

The Higher Education Amendment Bill, misinterpreted

There has been a whole lot of talk, particularly negative, in the public media regarding the Higher Education Amendment Bill. The negative talk had much to do with the speculation that the amendment seeks to increase the Minister of Higher Education and Training, Dr Blade Nzimande's powers to intervene in university matters to undermine institutional autonomy and of attempting to rush the Bill through Parliament.

Professor Chris de Beer corrects these perceptions in [his article](#) in the Independent Media's supplement, *Independent Thinking*, February 2016.

"The revision of the Higher Education Act, 1997, as amended, is intended to improve the system based on the collective experience of implementing the Higher Education Act since 1997. It strives inter alia to provide essential legislative platforms with a view to giving effect to and aligning the provision of higher education with government priorities and programmes, as articulated in the [National Development Plan](#) (NDP) and the White Paper for Post School Education and Training," writes Professor De Beer.

The [Department of Higher Education and Training's 2013 White Paper](#) indeed affirms the principles of academic freedom, institutional autonomy and public accountability as described in the 1997's White Paper 3 of the Department of Education. The Department of Higher Education and Training's White Paper further says the principles may at times be in conflict with one another, and it is worth noting (and reaffirming) the 1997 White Paper's unequivocal statement that "there is no moral basis for using the principle of institutional autonomy as a pretext for resisting democratic change or in defence of mismanagement. Institutional autonomy is therefore inextricably linked to the demands of public autonomy."

For various reasons, policies will continue changing, particularly when the environment or context in which operations are carried out, policies are no longer relevant or no longer adding any value to the changes they were intended to produce.

In October 2014, I attended, as an employee of the Department of Higher Education and Training, a Student Leadership Workshop which was hosted by the University of Fort Hare in East London. This was at a time when the South African Higher Education sector was rattled by a wave of student protests, forcing some institutions to suspend their classes or close their campuses in the first half of the year 2014.

The Department, therefore, saw a need, as it always does in addressing challenges, to stand up and conduct Student Leadership Workshops across all universities in the country. During the protests in the first half of the year 2014, the South African Student Congress (SASCO) had issued a statement which spoke to the frustrations of students across the Higher Education Sector, which then provided the Department with an understanding of what needed to be key topics amongst those to be discussed in these workshops.

Pertinently outlining the challenges the students in the higher education sector are facing, one could, at the same time, understand the frustrations as the Deputy President of the South African Union of Students (SAUS), Tebogo Thothela, passionately outlined these challenges at the workshop.

“In attempting to solve these challenges and create lasting solutions, we must perhaps consider what the scholar, Nancy Fraser, articulated in the subject matter of Social Justice and Human Rights; here she defines and differentiates between affirmative and transformative change. Affirmative change, she argues, is an attempt to deal with past or current societal imbalances without necessarily dealing with the structural cause of those imbalances, while transformative change deals with redressing past and current societal imbalances precisely by dealing with changing the very structures which reproduce the inequality,” said Deputy President of SAUS.

Excellent quote, I thought. Why can't it, therefore, be necessary, in this regard, to further develop policy on universities in order to tackle current

challenges and to elaborate on the role and function of universities within an integrated post-school system as a call made by the 2013 White Paper?

The proposed changes to laws governing tertiary institutions should not be seen as a blank cheque giving Higher Education and Training Minister, Blade Nzimande, unrestricted powers. In actual fact, the Bill requires the Minister to do much more before acting. It proposes to give the Minister the power to determine transformation objectives and put mechanisms in place to ensure the objectives are met. It allows the Minister to change processes, procedures and mandates of universities and other higher education institutions.

All this is proposed in order to arrest the challenges that are making it difficult to provide quality and equal higher education to our youth in a democratic South Africa.

The [Amendment Bill](#) provides greater clarity regarding instances justifying an intervention by the Minister, the mechanisms available, the ideal order in which it should be applied and the procedure to be followed. A more progressive approach by the Minister is, therefore, proposed.

The amendments allow the Minister to act much earlier by way of a directive to prevent serious interventions at a later stage and provide a range of options instead of the current arrangement whereby the Minister is obliged to appoint an Administrator should the Minister wish to pursue matters further.

The challenges addressed by SASCO in their statements and those by the SAUS Deputy President have been in existence for a long time and indeed the Department of Higher Education and Training has been monitoring these challenges in the sector.

As Minister Nzimande would figuratively say in juxtaposing the higher education system with the challenges it faces today; “We are fixing an aeroplane in the air”. This is indeed a fair reflection of what is really happening in the sector.

The Department of Higher Education and Training is fairly new, having only been established in 2009.

The “fairly new” phrase is not used as an excuse. It is a fact.

In the short space of time that the Department has been in existence, a lot has been achieved all because of the commitment and hard work those leading and working for this Department strive to make sure that no youth in this country is left stranded in the streets with no purpose in life. These are the people who live the mission and vision of the Department of Higher Education and Training.

Any negative talk regarding this Bill is trying to divert the work and successes of this Department instead of supporting, encouraging and working together with the Department.

I always say that it does not necessarily mean that because one is in opposition, therefore all else that is good must also be opposed because one is obliged to speak from an opposition standpoint.

We need to give this Bill a chance. A thorough consultation has been done by the Minister. In 2013, he consulted with university Vice-Chancellors and Council Chairs on their concerns and agreed on a process for reviewing the Act.

A task team, including members of the Department, Higher Education South Africa (now [Universities South Africa](#)), Universities Council Chairs Forum of South Africa and [Council on Higher Education](#), was established to revise the Bill taking into account the principles of academic freedom, institutional autonomy, public accountability and the prescripts regarding fair administrative procedures and the provision of access to information.

This process has been highly consultative and inclusive, and is testament to the principle of cooperative governance between institutions and the state.

This week marks the first week of activation on the public hearing platforms to debate the Higher Education Amendments Bill in Cape Town.

Why is it always so difficult to put our egos aside? In doing the opposite, we will be striving to advance a better education and a better life for all those not only in our higher education system, but also those in need of

education and employment because of the blockages we find in the skills and education sector.

We all need to rally behind this Bill as it will contribute immensely in trying to unblock the blockages we find in the higher education sector.

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