

An Analysis of the Impact of Vice-Chancellors' Powers on the Student Movement

The crackdown in institutions of higher learning has seen an increased call to review the powers of Vice-Chancellors and college Principals within institutions of higher learning. This paper is an attempt to briefly shed light on the powers of Vice-Chancellors and their impact on the student union within institutions of higher learning.

Background

The period post 2000 saw an increased crack down on the student movement in Zimbabwe. It should be noted that while this crack down was not a unique phenomenon, what became peculiar was increased tenacity and viciousness from college authorities in dealing with the students union. The going into alliance of the student's movement with civil society organizations and other oppositional movements in fighting for broader democratic issues in the country invited more wrath from college and state authorities. This resulted in a coordinated effort by the state and college authorities in dealing with students. Instruments of oppression were sharpened within the institutions of higher learning as attempts were made to discipline and silence student leaders and activists seen to be sympathetic to the opposition. According to the Students Solidarity Trust, more than 95 students have been expelled and suspended for lengthy periods, while more than 1248 students have been persecuted for participating in the struggle for the democratization of Zimbabwe¹. This coercion and muzzling of the student movement activities by college and state authorities infringed quite a number of students rights. It is against this background that this short study is conducted to review the legislation governing tertiary institutions with specific reference to the University of Zimbabwe, National University of Science and Technology and Midlands State University.

Prima facie the University of Zimbabwe Act, which has been used as a model framework for developing other University Acts, appears as a normal piece of legislation. In reality the University of Zimbabwe Act has been used to muzzle academic freedoms and students rights. The University of Zimbabwe Act places excessive powers within the

¹ http://www.studentsolidarity.org/index.php?option=com_content&task=view&id=12&Itemid=27
accessed on the 2nd of February 2009.

Vice Chancellor and these have been grossly abused and resulted in a number of students being denied the right to education because of their political convictions.

The Appointment of the Vice-Chancellor, Constitution of the Council and Senate and its impact on Student Rights and Academic Freedoms

The Vice-Chancellor is appointed by the Chancellor of the University who is the President of Zimbabwe. Section 7.1 states that:

The President of Zimbabwe shall be the Chancellor of the University of Zimbabwe.

Section 7.2 further states that:

The Chancellor shall be the Chief Officer of the University who shall have the right;

a. to preside over any assembly or meeting held by or under the authority of the University;

These sections bestow upon the Chancellor tremendous power to directly and indirectly influence processes within the university. Thus the Chancellor is made the Chief Officer of the university, yet in reality he/she is ever hardly involved in university with the exception of graduation day where he usually comes to confer degrees. According to section 8.1 the Chancellor in consultation with the Minister and the Council appoints the Vice-Chancellor.

In this case the Chancellor who is the President of Zimbabwe has to consult the minister who is also his appointee. According to the Constitution of Zimbabwe, the President:

*Shall appoint Ministers and may assign functions to such Ministers...*²

Therefore the consultation between the Chancellor and President is more a matter of formality or rubber stamping as the Minister is a direct appointee of the president. More so, Article 31D.2 states that:

Any person appointed under this section shall, before entering upon his office, take and subscribe before the President or some other person authorized by the

² The Constitution of Zimbabwe as amended to No. 16 of 20 April 2000, Chapter 4, Article 1D.1

*President in that behalf the oaths of loyalty and office in the forms set out in schedule 1*³.

In this case the Minister is answerable and responsible to the President who in turn is the Chancellor of the university. This calls into question the independence of the Minister in making decisions which are not favourable to the Chancellor.

