



# Appointments of Vice-Chancellors in Universities in Kenya: The Nexus between Ethnicity and University Employment

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# Appointment of Vice-Chancellors in Public Universities in Kenya: The Nexus between Ethnicity and University Employment

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## ABSTRACT

*UNIVERSITIES by their very nature should embrace diversity in their structures and the selection and appointments of its human resources especially at the top echelons. However, Kenya as a country faces a challenge of ethnicity which is persistently in the media houses year in year out. This article interrogates this critical issue with special reference to appointments of Vice Chancellors in universities in Kenya and assess how these has affected negatively the process of development in universities and Kenya as a country. Using desk and content analysis research approach, a survey of empirical and theoretical studies were studied and research findings obtained. The study reveals that nepotism and tribalism practices are taking a centre stage in employment of staff in public universities contrary to laid down employment guidelines by the Government of Kenya. Further, appointment of Vice-Chancellors in public universities is skewed towards six major tribes in Kenya, contrary to equal employment opportunities legislations enacted by parliament relating to gender affirmative action as well as the marginalized groups and persons living with disability. The study concludes that the marginalized and persons living with disability are groups affected and therefore not benefitted appointments even after the promulgation of new Constitution of 2010. The study recommends review of the criteria and procedure of appointment to curb ethnicity and nepotism in order to ensure that inclusivity of the gender, marginalized and persons living with disability is catered for.*

**Key words:** Ethnicity, Development, Tribalism, University appointment, Vice Chancellor

## 1.0 INTRODUCTION

The nexus between ethnicity and university employment in Kenya is a new debate that raises questions on whether or not appointments of Vice Chancellors (VCs) in public universities in Kenya are in line with the new Constitution 2010; the Employment Act 2007 as revised in 2012; and, the National Cohesion and Integration Act 2008. The purpose is to generate a debate to a certain extent than stab conclusion. Certainly, given the blend of the area under discussion, any such 'ring fencing' is expected to be out of focus. Discussion of the nature of appointments of university staff in particular Vice-Chancellors is therefore paramount and timely for two reasons. Firstly, it is an open secret that public universities in Kenya have been turned and converted into tribal cocoons in the recent years. Part III of Section 7 (1&2) of the National Cohesion and Integration Act 2008 as revised in 2012 make provisions of knowledge that all public service departments of the Government Kenya must symbolize the ethnic diversity in employment. Secondly; the procedure of appointment of university employees is openly violated by ethnic and nepotism practices of leaders obligated with highest responsibility in universities. The Employment Act 2007 as revised in 2012 Section 5 (1&2) asserts that an employer in Kenya has an obligation to uphold equal opportunity in employment and make every effort to get rid of nepotism or tribalism. This law is in black and white and therefore give guidance that universities in Kenya are duty-bound by law to portray a balanced diversity in their workforce ethnic composition, gender and minority groups for example disabled. While implementing diversity policy is a challenge at strategic level, universities must continually improve to turn these challenges into opportunities. Despite government legislations that have been put in place to ensure workforce diversity in public establishments, questions have been raised regarding workforce diversity in public universities in Kenya. Universities, being regarded as the "tower of ivory", have no choice than embrace patriotism as overseer of unmatched scholarship and therefore expected to refuse the tribal prejudice threatening to split Kenya.

In this paper, we note that little is known about the extent of ethnic impact in university development in Kenya, and whether it is an important factor influencing the effectiveness and efficiency in the day to day running of universities. This paper is meant to be contribution towards the ongoing debate within the public domain in Kenya and brings new knowledge for scholars and policy makers on this critical issue. The Transparency International report (2016), recognizes that a university is universal and therefore a global institution imparting knowledge, skills, proper work ethic and attitudes with inclusive world view and harmony to all humanity. This means that universities are centres of excellence and not ethnic strongholds. According to Williams (2013) ethnicity identity is defined as a way in which people, in relation of their tribal basis, place themselves sensitively in community classification and in which they perceive others as locating them in relation to those ethnic identify systems and origin. By ethnic origin is destined to whichever that a individual entity belong to an ethnic group. Other scholars too have

defined ethnicity in various ways. For instance, Stuart Hall (1996) defines ethnicity as a historical, cultural and political construction. In this sense, ethnicity can be seen as a discursive construction of collective identity.

