

Why Rhodes' heavy handed action against student activists is misplaced

VOICES

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© 2017-12-16 16:32

Rhodes University dealt a strong hand against alleged "criminality" by permanently excluding at least two of its students involved in last year's #RUReferenceList protests – sparking the ire of anti-rape violence activists around the country.

Students Yolanda Dyantyi and Dominique McFall were charged and found guilty by the university for kidnapping and insubordination. Dyantyi was also found guilty of assault and "engaging in offensive/defamatory conduct". The two were excluded from the university for life.

In response to the sanctions, the hashtag #RhodesWar was prominent on social media this week, with sexual violence activists speaking out against what they understood to be violence against black women.

On Friday Dyantyi held a press briefing to discuss the sanctions Rhodes imposed on her. During the briefing, Dyantyi accused the university of sexism and bias during its disciplinary process.

"#RhodesWar isn't just me. Rhodes is on a purge to exclude black women, and women can't speak because if they do they'll be sanctioned," Dyantyi said.

"Rhodes is clear as to which side they're taking. They've proven our point that women are sites of violence. They get rid of us, they play dirty, we're the criminals and the vigilantes they're painting us as."

Speaking to the City Press on Wednesday, Rhodes University vice-chancellor Dr Sizwe Mabizela said: "We would never discipline students for participating in a protest that shows a revulsion with gender-based violence. But being a gender activist does not give one licence to commit criminality."

#RUreferencelist protests and alleged kidnappings

The sanctions against the students follow the alleged kidnapping of men named in the "RU Reference List", a list of the names of men alleged to be rapists that was anonymously posted to social media and went viral in April last year. A large group of students, ranging from 100 to 2000, according to different witness statements, allegedly forcibly removed men named on the list from their residences and held them against their will for several hours over night.

Two of the alleged kidnap victims named on the RU Reference List, Jason Manyenyeni and Luzuko Gcakasi, were the primary witnesses that testified against Dyantyi and McFall at Rhodes' disciplinary hearing. Their testimony is



Rhodes University Picture: File

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a “mob” that apparently kidnapped them.

Both women were found guilty of insubordination for allegedly refusing to abide by instructions from Mabizela to release Manyenyeni. The student was later released following the arrival of the South African Police Services and subsequent negotiations.

Dyantyi was found guilty of assault for allegedly grabbing Manyenyeni by the shirt, pushing and shoving him, as well as spitting on him. She was also found guilty of “conduct that was defamatory/offensive” for calling another student, Buchele Madikizela, a rapist on social media.

As part of the university’s sanction against them, Dyantyi and McFall have also had their academic transcripts endorsed with the words “conduct unsatisfactory”, with a list of the alleged crimes the university deemed them guilty of committing.

“No institutions will accept someone who has been banned for life, accused of kidnapping, all because we protested rape culture and were insubordinate to the vice-chancellor,” Dyantyi said.

In addition to the students’ exclusion and endorsement on their academic transcripts, Rhodes University also will not accept external credit towards their degrees. This effectively means that McFall and Dyantyi, both final year students at Rhodes this year, will never be able to graduate with the degrees that they have been studying toward at the university.

Dyantyi refuted suggestions that she and other activists were found guilty of common law crimes in a court of law.

In a statement issued by the university on December 13, Rhodes said: “The ‘illegal actions’ for which the students were excluded from the University were found by the [Eastern Cape High Court in Grahamstown], in a separate action, to have made ‘serious inroads into the rights and liberties of others’.”

The university students appealed to the Supreme Court of Appeal and Constitutional Court, but lost these challenges.

The university is referring to court hearings relating to the April 2016 interim interdict Rhodes sought against the protesters. In November 2016, a motion was heard in the Eastern Cape High Court in Grahamstown as to the validity of the interdict, and whether it should be finalised. While the court heard evidence regarding alleged “illegal actions” committed by the protesters, it could not make a ruling on the activists’ guilt.

After considering more than 1153 pages worth of affidavits and supporting papers, Judge Murray Lowe did say in his ruling that he believed Dyantyi was “involved to a substantial extent” with the kidnapping of the male students.

“I accept on a proper approach to the papers that she was involved to a substantial extent in the unlawful activities surrounding the kidnapping of Mr Manyenyeni and Mr [Yuyo] Myoyo [another student allegedly kidnapped], undoubtedly the most serious of the transgressions threatening the safety and physical freedom of the two men and no doubt causing them extreme stress and fear.”

Lowe expanded on the purpose of the interdict hearing: “Motion proceedings such as this are not designed to resolve factual disputes. [...] In the absence of special circumstances they are not used to resolving [sic] factual issues because they are not designed to determine probabilities.”

McFall isn’t ever named in the high court’s ruling.

Alleged procedural flaws in disciplinary process

The Socio-Economic Research Institute (Seri) represented Dyantyi at her disciplinary hearing, and said it believed the sanction against Dyantyi to be unlawful. This was the result of a number of procedural flaws in the disciplinary hearing process, according to Seri’s director of litigation, Nomzamo Zondo.



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defence at the disciplinary hearing because Rhodes University refused to reschedule Dyantyi's hearing date for a time that senior members of her legal team could attend.

"The team consistent of two advocates, an attorney and a candidate attorney. We believed our attorney did not have enough trial experience to represent Dyantyi on this matter alone, and she deserves the best defence we can give her," Zondo said.

"The anger and misinformation in the university's statements on this matter speaks to the university's attitude towards Dyantyi.

"They have completely lost perspective. This is always what happens when people in positions of power are used to having their way, but don't stop to ask if what they're doing is right."

Seri will launch an application in the high court against Rhodes University's sanctions against Dyantyi in January next year, Zondo told City Press.

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