The University Council which is a creature of Section 11 is either directly or indirectly appointed by the Chancellor through the Minister. Sections 11.1b, c, f, j, k, l, m, n, o, p, q, and r confer power within the minister to directly or indirectly appoint council members for the university⁴. This means that the minister has power to meddle with the appointment of 26 council members out of 43 as provide for within the University of Zimbabwe Act. This already gives people who are directly influenced by the Chancellor or Minister already a simple majority in council. It should also be noted that section 11.1d states that “*the President of the Students’ Union, who shall be an ex-officio member...*”⁵ This section actually disenfranchises the only student representative of any voice to speak out or against appointees of the Chancellor. In addition some of the council members come from the Senate. The Senate has provision for six elected student leaders, but this effort is thwarted by the fact that these student leaders are excluded from some of the processes within the Senate as determined by the Chairman as confidential. Section 15.1c states that:

*Six students elected annually by the Students’ Union: Provided that such students shall not be entitled to attend deliberations of the Senate on matters which are considered by the chairman of the Senate to be confidential*⁶.

Participation of the student union is left to the mercy of the Senate chairperson, and this raises questions of impartiality of the chairperson in discussing issues concerning the students union. This means that in terms of Senate deliberations or a possibility of another student leader coming into Council to represent the Senate is very remote.

³ Ibid

⁴ University of Zimbabwe Act, Acts 27/1982. 21/1990

⁵ Ibid

⁶ Ibid

Powers of the Vice-Chancellor

The office of the Vice-Chancellor is vested with excessive powers, which have militated against student rights and academic freedoms that are viewed as not being in compliant with authorities. Section 8.2 states that:

*Subject to the general control of the Council, the Vice-Chancellor shall be the chief academic, administrative and disciplinary officer of the university...*⁷

This section vests absolute authority in the Vice-Chancellor who is a political appointee of the Chancellor (President of Zimbabwe). More so there are no limits imposed on the powers of the Vice-Chancellor thus creating a culture of impunity and no checks and balances. In addition, the powers of the Vice-Chancellor are also vaguely and omnipotently crafted. Section 8.3a-f empowers the Vice-Chancellor to:

- Prohibit the admission of a student or any person to the university,
- Prohibit, indefinitely or for such a period as he may specify, any student or group of students from attending any class or classes,
- Prohibit any student or group of student or person or group of persons from entering or remaining on such part or parts of the University campus as he may specify.
- Expel or suspend, indefinitely or for such period as he may specify, any student or group of student
- Dissolve or suspend indefinitely or for such period as he may specify, the Students' Union or any of its committees or organs, or prohibit or suspend, indefinitely or for such a period as he may specify, any activity or function of the Students' Union or any of its committees or organs;⁸

This effectively gives the Vice-Chancellor a blank cheque when dealing with students issues. Whilst it can be argued that sections 8.3g, 8.4 and 8.5⁹ impose restrictions on the Vice-Chancellor to exercise his/her powers with restraint it has been noted that in reality the case is not so as these sections are compromised. For instance section 8.5 requires the ratification by council any action by the Vice-Chancellor taken in terms of subsection 3

⁷ Ibid

⁸ Ibid

⁹ Ibid

of Section 8, yet at the same time this council has more than a simple majority of people directly or indirectly influenced by the Chancellor, Vice-Chancellor and the Minister¹⁰.

Section 8.4¹¹ is also rendered more of an academic exercise as the Student Disciplinary Committee (SDC) is a highly partisan body. The composition of the SDC makes it difficult for it to deliver impartial and fair judgments in issues regarding the students. The SDC is reduced to an instrument of repressing student rights and academic freedoms by the university administration. According to section 23.2 a quorum is duly formed by five members¹². There is no mandatory requirement for the SDC to be constituted with people with a legal background or any training in paralegal. This negates the informing of SDC processes by legal minds and ensures that the rules of natural justice and fairness are adhered to. More so the members of the SDC are appointees of the Chancellor through the Vice-Chancellor, except for the student representative as provided for by Section 23.1d¹³. On the other hand Section 23.1a-c¹⁴ which constitutes the SDC are extensions of the Vice-Chancellor which poses questions of check's and balances in terms of the powers of the Vice-Chancellor. More so the decision making within the SDC is reduced to a simple majority and balance of probability which is a very simple process that does not require the interrogation of evidence to be beyond any reasonable doubt.