In his writings, Koigi Wamwere (2003) on negative ethnicity, he wrote the book entitled "Negative Ethnicity: From Bias to Genocide" where he welcomes the debate on negative ethnicity and ethnic discrimination as crucial for our collective survival and well being. He argues that negative ethnicity is an ideology which is a rat trap that is everybody's problem. He further opens up on the effects of negative ethnicity by arguing that it is the most evil impediment to excellent governance in a country such as Kenya. Whereas, both local and international scholars have raised their voices by condemning ethnic and tribalism practices in Africa and Kenya in general; the question everyone should ask is where did the rain start to beat Kenya. In the next section of the paper we embark and synchronize on the focus of the present paper.

## **2.0 FOCUS OF THE PAPER**

Kenya comprise of approximately forty-two ethnic communities or groups that have lived together for a long time. Kenya compares very well with other countries on ethnicity issues. Growing literature indicates that ethnicity is a dominant issue where politicians articulate and negotiate with politically correct groups' interest in state resources. According to Munene (2012) in study entitled "*Our University: Ethnicity, Higher Education and the Quest for State Legitimacy in Kenya.*" He rightly points out history have it that immediately after independence higher education in Kenya was dominated by ethnicity and became significant and critical part of government decisions about university leadership and setting. Ethnocratic Vice Chancellors and Governing Councils composition at the university had significant insinuation with a political and economic patronage. Politically, an institution of higher education was intended to explicitly follow directives and decisions that protected government agenda. It also meant utilizing the management team of higher education institutions such as Vice Chancellors and Governing Council members of universities as a vehicle of rewarding tribal warlords. On the other hand the government technically was utilizing the ethnicity supremacy in universities as a strategy to empower the tribal patronage by rewarding them government tenders and business contracts. With this broad background kept in view the study notes that, in one way or another, the government of the day had populated the institutions of higher learning in Kenya with tribal echelon leadership since independence. Moreover, a study conducted by Sifuna (2010) concurs with this preposition by asserting that majority of the public universities were set up to gratify ethnic interests, especially those of large ethnic groups. If this is the case then, the present research study has a critical task to interrogate and establish whether or not public universities in Kenya represent ethnicity and nepotism interests in terms of composition of the echelons of administrative as well as academic

staff. Relevant to this research problem is a report released by the National Cohesion and Integration Commission (2012), which indicates that majority of the public universities in Kenya either had more than one -third of their employees from one community and therefore violating the laws of Kenya and the new Constitution. More importantly, there has also been a revelation of low numbers of appointments of women and the persons living with disability to the position of Vice Chancellors in public universities contrary to one -third constitutional requirement as well as equal opportunity empowerment policies.

The study is guided by three research questions: Firstly, to what extent are appointments of the Vice Chancellors influenced by ethnicity and politics; Secondly, how does ethnicizing appointments of Vice Chancellor impact on University development; and, thirdly, what are the procedures of appointment of Vice Chancellors in Public and Private Universities in Kenya?

The paper is organised into six sections. The first section is the introduction. The second part captures the focus of the study. The third section is the theoretical framework.. The fourth section is the methodology. The fifth section provide the narrative of the research findings; and the sixth section captures the conclusion and recommendations.

