



UNIVERSITY TEACHERS ASSOCIATION OF GHANA

14th May 2020

The Clerk to the Committee
Parliamentary Committee on Education
Parliament House
Accra

Dear Sir,

UTAG Memorandum on Public University Bill, 2020

The University Teachers Association of Ghana (UTAG) has examined the Public University Bill, 2020 and wishes to submit this memorandum for the consideration of the Parliamentary Select Committee on Education.

In the Memorandum attached to the Bill, the Honourable Minister responsible for Education, Dr Matthew Opoku Prempeh, stated that “the passage of this Bill will to a large extent harmonise the governance, administration and accountability structures of public universities.”

This is in line with our observation that the Bill seeks to provide public universities with a common governance structure. Thus, in examining this Bill, UTAG sought to ensure that, indeed, the Bill will achieve that stated aim. Therefore, UTAG took into consideration the best practices as captured in the existing Acts and Statutes, and inputs from the ten (10) Branches of UTAG in arriving at this memorandum.

The following general concerns are common to the issues raised by all the ten (10) Branches of UTAG:

- a. We observe that out of the total membership of thirteen (13) Council members, only five (5) are from the University. This tilts everything in favour of the Government of the day. In any case, governance of the public universities is different from the usual corporate governance as we know it.

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- b. Significantly missing are the representatives of Convocation, which is made up of all senior members of a University. One may argue that the representatives of the Unions of Senior Members come from this constituency. However, it must be noted that they represent Unions, whose aspirations may be different from that of Convocation. It will therefore be important to have at least one (1) representative of Convocation on Council. This will also assure the university community or academic fraternity of representation on the Council. Convocation representatives will help Council to have a true picture of what is happening on the ground, especially at a time when managers usually do not report accurately the realities on the ground. This will help in proper decision making of the Council. In other words, university community must have representation on Council other than Unions alone.
- c. Similarly, it is apparent that graduate students (i.e. GRASAG¹) have been excluded from the Council of the University or merged with the undergraduate students, i.e. the Students Representative Council (SRC). However, given the dynamics and different aspirations of the two groups, as it currently exists, there will have to be a proper arrangement to ensure that the needs and concerns of the graduate students are well taken care of at Council. It is important to state that at the heart of research in the public universities is the efforts and contributions of graduate students. Thus, graduate students are important stakeholders in the operations of public universities and must be included in the decision-making process.
- d. Again, this Bill has curtailed the role of the Alumni on the Council. We are sure this will affect the contribution of the alumni towards the development of the various Universities. Evidence abound that the alumni contribute tremendously to the development of public universities. Examples include the setting up of endowment funds and scholarship schemes for poor but brilliant students. The logical thing to do is to include a representative of the alumni on the Councils to ensure that they have an opportunity to contribute to university governance.
- e. The centralised applications processing procedure is likely to infringe on the institutional autonomy of the university as it will remove control of determining who is best qualified for a programme at the institution to a different body which may not know or understand this criterion. The idea is also likely to create chaos in the admission process as already associated with the Senior High School admissions system. More so, this system is going to deprive public universities of funds that they would normally generate through the sale of application forms.

¹ GRASAG – Graduate Students Association of Ghana

- f. Lastly, we note that in the First Schedule, Kwame Nkrumah University of Science and Technology (KNUST), for example, will no longer be able to run courses in applied arts and humanities. Likewise, University of Cape Coast (UCC) can no longer run courses in the health sciences, among others. UTAG is of the view that the mandate of the various public universities, as captured in the First Schedule, should be maintained. However, the Repeals and Savings, i.e. Section 50, should be modified to allow the public universities to continue to run existing programmes that are outside their mandate as captured in the First Schedule.

The following sections provide details of the recommendations of UTAG.

1. Section 2: Aim of a public university

Under Section 2(2)(h), the institution of curricula and pedagogy is addressed. However, limiting the method of teaching is problematic. It is important to note that teaching and learning techniques vary and change over time depending on the exigencies of the time. Otherwise, anytime a new approach is required, we will need Parliamentary approval to alter it. Hence, the need to leave the method of teaching and learning to the Public Universities to decide and implement.

Teaching is dynamic and it is imperative that one employs a method that works effectively and is consistent with the era. A case in point is the happenings in the education sector in the face of the COVID-19 pandemic. The exigencies of the time will always dictate the applicable teaching method to use.

