

MAKERERE

P. O. Box 7062 Kampala-Uganda
TELEGRAMS: "MAKUNIKA"



UNIVERSITY

Phone: 256 - 41 - 532971 • Dir. 531663
Fax: 256 - 41 - 532956
E-mail: publiclaw@muklaw.ac.ug

DEPARTMENT OF PUBLIC AND COMPARATIVE LAW

Your Ref:

Our Ref:



25th January 2019

- To:
1. The Vice Chancellor, Makerere University
 2. The Chairperson, Makerere University Council
 3. The Chairperson, MUASA
 4. The Chairperson, MASA
 5. The Chairperson, NUIE

c.c. The Ag. Principal, School of Law



Dear Sirs/ Madam,

RE: LEGAL OPINION ON THE SUSPENSION OF THE CHAIRPERSON MUASA, CHAIRPERSON AND SECRETARY, MASA BY THE VICE CHANCELLOR

We refer to the above subject. As staff in the School of Law, we wish to offer a legal opinion on the matters that have arisen as a result of the said suspensions. These include:

- i) Freedom of association for Makerere University employees;
- ii) Academic freedom; and
- iii) The legality and legitimacy of the suspensions of Association leaders.

1.0 The Facts

On 21st December, 2018 the Chairperson of MASA (Makerere Administrative Staff Association), Mr. Bennet Magara and the Secretary of MASA, Mr. Joseph Kalema were suspended by the Vice Chancellor from University Service as employees on allegations relating to their work as MASA leaders, namely, writing a letter to the University Secretary stating that University management should not meddle in the affairs of staff associations and that on 20th December 2018, the two led a mob to disrupt a session of the University Council. There are other allegations citing "security reports", that these leaders were "inciting other staff to disrupt University activities". The two leaders were suspended as University employees in the Directorate of Internal Audit and the Directorate of Human Resources respectively. The suspension is indefinite.

We have learnt that the above allegations stem from the fact that the two leaders were informing University management that the leadership and affairs of staff associations are a mandate of the



relevant members of those associations. On 20th December 2018, the two leaders simply escorted their newly elected council representative to Council Room but all of them and their elected representative were turned away. There was no mob.

On the other hand, MUASA has made a number of demands addressed to the University Council which included salary arrears, disputing the membership of two specific individuals on the University Council (Mr. Bruce Kabaasa and Hon. Thomas Tayebwa), changes in the Human Resource Manual and irregularities in the dismissal of some critical members of academic staff. In the course of interactions and exchanges between MUASA and management regarding these issues, the Vice Chancellor suspended Dr. Deus M. Kamunyu as a Lecturer in the Department of Forestry, Biodiversity and Tourism. This suspension was also indefinite.

2.0 Legal Opinion

2.1 Freedom of Association

We wish to state that every Ugandan has a constitutional right of freedom of speech, and expression and freedom of association which includes “freedom to form and join associations, or unions, including trade unions and political and other civic organisations.” (Article 29 (1) (a) and (e) of the Constitution). This freedom is further emphasized in Article 40 (3) (a) of the Constitution which gives every worker in Uganda, a right to form trade unions to protect their economic and social interests, “a right to collective bargaining and representation” and the right to collectively withdraw labour (i.e. the right to strike).

With respect to Universities specifically, members of staff have the right to form staff associations under sections 68 and 93 of the Universities and Other Tertiary Institutions Act, 2001 as amended.

Section 93 provides that:

“There shall be an academic staff association whose aims shall be to promote the academic and welfare interest of the academic staff.”

We wish to add that members of staff are also free to form and join trade unions of their choice under the provisions of the Constitution referred to above as well as under the Labour Unions Act 2006. In particular, section 3 of the Labour Unions Act gives all workers the right to organise themselves in any labour union for purposes of collective bargaining, doing any lawful act or participating in industrial action. Section 4 of the Act is very categorical and provides that an employer **shall not**:

- a) “Interfere with, restrain or coerce an employee in the exercise of his or her rights guaranteed under this Act;
- b) Interfere with the formation of a labour union or with the administration of a registered organization;
- c) Discriminate in regard to the hire, tenure or any terms or conditions of employment in order to discourage membership in a labour union;

