

THE UNIVERSITIES, FREEDOM OF SPEECH AND GOVERNMENT

A short while ago, on an otherwise unremarkable evening, the television programme Network provided South Africans with some moments of high ironic comedy. This was the sight of the Minister of National Education, who belongs to a government which supports political censorship, control of press freedom and the total banning of some organisations and their views, hotly defending academic freedom and, in particular, freedom of speech on our campuses. He was doing this in order to explain why he had found it necessary to intervene in the traditional freedoms of the Council of South African Universities. In a series of specious statements (i.e. statements that seem to be fair, attractive or plausible, but are wanting in genuineness or sincerity) he claimed that, because, on some campuses, there had recently been occasions on which speakers had been prevented from putting their views, the Councils of those and other Universities should lose their long-standing right to autonomous control of discipline over their students and staff. It was, he claimed, now necessary for the Minister, acting through the various "eie-sake" Ministers of Education, to intervene. The form of the intervention is simple; it is a ministerial instruction to the Chairmen of University Councils defining conditions in relation to the disciplining, of both staff and students, which, if not fulfilled, entitles the Minister, at his discretion, to decrease the amount of money available to that University from the state subsidy.

Before discussing the wisdom of this intervention further, it would seem necessary to describe briefly what has been happening at South African Universities in recent years. It is necessary to ask why it is that certain newspapermen have attacked the authorities of some Universities and accused them of bias and of being "soft" on disciplinary action in relation to incidents which affect freedom of speech. It is necessary to ask, further, why it is now that such confrontational issues are appearing on our campuses.

It is certainly true that recent years have shown an increase in the number of occasions on which confrontation between invited speakers and parts of University communities has occurred. The circumstances surrounding the invitations that have been issued and the projected events themselves have been varied. On some campuses, speakers who represent "the left" have not been issued with invitations to speak. Indeed, this goes further, in that some student organisations, widely recognised at other South African Universities, are unable to obtain formal recognition and correspondingly find difficulty in having their views put forward on those campuses. On the other hand, on other campuses those who have been prevented from speaking have ranged from homeland leaders who adhere to their expressed intention of working within the system through to official representatives of organisations such as Unita, who were invited by students of a more conservative political persuasion and arrived on at least one campus

with an armed bodyguard. One of the more highly publicised incidents concerned Mr Conor Cruise O'Brien. He was prevented from speaking on two campuses to which he had been invited, not because of the political views he would have expressed, but because he was seen to be an academic scab — a breaker of the overseas academic boycott which a significant number of students and some staff see as a necessary step in support of reform processes in South Africa. This rejection of O'Brien as a speaker should be seen as in stark contrast to the refusal to allow another speaker to use an invitation to speak on a University platform because he was perceived to be a person who had committed political crimes against those in his own community who disagreed with him.

In attempting to understand what is happening within South African Universities in relation to "freedom of speech" and who may be invited and by whom to use University platforms, it is necessary to bear three points in mind.

The first, is that there are certain points of view which cannot be propagated either from a platform or from the floor in opposition to views from the platform without the proponent of these views placing him- or her-self in danger of arrest. This is because of a number of laws in this country which make it impossible to further the aims of certain organisations. The opportunity then that should be available in a University which should at all times be concerned with rational argument and discussion about differing points of view is not there. The dice are loaded — certain views may be openly supported — others may not.

The second point that needs consideration is that no University community is now isolated from the pressures that exist in South African society as a whole. The external polarisations that now exist and which were strongly exacerbated by the exclusion of Black South Africans from the recent constitutional changes which led to the tri-cameral parliamentary system, play an important part in influencing the attitudes and actions within University communities. Black student communities, whether at ethnic or open Universities are members of both this University and external communities. In this they are no different from other students, but they are subjected to peculiarly strong pressures not to be, or not to be seen to be, isolated from their own wider communities. They are therefore asked to demonstrate their solidarity with the non-University Black community and are asked to do this by supporting the external groups' actions. Because there is no parliamentary way in which Black South Africans may exert political pressures, they have to use the only methods which are available to them to express their indignations. These are necessarily of the confrontational type — boycotts, strikes and, perhaps, even more severe forms of direct action. A part, then, of the student bodies in those Universities who have really significant numbers of Black students have demands placed upon them which cut across the University's

desire for calm and rational discussion of all sides of social and political issues. It must be expected that as the external, non-University, tensions increase and necessarily take the form of confrontational behaviour, this will be reflected inside University communities.