Recommendation

Rephrase Section 2(2)(h) to read as follows:

Original provision	Proposed revision
(2) In furtherance of subsection (1), a public university shall: (h) institute curricula and pedagogy, within the context of learner-centred and problem-based learning techniques, that promote critical and independent thinking;	institute curricula and pedagogy, as approved by the Council of the public university, relevant to the era and practices of the time, that promote critical and independent thinking;

2. Section 3: Campuses of a public university

Section 3(4) is ambiguous. It sounds as though there can be two working Governing Councils at some point in time. It should be rephrased for the College Board to report to the Council of the public university.

Recommendation

Rephrase Section 3(4) to read as follows:

Original provision	Proposed revision
(4) Where a college or public tertiary institution is established or declared as a constituent college of a public university under subsection (3), the governing Council of the college or public tertiary institution shall be responsible for the constituent college of that public university	Where a college or public tertiary institution is established or declared as a constituent college of a public university under subsection (3), the Council of the public university shall be responsible for the constituent college of that public university.

3. Section 5: University Council

a. Section 5(1) addresses the composition of the Governing Body of a public university. A careful study of Section 5(1) shows that Alumni and Industry Partners, who hitherto had seats on Council as per the exiting Acts of the various public universities, are no longer represented.

Section 5(1)(a) suggests that the President must nominate the chairperson of Council, which is at variance with article 195(3) of the Constitution of the Republic of Ghana which provide as follows:

Article 195(3) The power to appoint persons to hold or act in an office in a body of higher education, research or professional training, shall vest in the council or other governing body of that institution or body.

Article 70(1)(d)(iv) is used as the basis to claim that the Constitution gives the President the power to appoint the chairperson of University Councils. The provision reads:

(1) The President shall, acting in consultation with the Council of State, appoint-

- (d) the Chairmen and other members of -
 - (iv) a National Council for Higher Education howsoever described.

However, that position is not supported by the Constitution. What the said Article refers to is the appointment of the chairman and members of a "National Council for Higher Education," which is the predecessor body to the National Council for Tertiary Education.

Secondly, under Section 5(1)(d)(iii) of the Bill, room is given for one (1) representative for both Junior and Senior Staff associations. However, Junior Staff category is different from the Senior. Hence, there is a need to give each category a representation.

Thirdly, under Section 5(1)(d)(iv), room is given for one (1) representative for Students' Representative Council. However, there are two (2) categories of students, i.e., undergraduate, and postgraduate students. Postgraduate training is central to the research output of the public universities. Hence, the need to give each category a representative on the Council of the public university.

In addition, we need to have at least one (1) representative of Convocation on the Council. This is particularly so when the business of public universities is a direct link between academics and students. Oftentimes, the SRC, graduate students, junior staff and senior staff representatives are not involved in discussing "reserved business" of Council, such as appointment and promotion of Senior Members. The present composition of the Council implies that "reserved business" would be discussed by only the Vice Chancellor, UTAG representative and Government nominees. UTAG proposes the inclusion of at least a professorial member of Convocation on the Council. Though the Vice Chancellor is a member of the Convocation, on the Council, he/she performs many other functions. Therefore, he/she will not adequately represent the interests and concerns of Convocation. Moreover, sometimes managers do not report accurately the realities on the ground. Therefore, he/she will not be best positioned to articulate the views of Convocation. This will help in proper decision-making of the Council. This is to say, academics must have a central place on Council in addition to the Unions/Associations representations.

Lastly, UTAG has noted that some relevant stakeholders in the governance structure of public universities have been omitted. These are the Alumni and relevant Industry Partners who invest heavily in the public universities in Ghana. For example, most alumni groups have endowment funds and scholarship schemes for the public universities they belong to whereas some industry partners host research chairs in the public universities with mandates that fall within their area of

operation and also contribute massively to infrastructural development of the public universities. Therefore, there is the need to give them representation on the Councils.

- b. Section 5(5) states that the President may dissolve and reconstitute the Council in case of emergency. However, the emergency cases to warrant the dissolution are not stated and Section 5(6) only states that the condition will be stated in the Statutes of the Public University. For uniformity and the avoidance of doubt, it is important to state the emergency cases that may warrant such an intervention by the President in the Act.

Importantly, it is unclear why the Acts seeks to give such powers to the President when there is a Chancellor who has the power to intervene in matters that threaten the integrity and well-being of the public university in consultation with the Council, as captured under Section 14(8) of the Bill. The dissolution of Council in a “case of emergency” is inherently destabilising and potentially chaotic for the effective governance of public universities. This will, thus, affect institutional autonomy.

