

STUDENT REPRESENTATIVE COUNCILS

A Guide to Developing a Constitution

**Support Material for
Student Leadership
Development Programme**

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About the Effective Governance Project



The Higher Education Act 101 of 1997 puts forward co-operative governance as a new model for governing higher education. Whilst providing guidelines with regards to the functioning of councils, institutional forums and student representative councils, the Act leaves much scope for individual institutions with regards to interpretation and implementation. A key function of the Higher Education Branch of the Department of Education is capacity building. During 1999 the Constituency Affairs Division of the Department of Education (DoE), in collaboration with the United States Agency for International Development (USAID) as the funding agency and the Centre for Higher Education Transformation (CHET) as the implementation agency, started a three-year project to assist institutions in making institutional governance more effective.

The Effective Governance project focuses on three governance structures: councils, institutional forums and student leadership. The methods of capacity building are through the development of generic guidebooks and facilitator manuals, the training of facilitators for capacity development, conducting research on co-operative governance in key areas and the provision of focused support to a limited number of institutions.

The following individuals serve on the Advisory Committee for this project:

Professor Connie Mogale, Vice-Chancellor Technikon Witwatersrand; Professor Dan Ncayiyana, Deputy Vice-Chancellor University of Cape Town; Professor Stuart Saunders, former Vice-Chancellor of University of Cape Town; Mr Khaya Matiso, Dean of Students University of Port Elizabeth; Ms Mel Hagen, Dean Cape Technikon; Ms. Phindi Mabena, Equity Director South African Institute of Chartered Accountants; Ms. Linda Vilakazi-Tselane, Human Resources Director Council for Scientific and Industrial Research; Mr. Zola Saphetha, Secretary-General South African Technikons Student Union; Mr. Ms Nandipha Zonela, Secretary-General South African Union of Student Representative Councils, CHET and DoE representatives.

Introduction



The dawn of a new dispensation in South Africa permeated all aspects of society. The Higher Education sector, which played a crucial role in bringing about this constitutional order that we now enjoy, is thus also affected by these changes. The promulgation of the Higher Education Act 101, 1997, is the most important signal of change in this sector because it has revolutionised the role of these institutions in society and the manner in which they are governed.

Higher education plays an important role in the development of society. South Africa's transition from apartheid to democracy calls for the review of all existing practices, institutions and values in terms of their relevance to the new era. "In South Africa today, the challenge is to redress past inequalities and to transform the higher education system to serve a new social order, to meet pressing national needs, and to respond to new realities and opportunities. It must lay the foundations for the development of a learning society which can stimulate, direct and mobilise the creative and intellectual energies of all the people towards meeting the challenge of reconstruction and development." [from *White Paper on Higher Education*]

In the context of this new order and other challenges imposed by the re-entry of South Africa into the global community of nations, one of the most critical challenges facing the student movement is to redefine its role. In so doing a new constitutional dispensation faces Student Representative Councils [SRCs]. This calls for a review of the existing SRC constitution to bring it in line with the South African Constitution, the Higher Education Act and the various statutes of the institution. This process is an opportunity to focus student governance to meet the challenges of the day.

SRCs have a rich history within the student movement. The new order means that they are required to transcend from being mere representative structures to become student government structures that play a role in co-operative governance through participating in various institutional governance structures.

This publication seeks to guide the student leadership on how to approach issues relating to the Constitution. It explains what the constitution of a SRC is, what it regulates and what role it plays in building on the rich history of student governance.

The fundamental principles of the constitution are crucial in constitutional review. Questions about the powers and duties of various structures that have a stake in student governance are dealt with. The publication presents the reader with various models of student governance as well as practical examples and illustrations.

It also deals in detail with various provisions of a constitution and how these become building blocks of the final product – the constitution.

A step-by-step guide on how to conduct a constitutional review process is explained. This has been tested at a number of institutions in South Africa and, with minor adjustments, it has proved to be very effective.

The uses for this book are varied:

- It is a resource for a student leader who simply wants to learn about constitutional governance of the student body.
- It provides reference material for someone who is writing an organisational constitution from scratch or who wishes to understand the roles and responsibilities of various office bearers and student governance structures.
- It is a resource that gives practical guidance, not only to SRCs but also to other student organisations, student development officials and practitioners in higher education.

We trust that you will use this publication to build student governance and strengthen the student movement in our country.

The Authors

Chapter 1

What is an SRC Constitution?



The constitution is a special law or set of laws with a higher status than other laws. The purpose of a constitution, as a key element of a legal system and as a reflection of the will of the people, is to regulate all actions. At a higher education institution, the SRC members constitute the government of the student body and the SRC constitution is a basis for the operation and management of the SRC.

The constitution can also be defined as a bundle of basic principles upon which the legal order or laws and regulations of an entity or a state are based. An SRC constitution defines the purpose of existence of the SRC as an organisation responsible for the needs of students.

The constitution serves as a point of reference and a guide for policy formulation and regulatory frameworks in any organisation. Members of the SRC have to execute their duties in accordance with the provisions of the SRC constitution.

