

## Society's Violation of State Laws on the Establishment of Private Universities in Nigeria

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### Abstract

*In spite of establishment of many federal and state universities in Nigeria, the demand for university education in the last 20 years is far greater than the supply. There has been unsatisfied supply of university education in Nigeria since the 1971/72 academic year when over 70% of candidates demanding for university education failed to secure admissions. The existing universities capacity usually absorbs less than 30% of the applicants. To take care of about 70% others, the establishment of private universities would go a long way. The Federal Government of Nigeria has approved guidelines for the establishment of higher institutions of learning in Nigeria which are contained in the Education (National Minimum Standards and Establishment of Institutions (Amendment Decree No. 9 of 1993). There is also the Education (National Minimum Standards etc) Act CAP E3 Law of the Federation of Nigeria, 2004. Some of the guidelines are that: An institution of Higher Education may be sponsored or owned by the Government of the Federation or of a State or Local Government or by a Company incorporated in Nigeria or by an individual or association of individuals who are citizens of Nigeria, and who satisfy the criteria set out in the Schedule to the law for establishment of institutions. In 2001, the National Assembly of Nigeria passed a law permitting private organisations and individuals to establish universities and polytechnics. The same law mandates the National Universities Commission (NUC) to regulate and undertake quality control of the content and curricula of academic programmes. It is surprising to note that some sectors of the society are contravening the Federal Government's laws in establishing private universities in Nigeria. This has led to the announcement by the Executive Secretary of the NUC on the 22<sup>nd</sup> of January, 2009 that 36 illegal universities have been closed down in Nigeria. There are three broad categories of unrecognised institutions according to the NUC. First, there is a preponderance of satellite or offshore campuses whose parent bodies are mostly based in the US, Canada and UK. The second category comprises private institutions established by rich individuals and religious organisations. They conduct their own admission examinations outside those organised by Joint Admission Matriculation Board for universities accredited by NUC. In the third category are private universities in the neighbouring Republic of Benin: Houndegbe North American University in Cotonou, and the University of Applied Sciences and Management in Porto Novo. This paper traces the historical development of private universities, laws governing the establishment of private universities, how some sectors of the society are violating the laws and steps taken by the government to penalize those violating the laws on establishment of private universities in Nigeria.*

**Key Words:** Society's Violation, State Laws, Establishment, Private Universities

### Introduction

Though, Nigeria possesses the largest university system in Sub-Saharan Africa, still, the demand for university education in the last 20 years is far greater than the supply. This is in spite of the phenomenal expansion in the publicly owned universities in Nigeria from 1 in 1948 to 117 in 2011. It is evident that the government alone cannot provide the much needed university education to the teeming applicants seeking places yearly, hence, the involvement of private sectors. This made it imperative for education to be deregulated in Nigeria so as to break the government's monopoly of the provision and management of education and give free hand to private participation in the provision and management of education in the country. From the very beginning when university education commenced in Nigeria in 1948, the government conceived of its nature as a public or social good whose production must not be left in the hands of the private sector. Hence, from then until 1999, a period of over fifty years, the establishment, ownership, management and funding of universities and all tertiary educational institutions remained the exclusive reserve of Federal, Regional and State Governments.

Before the 1972 Federal Decree on education and the government take-over of all educational institutions, there were only two Federal universities and four Regional Government owned universities. Then tuition fees were charged; however, with the Federal Decree on education in 1972, the Federal Government took-over all universities and by 1975, abolished tuition fees in all universities (Eze 1983; Olaniyan 2001). The government decision to take-over the universities could only be guaranteed while the problems of equity, access and imbalance continued unabated (Nwadiani 1997; Adeyemi 2001; Okobiah 2002). Since the Federal Government take-over of universities, she had made different efforts to revert the decision. The 1979 constitution, which listed education on the concurrent legislative list, saw the birth of state universities. The number of state owned universities has increased to twenty-two as against twenty-six Federal (NUC 2004). The fact remains that the supply of university education in Nigeria has always been limited by the amount of funds that the owners (governments) have been willing and capable of giving to the universities as grants. The Nigerian Government, which hitherto denied states and private ownership of universities, has come to acknowledge the obvious reality.