Recommendations

Rephrase Section 5(1) to read as follows:

The governing body of a Public University is a Council which shall consist of:

- (a) a Chairperson elected by the Electoral College;
- (b) the Vice-Chancellor of the public university;
- (c) five persons appointed by the President, at least two of whom are women;
- (d) one representative of
 - i. the academic staff nominated by the teacher associations of the academic staff;
 - ii. Convocation (a member of professorial rank);
 - iii. Convocation (a member of non-professorial rank);
 - iv. the senior members (non-academic) nominated by a body representing the non-academic senior members;
 - v. junior staff nominated by the junior staff;
 - vi. senior staff nominated by the senior staff;
 - vii. undergraduate students elected by the Students’ Representative Council;
 - viii. postgraduate students elected by the postgraduate students;
- (e) one representative of the
 - i. Technical and Vocational Education and Training Service not below the rank of a Director nominated by the Director-General

- of the Technical and Vocational Education Training Service, in the case of a technical public university; or
- ii. Ghana Education Service not below the rank of a Director nominated by the Director-General of the Ghana Education Service, in the case of other public universities;
- (f) one representative of the Ghana Tertiary Education Commission, nominated by the Director-General of the Ghana Tertiary Education Commission and who shall be a non-voting member;
- (g) one representative of alumni nominated by the alumni of the public university; and
- (h) one representative of relevant industry nominated by the University.

Rephrase Section 5(2) to read as follows:

Original provision	Proposed revision
(2) The President shall, in making the nominations, under paragraphs (a) and (c) of subsection (1), have regard to the academic qualifications, leadership qualities, gender, expertise in finance, management, knowledge and relevant experience in the area and specialisation of the public university.	The President shall, in making the nominations, under paragraph (c) of subsection (1), have regard to the academic qualifications, leadership qualities, gender, expertise in finance, management, knowledge and relevant experience in the area and specialisation of the public university.

Based on reasons enumerated under Bullet 3, Sections 5(3), 5(5), and 5(6) should be expunged from the Bill.

4. Section 8: Tenure of office of members of the Council

- a. Usually, Council holds meetings quarterly (see Section 9(1)). It is important to clarify that Section 8(2) is referring to only regular meetings.
- b. In the case of any resignation (as stated in Section 8(3), it is important that the Chairperson of the Council is made aware of the resignation. Moreover, by reference to article 195(3), the resignation letter cannot be submitted to the President. Only the presidential appointees should submit a resignation letter to the President through the Minister.
- c. In consonance with the letter and spirit of arguments in Bullet 3(b) in relation to the dissolution of Council by the President, Section 8(4) should be rephrased to allow the revocation of the appointment of a member of Council to be by the request of the nominating body.

Recommendations

Rephrase Section 8(2) to read as follows:

Original provision	Proposed revision
Where a member of the Council is absent from three consecutive meetings without reasonable cause, the office of that member shall become vacant.	Where a member of the Council, other than the Vice-Chancellor, is absent from three consecutive regular meetings without reasonable cause, the office of that member shall become vacant.

and rephrase Section 8(3) to read as follows:

Original provision	Proposed revision
(3) A member of the Council, other than the Vice-Chancellor, may resign from office in writing addressed to the President through the Minister.	A member of the Council, other than the Vice Chancellor, may resign from office in writing addressed to the Chancellor through the Chairperson of the Council.

Also, rephrase Section 8(4) to read as follows:

Original provision	Proposed revision
(4) The President may revoke the appointment of a member for inability to perform the functions of that member, for stated misconduct or for any other just cause.	The Council may revoke the appointment of a member of Council for inability to perform his functions as a member of Council for stated misconduct or for any other just cause. The details for revocation of appointment of a member shall be provided in the Statutes of the University.

5. Section 9: Meetings of the Council

The present composition is thirteen (13) with eight (8) of them from Government and its agencies. Therefore, requiring a quorum of seven (7) members, as stated under Section 9(2), to convene a meeting has a potential to undermine governance since the government team can hold a meeting by themselves at any time. Our proposed revision of the Bill on the composition of Council will help cure this defect. However, we wish to propose that a quorum should be formed by inclusion of membership from

the three camps that contribute to Council membership – from the university, presidential appointees, and independents.

Recommendation

Rephrase Section 9(2) to read as follows:

Original provision	Proposed revision
(2) The quorum at a meeting of the Council is seven members of the Council.	The quorum at a meeting of the Council shall be 60% of the membership including representation from the university, presidential appointees, and independents.

In view of the fact that the President is disqualified from appointing the chairperson of Council, it is proposed that the provision in Section 9(3) should be expunged.

6. Section 10: Disclosure of interest

The proposal under Section 10(2) is problematic as it contravenes Article 68(1)(b) of the Constitution of the Republic of Ghana. Such report must rather be submitted to the Chancellor for him/her to act on it accordingly.