In order for a constitution to be legitimate it has to be written and entrenched. An entrenched constitution is one that cannot be amended or repealed with procedural ease, as is the case when dealing with ordinary legislation. This prevents the government or SRC members from amending it at will. In addition to writing and entrenchment, a mechanism is required that can enforce observance of the provisions of the constitution. This function is usually assigned to the courts. At an institution of higher learning there are internal bodies with jurisdiction over internal disputes and these have to be utilised, before intervention of an outside court is sought.

The effect of the South African constitution as the supreme law of our country is that any law that conflicts with the principles contained in it, is invalid and unenforceable. Similarly, the SRC constitution is the supreme law of the Student Body of a particular institution and no other student law may be in contradiction with its provisions.

The link between the SRC constitution and other pieces of legislation

Educational institutions, like organs of state, are bound by the constitutional principles of co-operative governance and public administration. This means that at an institutional level, the internal governance structures, in carrying out their mandate, have to take into consideration the principles of co-operative governance.

The Higher Education Act recognises the need to establish a single co-ordinated higher education system, which promotes co-operative governance and provides for a programme-based higher education. It also recognises the need for higher education institutions to enjoy freedom and autonomy in their relationship with the state. Section 35 of the Higher Education Act 1997 allows for the establishment of the SRC. The SRC has jurisdiction over student matters. The SRC being an organisation within a learning institution is therefore subordinate to the Council. This means that the SRC constitution itself has to be within the ambits of legislation governing that institution and the constitution of the country.

Key elements of co-operative governance as proposed by the Higher Education White Paper 3 are: partnership, co-operation and effective articulation of interests. The White Paper also asserts that, for co-operative governance to work, stakeholders are required to acknowledge the existence of competing and complementary interests, interdependence and a sharing of common goals for the good of the institution. Co-operative governance is also based on balancing participation with effectiveness and accountability.

Section 26 (2) of the Higher Education Act provides for the establishment of a Council, Senates, Student Representative Council and Institutional Forum amongst other offices and structures listed, in all public higher education institutions. These are institutional governance structures with distinctive roles, which may be summarised as follows:

Council – governs the institution subject to the Higher Education Act and institutional statutes.

Senate – accountable to Council with regard to the academic and

research functions of the institution.

Institutional Forums – advises Council on all issues affecting the institution, including those listed in the Act.

Student Representative Council – represents students in all aspects of student life.

The following sections of the Higher Education Act provide for representation of the Student Representative Council in the above-mentioned governance structures:

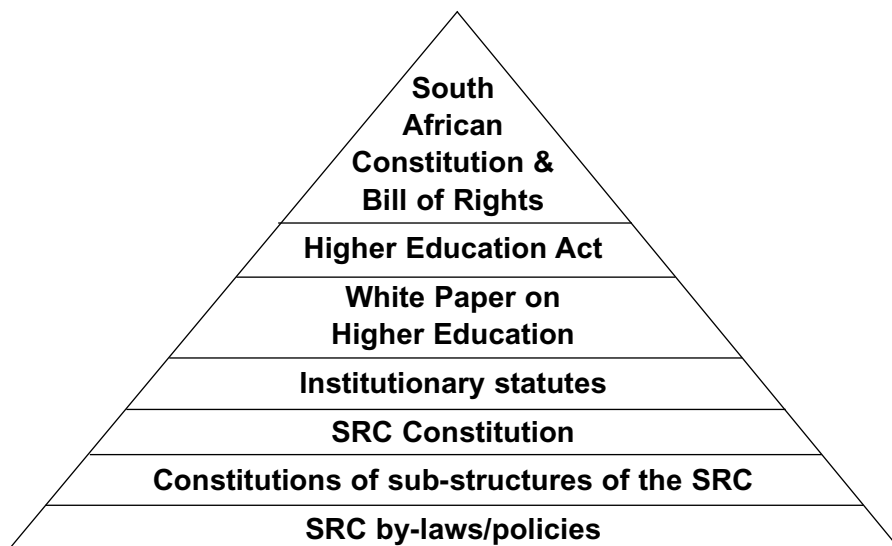
- Section 27, subsection 4 (f), The Council of a public higher education institution must consist of (amongst other stakeholders), students of the public higher education institution elected by the student representative council. The council must also provide for a suitable structure to advise on the policy for student support services within a public higher education institution after consultation with the student representative council, subsection 3.
- Section 28, subsection 2 (f), The senate of a public higher education institution must consist of (amongst other stakeholders), the student representative council.
- Section 31, subsection 2 (f), The institutional forum of a public higher education institution must consist of representatives of (amongst other stakeholders), the students.

The above-mentioned provisions provide for direct representation of the student representative council in governance structures. This means that apart from representing students, Student Representative Councils have the responsibility of acting in the best interest of the institution in exercising their role in these governance structures. Section 27 subsection 7 (a) and (b) requires that members of the council must be persons with knowledge and experience relevant to the objects and governance of the public higher education institution concerned; and must participate in the deliberations of the council in the best interests of the public higher education institution concerned.