### **3.0 THEORETICAL AND CONCEPTUAL FRAMEWORK**

This is a theoretical study based on descriptive analysis of available literature on ethnicity constructs and its implications on university staff employment in Kenya. We conduct a literature review on and peg two theories which govern the study. The theories help to elaborate on the thinking about ethnicity and why people do behave the way they do in the society. We find these theories important as we explain and discuss about ethnic practices in Universities in Kenya. Firstly, we make reference to the Primordialism theory which argues that ethnic identity is ascriptive, in that membership is assigned at birth and thus difficult to change (Weir, 2012). Membership of ethnic groups is therefore fixed and passed down intact across generations (Chandra, 2012). In our study we relate this theory to persons in leadership in institutions of higher education in particular universities and try to reflect how they are likely to execute appointment of university staff in manner that is impartial and without ethnic and nepotism practice which are contrary to the law and legislations of the government of Kenya. In our conceptual framework we link the University Governing Council and the University Management as obligated in the Universities Act No.42 of 2012 as key players in appointment of university staff as well guided by the Republic of Kenya new Constitution 2010, Employment Act 2007, National Cohesion and integration Commission Act 2008, appointment and promotion criteria for academic staff by the Commission for University Education (CUE, 2015), among other critical government laws and legislations listed in the conceptual framework.

The Second theory that we peg in our study is Instrumentalist theory which argues that it is rational for parties to organize along ethnic lines depending on the benefit it brings to them (Weir, 2012). At many occasions, appointment of public civil servants and of course referring to public university staff in Kenya is skewed towards ethnicity and nepotism commonly because of the political or economic gains. There is evidence and of course in public knowledge instances where appointment of a Vice-Chancellor in public university has been rejected by the communities where the university is located. The rationale for rejection has nothing to do with either with performance nor academic qualifications and experience of the Vice-Chancellor, but rather guided by a narrow view of a community wanting “their own”. We find the instrumentalist theory relevant to this study, since the theory is a pointer to selfish and greedy of persons and in this case the community considering opportunities of scarce resources as coming in after appointment of “their own”. Such opportunities may include employment, university tenders and contracts given to the tribesmen and women of the community. This preposition is supported by Chandra (2012) and Collier (2002) in their studies which indicate that ethnic conflicts and civil wars come about due to prospect of limited resources motivated by the aims of political or economic gains.

As we conclude this section, the study provide an over view of the interplay of variables in the conceptual framework. We observe that the republic of Kenya has passed and enacted in parliament quite a number of laws and legislations intended to guide the process of appointment of public civil servants. The Government of Kenya has also exhaustively established an important department with the Act of parliament namely, the National Cohesion and Integration Commission obligated as a watch dog to oversight the employment of public servants in Kenya. The Commission is equipped with instruments of power to intervene and revoke appointments where never there is violation of the laws by an institution bestowed with authority to employ public civil servants. Other critical laws and Acts of parliament meant to guide the process of appointments include: The Public Service Commission Act 2012; Fair and Administrative Action Act No. 4 of 2015; Leadership and Integrity Act of 2012; Public Officers Ethics Act 2002; and , Mwongozo Code of Conduct for Public Service in Kenya.

