

# THE STRUGGLE FOR THE SOUL OF A SOUTH AFRICAN UNIVERSITY

*The University of KwaZulu-Natal:  
academic freedom, corporatisation and transformation*

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and

Christopher Merrett

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ISBN 978-0-620-58600-9

Printed in South Africa

*For Anashree and Christine*



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# Abbreviations

ANC	African National Congress
ASC	Academic Steering Committee
BAAF	Black African Academic Forum
CAFA	Committee for Academic Freedom in Africa
CCMA	Council for Conciliation, Mediation and Arbitration
CCS	Centre for Civil Society
CHE	Council on Higher Education
COMSA	Combined Staff Association
COSATU	Congress of South African Trade Unions
DSLIT	Denys Schreiner Lecture Theatre
FXI	Freedom of Expression Institute
GAFC	Governance and Academic Freedom Committee
GBV	gender based violence
HEIAAF	Higher Education, Institutional Autonomy and Academic Freedom
HEQC	Higher Education Quality Committee
IAC	Institutional Audit Committee
IHEMG	Independent Higher Education Monitoring Group
NEHAWU	National Education, Health and Allied Workers Union
NRF	National Research Foundation
NTESU	National Tertiary Education Staff Union
RMS	Risk Management Services
SACOS	South African Council on Sport
SAJS	<i>South African Journal of Science</i>
SANEF	South African National Editors Forum
SASA	South African Sociology Association
SASCO	South African Students Congress
SAUVCA	South African University Vice Chancellors Association
SRC	Students Representative Council
UCT	University of Cape Town
UDW	University of Durban-Westville
UJ	University of Johannesburg
UKZN	University of KwaZulu-Natal
UN	University of Natal
UNSU	University of Natal Staff Union

# Foreword

Academic freedom is guaranteed in South Africa's Constitution, an important gain of South Africa's transition from apartheid to a democracy. The Bill of Rights in the Constitution gives special emphasis to artistic and scientific freedom, media freedom and academic freedom, strongly suggesting that the document's drafters considered these freedoms to be at the core of freedom of expression.

It is unsurprising they felt this way. Universities play a key role in a country's intellectual (re)production. They produce the next generation of scholars, while providing spaces for free enquiry and exploration. Without the freedom to teach, write, publish and think, they would find it impossible to play this role; institutions would produce mindless automatons and become cheerleaders for powerful public or private interests.

However, academic freedom should not just be about the freedom to teach and research, it should also guarantee the ability of academics to speak out publicly on issues of importance, including those that affect their own institutions. In fact, the freedom to debate and critique conditions for academic work should be as integral to academic freedom as freedom of teaching and research. Freedom of expression will become a dead letter for academics if it is not upheld in the very backyards of the institutions that employ them and, as knowledge producers, these institutions should lead by example to protect basic rights and freedoms.

Threats to academic freedom are often understood in their conventional sense, namely as threats that are external to the university and that generally emanate from governments. This book is about how academic freedom can be threatened, not from without, but from within. It documents a series of incidents that occurred at the University of KwaZulu-Natal during the vice-chancellorship of Malegapuru William Makgoba, incidents that showed the spaces for academics to debate and critique the university's internal operations were being closed.

These incidents culminated in disciplinary action against one of the book's authors, Nithaya Chetty, who was then an associate professor of physics at the university's Pietermaritzburg campus, and against maths professor John van den Berg. They were accused of bringing the university into disrepute for criticising its most senior managers in the media. The university's management vigorously

denied clamping down on academic freedom, arguing that this freedom was being used as a fig leaf to hide attempts by staff to prevent transformation.

It is an undeniable fact that, twenty years into its democracy, many of South Africa's universities are still grappling with the legacy of apartheid. While student bodies are increasingly reflective of the demographic make-up of the country's population, staff demographics remain skewed towards white people and men. A report into transformation led by the University of Cape Town's Crain Soudien documented a litany of grievances from black staff and students who feel alienated, especially in the historically white universities. Sexism also remains rife. Furthermore, many university departments remain inwardly focused, failing to utilise the freedoms they do enjoy to contribute towards transforming the societies in which they operate. These twin problems suggest that, on balance, universities remain insufficiently transformed.