The establishment and composition, manner of election, term of office, functions and privileges of student representative councils are referred to as institutional statutes and institutional rules in terms of

section 35 of the Higher Education Act. Institutional statutes are legal tools that seek to promote effective management of the Higher Education institution in respect of matters not expressly prescribed by the Higher Education Act. This includes sections on the institution's name, seat and powers, chancellor, council, senate, faculty boards, institutional forum, student representative council, convocation, management and senior management, employees, students, donors and transitional powers. However, the minister of education has promulgated standard institutional statutes that will apply to every public higher education institution that has no institutional statute. This will apply to institutions such as newly merged or newly declared higher education institutions.

The structure depicted below illustrates the relationship between the SRC constitution and the South African Constitution and Bill of Rights, the Higher Education Act and institutional statutes and rules in terms of the hierarchy of laws. This means that provisions of the Higher Education Act are subject to and cannot contravene provisions of the South African Constitution. The same applies to the way in which the White Paper, institutional statutes and the SRC constitution are related.



What does an SRC constitution regulate?

The SRC constitution regulates the following:

- The composition of organs of student governance in an institution. This may include structures other than the SRC itself, such as the Student Parliament, the Student General Council, etc.
- The mode of election, tenure of office, powers, functions and duties of the SRC.
- The procedures for day-to-day running of the SRC such as meetings, accountability, finances and a code of conduct.
- The procedures for the amendment of the constitution or its total review.
- The dissolution of the organisation, its legal standing and the disposal of its assets.

In summary, the SRC constitution is a legal document that contains the most important rules in connection with the constitutional system of a student body.

The role of the constitution in building student governance

As a founding document of the student body, agreed to and adopted by all stakeholders, an SRC constitution is binding on those stakeholders. It is also binding on future student governing authorities. As explained, provisions of the constitution cannot be amended unless the procedure stipulated to do so is followed to the letter. In this way democracy is protected.

The SRC constitution is regarded as a written enactment of the will of the student body. If the constitution reflects the will of the student body accurately, it will ensure that any policy or law that the organisation develops will enjoy credibility from all students regardless of their political or other persuasions.

The constitution also provides for a less chaotic and non-confrontational manner of addressing disagreements with the development of policy and practice within student governance. A given policy can be challenged on the grounds that it conflicts with the constitution and should therefore be declared unconstitutional.

How can an SRC constitution be used as an instrument to transform student governance?

Historically, SRCs were classified as structures of civil society, given that they were structures around which members of the society, in this case students, were voluntarily organised. SRCs were organised as structures that were supposed to assist students in pursuing their aspirations. These included representation in bodies where they are granted representative status.

SRCs are now considered to be statutory structures as provided for in the Higher Education Act. They offer a variety of services to individual students and different student groupings. In offering these services SRCs exercise political, economic and administrative authority in order to manage the activities of student life.

In line with the definition of governance, the roles and responsibilities of SRCs can be listed as follows:

- Participate in institutional decision-making structures.
- Advise and support the delivery of effective and efficient student support services.
- Manage and administer student representation at different levels.
- Advise on the development of academic programmes and student-learning experiences.
- Participate in the development and implementation of institutional and national policies on higher education.

The extent to which the constitution can be used to transform student governance depends on clearly defining goals in this process and delineating parameters to ensure an ideally transformed student governance.

A transformed student governance system should be characterised by the following principles of good governance:

- **Shared Participation**
All students should have a voice in decision-making processes that affect them, either directly or through institutions that

represent their interests. This level of participation is built on freedom of association and speech.

- **Rule of Law**
Legal frameworks should be fair and impartially enforced.
- **Responsiveness**
Student governance should serve all students.
- **Consensus orientation**
Good governance mediates differing interests to reach a broad consensus on what is in the best interests of the constituency and, where possible, on policies and procedures.
- **Effectiveness and efficiency**
Making the best use of resources in meeting the needs of all students.
- **Accountability**
Student governance structures are accountable to the public and the constituencies they serve, since public resources are utilised to maintain them.
- **Strategic vision**
Student leaders should have a broad and long-term perspective on good governance and higher education development.

In the next chapter we look into how these principles can be formulated into constitutional provisions that form the core of an SRC constitution.

Chapter 2

Provisions of a Constitution



A constitution must have only those provisions that are relevant to its context as outlined by all the other sections above. The guiding principle is that the fewer the sections of the constitution, the better. It is much easier to interpret and apply a constitution that has fewer, well-considered provisions than one which has a multitude of provisions.

This chapter takes a detailed look at the provisions of the constitution. These can be organised in a manner that is suitable to your context. The listing of these provisions does not mean that all of them must be included in the constitution you undertake to write. Some provisions can easily be subsumed under others for the sake of clearer comprehension or completeness.

