



UNIVERSITY TEACHERS ASSOCIATION OF GHANA

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Why we should ALL oppose the Public University Bill

THE PUB FACTSHEET

version 15 June 2020

The [Public University Bill \(PUB\)](#) is dangerous to our public universities and to our nation because it

- **is unconstitutional**
- **is unnecessary**
- **will create more problems**

1. The PUB is unconstitutional

The Constitution, responding to a history of government efforts to control higher education institutions, has explicit provisions to protect the integrity of universities from partisan politics.

Article 68(1)(b) bars the President from taking the position of Chancellor.

Article 195(3) says that the president is allowed to appoint officers to public services, EXCEPT for public universities and other educational institutions, where that power is given to a governing body such as the University Council:

“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”.

The Bill seeks to effectively make the President the head of the universities by having him/her name the Chancellor, nominate the Chairperson of the University Council, and appoint the majority of Council members.

In addition, the Bill allows the President to dissolve Council at any time that he or she considers that there is a ‘case of emergency’ but does not specify what constitutes an emergency. This clause is clearly open to abuse as it allows the President to by-pass the Vice-Chancellor and even the Chancellor of the university to impose his or her will. It is easy to imagine a case in which University Councils are dissolved when a new party comes into power, as unfortunately happens with the governance of many other public institutions.



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2. *The PUB is unnecessary*

It is unclear what specific problems the Bill seeks to solve that cannot be addressed within existing laws or by broad-based consultation with the universities.

The two main justifications given for the Bill are weak:

i. *The universities are too diverse, and many have ‘veered from their core disciplines’*

Public universities have different histories and mandates. This diversity allows for differentiation and for competition which is good for students, and good for the country’s education sector. It is not good policy to try to ‘harmonise’ universities so strictly, which means putting universities – of different sizes in different parts of the country established at different times, with different programs – in one strait-jacket of a law.

Secondly, we are not aware of any instances where universities have ‘veered’ from their mandates. Any revision to any public university’s mission or governance structure is always supported by appropriate statutes and laws; and is made in response to internal and external environments. None of these changes contravene the Acts under which these universities were established and continue to operate.

ii. *The universities have experienced ‘financial improprieties’*

Universities are among the most well-regulated public institutions in our country – they are subject to national laws, their own statutes, and strong governance structures. You can count on one hand the number of financial scandals that the universities have experienced. On the other hand, our governments are mired in unending allegations of corruption and misappropriation of funds. The idea that somehow universities are so badly managed financially that we will be better off being controlled by a ministry or by the Executive stretches the imagination.

3. *The PUB will create more problems than it claims to solve*

The Bill grants the Minister of Education unwarranted control over the management of public universities, which compromises the ability of the universities to effectively function.

Clause 47 states, **“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”**.



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These directives cover, but are not limited to, the following:

- establishment of academic units
- financial matters, including sale, lease, mortgage of properties
- research and other collaborations, or any relationships with academic and non-academic entities

Other clauses in the Bill diminish the autonomy and capacity of public universities to respond to changing research priorities, funding opportunities, and student and faculty needs in dynamic national and global contexts.

These changes will bring about ‘excessive bureaucratization’ and ‘[constrict] the space for differentiation among public universities, for innovation, and for the drive for excellence’, according to the [GAAS statement](#).

Example of the harm the Bill will bring to students and parents

Among other clauses, the Bill seeks to have a centralized admissions system for the public universities. Seeing the way that the centralized system for admission into SHS is going, we cannot be optimistic that it will work any better for the tertiary system.

There is also the danger of ‘**protocol**’ admissions -- the university admission systems are ‘tight’. There are academics who work in the university whose children cannot get into a program because they are outside the cut-off. We are not saying the system is perfect—there are some protocol admissions, but to be honest, a lot of those names come from government. We can all imagine what can happen when the government has more control over admissions.

There is speculation that one reason the government wants control over the public universities is because it needs to push the **increased numbers of SHS students into universities**. Increasing admissions far beyond the capacity of the university will lead to the situation we are seeing in the SHS system, where facilities are completely overstretched and teaching and learning are compromised.

Example of the harm the Bill will do to research

i. Restricting the independence of researchers

Noguchi Memorial Institute for Medical Research, which has received acclaim for its role in the fight against the coronavirus pandemic, would not have been able to do what they are doing now if the Bill was in effect.



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Currently, Noguchi has the independence to look for research funding and decide on research priorities, without having to submit applications to the Minister of Education, with all the bureaucracy that this entails. This meant that, years earlier, Noguchi had laid the groundwork for their current success in testing for COVID-19. Putting research collaborations and funding under the control of political authorities will be dangerous to the important work that Noguchi and other research centres do.

ii. Compromising academics' objectivity

Apart from teaching and research, academics conduct outreach/citizenship activities. They are acknowledged as experts in their field and they are generally seen to be objective and independent. Once the government introduces direct partisan political control of academic work, academics have to think about the political implications of what they say in public if they fear that the Minister of Education may hold back approval of their research or that their promotion will be stalled by a partisan Council.