A Regional Perspective on the Chancellor, Vice-Chancellor and Council Powers

A brief comparison with other institutions of higher learning within the region in particular South Africa; it is quite clear that there is a huge disparity with Local Universities. Institutions of the Chancellor and Vice-Chancellors are not endowed with arbitrary and excessive powers as it is the case with local Universities. For instance, while the University of Zimbabwe Act defines the chancellor as the Chief Officer of the University, Section 4.1 of the Statute of the University of KwaZulu-Natal, defines the

¹⁰ Ibid

¹¹ Ibid

¹² Ibid

¹³ Ibid

¹⁴ Ibid.

chancellor as the titular head of the University¹⁵. Thus a Chancellor plays more of a figurehead role without executive powers and this is also the same case with the University of Johannesburg Amendment of Standard Institutional Statute, section 5.1 which also stipulates that; ‘The chancellor is the titular head of the institution’¹⁶. More so Section 5.1¹⁷ provides for the framework for electing a Chancellor and this is a complete deviation with local universities and colleges where the post is filled by decree. Whereas in the UZ Act the Minister had direct or indirect influence to appoint more than half of the council members, according the Statute of the University of KwaZulu-Natal section 8 and the University of Johannesburg Amendment of the Standard Institutional Statute Section 9.1c¹⁸, the Minister has influence to appoint five people¹⁹. At the same time section 8.1f²⁰ and Section 9.1f²¹ also observes the election of two student leaders into the council, while for instance the Section 11.1f²² of the UZ Act only provides for one student councilor who is an ex-officio member. Thus it is quite clear in this case that the student councilors from the local universities are not empowered to make any meaningful contributions within the council. In addition section 10 of the Statute of the University of KwaZulu-Natal²³ and Section 11 of the Standard Institutional Statute of the University of Johannesburg²⁴ specifies the terms of office of council members and at the same time imposes limits, whereas the Acts establishing local universities are silent or do not.

¹⁵ The Statute of the University of KwaZulu-Natal, Higher Education Act 19997, (Act No. 101, OF 1997), Government Notice, 14 July 2006

¹⁶ University of Johannesburg, Amendment of the Standard Institutional Statute, Higher Education (Act 101, OF 1997), Government Notice, 7 November 2003.

¹⁷ The Statute of the University of KwaZulu-Natal, Higher Education Act 19997, (Act No. 101, OF 1997), Government Notice, 14 July 2006

¹⁸ University of Johannesburg, Amendment of the Standard Institutional Statute, Higher Education (Act 101, OF 1997), Government Notice, 7 November 2003.

¹⁹ The Statute of the University of KwaZulu-Natal, Higher Education Act 19997, (Act No. 101, OF 1997), Government Notice, 14 July 2006

²⁰ The Statute of the University of KwaZulu-Natal, Higher Education Act 19997, (Act No. 101, OF 1997), Government Notice, 14 July 2006

²¹ University of Johannesburg, Amendment of the Standard Institutional Statute, Higher Education (Act 101, OF 1997), Government Notice, 7 November 2003.

²² University of Zimbabwe Act, Acts 27/1982. 21/1990

²³ The Statute of the University of KwaZulu-Natal, Higher Education Act 19997, (Act No. 101, OF 1997), Government Notice, 14 July 2006

²⁴ University of Johannesburg, Standard Institutional Statute, Higher Education (Act 101, OF 1997), Government Notice, 7 November 2002.

National Legislation

Whilst University Acts and Ordinances have created oppressive apparatus within institutions of higher learning there has also be national legislation in particular the following pieces of legislation:

- **Public Order and Security Act** – necessary to include it since most students find themselves being charged in court for conduct at University which contravenes this Act.
- **Criminal law (Codification and Reform) Act**, students are also being charged for contravening this Act, for example when they participate in demonstrations on campus²⁵.