The year 1999 marked the rebirth of private universities in Nigeria with the establishment of Babcock, Igbinedion and Madonna universities. Since then, there has been tremendous increase in growth of private universities. For instance, while there were seven private universities at the close of 2003/2004 academic session, Babcock, Igbinedion, Madonna, Pan African, Benson Idahosa, Bowen and Covenant, the number had increased to sixteen; more than doubled by the close of 2004. The Federal Executive Council (FEC) presided over by the former Vice President Atiku Abubakar on 1 June, 2005 and approved the licensing of seven new private universities in the country after receiving report of the stringent and rigorous screening exercise conducted by the National Universities Commission (NUC) through which they emerged. The New Institutions are: Bells University of Technology, Badagry, Lagos state, Crawford University, Ogun State, Wukari University, Taraba State, Crescent University Abeokuta, Ogun State, Novena University, Delta State, Renaissance University, Enugu state and University of Mkar, Benue State. The approval brings to 23, the total number of private universities in the country as at 2005. In Nigeria as at today, private universities numbered up to 47.

### **Historical Development of Private Universities in Nigeria**

The first successful attempt to establish private universities in Nigeria was during the period of the second democratic experiment (1979–1983) when twenty six private universities came into being following the ruling by the Supreme Court of Nigeria that the establishment of private universities was constitutional ( Barrow 1996; Aliyu 1984, cited in Thaver 2004). However, these private universities were poorly planned with neither good infrastructure facilities conducive for learning, nor serious-minded academics in their foundation list. A military government that came into existence in December 2003 (under General Muhammadu Buhari as head of state) ordered the closure of all the established private universities under a decree it promulgated.

However, following another successful military coup in 1985, the new leader, General Ibrahim Babangida decided to lift the ban on private universities (news report by Abubakar 2005). The inauguration of the democratic system of government under President Olusegun Obasanjo in 1999 could be described as the turning point in the history of private provision of higher education in Nigeria. With the new government, the National Universities Commission (NUC) – a federal government regulatory agency for all the universities (federal, state and private) – was empowered to receive applications, inspect and verify the facilities of serious applicants of private universities across the country. Consequently, it processed all submitted applications and made recommendations to the federal government. Based on this, the government approved the first three licensed private universities in Nigeria in 1999 and subsequently in 2001, 2002, 2003, and 2005. Thus, between 1999 and 2005 according to Obasi (2005c); Oyekanmi (2005), 23 private universities were established in Nigeria. Between 2005 till present, about 26 private universities have been established bringing the number of private universities in Nigeria to 46

### **Reasons for development of Private Universities**

Private universities emerged in Nigeria because of many reasons. Some of them are:

#### **The Failures of the Public Institutions**

The establishment of private schools is no doubt a response to the failings of the public school system. In Nigeria today, people strive to provide boreholes or water for themselves and generate electricity because the government has failed to meet their expectations. For instance, Alli (2004) observed that Nigerians generally have the peculiar attitude of individual solution as a response to social malaise.

With increasing awareness of the importance of education for human emancipation and development, Nigerians continue to adopt the usual and peculiar response, which is the private option. No doubt, public organizations and the universities alike have remarkably been unable to respond to the challenges of service excellence; resulting to poor performance. In the past decades, there have been crises of different types and intensity. Of all the crises, that of scarce resources arising from under-funding has been central. Resources for university education in terms of staff need, funds, physical facilities and equipment have continuously been in state of acute shortage in Nigeria (Nwadiani 1993; Utulu 2001; Nwadiani and Akpotu 2002; Akpotu and Nwadiani 2003; NUC 2005). Resource required to provide qualitative education has been scarce, while students' desire for university education continued to mount. Private sector participation in the provision and management of university education therefore, appear to ensure the production of quality graduates; bearing in mind that Nigeria is reputed to have the most dynamic and daring private sector in Black Africa.

The failure of public tertiary institutions in Nigeria manifests in the form of enlarged teacher student ratio; overcrowded classes; poor quality teaching and research; examination malpractice; cultism and incessant strikes of staff (NUC 2005). Akpotu (2004), for example, found that a total of 99.55 weeks (i.e. 3.32 academic years) were lost in Nigeria universities for a period of six years. This represented a cost of #49,211, 035,332 billion or \$684,198,230.8 million. The study also showed that a total of 11.4 million man-hours and 28.54 million students – hours were lost during the strikes. Strikes bring about destabilization of the learning process and lead to low quality service from lecturers because of their desire to cover lost ground. All stakeholders in the university system have become disenchanted with the universities and their graduates who are now perceived as half-baked. Consequently, more parents and guardians tend to opt for private universities where strikes and other vices associated with public universities are virtually non-existent. More so, when competition has become the bane of a global world economy.