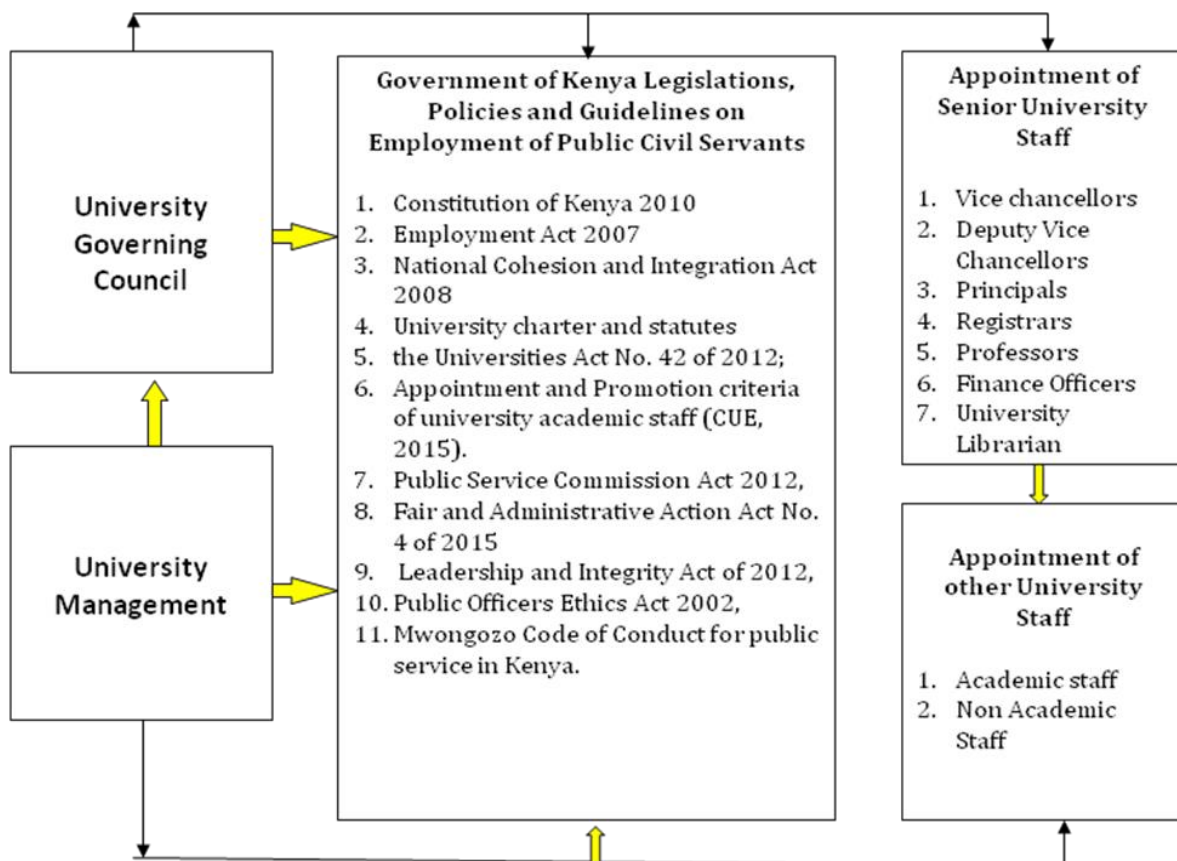


Figure: Conceptual Framework for Appointment of University Staff in Kenya.

#### 4.0 MATERIALS AND METHODS

This study adopts a desk research that utilizes descriptive analysis design and content analysis approach to conduct literature review of existing scholarly works in the body of knowledge relating to ethnicity constructs and its implications on university staff employment in Kenya. Therefore, the paper is enriched by empirical and theoretical studies as well as the new constitution 2010 of the Republic of Kenya; the Universities Act No. 42 of 2012; the Employment Act 2007 as revised in 2012; the National Cohesion and Integration Act 2008 as revised in 2012; the various Acts of Parliament including Public Service Commission Act 2012, Fair and Administrative Action Act No. 4 of 2015, Leadership and Integrity Act of 2012, Public Officers Ethics Act 2002, the Universities Charter and Statutes and other policy documents such as the Mwongozo Code of Conduct for public service in Kenya. The paper is meant as a contribution towards content development to the ongoing debate within the public domain in Kenya and also brings new knowledge which will benefit the academia and policy makers in making government decisions on negative ethnicity practices which is now a “cancer” and an embedment to effective and efficient public service delivery and in particular University development in Kenya.

## 5.0 DISCUSSION OF FINDINGS

In this section we bring forth our findings and conduct a discussion in the following order: Firstly, we put into perspective the scenario on the nexus between ethnicity and the university employment in Kenya. Secondly, we interrogate the procedure for appointments of Vice Chancellors with special reference to the Universities Act No. 42 of 2012; the Employment Act 2007 as revised in 2012; and, the National Cohesion and integration Act, 2008 as revised in 2012. In the third section, we make reference to selected universities charter and statutes to unveil knowledge on what procedure/ protocol do the Governing Councils of Universities in Kenya follow; while conducting appointments of the Vice-Chancellors. Finally, we put into perspective information about appointment trend of Vice Chancellors in thirty (30) Public Universities by ethnicity and County in Kenya.

