

Universities (Miscellaneous Provisions) Act 1993 Imperial Vice Chancellors

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The appointment of Vice Chancellors of Nigerian Universities is fast becoming a political issue. Also intertwined with this political issue are ethnic considerations of immense dimensions. The combination of political and ethnic considerations has now resulted in the creation of imperial Vice Chancellors who owe their allegiance to vanishing thin gods. These Vice Chancellors have a semblance to Napoleon (the pig), in George Orwell's classical attire. The Animal Farm.

This was surely not the intention of the promulgators of the Universities (Miscellaneous Provisions) Act, No. 11 of 1993 and the universities (Miscellaneous Provisions) Amendment Act 2003, which ASUU fought so hard to secure. Under these laws, merit was the paramount criteria to be used in the selection of Vice Chancellors. In addition, these laws granted some degree of autonomy to Universities in selecting their Vice- Chancellors. However, the manipulations and blatant violations of the provisions of the above laws has become rampant in our universities.

The clear and unambiguous intention of these laws are to enshrine participatory democracy in the appointment of Vice Chancellors, Deputy Vice Chancellors and Acting Vice Chancellors in our universities.

It is sad to note that some members of the ivory tower whose minds are liberated, and are gifted with the ability to make rational, meticulous, and pedantic judgments in dealing with issues, have enslaved themselves along ethnic lines. A clear example of this can be seen in the University of Benin, where battle swords have been drawn for the ultimate battle for the vacant position of Vice Chancellor .

The principal law governing the selection and appointment of Vice Chancellors in Nigerian Universities is the Universities (Miscellaneous

. Provisions) Act, No 11 of 1993. This Law was amended by the Universities (Miscellaneous Provisions) Amendment Act, 2003. The cumulative effect of these laws on the appointment of Vice-Chancellors, Acting Vice Chancellors and Deputy Vice chancellors of Nigerian Universities is summarized as follows.

VICE CHANCELLORS

1. There shall be a Vice- Chancellor of a University who shall be appointed by the President in accordance with the provisions of this section.
2. Where a Vacancy occurs in the post of a Vice- Chancellor, the Council shall-
 - (a) advertise the vacancy in a reputable journal or a widely read newspaper in Nigeria, specifying -
 - (i) the qualities of the persons who may apply for the post; and
 - (H) the terms and conditions of service applicable to the post, thereafter drawn up a short list of

suitable candidates for the post for consideration;

(b) constitute a Search Team consisting of-

(ii) a member of the Council, who is not a member of the Senate, as chairman:

(ii) two members of the Senate who are not members of the Council, one of whom shall be a professor;

(iii) two members of Congregation who are not members of the Council, one of whom shall be a professor.

To identify and nominate for consideration, suitable persons who are not likely to apply for the post of their own volition because they feel that it is not proper to do so.

(3) A joint Council and Senate selection board consisting of-

(a) the Pro-Chancellor as chairman;

(b) two members of the Council, not being members of the Senate;

(c) two members of the Senate who are professors,

but who were not members of the Search Team, shall consider the candidates and persons on the short list drawn up under section (2) of this section through an examination of their curriculum vitae and interaction with them;.. and recommend to the Council Suitable . candidates for further consideration.

(4) The Council shall select one candidate from among the three candidates recommended to it under sub section (3) of this section and forward the name to the President.(This section has now been amended. See below)

Prior to 1993, the appointment of Vice- Chancellors of Nigerian Universities, with particular reference to Federal Universities, was done by the Federal government without recourse to the Councils and Senates of the Universities.

The Present law is a complete departure form the previous arbitrary manner of appointing Vice Chancellors of Nigerian Universities. The present law allows for participation by all segments of the University community, i.e Council, Senate and Congregation.

The present law has circumscribed and curtailed the wide powers which the Federal government previously had in appointing Vice' Chancellors of Nigerian Universities.

Under section 4(b) of the Universities (Miscellaneous Provisions) Amendment Act 2003.

“The Council shall select and appoint as Vice Chancellor one candidate from among the three candidates recommended to it ... and . thereafter inform the visitor.

The appointment of Vice Chancellors of Nigerian Universities is now within the powers of University Councils. It is now an internal matter in which members of the University community participate either directly or indirectly. This development must be welcomed. It allows for participatory democracy by all segments of the University Community.

Despite the enormous powers which Councils of Universities now have in appointing Vice Chancellors, they are not laws unto themselves. They are subject to control by the president of the Federal Republic of Nigeria, who has the power to remove any member or dissolve the Council. They are also subject to the control of Courts of Law in the exercise of their powers. Let us assume that a selection board has recommended three candidates (A, B, and C) to a Council. The candidates are listed in order of performance and preference, with candidate 'A' as the first and candidate 'C' as the third. Council has now chosen candidate C and has informed the president as required by Law. Is the decision by the Council absolute and unquestionable? I do not think so.