Recommendation

Rephrase Section 10(2) to read as follows:

Original provision	Proposed revision
(2) Where a member contravenes subsection (1), the chairperson shall notify the Minister who shall inform the President in writing to revoke the appointment of that member.	Where a member contravenes subsection (1), the chairperson shall notify the Chancellor who shall initiate procedures for the appointment of the member to be revoked. The details for revocation of appointment of a member shall be provided in the Statutes of the public university.

7. Section 11: Establishment of committees

Under Section 11(3), a person's membership on a committee may be revoked based on the conditions stipulated in Section 10. However,

reporting on such issues need not get to the office of the Chancellor in situations where the person is not a member of Council. Therefore, in a situation where the person who flouted Section 10 is not a member of Council, it is necessary to limit the decision to the chairperson of the Council of the public university.

Recommendation

Rephrase Section 11(3) to read as follows:

Original provision	Proposed revision
(3) Section 10 applies to a member of a committee of the Council.	Section 10 applies to a member of a committee of the Council. Where such a person is not a member of Council, then the chairperson of the committee shall notify the chairperson of Council in writing to revoke the appointment of that member.

8. Section 14: Chancellor of a public university

All appointments in Public Universities must conform to the provisions stipulated in Article 195(3) of the Constitution. Article 195(3) states that “The power to appoint persons to hold or act in an office in a body of higher education, research or professional training, shall vest in the Council or other Governing Body of that institution or body.” This implies that Section 14(1) is unconstitutional and must be expunged.

Section 14(1) must be modified to allow the Chancellor to be elected by an electoral college and Section 14(2) deleted.

Lastly, considering the difficulty in coming by a pool of high calibre persons to appoint as Chancellor, UTAG is of the view that the term limit as stated under Section 14(5) must be removed. Rather, the Chancellor should be given an appointment for a term of five (5) years subject to renewal.

Recommendations

Section 14(1) and (2) contradict article 68(1)(b). Thus, we suggest a rephrase of Section 14(1) to read as follows:

Original provision	Proposed revision
(1) A public university shall have a Chancellor who shall be appointed by the President.	A public university shall have a Chancellor who shall be elected by an electoral college made up of an equal number of the total membership of Council and the Academic Board convened specially for that purpose by the Registrar of the University.

and Sections 14(2) and 14(3) should be merged and rephrased to read as follows:

Original provision	Proposed revision
(2) The Council shall nominate three persons for consideration and appointment as Chancellor.	The Council shall appoint the Chancellor for a public university in accordance with procedures specified in the Statutes of the public university.
(3) The procedure for nomination of individuals for the office of Chancellor shall be specified in the Statutes of the public university.	

Section 14(5) should also be rephrased to read as follows:

Original provision	Proposed revision
(5) The Chancellor shall hold office for a term of five years and is eligible for re-appointment for another term only.	The Chancellor shall hold office for a term of five years and is eligible for re-appointment.

9. Section 17: Pro Vice-Chancellor of a public university

Section 17(2) talks about the method of appointment of the Pro Vice-Chancellor. Presently, some public universities in Ghana have the Pro Vice-Chancellor appointed by Council after they have gone through an interview and shortlisting process whereas others elect the Pro Vice-Chancellor from among three (3) nominees of the Vice Chancellor.

In all fairness, having appointed the Vice Chancellor, it is prudent to give Senior Members (Academic) an opportunity to select their Pro Vice-Chancellor. This practice, where the Pro Vice-Chancellor is elected, has worked very well in all the public universities. This practice must be allowed to continue.

Also, Section 17(3) states that the Pro Vice-Chancellor shall hold office for a term of three years only. In some public universities in Ghana, the Pro Vice-Chancellor holds office for a term of three (3) years only whereas others appoint the Pro Vice-Chancellor for a term of two (2) years renewable for another term only. UTAG recommends that the term limit for a Pro Vice-Chancellor should be left to the public university to determine and state in their Statutes.

Recommendations

Section 17(2) should be rephrased to read as follows:

Original provision	Proposed revision
(2) The Council shall appoint a Pro Vice-Chancellor as prescribed by the Statutes of the public university.	The Senior Members (Academic) shall elect suitable person(s) for appointment as Pro Vice-Chancellor(s) by the Council as prescribed by the Statutes of the public university.

Section 17(3) should be rephrased to read as follows:

Original provision	Proposed revision
(3) The Pro Vice-Chancellor shall hold office for a term of three years only.	A Pro Vice-Chancellor shall hold office as specified by the Statutes of the public university.