### 5.1 The nexus between ethicality and University Employment

Have you ever in your life time been called names such as a tribalist in a university set-up? These are some of the intrigues and indeed there is evidence that this phenomenon is in a worrying trend. In the recent time Kenyan people have witnessed skewed appointments of public civil servants in the public service relating to political decisions. Kenyan citizens are choked with such appointments to the extent that may cause conflict and violence. There is growing literature that public universities and state-sponsored colleges have been converted to of tribal cocoons contrary to existing laws and legislations that touch on equal employment opportunities. According to the latest study on ethnic diversity and representation in thirty (30) State-funded institutions of higher learning, only five have complied with the law on equal ethnic representation in the employment of staff. The National Cohesion and Integration Commission (NCIC) report (2016), entitled “the Ethnic and Diversity Audit of Public Universities and Constituent Colleges” reveals that four ethnic groups have been completely locked out of employment in all the 31 institutions of higher learning. University of Nairobi, Multimedia University, Technical University College of Kenya, Nakuru-based Egerton University and Cooperative University College are the only institutions that have complied with the National Cohesion and Integration Act. The law that came into force in 2008 requires that no public institutions shall employ more than one third of its staff from one ethnic group. It complements other diversity legislation provided in Article 10, 27 and 232 of the Constitution and other public service policies.

According to the study by NCIC (2016), Kirinyaga University College ranks the worst in ethnic balance, with 82.7 per cent of staff coming from the Kikuyu community. Another institution is the Kibabii University where 79 per cent of staff are from the Luhya community. At Murang’a University College 76.1 per cent of the staff hail from the Kikuyu tribe while at Jaramogi Oginga Odinga University of Science and Technology, 75.1 per cent of employees come from the Luo community. The Report shows a strong correlation

between the ethnic group of the vice chancellor or principal, and the majority ethnic group among senior staff. Top public universities - Kenyatta University, Maseno University, Jomo Kenyatta University of Agriculture and Technology and University of Eldoret, Moi University - are among the universities which have failed to meet minimum requirements in ethnic diversity. Moi University, which has been on the limelight over the recruitment of vice Chancellor, has 60.6 per cent of its 3,198 members of staff from the Kalenjin community. The national outcry of ethnicity phenomenon in Universities in Kenya can also be traced in the year 2010 made by the then chair of the National Cohesion and Integration Commission which made a call removal of “ethnic Vice Chancellors” in the press release entitled “KENYA: Call for ‘tribal’ vice-chancellors to be moved”

Keeping in view the statistics in the foregoing paragraph, the question we need to raise is what about university development in terms of infrastructure, research capabilities, community service projects among others in these universities. Whereas, there is no positive relationship between “tribal appointments”( people from the communities where these institutions are based) of Vice Chancellors and University development; majority of the rural class of people think that “Ours” could perform better and bring development and therefore everyone from the ethnic group could benefit. The hypothesis can be tested based on the current appointments in both public and private universities. However, using evidence from the world Web ranking of African universities which some scholars have raised questions about, we find the analysis reliable and unbiased to draw a conclusion. The top two hundred (200) universities in the list in Africa and in particular from Kenya in 2016 are ranked as follows: University of Nairobi ranked No14; Egerton University No. 22; Kenyatta University No. 30; Moi University No.35; Strathmore University No.47; Jomo Kenya University of Agriculture and Technology No 48; United States International University No. 80; Mount Kenya University No.116; Catholic University of East Africa No.134; University of East Africa Baraton No.184; Maseno University No.189; Kenya Methodist University No. 190; and Daystar University No.198. Now looking at the development of the top Kenyan universities as per the ranking; we draw a conclusion that there is no correlation between appointments of Vice Chancellors of a given tribe with university development. The facts and figures speak loud and clear however, the hypothesis can be subjected to further study .In the next section we interrogate documents of the Republic of Kenya such as the Universities Act 2012 and the some selected Universities Charter and Statutes of various universities in Kenya to put into perspective the procedure of appointment of the Vice Chancellors in Universities in Kenya.