The following provisions appear in most constitutions:

Preamble

Definitions

Name

Aims and Objectives

Composition of the Student Governance

Substructures of the SRCs

Membership of Clubs, Societies and Organisations

Duties and Responsibilities

Elections Procedures and By-laws

Meeting Procedures and Quorums

Financial By-laws

Standing Orders and Amendments and Dissolution

Preamble

This is the introduction to the constitution. It usually highlights principles enshrined in the constitution. It can also be informed by the

vision of the organisation and gives the reader an idea of the higher ideals of the organisation. The preamble is like a vision statement which clearly expresses the focus and aspiration of the constitution.

EXAMPLE

The preamble of the constitution of South Africa

“We the people of South Africa ...

Recognise the injustices of the past

Honour those who suffered for justice in our land

Respect those who have worked to build and develop our country ...

We therefore adopt this constitution as the supreme law of the republic ...”

Hint: A preamble should reflect broad principles that underpin student governance in your institution.

Definition

This clause contains the intended meanings of any special words contained in the constitution. It is used to ensure that there is a clear understanding of the words used. It is a very important section when it comes to the interpretation of the constitution.

EXAMPLE

The Definition section of the Vista University SRC Constitution has the following:

Council means the Council of the University

Full-time Student means a person registered as a full-time student at the University

Hint: *The section on definitions is not just a list of glossary terms; it is meant to assist in interpreting the effect of specific words and phrases in the constitution.*

Name

This provision is for the official name of the organisation. Under this section of the constitution an abbreviation that is user-friendly can be introduced for use throughout the constitution.

EXAMPLE

The organisation shall be known as The University of Transkei Student Representative Council herein referred to as UNITRA SRC.

Hint: *The organisation's name should be agreed upon by all interested parties within the student body.*

Aims and Objectives

This provision is very important as it clarifies the main purpose for the existence of the organisation. It is important to think very carefully about what must be stated in this section in order for a clear delineation – at a later stage – of the Programme of Action of the organisation.

EXAMPLE

The Aims and Objectives section of the Constitution of the ML SULTAN Technikon SRC are as follows:

Therefore we commit ourselves to:

- Do everything to build and create an academic order and an institution which teaches and practices democratic order, personal freedom and equality.
- Infuse a spirit of unity and ubuntu in our institution and remove all artificial barriers between people.
- Empower our communities with knowledge and skills and the values which form our institution.
- Commit students in developing communities they come from.
- To recognise the intentional fold in which we exist.

Hint: This section provides broad guidelines on what the SRC plan and projects seeks to achieve.

Membership

Who is eligible for membership of the SRC? This is a critical question and always an interesting debate on campuses. This provision is key to ensuring that the wrong people do not end up standing for the SRC. It helps in establishing reliable criteria for candidates contesting the SRC elections.

EXAMPLE

Extract from an SRC Constitution:

Only full-time students of the Technikon are eligible to stand for SRC elections.

Hint: Make sure that this section does not exclude any student who is entitled to participate in activities of the SRC.

Composition of the Student Government

This provision or section of the constitution outlines the structures and composition of student governance. It should clarify at a glance what the role of each structure in governance is, and the power relations between the relevant structures.

Structures comprising student governance may include:

- The SRC
- The SRC Executive
- The Annual General Meeting [AGM]
- The Student Parliament
- The Student General Council
- Faculty Councils

The cluster of identified structures form the basis of a model for student governance as elucidated in Chapter 4.

Substructures of the SRC

This section should deal with the relationship between the SRC and faculty councils, residence councils, sports councils and any other SRC substructures. In cases where some of these substructures have their own constitutions, their relationship to the SRC constitution should be defined.

Membership of Clubs, Societies and Organisations

This section deals with circumstances under which clubs, societies and organisations can be registered with the SRC. This will regulate the registration of religious and political bodies. This section should also state clearly the responsibilities and privileges of registration with the SRC.

The formulation of this section should be all-inclusive and take into account freedom of association.

Duties and Responsibilities

Sometimes referred to as powers and duties, this section explains the responsibilities and authority of each portfolio holder in the SRC. It is advisable to keep such provisions as generic as possible in order to allow flexibility in developing dynamic responsibility sharing and role playing within each elected SRC.

EXAMPLE

The following is a list of SRC Portfolios and executive posts:

The President/ Chairperson

Shall be the chief executive officer of the SRC

Have ultimate responsibility for co-ordinating SRC activities

Be the spokesperson of the SRC

Shall represent the SRC in all official functions

Sign all minutes of the SRC

Ensure positive image of the SRC

Chair all SRC executive, statutory, extraordinary and emergency meetings

The Deputy President Internal

Shall be responsible for the management of the SRC office

Shall assist the President in all matters

Shall deputise the President

Shall be responsible for all internal relations matters

The Deputy President External

Shall assist the President in all matters

Shall also handle all external relations matters

Shall deputise the President

The General Secretary

Shall be responsible for the administration of SRC assets

Shall keep and maintain all SRC records

Shall work with the President in convening all SRC executive, statutory, extraordinary and emergency meetings

EXAMPLE (cont.)

The Treasurer

Shall be responsible for the regulation and administration of the funds allocated to the SRC

Shall provide audited financial reports on behalf of the SRC to the annual general meeting

The following portfolios are found in most SRC constitutions. They may vary according to structure of student governance as per institution.

