



POSITION ON UNIMA COUNCIL'S DECISION TO REVERSE DELINKING DECISION

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1.0. Introduction

The Civil Society Education Coalition (CSEC) would like to express its opinion on the UNIMA Council's decision to suspend the delinking process of the constituent colleges of the University of Malawi as per the memo dated 20th January 2021. The said memo alleges that the decision to delink the University as taken during its 102nd extraordinary meeting held on 10th July 2017 was *ultra vires* and not in line with the power and functions that these two structures (Senate and Council) were mandated to undertake under sections 10 and 18 of the UNIMA Act (Cap 30:02). In light of the above, the Council resolved to set aside the process of delinking the constituent colleges of University of Malawi. Instead, the Council is currently proposing a functional review to guide itself on the way forward in addressing the areas which require improvements, and to embrace aspirations towards enhancing the efficiency of the University.

2.0. Our Concern

Council has made a resolution which appears to be untimely and inconsistent with public expectations considering that the decision to delink went through various processes of consultation and legislation as detailed below:

- On 10th October 2015 during celebration of UNIMA Golden Jubilee, the then Chancellor of UNIMA, President Prof Arthur Peter Mutharika invited Council, the University office and four constituent colleges to come up with a common position on the proposed reform relating to the unbundling of UNIMA which was expected to create autonomy for its constituent colleges allowing them to graduate into full autonomous universities like LUANAR, MZUNI and MUST.
- On 10th April 2017 the Public Sector Reforms Management Unit in the Office of the President and Cabinet convened a meeting on reforms in the University of Malawi held at Golden Peacock. The meeting involved high level participants from government (Minister of Education, Chief Secretary and Secretary for Education), members of UNIMA Council and senate, management of university office and Principals and Registrars of the four constituent colleges. A report of that meeting showed that all the four constituent colleges were in favour of the unbundling of UNIMA after weighing the advantages and disadvantages of unbundling as well as disadvantages and advantages of remaining one entity. The only resistance was from the University office management which opted for a revised federal set up informed by an independent functional review. Following this meeting, and seeing that there were disagreements between college representatives and University Central Office, government representatives called upon UNIMA to get back to the drawing board and make a decision on the way forward.

- The same meeting of 10th April 2017 however, noted that desire for autonomy had been there since over twenty years ago, and that several studies like the MIM and World Bank had pointed towards the unbundling of UNIMA leading to creation of autonomous universities.
- On 20th April 2017, Senate met and deliberated on the issue of unbundling and resolved that unbundling be the preferred option after weighing the merits and demerits. This informed the report of the Vice Chancellor of UNIMA to the 100th extraordinary meeting of UNIMA Council.
- On 26th April 2017 the UNIMA Council convened the 100th extraordinary meeting held at the Polytechnic, chaired by Prof J.J. Wirima (who is also the current Chair of UNIMA Council). During that meeting, the Council deliberated on the issue of delinking, in absence of College management and Senate representatives (leaving University Office management and a few Councillors) who were asked not to be part of the debate since they were seen as interested parties. The remaining members of the Council, in their deliberation, accused Senate of having vested personal interest which made them fail to debate the merits and demerits of unbundling in logical, rigorous, and objective debate. The Council then resolved to report to the UNIMA Chancellor on the recommendation of a functional review before deciding on the way forward on the matter. It should be noted that this was the preferred option for University Office management as noted during the consultations with the sector reform unit. When the members who had been asked to go out of the meeting returned, debate was not opened on the matter, and even though they protested against this position, the University Council never listened to their plea as reflected in the minutes of the meeting.
- In June 2017, Prof J Wirima resigned from UNIMA Council before the issue of the unbundling was resolved and was replaced by late Dr James Maida.
- On 4th July 2017, Council held its 101st extraordinary meeting at University Office in Zomba where the decision to unbundle was arrived after considering senate recommendations. A Taskforce was appointed in November 2017 by UNIMA Chancellor to develop a plan, strategies, and tools for delinking the four constituent colleges of UNIMA and transform them into fully-fledged public universities. The work of the Taskforce involved making consultations with various stakeholders from government, NGOs, public universities, and private sector.
- In October 2018, the Delinking Taskforce chaired by Dr. Magwira released a report of its work which among others concluded that stakeholders consulted from UNIMA colleges and other stakeholders (such as parents association (PAUS), civil society (CSEC), Ombudsman, MOE, MOH were generally supportive of the delinking initiative. The report also proposed timelines for delinking process which included developing and tabling of bill to repeal and replace UNIMA Act, and to create new universities.
- In March 2019, Parliament enacted the three Bills seeking to delink the university into law, and this was followed by assenting by the President. What remained after the parliamentary nod was for the Minister of Education to gazette the commencement date after preparations were concluded. From March 2019 to date UNIMA colleges have been preparing for the commencement date, and ensured to put in place structures, regulations and polices in readiness. By June 2020, all colleges reported being ready to start operating as new Universities.
- In September 2020, following the victory of the Tonse Alliance Government, new Council was appointed for UNIMA, led by Prof Jack Wirima and included Mr. George Patridge, both of whom