The third point which needs recognition concerns only two kinds of Universities. In Universities which derive their student communities essentially from the Black South African community, it is highly probable that they will find tensions arising internally between those who favour a more conservative working within the system approach and those who have lost faith that this approach can lead to any adequate reform process. In those Universities which now have significant Black student populations, the student body is pulled in two diametrically opposing directions. One part is concerned with conscription and is increasingly having the experience of being used to back the forces of law and order. The other part is liable to be at the receiving end of such actions and there can be no wonder that there is a rising tension between these two groups within a single University community. One of the manifestations of this rising tension concerns the issuing of invitations to visiting speakers to use University platforms for the furthering of their views. There is no wonder then that incidents have occurred in which speakers have been prevented from speaking, posters and pamphlets have been torn down or destroyed, and that it is easy to make the interpretation that some invitations have been issued which are perceived as deliberately provocative. This must be seen against the first point mentioned above, that the laws of the country exclude many speakers whose views are sincerely held but may not form part of the South African debate. But it must be asked whether the Councils of those Universities where such incidents have occurred have failed in their duty to the educational purpose and obligations of their Universities. It is generally true that these Councils have achieved, very successfully, the completion of the academic year. Although there has been considerable publicity, particularly about incidents at the Universities of Cape Town and the Witwatersrand, neither University has not completed its annual academic programme successfully. All those Universities which have strongly defended academic freedom and in particular freedom of speech in the past, have condemned those incidents which have limited these freedoms. There have been independent commissions of enquiry about the worst of such infringements and Councils have acted on those recommendations which are feasible.

What then has the relevant Minister done then in writing to the Councils of our Universities and involving Section 27(1) of the Universities Act of 1955. First, he has strengthened the hand of those who wish to disrupt our Universities. He has done this by weakening the position of each University Council as it applies what it considers to be appropriate disciplinary action in each new set of circumstances. For each Council now faces the threat that, if their action is found by the Minister to be inappropriate or inadequate, he may remove from that University a part or all of its state subsidy. In normal years, i.e. years in which the economic conditions are such that no arbitrary cut is imposed on the state contribution, this would amount to more than 75 per cent of the expenditure of a residential University. It is clear that no University Council could hope to carry out its responsibility to the teaching and research endeavour of its University if such an action were taken by the Minister.

Indeed, such an action would be the most certain way of preventing the successful completion of an academic year — one of the expressed aims of the conditions.

Secondly, the Councils of Universities are charged with preventing the use of University premises and equipment of all kinds for the promotion, support or organising of any of a number of activities, including boycotts of either particular firms or particular products, work stay-aways etc. The Council is charged, too, with taking disciplinary action against such staff and students. It is entirely inappropriate that University Councils should be made to function as extensions of government law enforcement. Either the matters contained in the Minister's conditions are lawful or they are not. If they are not, the due process of the law should apply as it does to all citizens not connected with Universities and University members whether students or staff should not be subject to the double jeopardy of punishment by the law and by the institution. There is a paragraph published in an advertisement from the University of Natal which summarises very effectively the objection to this part of the Minister's conditions.*

"The laws which the Universities are required to enforce on pain of withdrawal of state subsidies, indiscriminately modify basic rights (including rights vital to the proper functioning of a University), invest public officials with vast and unchecked powers, provide for the suppression of political dissent, and abolish hallowed procedures and safeguards for the protection of citizens against injustice. It is implicit in the conditions that the criterion for ministerial action to withdraw subsidies is the extent to which the Universities are willing and able to enforce these contentious laws and **not** the extent to which they are successfully carrying out their educational objectives and fiscal responsibilities." It should also be added that this responsibility imposed on the Councils is not confined to activities on University campuses.

Finally, the Council is charged with reporting to the Minister "any incidents of unrest, or disruption or any other occurrence against the happening of which the preventative measures . . . are directed". The Council must also report its own actions and if these do not meet the Minister's requirements after an intervening period, the subsidy may be withdrawn. Again it is an inappropriate activity for our Councils who may reasonably claim that they have enabled their Universities to fulfil their educational objectives while preserving a totally effective fiscal responsibility.

There remains a question which must be asked. Why is it so that only certain Universities have taken such sharp exception to these Ministerial conditions? It can only be that those Universities that appear to have accepted this new imposition have not yet realised the full impact that these conditions will have on the real atmosphere of enquiry which is integral to the concept of a University. True educational and intellectual endeavour cannot be maintained in institutions which are divided within themselves or in institutions in which the members are by virtue of these externally imposed restrictions likely to be excluded from the international body of knowledge which is a part of their life-blood. All South African Universities need to be a part of the world's intellectual endeavour and will place themselves in peril if they ignore this fact.□

*The full texts of this advertisement and of a statement previously issued by the University Senate follow.