## **5.2 What does the law say about appointment procedure of Vice-Chancellors in Kenya?**

Pursuant to the provisions of the Universities Act No.42 of 2012 Section 39.(1) the Vice-Chancellor of a university shall be appointed— (a) in the case of a public university, competitively by the Cabinet Secretary on the recommendation of the Council; and (b) in the case of a private university, by the respective university Council in accordance with the provisions of the Charter. According to Section 39 (2) the Vice-Chancellor shall be the

chief executive of the university and shall - (a) be the academic and administrative head of the university; (b) have largely accountability role for the decisions, organization, management and programmes of the university; and (c) have such obligations given in the Charter. Section 39(3) point out that the Vice-Chancellor of a public university be in office for a tenure of five years and will be entitled for a additional tenure of five years. Section 39 (4) point out that the tenure of the Vice-Chancellor of a private university is given by Charter. Section 39 (5) indicates that the provisions of this section shall apply *mutatis mutandis* to the Principal of a constituent college.

According to Statute IV (4) of the Technical University of Kenya (TUK) we establish that the office of the Vice-Chancellor may be vacated if: i) the Vice-Chancellor resigns by giving six months' notice in writing to the Council; ii). He/she is notified by a six months' written notice of the Council's decision to terminate employment; iii) he/she is unsuitable to hold office by reason of criminal conduct proven by a court of law or he/she is adjudged bankrupt, or he/she is of ill health, insane or any other reason as the Council may determine; or iv) dies. OR b) As may be specified in the terms and conditions of service for the appointment of the Vice-Chancellor.

While utilizing a sample of selected charters and statutes from both public and private universities, it is established herein that there is concurrence on the procedure of appointment of Vice Chancellors. In overall the responsibility of appointment of the Vice Chancellors in both private and public universities rests on the University Governing Council. Pursuant to the provisions of the Charter for Strathmore University Part IV (20) 1 provides that "there is a Vice Chancellor appointed by the Council". Statute IV of the University of Eldoret (2013) indicates that the Vice Chancellor shall be appointed by the Cabinet Secretary, upon recommendation by the Council in accordance with section 39 (1) (a) of the Act. According to the Technical University of Kenya (TUK) Statute IV (4) of October (2013) the appointment of the Vice-Chancellor shall be in accordance with the provisions of the University Charter and the Statutes provided that the Vice-Chancellor shall be recruited on merit and on competitive basis (TUK, 2013). Further, we establish that the procedures of appointment and terms and conditions of service of the Vice-Chancellor are set out in university Statutes, and are subject to amendment thereto by the Governing Council from time to time. According to the Great Lakes University of Kisumu (GLUK) Statutes for 2013 Schedule III on terms and conditions of appointment of principle officers, the Vice-Chancellor shall be appointed or reappointed in accordance with the following procedure (GLUK, 2013): i. Not less than one year before the initial period of office of a Vice-Chancellor is due to come to an end by lapse of time, a search committee shall be appointed to execute duties of advertising, vet on merit a prospective candidate for the position of Vice-Chancellor. The Search Committee shall report to the Governing Council with a recommendation either that the current Vice-Chancellor be re-appointed for a second term of five years, or prospective candidate qualified on merit based on the Governing Council judgment and wisdom after the interview, be appointed as the next Vice-Chancellor. ii. Members of the Search Committee shall be as follows:

1. The Chairperson of Governing Council, who shall chair the Committee; 2. Three members of the Governing Council; 3. One professor appointed by the Senate, who is not a member of the Governing Council; iii. Chair of the alumnae association and iv. If for any reason, there is no Vice-Chancellor elect, an Acting Vice-Chancellor shall be a member. The terms of reference for the search committee entails: to develop and provide details of the content of the advertisement for the position of the Vice Chancellor; spell out the minimum requirements for employment of the Vice Chancellor; conduct interview of the Vice Chancellor; and present the top three suitable candidates identified and recommended by the committee for appointment to the position of the Vice Chancellor.