Using the **Institute of Statistical, Social and Economic Research (ISSER) as an illustration--** ISSER provides an important national service by developing independent analysis of economic and social development policies. For instance, ISSER puts out the State of the Ghanaian Economy Report and the Ghana Social Development Outlook, and as well provides a regular commentary on the national budget, all of which are valued by government bodies, international agencies, civil society and the general public. Moreover, ISSER researchers are regularly invited to speak on policy matters on radio and television. Governments in power, from both major parties, are often unhappy with ISSER when researchers say what is unfavourable to the current administration. Can we imagine what might happen to this independent analysis if researchers are fearful of political retaliation?



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What others have said about the PUB

- The **Ghana Academy of Arts and Sciences (GAAS)** has [rejected](#) the Bill, calling it [“dangerous”, “retrogressive”, “poorly motivated” and “unjustified”](#).
- The **University Teachers Association of Ghana (UTAG)**, in their memo to the Parliamentary Select Committee on Education, said [“it will create more problems than it seeks to solve”](#).
- The **Ghana Studies Association (GSA)**, a membership-organization of scholars of Ghana from all around the world, says the Bill gives the government [“unwarranted control of the educational sector” and is therefore “dangerous”](#).
- The **Center for Democratic Development (CDD)** has submitted a memo to parliament, refuting the stated bases of the Bill and concluding that [“the government has not made a case for the Bill”](#).
- The **Deputy Ranking Member on Parliament’s Education Committee, Dr. Clement Apaak**, calls on the government to drop the [“needless, totally unnecessary” Bill, which “will negatively affect the management and functionality of our Public Universities”](#).
- Prof. Raymond Atuguba, the **Dean of University of Ghana School of Law**, calls on the Committee on Education [in parliament] to [“reject it completely and equivocally”](#) on the grounds that is it unconstitutional.
- Prof. Ernest Aryeetey, **former Vice Chancellor of the University of Ghana**, says the proposed law [will not solve any problems but will rather create more](#) by giving undue power to Minister of Education to control universities.

See the following link for a detailed discussion on the PUB, with academics, student representatives, and a government spokesperson.

[Joy Newsfile, 30 May 2020](#)



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FREQUENTLY ASKED QUESTIONS

These are responses to the common questions posed by the Ghanaian media. It also addresses the campaign of misinformation on the Bill waged by the Minister/Ministry of Education in the media.

Why is it that academics do not want to be accountable to the government?

Universities are already accountable **to all three branches of government:**

- the Executive arm of government has oversight of universities through the Ministry of Education and through representation on all university Councils in the country;
- Parliament makes laws establishing each new university, setting its mandate, and regulating its governance and administration; the Bill will set aside all these existing laws;
- the universities are subject to the judiciary; any person – faculty, student, parent or the general public – can bring a case against the university, and there are instances where the judiciary has ruled against universities and made orders they have had to obey;
- there are a number of public institutions that provide regulatory oversight; a short list would include the National Council on Tertiary Education, National Accreditation Board, the Auditor-General, Commission on Human Rights and Administrative Justice, and the Office of the Special Prosecutor, among many others.

Universities welcome oversight and accountability. What we don't want is to have universities come under **direct control in our day-to-day administration by the Executive** branch of government through the President's control of the University Council and the Minister of Education's power to 'give directives on matters of policy through the Ghana Tertiary Education Commission to a public university [to which] the public university shall comply' (Clause 47, [PUB](#)).

What is wrong with the government having more control over universities?

There is a difference between regulation and political control. The government already regulates universities through various laws and institutions but now it wants 'maximum control' of universities, as stated by the Public Relations Officer of the Ministry of Education, on [Joy Newsfile on 30 May 2020](#).



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The universities are already well-regulated by all three branches of government. What we want to avoid is politicians controlling the Council of the university, controlling research, controlling admission process, controlling teaching and learning, and indirectly controlling promotion by their majority on Council and through the political pressure they can bring to bear on university processes. That is dangerous for the ability of students, lecturers, administrators and researchers to carry out their learning, teaching and research functions.

Cabinet has proposed other Bills on education. What are they?

The government has proposed a slew of Bills on education. In addition to the PUB, they have a Pre-Tertiary Bill which is just as unpopular. In addition, the Cabinet proposed and Parliament approved the setting up of a new Ghana Tertiary Education Commission that replaces existing institutions.

It is clear the government has an agenda to exert more political control over the educational system; we have to ask – for what purpose?

What does ‘academic freedom’ even mean? It seems to only benefit academics.

The framers of the 1992 Constitution considered ‘academic freedom’ important enough to merit a specific mention [Article 21(1)(b)]. This is because the nature of what takes place in institutions of higher learning and research is so important that it must be protected from attempts to exert undue partisan political control on these institutions.