The authors of this book make strong arguments for academic freedom to include the principle of academic self-rule. Certainly, self-regulation can prevent academic work from becoming corrupted by political or economic interests that may not necessarily have the pursuit of knowledge for the betterment of society as their primary objective. Yet, at the same time, in an untransformed academic body, academic self-rule can maintain existing institutional arrangements, cultures and practices, preserve existing pockets of privilege and reproduce existing, unequal social relations. Clearly these tensions have been very much at play at UKZN.

This book describes attempts by the university's leadership during Makgoba's tenure to effect 'transformation from the top', pursuing a narrow racial approach to transformation, and combining this transformation project with a corporatist agenda that sought to turn the university into a world-class institution. Yet, according to some of its critics, this agenda ignored development challenges in the university's own backyard.

Called 'transformative managerialism' by Tembile Kulati and Teboho Moja, this form of transformation involves addressing the legacy of apartheid by creating equity of access to higher education, while responding to the pressures of globalisation to create a high skill/high wage, globally competitive service economy. The problem with this form of transformation is that it risks turning universities into toy telephones for local and global elites.

This book outlines the attempts by academics, including the authors, to resist this form of transformation. It traces their attempts to redefine how transformation



was being understood and practised, refusing to fall into the false binaries that required them to choose between the ‘transformation camp’ and the ‘academic freedom camp’. It also documents the university’s increasingly authoritarian response to its internal critics, including the authors of this book.

Academic freedom and transformation are two sides of the same coin. Without academic freedom, academics are unable to contribute to the generation of socially useful knowledge, and the academic enterprise becomes practically worthless. In fact, transformation without freedom is no transformation at all. However, without transformation, academic freedom risks becoming a freedom enjoyed by the few, reinforcing academic work as an elite undertaking.

Undoubtedly, there were those in the UKZN saga who pursued a defence of academic freedom that was ultimately conservative in nature. However, many of the protagonists named in this book recognised the dialectical nature of the relationship between academic freedom and transformation, and pursued this understanding in collective endeavours with other academics, and often at great personal cost to themselves.

I first came to know of the authors of this book, Nithaya Chetty and Christopher Merrett, when I worked at the Freedom of Expression Institute (FXI) as its executive director. The FXI became heavily involved in public debates and advocacy around erosions of academic free speech at UKZN. As a result, I write this foreword not as an impartial commentator on what happened at the time, but as an active participant in developing external responses to the mounting threats to academic freedom.

In my work at the FXI, I came to know many of the academics named in this book, including the authors, as enormously courageous and committed people, the kinds of people who are needed in our universities. They were willing to put themselves on the line to stand for the principles of academic freedom and the social embeddedness of academic work.

Nithaya and Christopher have done the academic community, and society as a whole, a great service by writing this book and battled to ensure its publication. Eventually they chose the self-publication option. In publishing this book, they have shown once again that they remain people of great integrity and courage.

Their commitment to sharing their story and the stories of those who bore the brunt of UKZN’s authoritarian management is laudable. They could have ‘gone

quietly', but they chose not to. Once people of principle choose to 'go quietly', putting self-preservation before their principles, then democracy is in trouble. Speaking out can have negative consequences for those who do the speaking out, even in a robust democracy with constitutionally guaranteed freedoms. But not speaking out will probably have more consequences in the long run.

While the content of this book may well lower the reputations of some of the university's senior managers in the eyes of the public, they have brought this reputational damage on themselves. There is an overwhelming public interest in the authors pointing this out, and seeking to analyse the causal factors that led to the university becoming such an authoritarian institution. It is important for the public to develop this understanding, in order to prevent similar conflict from arising in other academic institutions, and indeed other public institutions, in future. The comments they have made on the UKZN saga are fair comment.