### **5.3 The trend of appointment of Vice Chancellors' in Public University in Kenya: Facts and Figures.**

We use the facts and figures posted or uploaded to well established public universities websites in Kenya to analyse the distribution of Vice-Chancellors' appointments by the Ministry of Education Science and Technology on recommendation by the University Governing Councils. The study indicates that the six major tribes in Kenya are beneficiaries of appointment of the position of Vice Chancellors in public universities see table 1. Whereas, the Employment Act 2007 as revised in 2012 as well as the Kenyan new Constitution 2010 have provisions of affirmative action as articulated in section 5 (4) of the Employment Act 2008 -which states : "It is not discrimination to - (a) take affirmative action measures consistent with the promotion of equality or the elimination of discrimination in the workplace". we note with concern that persons living with disability and other marginalized groups in Kenya have not benefitted from the provisions as provided by the law and legislations of the Government of Kenya. The study also reveals that women are slowly coming to the limelight through the affirmative action and therefore appointed to the position of Vice-chancellors. It is his note, that we encourage more women be appointed as Vice-Chancellors of universities in Kenya by the Ministry of Education Science and Technology.

**Table 1: The Vice-Chancellors in Public Universities by ethnicity and County: Facts and Figures as at October 2016**

S/ No.	Name of the Public University	Tribe	Gender	Marginalized and Persons Living with disability	Year Established	Year Awarded Charter	Location
	<b>University of Nairobi</b>	<b>Kamba</b>	<b>Male</b>	None appointed since University inception	1970	2013	<b>Kiambu County</b>
	Moi University	Luhya	Male	None appointed since University inception	1984	2013	Uasin Gishu County
	Kenyatta University	Kikuyu	Male	None appointed since University inception	1985	2013	Kiambu County
	Jomo Kenyatta University of Agriculture and Technology	Luhya	Female	None appointed since University inception	1994	2013	Kiambu
	Egerton University	Luo	Male	None appointed since University inception	1987	2013	Nakuru County
	Maseno University	Luo	Male	None appointed since University inception	2001	2013	Kisumu County
	Dedan Kimathi University of Technology	Kikuyu	Male	None appointed since University inception	2007	2012	Nyeri County
	Chuka University	Ameru	Male	None appointed since University inception	2007	2013	Meru
	Technical University of Kenya	Luo	Male	None appointed since University inception	2007	2013	Nairobi County
	Technical University of Mombasa	Swhili	Male	None appointed since University inception	2007	2013	Mombasa County
	Pwani University	Swahili	Male	None appointed since University inception	2007	2013	Mombasa County
	Kisii University	Kisii	Male	None appointed since University inception	2007	2013	Kisii County
	Masinde Muliro University of Science and Technology	Luhya	Male	None appointed since University inception	2007	2013	Kakamega County
	Maasai Mara University	Luhya	Female	None appointed since University inception	2008	2013	Narok County

	South Eastern University	Kamba	Male	None appointed since University inception	2008	2013	Kitui County
	Meru University of Science and Technology	Ameru	Male	None appointed since University inception	2008	2013	Meru County
	Multimedia University	Kikuyu	Male	None appointed since University inception	2008	2013	Nairobi County
	Jaramogi Oginga Odinga University of Science and Technology	Luo	Male	None appointed since University inception	2009	2013	Siaya County
	Laikipia University	Kikuyu	Male	None appointed since University inception	2009	2013	Laikipia County
	University of Kabianga	Luhya	Male	None appointed since University inception	2009	2013	Kericho County
	University of Eldoret	Luhya	Female	None appointed since University inception	2010	2013	Nandi County
	Karatina University	Kikuyu	Male	None appointed since University inception	2010	2013	Nyeri County
	Machakos University	Kamba	Male	None appointed since University inception	2011	2016	Machakos University
	Rongo University	Luo	Male	None appointed since University inception	2011	2016	Homa Bay County
	Taita Taveta University	Taita	Male	None appointed since University inception	2011	2016	Taita Taveta County
	Kibabii University	Ateso	Male	None appointed since University inception	2011	2015	Bungoma County
	Murang'a University of Technology	Kisii	Male	None appointed since University inception	2011	2016	Muranga County
	University of Embu	Kikuyu	Male	None appointed since University inception	2011	2016	Embu County
	Kirinyaga University	Kikuyu	Female	None appointed since University inception	2011	2016	Kirinyaga County
	The Co-operative University of Kenya	Luhya	Male	None appointed since University inception	2011	2016	Nairobi County