were in the Council which opposed delinking back in April 2017 opting for functional review before deciding the way forward.

- On 20th January 2021, the Council decided to set aside Council decision for the delinking of UNIMA on the basis that the decision was *ultra vires* and inconsistent with the mandate of the Council. Instead, the Council called for a functional review to guide itself on the way forward in addressing areas which require improvement to embrace aspirations towards enhancing the efficiency of the UNIMA.

3.0. Observations and Issues

From the turn of events in the preceding section, we observe the following issues:

- The decision of Council of 20th January 2021 is taking the *status quo* in UNIMA four years backwards, which is retrogressive, counterproductive, inconsiderate, and frustrating.
- The decision has been made without consideration of UNIMA Senate's recommendations to the public Sector reform and Council, opting to take the position of University Office senior management.
- The decision goes against the position of various stakeholders consulted by the Taskforce in favour of the delinking of UNIMA such as college officials, civil society and parents' association and government.
- The University Office Management has vested interest on the matter of delinking for fear of losing their jobs despite being guaranteed of the same, expect those who will have reached retirement age bracket.
- It appears that the convener of the last Council's meeting has always opposed the decision to delink UNIMA hence, he is conflicted as he would not like to preside over a delinking process which he was initially against.
- The decision of the Council sets a wrong precedent, suggesting that Council can interfere with and overturn a decision ratified by Parliament. The power to legislate lie with Parliament and no any other organ of the State or indeed any agency in line with section 48 (1) of the Constitution of Malawi. Therefore, the Council's decision is inconsequential as the Minister had not yet appointed the commencement date of the Act in line with section 74 of the Constitution.
- The decision by Council does not take into account the resources and efforts the colleges have invested in preparation for the delinking. It would be irresponsible to waste hard earned taxes on processes in a manner that does not consider the plight of tax payers.
- We doubt if council has consulted the Senate in arriving at its decision as required under section 10 (1) (a), (d) and (j) of the UNIMA Act and Statute XIV. It is important to underscore the fact all structures of the UNIMA must endeavour to work in harmony in pursuit of the shared vision.
- In light of the above, we conclude that the decision of Council does not take into account the aspirations of the majority of stakeholders who wished that UNIMA be delinked, and that the decision itself is not only retrogressive, but also counterproductive. It is also an undermine of the separation of powers as espoused under sections 7, 8 and 9 of the Constitution of Malawi.

4.0. Conclusion and Recommendations

CSEC believes that the delinking of UNIMA has been long overdue and therefore, it would be unfortunate that the debate should be restarted when the same had already been concluded. CSEC believes that the delinking provides the space for growth hence, it is key for expanding access. It also provides room for innovation thereby making the established universities competitive. We wish to draw the attention of the Council to report on de-linking of the constituent colleges of the University of Malawi that firmly noted as follows:

“Essentially, all the stakeholders consulted unanimously agreed that the constituent colleges should be de-linked from UNIMA and three fully fledged universities should be established. They were also unanimous in recommending that the universities should be re-engineered to be responsive to the challenges of the 21st century in line with the country’s socio-economic priorities and development agenda.”

From the above, we recommend that the Council should rescind its decision preferably within the next seven days. Instead, it should facilitate the delinking process as wished by majority of the stakeholders and as ratified by Parliament. Rather than being a stumbling block to progress, Council should engage the Minister of Education to set the commencement date since most colleges are ready to delink. The issue of inefficiency of the UNIMA cannot be merely resolved by a functional review: they require a legislative intervention which is the course that all stakeholders, including the Council had initially supported.

Therefore, we anticipate that there will be chaos within the University should the Council decide to implement its 20th January resolution. Otherwise, the Minister of Education and University Chancellor should intervene on the matter.

Signed by:



Benedicto Kondowe

EXECUTIVE DIRECTOR

Signed by:



Jennipher Mkandawire

BOARD CHAIRPERSON