Those who are genuinely committed to emancipatory academic work need to develop a language and set of practices that allow universities to become more reflective of the societies in which they operate, and contribute to the betterment of these societies, without falling into the trap of visionaries imposing a single line of march on these institutions to achieve these objectives. If this book offers one lesson, it is that UKZN management did not get this formula right: on the contrary, its strangling of basic democratic rights and freedoms set true transformation back many years. As a result, the project of developing a 'democratising transformation' as an alternative to 'transformative managerialism' remains as urgent and compelling as ever.

Jane Duncan  
1 December 2013

# Introduction

OUR PATHS FIRST crossed in the early 1980s in the non-racial sports movement in Pietermaritzburg. We both played cricket for clubs belonging to the Maritzburg District Cricket Union, a strong and principled affiliate to the policies of the South African Council on Sport (SACOS). Those were years that tested character and other strengths, but for many, including us, they were formative in confirming beliefs and attitudes that have shaped and guided our lives. It was a privilege to have lived through those challenging times. By the end of that decade SACOS was in decline and its tactics had been called into question, not necessarily for justifiable reasons, but the struggles within the University of KwaZulu-Natal (UKZN) described in this book give us good reason to look back on our pasts.

SACOS was much influenced by the Unity Movement. One of its characteristics was a fierce, some might say almost religious, insistence on matters of principle. As the apartheid state began to crumble during the late 1980s, dominant opinion placed tactical pragmatism before idealism. To a large extent, argument ran and practice proved, the main objective was to get rid of South Africa's illegitimate government as soon as possible. The means by which this was to be achieved were hardly questioned and what was to follow was, even as late as the early 1990s, something of an afterthought.

The principles of non-racial sport, and other movements of civil society, were there for very good reasons. Perhaps the most important, all too evident today, was to prevent unscrupulous people, apartheid supporters for instance, inheriting the post-liberation state. The crooked, opportunistic and venal have indeed taken over large swathes of South African society to the detriment of the greater good. The areas in which this is most apparent are those of tender irregularities, maladministration and other forms of corruption. Even a cursory look at sports administration today shows why the principles of the struggle years were so important.

We come from very different backgrounds, but found common purpose first in anti-apartheid sport and then in a new struggle for freedom of expression and association, and academic rule, in a post-apartheid university. Contrary to much current orthodoxy, particularly in ANC circles, we believe that patriotic South Africans need to understand the complexity of the nation's past lest we repeat

history. We reject exclusionism and follow the view of Chief Albert Luthuli that the greatest threat to the country's future is ethnic nationalism, to which has been added in recent times racial Leninism.<sup>1</sup> Not only has this become a significant feature of South African society since 1999, particularly under and after the administration of Thabo Mbeki, but it forms a sub-text to the contents of this book.

Nithaya Chetty is a physicist who grew up in rural Natal, in the village of Thornville. He studied on the Pietermaritzburg campus of the University of Natal (under permit, such was the hold of apartheid even in the 1980s), subsequently at the University of Illinois on a Fulbright Fellowship for his doctorate, and then in Denmark and in the United States on postdoctoral research appointments. He returned to KwaZulu-Natal in 1997 and by the time of his dramatic departure from UKZN in December 2008 was associate professor and head of the programme of computational physics. He is now a full professor at the University of Pretoria. In 2009 he completed his two-year term as president of the South African Institute of Physics and in August 2011 he was seconded to the Executive of the National Research Foundation to manage South Africa's astronomy sector.

Christopher Merrett moved to South Africa for personal reasons in 1974 having grown up and been educated in Britain and the West Indies. He worked in the Pietermaritzburg campus library of the University of Natal from 1979 and from 1996 to 2002 was university librarian. He has degrees in geography (from the universities of Oxford and Natal) and librarianship (Sheffield), and a doctorate in history (Cape Town). Until 2007 he was director of administration for the Pietermaritzburg campus when his job mysteriously disappeared. Described as a 'misfit' in a communication from the UKZN vice-chancellor, he left to work in the newsroom of *The Witness*, Pietermaritzburg's venerable, and liberal, daily newspaper; and as a freelance book editor and indexer.