10. Section 19: Composition of the Academic Board

An important constituent of the Academic Board that has been omitted is the Senior Member (Academic) on Council who are not members of the Academic Board. Thus, the need to include them in the list of mandatory members of the Academic Board as captured under Section 19(2).

Recommendation

Rephrase Section 19(2) to read as follows:

Despite subsection (1), the Academic Board shall include the following:

- (a) the Vice-Chancellor who shall be the chairperson;
- (b) the Pro Vice-Chancellor;
- (c) Provosts;
- (d) Deans;
- (e) Senior members (Academic) on Council;

- (f) the Librarian of the public university; and
- (g) the Registrar.

11. Section 25: Internal organisation of a public university

Section 25(2)(a) states that a public university may enter into an agreement or relationship with another institution only after approval from the Ghana Tertiary Education Commission (GTEC) and Section 25(2)(b) also states that a public university may incorporate another institution or body or take over property, privileges and liabilities of that institution after approval from the Minister, acting in consultation with GTEC.

It is important to recognise that the provision above is presently a function of the University Council. Going by this arrangement will unnecessarily introduce bottlenecks in the operations of a public university and also infringe on academic freedom. Rather, such requirement must be limited to international transactions that have financial implications and have the potential to impact negatively on Government of Ghana. Issues that border on the finances of the public university has been addressed in Section 26 of the Bill.

Lastly, Section 25(3) mandates Council to consult Academic Board on matters which in the opinion of Council are academic related. While it may sound trivial, it is essential to define what “academic related” means. In recent times, some Vice Chancellors and Registrars have managed to change the administrative structure of some universities, such as setting up of Administrative Directorates and Divisions, which go to the core running of the University with direct bearing on the functioning of the University without recourse to Academic Board. In the view of UTAG, all the issues listed in Section 25(1) are “academic matters”. In fact, “academic matters” are central to the operations of the public universities, as such, the Academic Board must be consulted on all issues to ensure the smooth running of the public universities.

Recommendations

Under Section 25(1), consider adding the following to the list of issues related to the internal organisation of the public universities:

- a. Administrative directorates; and
- b. Administrative divisions.

It is important to reconsider Section 25(2)(a) so as to give the University the freehand to enter into agreements or relationships of interest and in

furtherance to the objectives for which it was established. Therefore, rephrase Section 25(2)(a) to read as follows:

Original provision	Proposed revision
(2) A public university may (a) enter into an agreement or relationship with another institution whether academic or non-academic within or outside the country in furtherance of the objectives for which the public university was established, subject to approval by the Ghana Tertiary Education Commission;	enter into an agreement or relationship with another institution within or outside the country in furtherance of the objectives for which it was established;

Also, rephrase Section 25(3) to read as follows:

Original provision	Proposed revision
(3) The Council shall exercise the powers in subsection (1), only after consultation with the Academic Board on matters which in the opinion of the Council are academic matters.	The Council shall exercise the powers in subsection (1), only after consultation with the Academic Board.

12. Section 28: Borrowing powers of a public university

UTAG is of the view that all borrowings by the public university must conform to the recommended conditions stated in the Public Financial Management Act, 2016 (Act 921) and any other provisions that may apply.

Recommendation

Rephrase Section 28 to read as follows:

Original provision	Proposed revision
The Council may borrow money on behalf of the public university and may for this purpose use the property of the public university as security.	The Council may borrow money on behalf of the public university and may for this purpose use the property of the public university as security in conformity with the Public Financial Management Act, 2016 (Act 921) and any other provisions that may apply.

13. Section 34: Procedure for enacting harmonised statutes for public university

UTAG agrees with the view that the following issues should be uniformly applied in all public universities to ensure fairness, order, and consistency:

- The Chancellor
- Chairman of Council
- The University Council
- Meetings, Powers, and Functions of Council
- The Vice-Chancellor
- The Pro Vice-Chancellor
- The Registrar
- The Finance Officer
- The Librarian
- The Internal Auditor
- Convocation
- Composition, Functions, and Meetings of Convocation
- Election of the Convocation Members of Council
- Academic Board
- Powers, Functions, and Meetings of the Academic Board
- Statutory Committees of the Academic Board
- Financial Management and Administration
- Structure of Colleges
- Functions and Powers of Provosts/Principals of Colleges
- Powers and Functions of College Board
- Structure of Faculties
- Functions and Powers of Deans of Faculties
- Powers and Functions of Faculty Board
- Academic Departments of the University
- The Welfare Services Board
- Functions, Meetings, and Committees of the Welfare Services Board
- Discipline in the University
 - Discipline of Senior Members
 - Discipline of Staff other than Senior Members
 - Discipline of Junior Members
- Appeals Board
- Appointments by the Vice-Chancellor
- Terms of Appointment and Promotions of Senior Members
- Resignation, Retirement and Termination of Appointment of Senior Members
- Post-Retirement Contract Appointment of Senior Members (Academic)

