should be accountable for the breach of the trust reposed on it because of the promises made to the students in its published policies. This was the position of the Nigerian Court of Appeal in *Carlen (Nig) Limited v. University of Jos*,⁴⁶ that a university Registrar is accountable for promise made to students.

In this paper, students' legitimate expectations otherwise, accountability and quality assurance rights commonly arise from published university documents; students' prospectus and handbooks, administrative practices and communication relating to institutional procedures relating to, for instance, fees and payment schedules, a right to know how the fees and other charges are determined, academic policies and timelines, standards of teachers and course resources.⁴⁷ Thus, when NELFUND loans are secured to meet published university conditions, students' reliance on such, strengthens the normative and legal force to protect their expectations under public law.⁴⁸ The principles in this concept now have a general application to foster promised assurances by public establishments. For instance, under public service system, the court held in *Attorney-General of Rivers State v. Attorney-General of Akwa Ibom State*,⁴⁹ that reliance on unambiguous representation by government constituted a legitimate expectation.

2.4 Student Consumer Protection

The concept of consumer protection generally constitutes the body of legal and policy norms that safeguard students as consumers of educational services. The term student consumer protection is used in this paper to highlight the intersection of NELFUND with students' legitimate expectations, conceptualised as a public law principle which

obligates universities to act fairly, honour their published representations, and to avoid conduct that undermine students' reliance on institutional financial and academic commitments. In another sense, NELFUND operates to protect students' rights by requiring accurate and non-misleading fee information from higher institution authorities, protection from sudden arbitrary fee hikes, access to administrative remedies, transparency in delivery academic services for which the loans are obtained.

This term, now universal is not very recognisable in Nigeria, comparable to climes like the UK where the office for Students (OIS), and the Competition and Markets Authority (CMA) act as the main regulatory bodies overseeing students' protection as it relates to the services institutions are obligated to provide for students. Notwithstanding, Nigeria's Federal Competition and Consumer Protection Act, 2018 (FCCPA), provides broad protections against unfair, misleading conduct in providing of services.⁵⁰ Provision of educational services by higher institutions in Nigeria fall within this category.⁵¹ Thus, students derive protection from the National Universities Commission (NUC) through its statutory responsibility to ensure quality control and assurance delivery of programs, academic and financial conducts in the Nigerian university system. Arguably, the legal relationship between students and higher institutions authorities in Nigeria is statutory,⁵² the argument that it is contractual and therefore only guided by the internal rules of the university are no longer tenable.

3. Theoretical Framework for the Study

This section highlights three theoretical frameworks that constitutes the basis for the argument in this paper, that NELFUND, a perceived albatross by students, is paradoxically, a transformative mechanism for university governance, capable of strengthening the enforcement of students' legitimate expectations within Nigeria's higher education system which hitherto appears unrealisable compared to other climes.⁵³ In other words, together, they provide the analytical lens through which the paper examines NELFUND's impact on higher education governance.

⁴⁵ Ibid, Imoedemhe, (fn. 5)

⁴⁶ (1994) 1 NWLR (Pt. 323), 631 (CA).

⁴⁷ Ibid, (fn. 33)

⁴⁸ Ibid, Eze (fn.28)

⁴⁹ (2011), 8 NWLR (Pt. 1248) 31

⁵⁰ Universities (Miscellaneous Provisions) (Amendment) Act 2012, Sections 1-5

⁵¹ Ibid, Section 167 under Services

⁵² Ukhuegbe S.O., *Public Law and the Disciplinary Powers of Universities in Nigeria*, *The Jurists*, Journal of Law Students Association of University of Benin, 4, March 1993, 16. Also established by the Nigerian Supreme Court in *Garba v. University of Maiduguri*, (1986) 1 NWLR (Pt. 18) at 610

⁵³ Ibid. Imoedemhe (fn. 5)

The theories lend credence to the argument why higher education authorities in Nigeria should function within the regulatory environment emerging with the establishment of NELFUND, and how the rights of students' can now be protected within the university setting. They are the administrative justice theory, the public accountability theory and the consumer protection theory in higher education.