The projects officer

The gender and equity officer

The academic officer

The sports and culture officer

Accommodation officer

The speaker of parliament

Hint: Avoid duplication of duties as this might be a source of conflict.

Elections

This is a crucial provision in any constitution. The simpler this provision is, the better the chances are of avoiding conflict over SRC elections – such as calls for an amendment to the constitution just before an election!

It is important that this section should be as comprehensive as possible and it must take the following into account:

- When should an SRC election take place?
- Who should administer the elections?
- Who is eligible for elections?
- What are the procedures for nominations, objections, voting, counting and canvassing votes?

The procedures above are closely linked to the model of student governance chosen for the SRC. There is merit in constructing election by-laws that detail the following:

- Election rules relating to canvassing.
- Rules governing the participation of outgoing SRC members in SRC elections.
- Rules governing the independent electoral commission.
- A general code of conduct to ensure a free and fair election.

An empowering provision that makes reference to these by-laws can then be inserted into the constitution to give them legal force.

Meetings

Provisions that deal with meetings are important for the following reasons:

- To determine **what meetings** the SRC is under a constitutional mandate to conduct as part of the fulfillment of its obligations to the student body.
- To determine how meetings need to be conducted, **how frequently** they should happen and what the **status of the decisions** in that meeting is in relation to decisions taken at other meetings of the student body. The AGM of the SRC, for example, takes decisions which are binding on all levels of student governance, unless reviewed by a student mass meeting.
- To determine how decisions are made in meetings and outline the deadlock-breaking mechanisms needed.

Provisions such as quorums, procedures to deal with the reconvening of meetings and determining of the status of meetings can also appear under this section.

EXAMPLE

Section 3 of the UWC SRC Constitution deals with meetings (under 3.7 Quorums). The following is an extract:

- 1.1 For all meetings, excepting the Mass Meeting, the quorum shall be 25% of those entitled to attend and vote.
- 1.2 Should the meeting fail to constitute a quorum at the stipulated time, the meeting shall adjourn for 30 minutes. If at reconvening the meeting still fails to constitute, then if:
 - 1.2.1 It is the AGM; it shall stand adjourned for 5 days at which time those present shall be deemed to constitute a quorum.
 - 1.2.2 It is the GC; it shall stand adjourned for two days at which time those sittings shall be deemed to constitute a quorum.
 - 1.2.3 It is a meeting of the SRC; it shall stand adjourned for 24 hours from the adjournment at which time those meetings shall be deemed to be a quorum.

Hint: A step-by-step guide on how to deal with “non quorating” AGMs is an important addition to this section.

Financial management after meetings

EXAMPLE

The different student governance sub-structures that are funded by the SRC shall annually submit budgets in prescribed form to the SRC before specified time.

All funds made available by the university for student governance shall only be utilised in accordance with an approved budget.

The finance of the SRC shall be administered in accordance with Schedule 1 and 2 of the constitution (that is, SRC financial policy).

***Hint:** Student governance/SRC should develop a financial policy that will list procedures and rules to be followed in fundraising, disbursements and reporting. This should also include the necessary structures that will be put in place to monitor implementation of such policy, such as the finance committee.*

Amendments

A clause or provision that gives guidance on how to amend the constitution must be unambiguous as it can be a source of conflict. This provision must indicate the procedure a member of the student body should follow if they wish to table an amendment to the SRC constitution.

It must also indicate a procedure for the adoption of such an amendment and how to make it part of the constitution.

EXAMPLE

The following is a typical amendment clause:

- 1.1 In order for an amendment of this constitution to take place, suggestions must be forwarded to the General Secretary of the SRC seven days before the AGM.
- 1.2 Such proposed amendment shall be passed if voted by two thirds of students present at the AGM.
- 1.3 No amendment to the constitution may be entertained on the day of the AGM, without prior notice.

Hint: Do not make it easy to amend the constitution. This will force people to consider their amendments very carefully before tabling them.

Dissolution

This provision explains the procedure and requirements for the dissolution of an organisation. A clause under this provision can indicate what must happen to the assets of the organisation upon dissolution.

EXAMPLE

The following is a typical dissolution clause found in most constitutions:

- 1.1 The SRC may be dissolved by virtue of a substantive motion supported by two-thirds of students present at a properly constituted Annual General Meeting.
- 1.2 Upon dissolution, all assets and resources of the SRC shall belong to the University.

Hint: Avoid mentioning any organisation that stands to benefit by name in the constitution.

All of the above-mentioned provisions can be structured in a variety of ways to form a constitution to support a relevant model of student governance. In the next chapter, which deals with models of governance, we shall see how these provisions are shaped by imperatives imposed by the different models of student governance.

Chapter 3

Models of Student Governance



The merger of two or more institutions will result in the existence of multi-campus institutions. There will therefore be a need to develop a constitution that will ensure effective, democratic participation of students in the SRC affairs in some of these multi-campus institutions. A unitary or federal SRC structure could be considered in order to ensure effective participation of students. The different models outlined below can be applicable to both federal and unitary SRC.