- Contracts and Property of the University
- Creation, Ownership and Use of Intellectual Property
- Student Governance
- Dean of Student Affairs
- Halls of Residence and other Residence Faculties
- Offences and Sanctions
 - Academic Offences
 - Non-Academic Offences
- Secular Nature of the University
- Amendment of Statutes
- Amendments of Schedules

Apart from these, UTAG finds the provision of Statutes of public universities with harmonised governance structures as questionable because each Public University is unique with some distinct system of governance. Thus, a provision in a Statute in one University may not apply in the case of another. Therefore, a harmonised Statute will not augur well for any University.

For example, some universities, by virtue of their size, run the collegiate system of governance, which works perfectly well for them. However, same will not work well for smaller sized universities.

Rather than being fixated with “harmonised Statutes”, the interest of Government should be that all the Statutes of the public universities must be consistent with the Act as stated in Section 34(7).

The following are some additional reasons UTAG thinks that this Section needs substantial revision to reflect the view espoused above:

- a. For effective governance of the public universities, it is important that all stakeholders in the public universities make inputs to improve the draft Statutes. In the present Bill, this is not the case as given in Section 34(4). Rather than submitting it to the Academic Board and other relevant bodies if the Council deems it necessary, this must be the norm. All stakeholders must be given opportunity to make inputs before submitting it to Council for provisional approval.
- b. Secondly, Section 34(5) implies that the “harmonised Statutes” will only be approved by the Councils of the public universities only after all the Councils have agreed to all the provisions in it. This is not practical.

- c. Lastly, it will be almost impossible to adhere to the provision in Section 34(6). This is because anytime a given public university rejects or amends a given provision in the Statutes, then they will need to report to GTEC who will have to harmonise all the other Statutes and restart the process of achieving consensus among all the relevant stakeholders of the public university.

This difficulty buttresses the initial position of UTAG that this document will rather create chaos as its supposed solution is not addressing any problem.

Recommendation

Considering the arguments above, UTAG recommends that Sections 34(1) to 34(6) of the Bill should be reviewed to reflect harmonised statutes only in the areas of qualification for appointment to a lectureship position, promotion, and access to research grant. Section 34(7), however, should be maintained which provides: “A Statute shall not be enacted if the Statutes is inconsistent with this Act.”

14. Section 36: Convocation

The Section 36 suggests that the chairperson of Convocation shall be the Vice Chancellor. In order to enhance proper governance and accountability, it may be ideal for the chairperson of Convocation to be elected from amongst all qualified Senior Members. This will enable the chairperson to serve as a check and monitor issues that are discussed at convocation and to ensure that solutions are found rather than the Vice-Chancellor serving as his/her own check. This is currently the practice at UCC and KNUST where the Chairman of Convocation is not the Vice Chancellor.

Recommendation

Rephrase Section 36(1) to read as follows:

Original provision	Proposed revision
(1) There shall be a Convocation of a public university with the membership prescribed by the Statutes of the public university.	There shall be a Convocation of a public university with the membership and chairperson, who shall not be the Vice-Chancellor or Pro Vice-Chancellor, elected from among qualified persons as prescribed by the Statutes of the public university.

and Section 36(4) should also be rephrased to read as follows:

Original provision	Proposed revision
(4) The Convocation shall meet at least once each academic year at the time and place determined by the Vice-Chancellor.	The Convocation shall meet at least once each academic year at the time and place determined by the chairperson of Convocation.

15. Section 37: Matriculation

The implication of Section 37(2) is that a student who fails to sign the Matriculation Register can continue as a student and complete his or her Programme of Study but cannot be allowed to graduate. What will be the essence of such an arrangement?

Recommendation

To ensure that all students sign the Matriculation Register and nullify the possibility of student being prevented from graduating because he/she has not signed the register, rephrase Section 37(2) to read as follows:

Original provision	Proposed revision
(2) A student who fails to sign the Matriculation Register shall be prevented from graduating by the public university.	A student who fails to take the Matriculation Oath and sign the Matriculation Register shall cease to be a student and shall be withdrawn accordingly.

16. Section 39: Student Governance

The Students' Representative Council is comprised mainly of undergraduate students. Hence, the present student governance structure in the Bill favours only the undergraduate students. UTAG has observed that similar to the concerns raised in Section 5(1), this Bill does not make any mention of postgraduate students and their role in the governance structure of the public universities. In recent times, the percentage of postgraduate students in the public universities have increased. This results from the quest of the public universities to increase their research output and improve their rankings worldwide. Hence the need to include postgraduate students in the student governance structure.