Their decision can be called into question in a Court of Law. (See Associated provincial picture Houses Ltd v Wednesbury Corporation (1948/ 1. KB. 223). A University Council cannot by its own decision finally determine or decide on the question of the exercise of its powers. Such question is always subject to review by the Courts. A University Council that allows itself to be guided by political and ethnic considerations in the appointment of a Vice Chancellors, can be challenged in a Court of Law (see Padfield v Minister of Agriculture (1968) A.C.997.

DEPUTY VICE- CHANCELLORS

1. There shall be for the University such number of Deputy Vice Chancellors as the Council may, from time to time deem necessary for the proper administration of the University .

2. Where a vacancy occurs in the post of Deputy Vice-Chancellor, the Vice Chancellor shall forward to the Senate a list of two candidates for each post of Deputy Vice Chancellor that is vacant.

3. The Senate shall select for each vacant post one candidate from each list forwarded to it under subsection (2) of this section and forward his name to the Council for confirmation .

4. A Deputy Vice Chancellor shall-

(a) assist the Vice Chancellor in the performance of his functions:

(b) act in the place of the Vice Chancellor when the post of Vice Chancellor is vacant. or if the Vice Chancellor is, for any reason, , absent or unable to perform his functions as Vice Chancellor and (c) Perform such other functions as the Vice Chancellor or the Council may, from time to time, assign to him.

5. A Deputy Vice Chancellor-

(a) shall hold office for a period of two years beginning from the effective date of his appointment

and on such terms and conditions as may be specified in his letter of appointment; and

(b) may be re-appointed for one further period of two years and no more.

The above provision of the law gives no room for the appointment of Acting Deputy Vice Chancellors, or Special Assistants to Vice Chancellors. The sole responsibility for the appointment of Deputy Vice Chancellors lies with the Senate of the University. A Vice Chancellor who appoints Acting Deputy Vice-Chancellors, or Special Assistants will be acting in contravention of the (Universities Miscellaneous Provisions) Act 1993.

University senates should live up to their responsibilities in ensuring that Vice Chancellors do not exceed powers given to them by law or usurp

powers given to other organs in their Universities. Should University Senates fail to ensure that Vice Chancellors act within the powers given to them, they would be creating imperial Vice Chancellors. Like in the provision for the appointment of Vice Chancellors, the law of the appointment of Deputy Vice Chancellors, allows for participation by members of the University Community, through its Senate.

ACTING VICE CHANCELLORS

Section 5(12), (13) and (14) of the Universities Miscellaneous Provisions) Amendment Act, 2003 provides as follows:

(12) There shall be no sole administration in any Nigerian University.

(13) In any case of a vacancy in the office of the Vice-Chancellor, the Council shall point an acting Vice Chancellor on recommendation of the Senate.

(14) An acting Vice -Chancellor in all circumstances shall not be in office for more than 6 months. The interpretation of section 5(13) of the above law recently arose with the appointment of an acting Vice Chancellor for the University of Benin. There are two opinions on this issue from different sections of the University Community. The first, is that, as there was no Council at the time of the appointment of the acting Vice Chancellor, section 5 (13) is inapplicable. Consequently, the visitor has the power to appoint "an acting Vice Chancellor.

The other view is that in the absence of a Council, notwithstanding, the Senate should have been allowed to make recommendations to the Minister of Education. Which of these views correctly represent the law? In answering this question, one has to look for the intent and purpose of the Universities (Miscellaneous Provisions) Act, 1993 and its amendment in 2003 ..

The primary intent and purpose of the above law is to allow for participatory democracy in our Universities in the selection of Vice Chancellors, Deputy Vice Chancellors and Acting Vice Chancellors. Going by the above, the Senate of the University of Benin should have been allowed to

make its recommendation to the Minister of Education before an acting Vice Chancellors was appointed.

The appointment of an acting Vice Chancellor without any impute from the University Community is a blatant violation of the relevant law. Due process was not followed in the appointment of the acting Vice Chancellor of the University of Benin. Members of the University community had no input in the appointment.

Due process involves following laid down procedures and rules. The acting Vice Chancellor however remains in office until she is removed by the Council, the president or the courts. It is our hope that the relevant provisions of the law would be adhered to in the selection/appointment of a substantive Vice Chancellor for the University of Benin. We must prevent the emergence of imperial Vice Chancellors in our universities.

Vice Chancellors have become imperials in the administration of their universities, particularly on internally generated revenues. They are accountable to no one. For example, in the University of Benin, internally generated revenue form part time programmes, scratch cards, etc, runs into millions

. The University Senate does not know how much is generated or how this amount generated is spent. There is lack of accountability, in the use of this monies. The time has come for Vice Chancellors to be compelled to present yearly budgets to their respective Senates for approval. The system as it presently exists is shrouded in secrecy.

This consequently breeds corruption and abuse of trust in the handling of public funds. University Councils should live up to their responsibilities instead of colluding with Vice Chancellors to milk the system.

Imperial Vice Chancellors must not be allowed in our Universities. Accountability, openness and fairness are enshrined in virtually all section of the relevant laws.

We must hence forth hold Vice Chancellors accountable not only through internal means, but also through judicial review by our courts.