### **The Growing Demand for University Education and Absorptive Capacity**

Almost 30 million people in the world are fully qualified to enter a university; but no university place is available for them (Duderstadt 2002). Bearing in mind that no less than half of the world populations are youth under age twenty, most of whom live in Africa, Asia and Latin America, its implications on staggering demand for university education is enormous for government alone to shoulder. In Nigeria for instance, the series of committees set up by the Federal Governments over the years (Longe Commission of 1990; Etsu Nupe Committee on the future of Higher Education in Nigeria, 1996; and the Education, Science and Technology Committee of Vision 2010, 1997) consistently reported the gross inadequate provision of university education in Nigeria (Olaniyan 2001). In the absence of improved facilities to cope with increased demand, many of the universities had to exceed their carrying capacities, which is defined as the maximum number of students that the institution can sustain for qualitative education based on available human and material resources (NUC 2005). The Federal and State universities exceeded their carrying capacities with 193,557 students. Since the Federal and State universities are adjudged by NUC to exceed their carrying capacity, in the absence of their improvement in facilities, increased enrolment in the private universities may be the immediate solution, more so enrolments in private universities is still relatively very low.

### **Laws Governing the establishment of private universities in Nigeria**

The National Universities Commission (NUC) was created as an administrative department in the office of the Prime Minister in 1962 as a follow-up to the recommendations of the Ashby Commission set up by Government on the eve of Nigeria's independence. Its role at that time was purely advisory. Decree No. 1, of 1974 now Act 1 of 1974, gave the Commission statutory powers aimed at ensuring orderly development and maintaining standards in the University Education. The detailed functions of the Commission are as stated in the Act No. 1 of 1974 (as amended), usually referred to as the Principal Law. Some of the specific functions include:

- i. recommendations for the establishment, and location of new Universities as and when considered necessary in accordance with the Commission's approved guidelines;
- ii. the promulgation of the Education (National Minimum Standards and Establishment of Institutions) (Amendments) Decree No. 9 of 1993 (Act No 9 of 1993) which prescribed the guidelines for the establishment of Private Universities in Nigeria, and vested in the Commission the responsibility for processing such applications.

- iii. In the case of private universities, the Commission has established a Standing Committee on Establishment of Private Universities (SCOPU) which processes all applications and ensures that all the criteria and requirements for establishment of private universities, including development of academic brief and master plan, are met before approval is granted for commencement of academic activities. That way, the Commission sees to it that a proposed university has the capacity, in terms of human and material resources, to embark on delivery of university education before it is licensed thereby guaranteeing quality from the onset. It is instructive that, due to political exigencies, public universities have often been established without prior clearance with the NUC with regard to these conditions. Consequently, the NUC has devised a system whereby these universities are accorded Federal Government recognition only after they have met these same conditions.

The Education (National Minimum Standards and Establishment of Institutions) (Amendment Decree No. 9 of 1993) clearly spelt out the guidelines for the establishment of private universities in the country. Indeed, the body outlines 11 requirements, 12 criteria and 13 steps that a proposed private university must satisfy before obtaining operational license. Over the years, at least 45 private universities have met the NUC's conditions and have been granted operational licenses.

### **Violation of NUC Guidelines on the Establishment of Private universities in Nigeria**

The National Universities Commission [NUC] had at several occasions announce to the general public, especially parents and prospective undergraduates, that universities not licensed by the federal government are operating illegally in violation of the Education National Minimum Standards Act of 2004, passed into law by the Nigerian parliament.

According to the NUC official announcement, there are three broad categories of unrecognised institutions. First, there is a preponderance of satellite or offshore campuses whose parent bodies are mostly based in the US, Canada and UK. NUC confirmed that no offshore university had been approved and so they are all operating illegally: "Graduates from such institutions will not be admitted into the National Youth Service Corps and neither will their certificates be recognised anywhere in the country. The second category comprises private institutions established by rich individuals and religious organisations. They conduct their own admission examinations outside those organised by Joint Admission Matriculation Board for universities accredited by NUC. Reliable sources say that the proprietors of many of these universities recruit on to their governing councils influential individuals within Nigerian political circles in the hope - apparently now dashed - they will help the institutions to be recognised by the NUC.

In the third category, are two private universities in the neighboring Republic of Benin: Houndegbe North American University in Cotonou, and the University of Applied Sciences and Management in Porto Novo. Benin is a Francophone country and French is the language of teaching and research in higher education. Investigations revealed that virtually all their students are Nigerians and courses are taught in English and that the universities are not approved by NUC.