One of us, Nithaya, was accorded the signal honour of delivering the annual T.B. Davie Academic Freedom Lecture for 2009 at the University of Cape Town. The letter of invitation read, in part:

Our invitation is also motivated by the importance of events at the University of KwaZulu-Natal in recent years and your own role in them. As far as we can tell from this distance, UKZN has

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1 James Myburgh, 'After Invictus' in *Opinion Pieces by South African Thought Leaders* edited by Max du Preez (Johannesburg: Penguin, 2011): 225-6.

probably experienced the conflict between a robust tradition of public debate with an authoritarian management culture more conspicuously than any other campus in South Africa. To the extent that there is a conflict over the future of academic freedom in South Africa, it seems to us that its frontlines run through UKZN. The issues at stake there are surely of importance to all South African universities, and for that reason we believe that our university should take a public interest in them. We hope that our invitation to you might also be seen as a gesture of solidarity with the UKZN community.<sup>2</sup>

Not only did this frame the opportunity to give a prestigious lecture, but it provided the inspiration for this book. Both of us had to leave UKZN and harbour strong feelings about our separate and very different departures. But we feel great pride that we were able to struggle, even unsuccessfully, alongside many admirable and worthy colleagues acknowledged in this book for the essential principles of a university for which we shall both always hold a strong affection.

The purpose of this book is to trace the short history of one of South Africa's newly merged universities, a place we know well, in the context of what we consider a university should be in a democracy. We describe events up until about the time when we left the institution. One or other of us, sometimes both, experienced personally many of the more prominent events described. But we have also attempted to provide a more rounded picture by drawing on other incidents, especially on the Durban campuses of UKZN. At the core of this book is the issue of academic rule, a generally under-considered aspect of the better-known concept of academic freedom. By way of conclusion we attempt to identify some of the factors that devalue institutional good governance, anticipating that these will resonate elsewhere.

South Africa has a complicated, and of course troubled, past. It, together with our personal experiences, has taught us not to bury that past, but learn from it. We salute the inclusiveness and social justice implicit in the human rights clauses of the Freedom Charter; admire the principled, often puritanical approach of the Unity Movement; acknowledge the logic of Black Consciousness and the positive effect it has had on individual lives; and remember with gratitude the contribution of eminent South African liberals. All of them combined to make a free South Africa possible. We reject hegemonic views of this country's history and future and

2 Andrew Nash, chair, Academic Freedom Committee, University of Cape Town to Nithaya Chetty, 8 October 2008. The lecture was delivered on 12 August 2009.

believe that the unlamented and inevitable fall of apartheid was due to the efforts, many of them mundane and humble and others more high profile, such as those of the often forgotten conscientious objectors, of millions of South Africans. We also know that the democracy and liberation achieved in 1994 is fragile and that the first duty of truly patriotic citizens is to the Constitution. The events described in this book about just one institution have convinced us, if we needed convincing, that due process, the rule of law, the exercise of conscience and non-racialism are values and practices that must be defended if a modern South African nation is to survive. Beyond them lies the heart of darkness.

This book will, we hope, strike a chord with many. Without doubt it will displease others. A point that must be made crystal clear is that the authors admire and support the basic principles of traditional liberalism and believe these should underlie any socio-political institution and any form of transformation: individual freedom coupled with civic responsibility; the exercise of personal conscience and avoidance of group stereotyping; openness and transparency rather than confidentiality and secrecy; and justice above arbitrary decision-making. These are the principles for which our struggle was fought. Such matters of principle are sacrosanct; but echoing the words of Karl Marx, the holy has been profaned in pursuit of obsessive bourgeois change.<sup>3</sup>