The administrative theory is examined here as a legal principle to protect negation of students' legitimate expectations. It is a fundamental principle that government at all levels and in all its manifestations should act justly in its dealings with the public.⁵⁴ For Cane, it concerns the fairness, reasonableness, and lawfulness of decisions made by public authorities.⁵⁵ The theory relates to the values placed on administrative procedural fairness, rational decision-making, legality and respect for legitimate expectations. In Nigeria, administrative justice is grounded in the constitutional guarantee of fair hearing under Section 36, CFRN, 1999 as amended and has developed further through judicial precedents. The doctrine of legitimate expectation is a central pillar of the administrative justice system in Nigeria. This was emphasised in *Stitch*⁵⁶ case, which birthed the doctrine in Nigeria. In *Attorney-General of Rivers State v Attorney-General of Akwa Ibom State*,⁵⁷ the court affirmed that public authorities are bound by their representations where individuals have relied upon them. Likewise, in the educational context, the court in *Bangboye v University of Ilorin*,⁵⁸ held that universities must adhere to established administrative procedures, reinforcing the requirement of fairness and consistency. It is therefore argued that within the NELFUND framework, administrative justice theory is in tandem with the arguments canvassed in this paper that universities owe students a duty of fair dealing in the disclosure of fees, academic process, timelines, and compliance practices or published

services. The breach of these assurances given to students amount to breaches of students' legitimate expectation which ordinarily are now actionable in law.

The public accountability theory on the other hand highlights efficiency, responsiveness and transparency required in the conduct of public institutions.⁵⁹ The theory demands that higher institutions particularly public universities, must operate transparently and efficiently as argued in this paper, under the NELFUND obligations. This is more so as public higher institutions act as trustees of public resources whose duties and activities must be justified as aligning with statutory requirements.⁶⁰ Public universities are therefore not only accountable to NELFUND as a regulator, but they also account to the government as funder and the students as the beneficiaries. Thus, any negation of these responsibilities particularly to students is a failure of public accountability. Under the National Universities Commission Act for instance, accountability stems from the statutory and regulatory provisions that demand minimum academic and administrative standards from university authorities.⁶¹ The students Loans (Access to Higher Education) Act 2023 as amended, also requires universities in Nigeria to supply accurate student data and financial information to NELFUND.⁶² Arguably, this theory, just like the administrative justice theory, in conjunction with NELFUND will enhance institutional transparency, performance monitoring and students centered governance in higher education in Nigeria.⁶³

The consumer protection theory in higher education generally depicts the market like characteristics in which students act as consumers of educational

⁵⁴ Longley, D & James R., *Administrative Justice, Central Issues in UK and European Administrative Law*, (1999) Cavendish Publishing Limited. London. 3

⁵⁵ Cane. P., *Administrative Law*, 6th Edition (2024) OUP, Chap. 6

⁵⁶ *Ibid*, *Stitch* (fn.8)

⁵⁷ *Ibid* (fn. 49)

⁵⁸ (1999) 10 NWLR (Pt 622) 290

⁵⁹ Akinkugbe, J O., 'Transparency and Accountability in Nigerian Universities' (2019) 12, *Nigerian Journal of Educational Administration*, 45.

⁶⁰ Hood, C., A Public Management for All Seasons? (1991) 69 *Public Administration* 3.

⁶¹ National Universities Commission Act. Cap N81 LFN 2010, ss 4–7.

⁶² Students Loans (Access to Higher Education) (Repeal and Re-enactment) Act 2024, ss 3–5.

⁶³ Bovens M, Analysing and Assessing Accountability: A Conceptual Framework' (2007) 13 *European Law Journal* 447.

services.⁶⁴ In Nigeria, the existence of institutional charges, competitive admissions, quality assurance standards and students' grievance system all attest to this. Educational services fall within Section 167, Federal Competition Consumer Protection Act 2016 (FCCPA) which subsumes activities of public and private universities under the consumer protection obligations. The FCCPA prohibits misleading representations, unfair contractual terms and deceptive conduct in the provision of services.⁶⁵ This theory thus explains why students' reliance on payment of charges and services promised by university authorities should, if neglected, attract legal protection.