In September 2008, the National Universities Commission announced the existence of 33 illegal universities in the country. In May, the NUC had earlier declared sixteen out of these institutions illegal and warned Nigerians against patronising them. Also declared illegal were unlicensed satellite campuses, outreach campuses and study centres countrywide. The universities' regulatory body also stated that it had not approved any offshore universities to operate in the country. The Commission said that five owners of such institutions had been arrested and were being prosecuted to dissuade others.

In August 8<sup>th</sup>, 2009, the National Universities Commission (NUC) has announced that the list of 36 illegal Universities that have not been licensed by the Federal Government and are, therefore, operating illegally in violation of Education (National Minimum Standards etc) Act CAP E3 Law of the Federation of Nigeria 2004. On the 19<sup>th</sup> of May, 2010, it was reported by a Nigeria News paper- The Daily Trust that the Executive Secretary of the National Universities Commission (NUC), Professor Julius Okojie, that 34 universities currently operate illegally in the country, including some foreign ones, noting that the NUC had already closed seven of them, while investigations and court cases had been initiated on nine others. Some of the illegal foreign universities have been found to be campuses of universities in the United Kingdom and the United States. It is embarrassing that even neighbouring African countries have discovered Nigeria to be a goldmine for the business of illegal universities.

These illegal universities advertise their programmes to unsuspecting candidates. They provide free pamphlets and flyers at receptionists' counters in hotels and restaurants, especially those frequented by their target audiences, avoiding newspaper and other formal advertising formats, in order to avoid monitoring. Many of the illegal universities operate during weekends in the premises of primary and secondary schools. Some of them make their students to register with probably fake university in the UK or USA to sit for an examination with the promise of earning them two or three different degrees in a year! Many Nigerians, who desire to acquire a university degree, often by any means, become vulnerable to the deceptions of illegal universities.

### **Steps Taken to Make Societies comply with the Laws on the Establishment of Private Universities in Nigeria**

The National Universities Commission (NUC), saddled with the responsibilities of enforcing orderliness, standards and to regulate and undertake quality control of the content and curricula of academic programmes in all Nigerian universities have been clamping down the universities that have violated laws on the establishment of Universities. Every time, the NUC committee on the closure of illegal universities, headed by Prof. Ebenezer Adebowale, has been leading his team to close down such institutions and to inform the students that they were wasting time and resources since the affected institutions remain illegal. In 2008, the NUC announced the closure of 33 illegal universities in Nigeria. In 2009, 36 illegal universities were closed down while in 2011, 45 illegal universities were shut down. Not only were these illegal universities shut down, the proprietors were sued to court.

### **Conclusions and Recommendations**

The damage so far done the education system by illegal institutions cannot be over emphasized most of the students, the victims of the scams, were fraudulently convinced that the universities and satellite campuses were properly licensed and accredited to offer the advertised courses and to award degrees and certificates. Since the law setting up the NUC did not empower it to prosecute operators but to close down such schools. As a result, the commission is currently depending primarily on Section 419 of the criminal code, to charge the operators of these institutions to court for obtaining money from the students under false pretences. The NUC has been doing a lot to see that members of the society obeys the laws guiding the establishment of private universities in Nigeria. Supporting the Champion News paper of January 11<sup>th</sup>, 2011, the commission is urged to go a step further by also involving the Economic and Financial Crimes Commission (EFCC) and other related agencies in their effort to punish the operators of these institutions.

Students all over the country affected by their action are admonished to cooperate with the NUC in order to get a refund from the operators of the satellite campuses and all operators of illegal universities. Considering the immediate and long term negative effects of this scam on the general development of the affected students, it has become necessary to ensure that the fraudsters, who are ever willing to exploit the huge appetite for tertiary education in Nigeria, are stopped from further ruining the future of the nation's youths. The Nigerian government should closely follow up the current moves of the NUC by creating more awareness of the existence of unapproved universities, and by explaining clearly the damage such institutions can cause individual victims and the society generally.

Government should, indeed, take decisive actions that will directly protect the youths, such as constant publication and broadcast of the list of illegal universities, regular monitoring and crack-down on suspected illegal institutions and enactment of laws that will help tackle the menace. While acknowledging government's efforts at meeting the ever increasing demand for university education, in the recent approval of six new federal universities, it must be noted that these illegal institutions are thriving primarily because of the huge admission gap in Nigeria. Government must therefore do more to address this reality, so as to assist the unfortunate young people, who desperately desire tertiary education but are not given the opportunity to fulfill such noble ambition. Parents and sponsors should investigate the schools their wards are attending, to ensure that they are genuine. This is to assist the NUC and the government to save the situation.

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