We abhor and deplore neo-conservatism and reject the term neo-liberalism. It is a two-dimensional doctrine, which sprang from that universally dismal decade of the 1980s, driven by authority and financial imperatives (especially profit) that has done immense damage not only to institutions, but also scarred inter-personal relations in the modern world. In the words of Philip Pullman, British author and library activist, neo-conservative market fundamentalism involves a 'greedy ghost ... hastening to kill off every humane, life-enhancing, generous, imaginative and decent corner of our public life.'<sup>4</sup> Indeed, it is this toxic ideology that in unison with racial nationalism has severely undermined UKZN as the following pages will show. Flourishing universities are based on liberal precepts. It is our belief that corporatism, managerialism and single, bottom line accounting produce mere academic qualification factories.

One of the advantages of adversity in the workplace is that it creates comradeship and, often, lasting friendship. Above all, we wish to acknowledge John van den Berg, who played a role of immense honour in the struggle for the soul of

3 Karl Marx and Friedrich Engels, *The Communist Manifesto* (Harmondsworth: Penguin, 1967): 82, 83.

4 Matthew Sperling, 'For art's sake'. *Oxford Today* 23(3) 2011: 24.

UKZN documented in this book. Not everyone has the option of resignation or early retirement. John had to sign an effective gagging order to keep his job and we salute him for the particular courage this required (in 2011 he too left UKZN and took up a post in the department of Mathematics at the University of Pretoria). We also wish to express gratitude in particular to John Aitchison and Robert Morrell, who assisted the authors by answering emailed questions and providing further information, clarification and opinion. We record special appreciation to John Conyngham and André du Toit; John van den Berg, Robert Morrell and John Aitchison (all again); and Jane Duncan and Peter Vale for their constructive comments. We thank Sally Shaw for her efficiency and insights as a copy editor, and the good advice that guided this book towards publication. And we owe a debt to Anthony Stidolph (Stidy) who agreed to the reproduction of four of his *Witness* cartoons, to Clive Dennison who provided the front cover with a photograph by Alistair Nixon, and to Christine Forbes Merrett and Sally Hines for proof reading.

It would be invidious to list further names, but we applaud those many colleagues who deplore what has happened to their university, and have, each in their own way, soldiered on to keep alive the spirit and ethos of what a good university should be. Many of them appear in the pages that follow. We all did our best according to our circumstances.

The purpose of this book is to record a turbulent period of institutional history, in part as a tribute to colleagues who shared our principles and concerns. We have done this with scrupulous attention to the detail of truth, without malice and in the public interest. But given the current scourge of ‘lawfare’ used by the powerful and well-resourced to suppress freedom of expression, we have taken the trouble to have every word of the text checked by the best possible legal opinion to ensure that it stays outside any possible definition of actionable libel.

This is a book about higher education, but it is not an academic book in the conventional sense. It is fully referenced and based on thorough research. It is also founded on a great deal of personal experience and strongly held professional convictions and we make no apology for the fact that much of the content is consequently polemical. We regard this as appropriate to our purpose, which is to present serious issues about a particular public institution to as wide a readership as possible. Too much academic writing in the humanities is inaccessible to the general public: written in constipated, jargon-laden prose weighed down by theory, formulaic, pretentious – and simply boring. Given the stresses and strains to which universities are currently subjected by the twin

scourge of political ideology and market forces, often acting in concert, a hard-hitting and direct approach more akin to journalism than academic style we believe is fully justified.

If the idea of democratic participation dies in our hearts, minds and souls, then we are lost. If the concept of academic rule is buried, our universities will die also. We live in hope that UKZN, particularly its Pietermaritzburg campus, will eventually be liberated from what in our opinion is the tyranny of managerialism, racial abuse, sloganeering and unwarranted disciplinary action that all subvert the freedom of true academic discourse. The poetic advice of that great Welshman, Dylan Thomas, to 'Rage, rage against the dying of the light'<sup>5</sup> seems truly relevant. We trust that as a result, one day a future generation of academics and students will inherit a free UKZN. Maybe this book would have helped. We hope so.