Overall, the evolution of the NELFUND marks a significant regulatory shift in accountability mechanisms in public institutions particularly public universities in Nigeria, which hitherto have been fragmented. Depending solely on the controls as imposed by the NUC on compliance with accreditation regulations and quality assurances among others, the internal university regulations including students' handbooks and senate regulations, and judicial decisions emanating from students' litigation from unfair administrative practices. The introduction of NELFUND now reframes university accountability systems and strengthens the obligations university authorities owed to students.⁶⁶

When examined critically, NELFUND's regulatory effect now enhances accountability in university administration in several ways. First is, financial accountability. Section 5, Students Loans Act, 2024⁶⁷ requires universities to provide accurate and up to date information on tuition fees, charges, enrolment data,

academic status and programme duration for eligible students.⁶⁸ Arguably, this statutory requirement compels financial predictability, accurate disclosures to students and transforms fee disclosure from a discretionary administrative practice into a legally enforceable obligation. Second, it imposes a new administrative responsibility on higher institutions in Nigeria. As a condition for processing applications, institutions must maintain timely, accurate, and verifiable data reporting with NELFUND.⁶⁹ It reinforces academic accountability to programme reliability and students' rights. Failure to comply, may account for unfair administrative conducts from institutional authorities,⁷⁰ now subject to external oversight from NELFUND. Third, NELFUND has distinctly introduced data integrity obligations on higher institutions, demanding that universities must ensure the accuracy of data submitted for loan processing. Any falsification attracts suspension from NELFUND and a further administrative penalty under the FCCPA for misleading representations.⁷¹ Fifth, it has expanded the landscape of students' rights. NELFUND leverages on students in Nigeria enforceable expectations rights regarding stability of institutional charges, administrative reliability and dissemination of accurate academic information by university authorities. It further makes institutional failures to provide promised services actionable. Thus, bringing institutional accountability in Nigerian institutions close to what is obtainable in the United Kingdom where individual legitimate expectations are protected, students' fees and transparency rules are enforced by the Office of the Independent Adjudicator or Office for Students.⁷²

⁶⁴ Warnock, M., *Students as Consumers: Reassessing Rights and Duties in Higher Education* (Routledge 2019).

⁶⁵ Section 167, Federal Competition Consumer Protection Act 2016 (FCCPA). See also LeGrand, J., & Newby, D., *Consumerism in Higher Education: Expectations and Realities* (2015) 40 *Journal of Higher Education Policy and Management* 213

⁶⁶ Ojo, A. B., *Higher Education Governance in Nigeria: Issues and Perspectives* (Ibadan University Press 2018)

⁶⁷ Students Loans (Access to Higher Education) (Repeal and Re-enactment) Act 2024, s 5(1).

⁶⁸ *Ibid* s 5(2).

⁶⁹ This includes registration and academic status verification, progress report of continuing students, confirmation of graduations or withdrawals and so on.

⁷⁰ *Ibid*. Bamgboye (fn. 58) 290

⁷¹ Federal Competition and Consumer Protection Act 2018, ss 123–127.

⁷² *Ibid*, Imoedemhe (fn.5), 267. In the UK, students have the opportunity of bringing matters before the OIA or OS for review outside the regular judicial mechanism which is sometimes time wasting and cumbersome.

4. NELFUND, an Albatross?

An albatross depicts a heavy burden, a source of stress or something that holds some one back. Many Nigerians, particularly students of higher institutions perceived NELFUND is a burden. Arguably for some, it is a bridge to life opportunity, to others, a future financial weight. Students worry about graduating into a job market that may not support timely repayment of the loan, experiences of economies with high unemployment. This public scepticism, accentuated by confusion, distrust of government schemes and misinformation from viral social media posts, claimed students were being asked to start repaying loans immediately.⁷³ For instance, a fake circular attributed to the University of Benin intensified these fears.⁷⁴ UNIBEN later disowned the document, confirming it never came from the institution.⁷⁵ It is therefore not accurate to refer to NELFUND as an albatross based on the verified, up to date information. The Reports having been publicly debunked by NELFUND and multiple institutions in Nigeria, signifying that the panic that led to this perception was driven by misinformation rather than actual policy. The Scheme is still in its early stages. Implementation of the policy is ongoing, and repayment frameworks are still being finalised. The Fund is designed to expand access to higher education, reduce financial burden and support students from low-income backgrounds.