A snap view of the SST State of the Education March Report shows that a number of students have been affected by state-manufactured repression. A scant view of the table below helps to emphasise this picture:

Category of right violated	Jan	Feb	Total Jan-Feb
Unlawful Arrests	0	6	6
Unlawful detention	0	6	6
Torture/Abductions	0	0	0
Expulsion/Suspension	0	2	2
Assault	0	0	0
Political discrimination/Victimization	0	0	0
Freedom of expression/ass/mvt	2	0	2
Death Threats	0	0	0
Total	2	14	16

Fig1²⁶.

The figure above is an indication of how oppressive laws have been used to quell student dissent within institutions of higher learning.

²⁵ Students Solidarity Trust, State of the Education March 2009 Report.

²⁶ Ibid

Conclusion

This review gives a brief summation of the powers of the Vice-Chancellors within institutions of higher learning and how they have impacted the student union. While the research is not a comprehensive study it is quite clear that this excessive endowment with un-checked powers has contributed to the general collapse within institutions of higher learning. However it should be noted that this review due to the unavailability of other primary documents it relied more on more than one document (The University of Zimbabwe Act). Whilst it can be argued that the Acts within the institutions of higher learning are all modeled along the University of Zimbabwe Act; it should be noted that the unique stories that could have emerged from focusing on each institution of higher learning ceases fails to appear. A comprehensive study would thus be able to deal with all these shortcomings.

Recommendations

There is need for a comprehensive study to be undertaken that will try to have a holistic approach and understanding of the impact of Vice-Chancellors within institutions of higher learning. There is a pointer to the need to review systems and make recommendations for possible amendments to legislation governing institutions of higher learning. There is also need to have a look at legislation governing institutions of higher learning regionally and other international institutions of higher learning. A closer look at a country like South Africa would be a good starting point where there is a clear distinction between political functionaries and college authorities.

There is also need to broaden the scope to have in depth interviews with students who have been affected by these unjust and arbitrary actions, and at the same time also interview lawyers who have been representing students. More critically there is need to pay attention to the following issues.

1. Council

- There is need to reduce ministerial influence in the selection of councilors, i.e. those directly or indirectly appointed. The proportion has to be negligible as far as conducting university business is concerned to avoid political interference.
- There is need to increase the number of student representation in council. More so this student representation needs to be empowered. As such they need to be made full council members with equal powers like other council members and not to be made ex-officio.
- The council has to be made truly independent or autonomous. As such it has to be the supreme body in setting university policy and direction. Therefore council should not become a rubber stamp of political decisions. This actually calls for the total institutional autonomy of institutions of higher learning.

2. Chancellor

- Universities through their own councils need to elect their own chancellors. The old system of making it mandatory for the head of state/president to be the chancellor of all institutions of higher learning needs to be done away with. There is need to empower universities and make them fully autonomous with government coming in particularly on setting the broader higher educational policy framework and funding.
- The office of the chancellor should have limited tenure. The tenureship can always be determined by specific councils within institutions of higher learning.

3. Vice-Chancellor

- There has to be a clear and independent process for the appointment of vice-chancellor. University councils need to be empowered to make such critical decisions without any political interference. The selection process has to be rigorous and transparent and if there are any disputes it has to be subject to audit/ review by aggrieved parties, through an independent and reputable board.

- The powers of the Vice-Chancellor needs to revisited and revised. In that case the Vice-Chancellor may not arbitrarily suspend a student without a full hearing has been conducted. Where a vice-chancellor wants to suspend a student pending a hearing determination there has to be extenuating circumstances which will be approved upon application by an approved body.

4. *Student Disciplinary Committee.*

- There is need to democratize student disciplinary committees within institutions of higher learning in this country.
- Appointment of personnel with a proper and strong legal or paralegal background.
- To carry out a review of student rules of conduct and disciplinary processes within institutions of higher learning by a reputable law firm or commission.
- There is also need to add a certification of disciplinary cases by a reputable law firm before actioning by the university. This will act as a means test to ensure that cases are in compliant with the rule of law.

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