



Editorial

Higher education council powerless: What next?

The High Court last week ruled that the National Council for Higher Education (NCHE) has no powers to withdraw or cancel any award given by a university it has accredited. The ruling followed a case in which Kampala University requested for a judicial review, when the National Council for Higher Education ordered for the cancellation of a degree it had awarded Mombasa Governor, Hassan Joho. Court ruled that the Council committed an error of law and that the tribunal had abused its powers. This is unfortunate because the

Council should position itself to be respected in its decisions, and avoid external interference; if universities are to respect its resolutions. But, more so, this ruling implies that the Council can only guide Senates of universities on the award of degrees and cannot in anyway compel them to withdraw, revoke or cancel their academic awards. In one way, this ruling protects universities from external biased or uninformed influence in the process of awarding degrees. But, what of cases where universities may not be genuine in awarding

degrees? In such circumstances, such universities cannot be regulated in the award of their academic qualifications. There is need for an agreeable position between universities and NCHE, on the best way of regulating the award of academic qualifications. Such lapses can also be purged through amending the Universities and Other Tertiary Institutions Act.

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Public varsities should also be chartered

It will bring a sense of equality in the country's universities

Recent public exposure of problems of programme accreditation at one of our public (Government) universities should reveal to the population that public higher institutions can also give dubious higher education and need as much scrutiny as private universities and the fly-by-the-night internal and cross border higher education institutions.

I have always suggested that public universities should be chartered and go through the same rigorous examination of their facilities and governance as private institutions as an insurance of quality education delivery.

I thought this move would improve relations with government, assure institutional autonomy to public universities and eliminate conflicts between the two parties.

My suggestion was that public universities, like private ones, should be chartered by the government through the National Council for Higher Education (NCHE) in order to make sure that the quality of the public university is as good as the private ones that have gone through the rigour of chartering.

Currently, a public university is "accredited" or chartered the moment it is established by the minister's statutory instrument on the recommendations of the NCHE and by a resolution of Parliament under Section 22 of the Universities and Other Tertiary Institutions Act, 2001. Section 23 goes on to grant the young public university almost all the privileges and responsibilities given to a chartered private university which has endured rigorous examinations.

It would also thoroughly define the relations of each public university with the government. Unlike high schools, each public university is individualistic and gives its own degrees, certificates and diplomas.

Each has its own vision, mission



Prof. Abdu Kasozi

and focuses on its own unique programmes. Therefore, each university needs its own terms of relationship with the state within generally agreed government policy parameters of a more well thought out higher education law than the current one.

Chartering public universities will also bring a sense of equality of treatment in the country's university system. Since Section 103(a) implicitly puts public universities above private universities with provisional licences, it is only fair that public universities go through the same rigorous accreditation process that private universities are exposed to attain the same level as mentioned in Section 100-103.

More so, this would assure citizens that the public university so established has the necessary facilities that all "accredited" universities have.

But I found a number of problems chartering public universities. The current Act (the Universities and Other Tertiary Institutions Act, 2001, and its amendments) is vague on this issue. First, Section 22(1) of UOTIA as quoted above provides for the establishment of public universities and not much else except in the accreditation of programmes to empower the NCHE over public universities.

Secondly, section 73(1) of the same Act simply repealed the previous Acts and statutes of public universities but



The Vice-President, Edward Ssekandi speaks to a graduand at Makerere university during its 64th graduation ceremony

does not provide for the replacement of the Acts and Statutes.

And lastly, Section 131(1) (a) commands public universities, which were established by (previous) laws to apply for a charter within 12 months of coming into force of the UAOTIA, 2001.

The National Council Administration did not start operating until November 2002, about one year after the commencement of the Act. The prescribed period passed and no penalty for inaction could be taken because the NCHE secretariat was not in place. Moreover, the Act is silent on new public universities. A lawyer could argue that due to

this silence, it does not require new public universities to be chartered.

Although I was often told to initiate the process of chartering public universities when I was still at the NCHE, I felt that in order to do so, which would have been good for the institutions and the state, the government would have to first take the following actions. Strengthen Section 131(1) of the Act by requiring all existing and new public universities to be chartered in the same process as private institutions.

Secondly, there is also need to modify section 103 (a) in order to make it less derogatory to private universities with provisional licences vis-à-vis public universities. It should

be stated clearly that all licensed universities, public and private, are equal before the law and offer certificates, diplomas and degrees of equal status.

We should also begin thinking about overhauling the current higher education law or design a new one like Kenya and Tanzania have done.

Moreover, Uganda will not be working from an absence of examples and precedents.

A number of countries in the region charter public universities. All public universities in Tanzania have been chartered. One staff member of the NCHE fully participated in the process at the assessment level. The Tanzania experience has proved very positive and has allowed for the creation of a new public university system that responds to society's demands for quality education, while enhancing institutional autonomy for the universities.

To achieve this, all public universities were de-registered and given eighteen months to apply for a charter.

During the processes of chartering, all universities continued to function under a clause of provisional licence granted by Parliament. Within the period of 18 months, the visitations were completed and the government had ample time to discuss the proposals submitted by the visitation committee.

In 2012, Kenya enacted a Universities Act, which amongst a number of innovations, requires all public universities to be chartered. It is my hope that Uganda will wake up and do likewise.

The problems of public universities whose faces are peering to the surface have deep penetration in the legal system. The latter must be overhauled or Ugandans will continue to receive inferior education and foreign students will shun our institutions.

The writer is a former executive director of the National Council for Higher Education