Federal Structure

With this model you have two or more SRCs co-existing at different satellite campuses. The two or more SRCs will then meet to coordinate their activities and seek consensus on matters. You may also have the different SRCs establishing joint coordinating committees, or having the same office bearers with SRC sub-structures existing in satellite campuses. In this instance students from different campuses will vote on different voter's rolls. In instances where they have the same office bearers, there could be two ballot papers – one electing campus SRC while the other elects office bearers for the central SRC.

Unitary structure

The unitary SRC will exist in cases where there is only one SRC representing students of the institution. This can take place in a single-campus institution or in a multi-campus institution. In this instance, students from different campuses will vote on a single voter's roll.

Models of SRCs

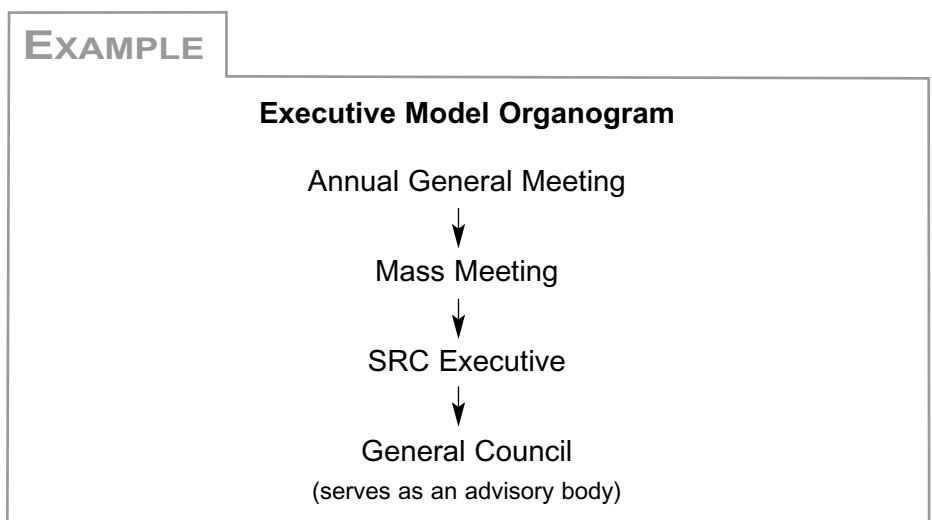
The provisions of the constitution outlined in detail in Chapter 3 can be organised in a variety of ways, depending on the model of student government you choose for your student body.

The elections clause of a model where the entire student body participates in the election of the SRC will be different from election clauses in a constituency based system, where various interest groups are expected to elect representatives.

In the South African setting, there are generally three streams of governance model that are in use. These are the executive model, the parliamentary model and the hybrid model, (which combines elements from both other models).

- **The Executive Model**

In this model of student governance, the SRC is elected directly in its entirety and has overriding authority in the periods between the AGM and any mass meetings.



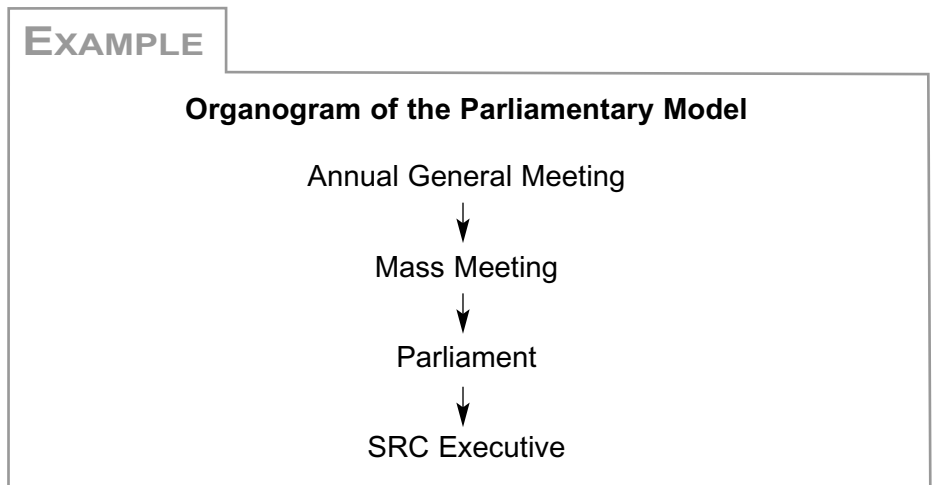
In this model –

The AGM is the highest decision-making body followed by the SRC's regular mass meetings and then the SRC.

Student structures, clubs and societies are involved in governance in an advisory capacity.

Hint: This model is suitable for a highly active student body to keep the SRC executive on check in terms of delivery.

- **The Parliamentary Model**



In this model –

The AGM is the highest decision-making body followed by the SRC's regular mass meetings and then the Student Parliament. The SRC operates as part of the executive of Parliament and is completely accountable to it.

Student structures, clubs and societies are involved in governance with authority. In a variation of this model, seats are allocated to clubs and societies in what could become a vibrant forum for the exchange of views.