Among other benefits to the nation, the

- universities train our leaders;
- universities develop new ideas and inventions that benefit the entire nation;
- universities articulate critical analysis that can shape policies;
- universities protect the right of young people to have a voice, to protest unfairness and injustice, whether from the universities themselves or from oppressive political regimes.

Academic freedom is not just good for academics; it is important for students, and for all citizens whose taxes fund universities. It is to serve a public good.



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The Minister of Education claims the Bill protects academic freedom. Is this true?

There are three main components of academic freedom:

- the freedom of the individual to conduct teaching, research and learning without religious, political, or institutional restrictions (this applies to academics, administrators and students);
- the freedom of public universities as institutions to pursue their missions without external political control;
- the freedom of universities to self-govern, with proper government oversight.

While the Bill, on the surface, says that it supports ‘academic freedom’, it actually contravenes all the three tenets of academic freedom (*see p. 1 on the unconstitutionality of the Bill*).

“He who pays the piper calls the tune.” If the government funds public universities, doesn’t it have the right to tell them what to do?

The Executive does not fund public universities; universities are funded by taxpayers’ money. Taxpayers’ interests are represented by the oversight of all branches of – the Executive, Legislature and Judiciary.

This Bill is not about ‘government’ regulating universities; it is about the Executive (Cabinet) wishing to exercise political control of universities.

Secondly, public universities actually receive just a fraction of the budgets they request from the government. Beyond salaries, much of the running costs of the universities are made up through internally-generated funds. Universities work very hard to generate funds to make up the significant shortfall in government funding. Ironically, a few years ago the government proposed that universities should hand over 35% of those internally-generated funds.

Importantly, **research**—one of the university’s most important functions—is not directly funded by the government. The universities depend on research projects and partnerships that individual academics and units take the initiative to look for. This Bill proposes that all such research agreements should go through the government. This will mean that some research funding sources will dry up—funders will not understand why there is political control of research in a university, as this does not happen in any country that claims to be a legitimate democracy.



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Won't the Bill put universities under more stringent financial control?

Universities are among the most financially well-regulated public institutions in our country; they follow the laws on procurement, submit themselves to audits, and are subject to all the anti-corruption laws that regulate the public sector.

You can count on the fingers of one hand the number of financial scandals that public universities have experienced. On the other hand, any person who reads the news knows of the many, many allegations of corruption and financial losses generated by our governments. No Ghanaian, knowing this history, can accept the idea that universities are so badly managed financially that we would be better off being under the directives of a Sector Minister, and subject to all their political interests.

Isn't what happened at KNUST and Winneba proof that we don't need the PUB?

The events leading up to [the dissolution of the council of the Kwame Nkrumah University of Science and Technology](#) in 2018 and contentions over [the dismissal of members of the administration at the University of Education](#), Winneba in 2019 are a good illustration of why we **shouldn't** have a Bill that introduces partisan politics into the university space.

The problems on these two campuses were exacerbated by government attempts to dismiss administrators appointed by the previous government and to appoint their own favourites.

Imagine how much worse partisan fights will be on university campuses if the Executive can select Chancellors and Vice Chancellors and can dissolve Councils on a whim. We can expect that Councils will be dissolved every time we have a new party in power, as happens in other Ghanaian public institutions.

Doesn't PUB Bill come out of the NCTE policy that academics themselves put together?

The Minister of Education has claimed that the Bill comes out of a policy that academics put together. The chair of the committee, Prof. C.N.B. Tagoe, has said that the Bill is substantially different from policy document his committee produced.

In any case, a law supersedes a policy document. Whatever its origins, we should be more concerned about the current version of the Bill and the fact that it has been overwhelmingly rejected by academics.



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Won't the Bill help poorer students by letting them buy one form for all the universities?

The Minister of Education claims that the Bill helps poor students by allowing them to buy a single form for application for admission to all public universities.

The issue of applications is separate from the question of admission. Vice Chancellors have already indicated their willingness to work on having a common fee for application forms. This is not something that needs to be fixed with a new law.

The relatively small issue of application forms should not be a reason for the government to try to centralize the entire admission process, which decides who is admitted into which university, into which program, etc.

There are harmonized Acts for the Technical Universities and the Colleges of Education. Why not for public universities?

The Acts establishing the Technical Universities and Colleges of Education were meant to elevate these institutions by putting them under an Act. By contrast, the PUB is a disadvantage to public universities because it takes away from public universities the stature that they already have under existing Acts.

SUPPORT THE PETITION AGAINST THE BILL

A petition has been started against the Bill. As of 13 June--that is, within 48 hours of its launch--the petition has garnered **2,000+ signatures** from university faculty and administrators, students, and concerned citizens in Ghana and around the world.

Click on this [link](#) or this URL: <https://forms.gle/85pktgdUNNJdmjzC7> to add your signature.

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