5. Enforceability of Legitimate Expectations Under NELFUND

What is examined in this section is the growing rights students now possess to demand the enforceability of renege promised institutional assurances, heightened by the demands of accountability on institutions by NELFUND as conditions precedent to assessing

approved students' loans directed at paying institutional charges and fees. NELFUND now helps students to facilitate funds needed to support their studentship and qualify them, at a cost, to fulfil the obligations set by the various institutions. It becomes arguable that the higher institution authorities ought to fulfil the promises made to the students, the students having committed repayable loans towards the funding of their studies. Any neglect of such promised obligations should be enforceable. This dynamics of administering higher institutions in Nigeria, and the conceptualisation of the rights of students account for the desirability of legal principles to safeguard students' legitimate expectations.⁷⁶ This emerging role of NELFUND as a financial enabler, positions it as a positive catalyst in the developing trend, administrative and judicial, to protect breaches of legitimate expectations which hitherto is not of particular concern to institutional authorities in Nigerian educational system.⁷⁷

As, has been explained, breached expectations created through reliance on the representations, assurances and promises made by public institutions are now conceptualised as actionable in public law under the doctrine of legitimate expectations.⁷⁸ The doctrine obligates public authorities, to act fairly, predictably and consistently when individuals, as in this paper, students, rely on such published representations or established practices of the various institutions.⁷⁹ It thus protect persons who reasonably rely on the clear and unambiguous representation, established practice, or policy of a public authority.⁸⁰ The protection comes in two ways. Either procedurally, in which case, the individual must be consulted, given a hearing or treated fairly before a change is made by the authority,⁸¹ or substantive protection, wherein the substantive benefit of the individual ought to be

⁷³ Joseph Eruke, 'NELFUND Dismisses claims loans repayment rumours, assures students of protection Under law'. Available at [NELFUND dismisses loan repayment rumours, assures students of protection under law - Vanguard News](#) (Accessed 27 January 2026).

⁷⁴ [UPDATED] Student loan: UNIBEN, NELFUND disown fake repayment circular (Accessed 27 January 2026).

⁷⁵ Ibid, (Accessed 27 January 2026)

⁷⁶ Ibid. Imoedemhe (fn. 5)

⁷⁷ *University of Ilorin v. Adesina* (2010) 9 NWLR (Pt.199) 33. Ratio 9, 342. Agupe, JCA found it laughable when the appellant counsel in his brief stated that fair hearing principles within section 36 of the Constitution of the Federal Republic of Nigeria,

1999 (as amended) is not applicable to protect the student whether her rights have been breached.

⁷⁸ Ibid, *Schmidt* (fn. 6)

⁷⁹ Ibid. Noted in *Adesina* (fn. 77) See also, Cane, P., *Administrative Law* (6th edn, OUP 2024) 143–159.

⁸⁰ Ibid (fn. 46) In *Carlen*, the representation by a university Registrar were held to be binding on the university; See also *Council of Civil Service Unions v Minister for the Civil Service* (1985) AC 374 (HL).

⁸¹ Ibid, *Schmidt* (fn. 6), doctrine originated from this case; *Stitch V. A-G Nigeria* (1986) 5 NWLR (Pt. 46) 941-1077 first recognised legitimate expectations in Nigeria. See also, *R. v. Liverpool Taxi Fleet Operators*

honoured except on grounds of an overriding public policy.⁸² Safeguarding expectations is now a generally recognised global principle in the administration of justice.

Remarkably, higher institutions in Nigeria indulge in the extensive use of marketing strategies to attract students to the various institutions. The representations contained in various documents include institutional admission brochures, catalogues, students' prospectuses and handbooks, online advertising of programmes, statements of academic standards and financial implications for studentship in the institutions.⁸³ Others include official digital and written communications, for instance, circulars, portal announcements and institutional websites, all constitute modern forms of representations. Where students commit resources, backed by NELFUND loans, renege in the representation causes hardship for the students.⁸⁴ Unfortunately, what constitute students' legitimate expectations are not generally recognisable under the Nigeria administrative justice system.⁸⁵