*A luta continua!*

Nithaya Chetty  
Christopher Merrett  
Pretoria and Pietermaritzburg

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5. Dylan Thomas, 'Do not go gentle into that good night' in *The Poems* edited by Daniel Jones (London: Dent, 1971).



# What is a true university?

*Just as there is no beginning to the story there is no ending. There is only a continuation of the struggle to affirm what is true, to deny what is untrue, to resist what is evil and to discover what there is of goodness and beauty in a world where their opposites seem often to be mightier than the forces of creation.<sup>1</sup>*

EXACTLY WHY IS so much fuss made about academic freedom and governance issues at South African universities? After all, they are funded, in the main and in one form or another, by taxpayers. Surely the job of university staff is to produce the trained, skilled personnel needed for a prosperous, expanding economy; and create knowledge, reflected in publications, that advances the frontiers of understanding. Their success, or otherwise, is easily measured by figures showing the annual output of graduates and research. As for all the noise about academic freedom, isn't that simply a ploy by reactionaries and conservatives to obstruct transformation?<sup>2</sup>

## Nature of a university

The short answer to this apparently practical, but obtuse, view of higher education is that the primary task of universities is to teach people to think both rationally and independently. As a result, universities are a dynamic part of civil rights culture, central and essential to the building and maintenance of a participative democracy. They empower an informed, critical, articulate and combative intelligentsia that acts as society's watchdog and guards the national conscience. They help to ensure that knowledge is not monopolised by narrow vested interests.<sup>3</sup> And they add to the number of dissenters and critics, even the most irritating intellectual mavericks in the awkward squad, who provoke debate. At their best, universities encourage constructive, proactive citizens: as Dlamini puts it 'good universities produce good knowledge and reliable information as well as analytical skills which the citizens may find useful ... to participate effectively in the ordering of society'.<sup>4</sup>

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1 M. Scott, *A Time to Speak* (London: Faber, 1958): 298.

2 J. Higgins, 'Academic freedom in the new South Africa' *Boundary 2* (2000): 98.

3 L. Menand, 'The limits of academic freedom' in *The Future of Academic Freedom* edited by L. Menand (Chicago: Chicago University Press, 1996): 13.

4 C.R.M. Dlamini, 'Academic freedom and institutional autonomy in South Africa' *Tydskrif vir Hedendaagse Romeins-Hollandse Reg* 62 (1999): 15.

The influential American philosopher Martha Nussbaum emphatically rejects the idea that higher education is ‘primarily a tool of economic growth’; but warns that ‘policy-makers are in the process of turning against critical thinking, ideas and imagination’.<sup>5</sup> The nineteenth-century liberal philosopher John Stuart Mill emphasised that freedom to think and communicate is not simply good for intellectual growth; it is important for social progress too. True universities are a national asset, essential to the strength, well-being and even survival of democracy. A former deputy vice-chancellor of the University of KwaZulu-Natal (UKZN) described it like this: ‘South Africa’s bold steps into a new democracy depended fundamentally on a national, broad-based intellectual culture which combined vibrant, intensive discussion and debate with high levels of mature social and political tolerance’.<sup>6</sup>

As mention of Mill would suggest, true universities are based on essentially liberal traditions.<sup>7</sup> Academic freedom and university autonomy contribute to one of the most important tasks of civil society in a modern democracy: to restrain and shape the exercise of power so that it works for the greater – indeed, greatest – good. Significantly, academic freedom rests on honesty and respect for individual conviction and conscience. It also demands a responsibility to investigate and speak out regarding what is important and true, rejecting where necessary the potential tyranny of the majority. This requires what is probably the most valuable ability taught by a university education: good sound judgement.

Traditionally, academic freedom has been defined as the right to teach and research in the quest for knowledge without unreasonable hindrance or restriction. This includes, among other factors, freedom of information and expression. The following rights are thus routinely defended:

- to teach without interference, subject only to institutionally agreed and recognised curricula that conform to high academic standards;
- to conduct research within internationally accepted moral and ethical limits and the norms and standards of scholarship, wherever it may lead; and
- to disseminate the results of research through methods formal and informal consistent with commonly accepted ways of academic communication.