Source: Data adopted from Commission for University Education (CUE) and other sources, (2016)

Pursuant to the provisions of part II Section 5 (1), (2), (3) and (4) of the Employment Act 2007 as revised in 2012 (GOK, 2007) the Minister, labour officers and the Industrial Court have the obligation of promoting equality of opportunity in employment in order to eliminate discrimination in employment. It critical to note that these provisions of the law have not been implemented to the letter. Table 1 gives a picture that chief executive officers of public universities in Kenya come from very few ethnic tribes in the country. The skewed appointments of Vice-Chancellors based on narrow factor of the university location *visa-vis* community on the ground is found to be worst impediment in implementation of the employment Act 2007 and the National Cohesion and Integration Act 2008. Politics may also have played a critical role, where appointments could be used to appease some communities a sign of empowerment of regions and tribes but cleverly targeting numbers of votes from a region or tribe at electioneering date. These scenarios contribute heavily to what we call “bad manners” in appointment of public civil servants in Kenya in particular Vice-Chancellors. The danger of these category of appointments endorse ethnicity and therefore have a chance to permeate into the centre stage of employment of public universities contrary to the law. we note that, through such ethnic practices in employment of university staff, institutions of high education once regarded as “ivory towers” are slowing being converted into tribal cocoons, deviating from the their original vision and mission of being premier centres of excellence. In the next section, we summarise the study findings by giving a conclusion and critical recommendations to inform policy.

## 6.0 CONCLUSION AND RECOMMENDATIONS

When the debate arose about the appointments of the Vice Chancellors in public universities in the press and social media in the recent time in Kenya; the question was about on whether of or not the rule of law is been followed to the letter and spirit in these appointments. The outcry was about ethnicity *vis-a-vis* appointments of public officers in Kenya. Our study notes that there is elaborate existing guidelines from authority documents such as: the New Constitution of Kenya for 2010; the Employment Act 2007; the Universities Act 2012 and the National Cohesion and integration Act 2008. We find no contradiction whatsoever on procedures on appointment of a public servant. The law is clear that competition is key and merit is the word for consideration in the process of appointment of Vice-Chancellor in Universities in Kenya. Part III of section 7 (1) and (II) of the National Cohesion and Integration Act 2008 make provisions that all government departments need to embrace ethnic diversity in the appointment of staff; and, no government department will employ more than one third of its staff from one ethnic group. The National Cohesion and Integration Commission (NCIC) report (2016), entitled “the Ethnic and Diversity Audit of Public Universities and Constituent Colleges<sup>17</sup>” reveals that four ethnic groups have been completely locked out of employment in all the thirty (31) institutions of higher learning. Our findings show that six major tribes in Kenya

have reaped the fruits of appointments to the position of the Vice Chancellor. We raise a concern on already forgotten class of Kenyans namely the marginalized and persons living with disability. Ours findings also show that small percentage of women have been appointed to the position of Vice Chancellors which is a good gesture indicating that the Ministry of Education Science and Technology is listening to the affirmation action law. A number of public universities could move away from the trend of employing more than one third of staff from one ethnic group if and if only appointments are not ethicized to serve interests of political class. We argue that, *ceteris paribus*, more ethnically vulnerable countries are likely to perform economically. This phenomena should be fought by the rule of law at all costs in Kenya.

In the short term we propose the need to embrace an ethnic mix (face of Kenya) by implementing diversity policy to the letter and spirit in all universities. This will bring diversity in capabilities, knowledge and background that would be prolific. In the medium term our Legislators in parliament need a bill to be drafted urgently so as to be enacted to law which will be intended to constitute and establish a National Employment Commission for Universities in Kenya (NECUK) to regulate and deal with issues of employment and transfers of staff in both private and public universities. An equivalent of the Public Service Commission. While it is imperative to empower employees from minority groups like women and physically challenged through affirmative action it is of essence that consideration should be made to lower qualification requirements for minority groups and disabled to enable them access employment opportunities in the public universities in particular the position of the Vice-Chancellor.

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