It is argued that the relationship between students and higher educational institutions in Nigeria since NELFUND is changing significantly, shifting from a purely academic relationship to one with contractual, administrative and consumer-rights dimensions, comparable to practices in the United Kingdom Higher Education policy, where institutional authorities put students 'on the drivers seats',⁸⁶ 'become accountable to students'⁸⁷ and 'responds to students demands'.⁸⁸ This trend amplifies the reawakened consciousness now attached to students' concern for stability in academic

curriculum, fees structuring, decision making, fair hearing and transparency in disciplinary processes, and timely release of academic records, thus, reinforces that institutions must comply with its rules to avoid judicial intervention.⁸⁹

The view Nigerian students hold of the NELFUND contingent loans as an albatross notwithstanding, its establishment has unveiled and in fact heightened the relevance of protecting their legitimate expectation in Nigeria's higher education system in several ways. First, students' reliance on institutional representations is now both financial and as well as academic. In other words, the obligation to fulfil institutional obligations for studentship, approval of loan amounts and repayment terms from NELFUND is dependent on the stipulated institutional charges and fees, programme duration and accredited academic progression. Second, higher institutions are now statutorily bound to make not only accurate disclosures but to provide accurate students data and statistics. This makes departures from such representation legally significant. When university authorities unilaterally renege from meeting obligations, it causes harm and it is negatively detrimental to the student. Third, Students face financial harm when expectations are frustrated. According to Schonberg, the disappointment of an expectation may cause harm to an individual who has relied on its fulfilment, it constitutes a central aspect of legal certainty and therefore the individual's autonomy.⁹⁰ Lastly, the regulatory relationship between NELFUND and the Higher education institutions creates clearer accountability pathways for students to challenge unfair administrative practices by the authorities.

Association (1972) 2 QB 299 CA (Civ. Div.) The Council failed to adhere to promised procedure.

⁸² *Ibid.* (fn. 40) *ex p Coughlan*, loco classicus on substantive legitimate expectations. An oral assurance that a nursing home would remain the home for life of a severely disabled patient, who would otherwise have suffered acute distress was held binding in the absence of an overriding absence.

⁸³ Adeyemi, M. O., *Prospectuses as Binding Representations in Higher Education* (2014) 22 *African Journal of Education Law* 87. Also, Ekwo, I.E., *Education, Law and Administration in Nigeria* (2010), Lagos, Odade Publishers, 412-417, enumerated students' rights' derivable from their studentship in Nigeria.

⁸⁴ *Ibid.* (fn. 14) *Chima*, where the university authorities expelled students for demanding repair of lecture theatre. See also, Bamgboye. *Ibid.* (fn. 58) 290.

⁸⁵ *Ibid.*, Imoedemhe, (fn. 5) at 1. Students' legitimate expectations are not generally recognised by institutions and sparingly protected when litigated upon by students in Nigerian higher institutions.

⁸⁶ UK Higher Education White Paper, *Putting Students at the Heart of the System* (2011), 2

⁸⁷ *Ibid.*

⁸⁸ *Ibid.*

⁸⁹ *Ibid.*, Bamgboye (fn. 58) emphasizes that universities must comply with their own rules.

⁹⁰ Schonberg, S., *Legitimate Expectations in Administrative Law*. Oxford University Press, (2000), 237. See also *R v Secretary of State for the Home Department, ex p Khan* (1985) 1 All ER 40

6. Legitimising Legitimate Expectations?

This paper argues that with NELFUND, legitimate expectations are further legitimised. Fulfilling expectations to students are not only made more compellable, but attendant breaches are also made actionable. By stating the basic statutory requirements to qualify institutions to have access to the loans on behalf of their students, NELFUND does not only super impose obligations on higher institutions, but it also obligates universities to deliver on their representations to students. As a concept, the doctrine of legitimate expectations makes actionable, reneged representations, in the absence of any overriding public policy. NELFUND, by virtue of its statutory provisions further amplifies the enforcement rights of students when institutions fail to fulfil their promises. To this extent, it is argued that NELFUND does not only legitimise expectations, but it also creates new legitimate expectations when it statutorily protects fee stability, academic quality, student services, timely completion, administrative efficiency, and procedural changes to academic requirements.