Recommendations

Considering the need for a postgraduate students' association, include the following clause in Section 39:

Where applicable, a public university shall have a Postgraduate Students' Association responsible for the representing postgraduate students duly admitted and registered to study in the public university. Subsections (3) and (4) also apply to the postgraduate students' association.

and rephrase Section 39(5) to read as follows:

Original provision	Proposed revision
(5) The Statutes of the public university may specify appropriate bodies and organs of the public university to which the Students' Representative Council has representation.	The Statutes of the public university may specify appropriate bodies and organs of the public university to which the postgraduate and undergraduate students have representation.

17. Section 40: Centralised Applications Processing Service

UTAG is at a loss why such a system should find its way into this Bill. We believe that mentioning it in the Tertiary Education Policy should suffice. Also, this system should remain an application platform and never mutate into an admission platform.

Lastly, is this necessary? It is an imported practice with its own difficulties. In most cases, it breeds corruption and creates unnecessary chaos. A visit to Nigeria will give one the several issues associated with the Joint Admissions and Matriculations Board (JAMB). What is wrong with the existing system whereby universities do their own admission? The status quo has been successful so far so why change it?

Recommendation

Considering the points adduced, UTAG strongly recommends that Section 40 should be deleted from the Bill. The status quo must be allowed to continue. However, if Government is of the view that the existing practice must cease, then the Minister responsible for Education should instruct the public universities in writing to cease the practice as given in Section 47 and must be in line with our proposed amendments.

18. Section 41: Property and contracts

UTAG is of the view that the provision “subject to approval by the Minister of Education” in Section 41 should be expunged. The Council and Statutes of the public university can deal with the issues of contract and property acquisition. If applied as it stands, the Minister will need to be consulted even if the university has to acquire chairs and computers.

More so, Section 26 of the Bill addresses issues related to budgeting and the need not to overrun the annual budget of the public university. Where budget overrun is likely to occur, then the public university must seek authorisation to do so.

Recommendation

Expunge Section 41 of the Bill since the issues stated there are addressed in other sections of the Act.

19. Section 43: Academic freedom

There are two (2) main pillars of academic freedom. These are:

- a. Individual freedom which stipulates the freedom of the individual academic to teach, research and to speak as a citizen, without religious, political, or institutional restrictions.
- b. Institutional Freedom: Freedom of the institution to pursue its mission and to be free from outside control. The Harvard Law Review Vol 81(1968) adds that ‘The American concept of academic freedom is reflected not only in the recognition of substantive areas of intellectual liberty, but also in certain institutional arrangements designed to protect that freedom’.

While Section 43(1) generally supports individual freedom, UTAG is of the view that certain provisions in the Bill seem to serve as claw-back clauses. That is, the provisions take back the academic freedom granted academics and universities in this section. These include:

- a. The processes for the appointment of a Chancellor and Principal Officers of the university.
- b. The composition of membership of Councils of Public Universities that is heavily tilted in favour of government in the Bill.

- c. Several provisions in the Bill that give too much power to the Minister of Education in the management of Public Universities in acquisition of properties, execution of contracts, signing of memoranda and even internal and external collaborations.
- d. The Bill has the potential to stifle individual freedom by preventing individuals to speak or act without fear or favour if their appointments are to be regulated by the President through the Council, if the President is going to appoint the majority of members on the Councils of the Public Universities, and if they will be promoted to professorial rank by a Council that is heavily dominated by government appointees.
- e. Institutional freedom includes the freedom of an institution within the remit of the law, to admit candidates into its various programmes. However, this will be repealed by the coming into effect of the Centralised Application Processing System.
- f. Requiring the public universities to seek the approval of the Minister before entering into any agreements or relationships with another institution.

Further, we call for review of Section 43(2)(b):

- (2) A member of the academic staff of a public university shall
 - (b) not be disadvantaged or subjected to less favourable treatment by the public university, for the exercise of that freedom.

Only the university is mentioned as a likely violator of the right of academics to their academic freedom. The principal duty-bearer, that is the State, for the respect for, protection and fulfilment of academic freedom should also be included as a likely violator of this right.

Recommendation

To help address the institutional academic freedom matters, it is important to implement the recommendations in this memorandum. This will greatly level the playing field and encourage public universities to function normally.

Also, section 43(2)(b) should be revised to read as follows:

Original provision	Proposed revision
(2) A member of the academic staff of a public university shall (b) not be disadvantaged, or subjected to less favourable treatment by the public university, for the exercise of that freedom.	A member of the academic staff of a public university shall not be disadvantaged or subjected to less favourable treatment by the public university, and the State, for the exercise of that freedom.