The University of the North Student Representative Assembly (SRA) is a current example of an SRC run according to the Parliamentary Model.

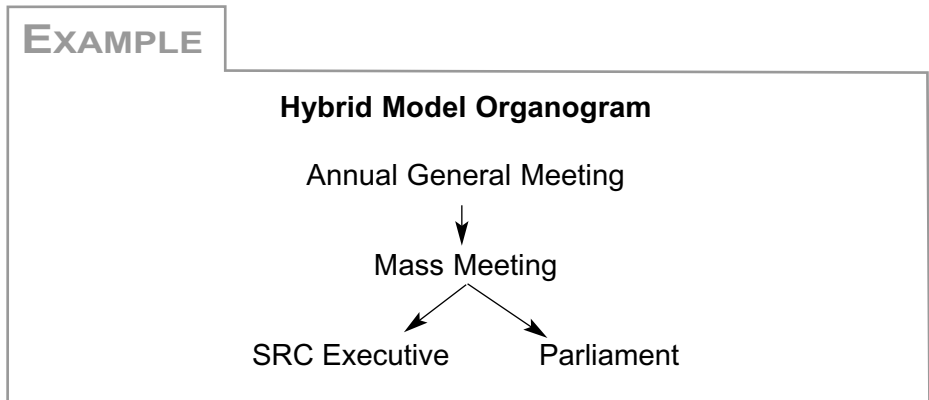
Hint: This model is suitable for institutions with a large pool of student leaders because parliamentary work is too demanding.

- **The Hybrid Model**

In this model of student governance, elements of both previously mentioned models are combined. The SRC is elected directly in its entirety and has executive functions. The parliament is constituted by representatives of all student structures:

In this model –

The AGM is the highest decision-making body, followed by the SRC's regular mass meetings, and then the SRC and Parliament alongside each other with clearly defined powers and duties.



In the process of reviewing the SRC constitution, it is important to set out a clear process by which the student body can arrive at a decision about which model that is most suitable for their context. This must be based on the challenges facing a particular student body.

The legitimacy and therefore sustainability of a constitutional order depends heavily on a properly crafted process to establish such an order. Think back a little to the days of CODESA. Had it been flawed, the current South African constitution, hailed as a masterpiece all over the world, would not exist.

If a thorough procedure is followed to decide on a model, that constitution will, most likely, be maintained for a long time. Once a model is agreed upon the rest will fall into place. The next chapter will look at this process closely and how it makes the entire constitutional process hang together.

Hint: *This model requires clear conflict-resolution mechanisms that are agreed upon by all.*

Chapter 4

Writing and Reviewing SRC Constitutions



This section illustrates how to overhaul and write a constitution. It will also touch on the role of institutional councils in ratifying SRC constitutions and what SRCs should consider in preparing for this.

Writing an SRC Constitution

Step 1: Initial consultation

It is important to **establish consensus amongst the key players** on campus that constitutional review is necessary.

- The existing structures, such as the General Council, should be used at this early stage of the process of establishing consensus on this need.
- A mass meeting resolution calling upon the SRC to initiate and drive such a process could add credibility.

It is also at this stage that **you need to design the process**.

- Set realistic time frames.
- Obtain agreement on the process to be followed from all the key role-players.

Constitutional review is often very emotional and can be used to advance the political goals of one group of students against others.

- Avoid starting **just before an election**. The best time may be at the beginning of the academic year when there are lots of new students who have just joined and who may provide an avenue for new ideas. This way there is no pressure to complete the project in a hurry.
- It is advisable to get impartial facilitators for enhanced credibility.

Step 2: Developing a common vision

A common mistake in the reviewing of constitutions is simply to build on a constitution that has been in existence for years, rather

than seeking to rebuild the fundamentals, such as the vision espoused by the constitution.

A constitution last drafted or amended ten years ago when our country did not enjoy constitutional democracy cannot have the same ideals as a constitution drafted today. The challenges facing the SRC cannot be what they were ten years ago.

This step is therefore critical in putting in place the fundamentals on which your constitution must be based. Once you have agreed on this, the rest will fall into place easily.

This step can be achieved by convening a three-day constitutional summit or workshop that involves a cross section of the student stakeholders on your campus. The workshop's main aim will be to agree on the constitutional principles on the basis of which a constitution will be finalised. These will include, but are not limited to, the following:

- A situational analysis to determine challenges facing your student body.
- A clear vision for your student body. This will inform your preamble as well as your aims and objectives.
- A model of student government that can best address these challenges. This will take into consideration the size and shape of your student body and will also inform the method of elections.
- An identification and discussion of provisions, based on all three of the above, that will best constitute an SRC.

EXAMPLE

A model workshop programme

Day 1

Session 1: Organisations are allowed to state their views on what they consider to be the weaknesses and strengths of the current constitution, and what they propose as solutions.

Session 2: A group session to identify challenges that face the student body. These challenges will now be used to govern the rest of the workshop.