It is no longer arguable, that the doctrine of legitimate expectations now plays the crucial role in ensuring that public bodies act consistently and fairly in their dealings with individuals, including students.⁹¹ This is recognisable where a public authority reneges from a clear, unambiguous representation or established and consistent practice upon which individuals have relied to their detriment, a position held in *Council of Civil Service Unions v Minister for the Civil Service* (GCHQ).⁹² There, the House of Lords recognised that legitimate expectations could be procedurally protected as in this case, or substantively protected, depending on the nature of the promise or practice. In other words, where procedural protection cannot remedy the breach of a substantive legitimate expectation, courts could substantively protect such an expectation by requiring its fulfilment, except for overriding public interest. For instance, students may reasonably expect, substantively, fee stability, especially where NELFUND has set guidelines or policies aimed at regulating university fees. This was the deduction of the court in *R v North and East Devon Health Authority, ex p Coughlan*,⁹³ where substantive legitimate expectations were upheld. In the case, an oral assurance given by the Council that a nursing

home would remain the permanent home for life of a severely disabled patient, who otherwise have suffered acute distress, was held binding in the absence of an overriding public interest. In *Oloniluyi v. Home Secretary*,⁹⁴ a Nigerian student in the UK was given oral assurances that she would have no difficulty in returning after travelling to Nigeria, yet she was refused leave to re-enter the UK. The refusal was quashed on grounds of breach of substantive legitimate expectation and unfairness. The Authority unilaterally changed the promised procedure, a clear promise earlier made and intended to create legal rights. In *R. v. Secretary of State for Home Affairs, ex. P. Asif Mahmood Khan*,⁹⁵ the same principle was applied. NELFUND's role in maintaining academic quality and student services also fosters expectations that universities will adhere to promised procedures and minimum standards. This expectation mirrors the principle adopted in *Awotedu v. Vice Chancellor, University of Ibadan*,⁹⁶ where adherence to published standards formed part of procedural fairness requirement in administrative decisions affecting students. In this case, the university reneged in following its prescribed procedure in granting the student the opportunity to cross examine his accuser, a breach of the internal stipulated regulations and more importantly the principle of natural justice. Again, students hold expectations of timely completion and administrative efficiency, coupled with the procedural expectations concerning changes to academic requirements. In *Attorney General of Hong Kong v Ng Yuen Shiu*,⁹⁷ the court opined that where rules or policies govern academic progression, changes should not be applied retrospectively or arbitrarily, preserving fairness and reliance interests. The government of Hong Kong was held to its earlier promised procedure.⁹⁸ In sum. to the extent NELFUND functions as a public authority under Nigerian law, the doctrine of legitimate expectations imposes a duty of fairness in its dealings with students and universities.

7. Conclusion

This paper has argued that the discourse surrounding NELFUND should move beyond a simplistic characterization of the scheme as a burdensome debt instrument to a more nuanced understanding of its regulatory and accountability potential within Nigeria's higher education system. Put succinctly, the paper argued that NELFUND operates not merely as a

⁹¹ Ibid, *Schmidt* (fn. 6)

⁹² Ibid (fn. 80) (the *GCHQ* Case)

⁹³ Ibid (fn. 40) (the *Coughlan* Case)

⁹⁴ (1989) Imm. AR.135

⁹⁵ (1985) 1 All ER 40

⁹⁶ (1982) 3 OY SHC 262

⁹⁷ (1983) 2 AC, 629

⁹⁸ Ibid

financing mechanism but as a catalyst for service delivery assurance and enhanced student recourse. By conditioning access to students' loans on accurate disclosures, data integrity, and compliance with statutory and administrative standards, NELFUND strengthens the nexus between funding, institutional accountability, and students' legitimate expectations.

The narrative of students and university relationships altered significantly with the introduction of the income-contingent loans. Students' financial commitment, now facilitated through NELFUND, deepened their reliance on institutional representations relating to fees, academic quality, facilities, and administrative efficiency. Where such representations are renegeged upon by university authorities, the doctrine of legitimate expectation, now firmly recognized in Nigerian administrative law, provides a principled legal framework for redress. In this sense, it is argued NELFUND does not create an albatross but legitimizes and amplifies students' enforceable expectations. Ultimately, the sustainability and legitimacy of NELFUND depend on embedding robust mechanisms that balance repayment obligations with enforceable standards of service delivery. Aligning NELFUND's regulatory focus with university accountability and student protection transforms the scheme into a tool for fairness, legal certainty, and improved governance in Nigerian higher education system.