20. Section 46: Dispute Settlement

UTAG is of the view that the Bill does not provide the various stages that an aggrieved person has to go through before going to the Appeals Board. UTAG therefore recommends that the Bill should establish both the Disciplinary Committee and Appeals Board with the Statutes of the public universities providing the details.

The Bill, under Section 7(i), states that the Council is the “final decision maker on the matters of discipline in the public university”. However, none of the clauses mandates the inclusion of disciplinary procedures in the Statutes of the public universities. Therefore, Section 46 should include a clause mandating the inclusion of disciplinary provisions into the Statutes of the public universities.

Recommendations

Section 46 must include a clause mandating the inclusion of disciplinary procedures into the Statutes of the public universities. All the content of Section 46 in its present state focuses on the establishment of an Appeals Board, its composition, and its modus operandi.

UTAG recommends that the first subsection under Section 46 should read as follows:

A public university shall have disciplinary boards or committees for each category of staff, namely, senior members, junior members, and senior and junior staff, as prescribed by the Statutes of that public university.

and Sections 46(1) to 46(7), as exists presently in the Bill, should be maintained.

21. Section 47: Policy directive

UTAG is of the view that the power given to the Minister to issue policy directives to the public universities and all public universities are expected to comply is rather ominous. "Policy directives", as provided in the Bill, is so vague and elastic that anything can be roped in and misapplied to the detriment of individual and institutional freedom.

Unfortunately, the Bill does not provide any avenues to the public university if, in its opinion, a particular policy directive is inimical to the mission and vision of the public university. In other words, if the implementing body, i.e. the public university, is not in consonance with any policy directive from Government, it becomes redundant and difficult to implement. Thus, to prevent this from happening, it is important that any policy directive to come from the Minister should first be agreed upon by the GTEC and the public universities.

Recommendation

Rephrase Section 47 to read as follows:

Original provision	Proposed revision
The Minister may give directives on matters of policy through the Ghana Tertiary Education Commission to a public university and the public university shall comply.	The Minister may give policy directives, subject to agreement between the Ghana Tertiary Education Commission and the public universities, through the Ghana Tertiary Education Commission to a public university and the public university shall comply.

22. Section 48: Regulations

Section 48(a) talks about making regulations in furtherance of the Centralised Applications Processing System. However, as explained in Section 15 of this memorandum, this system is inimical to the growth of the public universities and must not be entertained.

Recommendation

UTAG recommends that Section 48(a) of the Bill must be deleted.

23. Section 51: Transitional provisions

- a. The transitional provisions provided in Section 51 of the Bill give wide and elastic powers to the President of the Republic to directly interfere in the Governance of the public universities within the transitional period. An example of such interference is Section 51(2), which gives the President powers to “revise the composition of the Interim Council”. This is highly problematic.
- b. Juxtaposing Section 51(2) with Section 51(4) implies that the President can implement any unpopular decision by revising the composition of the Council and imposing a decision which then becomes binding on the Substantive Council. There is a real danger of subversion of institutional and individual academic freedoms if this is not addressed.
- c. Since existing public universities have Councils in place, the prudent thing to do is to allow them to complete their term of office, even after the promulgation of this Act. The new Council can then be appointed under this Act when it is being constituted. However, the provisions here should rather capture the case for newly formed public universities only.

Recommendation

To help address the danger of subversion of institutional and individual academic freedoms during the period of transition, UTAG recommends that Section 51(2) should be deleted from the Bill.

24. First Schedule

The First Schedule of this Bill provides the mandate of each public university. However, the captured mandate does not cater for all the programmes being run by the public university. For example, KNUST will no longer be able to run programmes in applied arts and humanities. Likewise, UCC can no longer run courses in the health sciences, among others. In the case of the University of Mines and Technology (UMaT), research is totally missing from the mandate of the university. UTAG is of the view that the mandate of the various public universities should be consistent with the current vision statement as approved by the various Governing Councils.


Recommendation

Considering the situation at hand, UTAG recommends that the following should be included in the repeal and savings under Section 50:

Where a public university, before the coming into force of this Act, is offering a programme outside its mandate as per the First Schedule of this Act, it shall continue to run that programme as if made or done under this Act.

25. Conclusion

On behalf of UTAG, I wish to express our profound gratitude to the Parliamentary Select Committee on Education for the opportunity to submit this memorandum for your consideration. We believe that as stakeholders, whose contribution is central to the running of our public universities, you will give our memorandum the importance it deserves.



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