Day 2

Session 1: Aims and Objectives are worked out in a special session. Again these are based on the challenges. You can use the current aims and objectives as a basis and ask the question: “Will these help us to meet our challenges?”.

Session 2: The most suitable model of student government is debated in this session. Using the options in Chapter 4 above, a model can be debated according to the challenges set for your campus. If one of your challenges relates to *inclusivity and maximum participation of structures in decision-making*, can you sustain the argument of simply having all powers centered in the SRC executive?

Session 3: Identification of provisions that must be included in the constitution is made in plenary and agreed upon.

Session 4: The Summit breaks into smaller groups – enough to tackle the amount of provisions. With the exception of the groups dealing with Aims and Objectives, Name, Definitions and the Preamble, groups are only expected to agree on what must be in the provisions; not to attempt the exact wording.

Day 3

Session 1: Report back from all the groups and adoption of a resolution on each provision.

Session 2: Determination of the process to complete the constitution with clear time-frames.

Session 3: Evaluation of the workshop.

Step 3: Drafting the constitution

The work of drafting the constitution is a specialised task and can best be achieved by requesting external facilitators to produce a draft for discussion. This will be based on the workshop resolutions adopted at the summit.

EXAMPLE

The process can be structured as follows:

Production of workshop report containing all the resolutions.

(Two weeks)

Drafting based on this report.

(Two weeks)

Circulation of the draft to all role players and the general student body.

(Two weeks)

Incorporation of comments from stakeholders, etc. [Comments to be sent directly to the facilitators to ensure fairness.] Production of Second Draft.

(Two weeks)

Second draft circulated with invitation to a one-day workshop.

(Two weeks)

Day workshop to adopt provision by provision.

(One day)

Hint: *This must be facilitated in a manner that does not reopen the debates on principles adopted at the summit.*

Step 4: Final adoption

A final draft of the constitution is produced, based on any changes made at the workshop.

This draft is circulated with an invitation to a Special Annual General Meeting [SAGM] to adopt the constitution.

At the SAGM, a report on the process is tabled by the SRC and a facilitated process to adopt ensues, leading to the final adoption of the constitution. Note that twenty-five per cent of the student body must vote in favour of the adoption in order for it to be legitimate.

The “constitution” of the SAGM assumes that this threshold is achieved. Clarify the status of the meeting right at the beginning to avoid future constitutional challenges.

Step 5: Ratification by Council

Once the students have adopted the constitution, a formal application or request to Council can be made for the constitution to be ratified. In considering the SRC constitution submitted for justification, the Council will consider its provisions in relation to institutional statutes, the Higher Education Act and the South African Constitution.

In the unlikely event of Council having specific changes it wishes to make, an SRC mass meeting can consider and debate these. If they are accepted, this will be the end of the matter. If they are rejected, Council will deliberate on them again with further motivation.

Step 6: Amending the SRC Constitution

The process of amending the SRC Constitution is relatively less complicated.

EXAMPLE

An amendment clause must outline the following procedure for the amendment of the constitution:

- The proposed amendment must be in writing.
- It must be submitted to the SRC two weeks ahead of a mass meeting or AGM.
- It must be circulated to the student body at least seven days before the AGM, where it will be a subject of discussion.
- It must be voted for by a two-thirds majority to be effected.

Hint: Any student/student organisation is entitled to propose a constitutional amendment but this should be effected by a clear majority as per SRC constitution.

Conclusion



The challenges facing student governance today cannot be resolved simply by constitutional acumen. Proper administration of student governance can, however, go a long way in providing an excellent basis from which these challenges can be tackled.

The new role of the SRC as a partner in governance raises questions as to how best the student body must be organised in order to take on such a role. While the procedures and intricacies of constitutional governance as described in this book may seem to complicate student governance, they demonstrate that the student body has a capacity to take itself seriously and strengthen its hand as an equal partner in the higher education sector.

Principles captured in this publication can therefore be easily applied in constitutional processes of other organs of student governance, such as house committees, sports bodies, and national and regional organisations.

In deepening democracy the processes outlined in the previous chapter are as important as their outcome. If the process is not seen as impartial or is seen as a manipulated process meant to serve a certain group within the student body, the product will not be credible. The law hardly succeeds in safeguarding constitutions. The people who are served by the constitution are the ones who are its ultimate guardians. A fully consultative process that takes everyone on board is important for the sustainability of the resultant regime of student governance.

In practical terms this means that if all interests in the student body are taken into account in arriving at a final product, regardless of who has the reigns of the SRC in the next elections, the fundamentals of that dispensation will be kept intact. The group coming into office will not feel the need to tamper with a product they played an integral part in developing.

This is a clear warning to those who are tempted to use their term of office to ram through constitutional changes in an undemocratic

manner for political expediency. When it becomes a habit for every SRC to review the constitution, that does not enhance the integrity of the student body and will prevent it from being taken seriously as a partner in good governance.

It is critical therefore not to resort to short cuts when it comes to constitutional review. The more thorough the job, the better.

We hope that you have found this publication useful and look forward to receiving your input to improve future projects with the same objective: to build the student body for the transformation of the higher education sector and our society.