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5 R. Lofthouse, ‘Not for profit: in conversation with Martha Nussbaum’ *Oxford Today* 24(1) 2011: 29.

6 A. Bawa and J. Mouton, ‘Research’ in *Transformation in Higher Education: Global Pressures and Local Realities* edited by N. Cloete et al. (Dordrecht: Springer, 2006): 195.

7 R. Dworkin, ‘We need a new interpretation of academic freedom’ in *The Future of Academic Freedom* edited by L. Menand (Chicago, Chicago University Press, 1996): 183.

The four famous essential freedoms demanded by the open universities in response to the apartheid regime's bizarrely entitled Extension of University Education Act (1959) were the right to determine who may teach, what may be taught, how it shall be taught, and to whom. These traditional approaches remain remarkably relevant to modern, progressive society.<sup>8</sup> Historically, they came under strain from outside universities – from governments and sometimes big business or religious bodies – but less usually from within. But equally important to the context within which scholarly freedom is exercised are academic rule and university autonomy.

### **Intellectual life, academic freedom and academic rule**

Critics cannot resist the temptation to describe universities as ivory towers, but true universities in the modern world are in fact the very opposite, deeply engaged with the rights of people in surrounding society.<sup>9</sup> The idea that the isolated, theoretical pursuit of truth is the sole, or even main, purpose of academic research is long gone. It is now generally accepted by academics that there is an obligation to acquire and share knowledge that is, in some demonstrable way, of value to society as a whole.<sup>10</sup> Social accountability is indeed 'inherent in academic freedom' and this in no way conflicts with, or limits, the central purpose of a university.<sup>11</sup> It simply expands its moral context; especially at a time of African renaissance.<sup>12</sup> But this is far from saying that universities should function as a production line for the national, or international, economy; for

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8 A. du Toit, 'From autonomy to accountability: academic freedom under threat in South Africa?' *Social Dynamics* 26(1) 2000: 79.

9 This issue is as pertinent to Africa as anywhere else. See, for instance, J. Oloko-Onyango, 'The Kampala Symposium on Academic Freedom and Social Responsibility' in *Academic Freedom in Africa* edited by M. Mamdani and M. Diouf (Dakar: Codesria, 1994): 341–4.

10 These obligations are spelt out in the Dar es Salaam Declaration of April 1990, in particular in articles 41, 42 and 50. The declaration may be found in *Academic Freedom in Africa* edited by M. Mamdani and M. Diouf (Dakar: Codesria, 1994): 354–63. M.W. Makgoba, *Mokoko: The Makgoba Affair: A Reflection on Transformation* (Florida: Vivlia, 1997): 182.

11 R. Southall and J. Cobbing, 'From racial liberalism to corporate authoritarianism: the Shell affair and the assault on academic freedom in South Africa' *Social Dynamics* 27(2) 2001: 3; A. du Toit, 'Critic and citizen: the intellectual, transformation and academic freedom' *Pretexts* 9(1) 2000: 102.

12 A. Adediji, 'African renaissance, economic transformation and the role of the university' *Indicator SA* 15(2) 1998: 67. A radical view of the university's responsibility to society is provided in A. Nolan, *Academic Freedom: A Service to the People: The Twenty-Eighth T.B. Davie Memorial Lecture ... July 31, 1986* (Cape Town: University of Cape Town, 1986).

any particular political ideology or agenda; or for any grand plan. Their role demands that academics subject society's institutions 'to critical scrutiny and review', especially their 'policies, goals, value systems, and ... self-image'.<sup>13</sup> It remains the responsibility of academics to tell the truth as they see it and resist imposed dogma and ideology.<sup>14</sup> Acting as a public, critical voice is part of the job of an academic, her or his contract with society.

One of the most important figures in a university is the public intellectual, the expert able to engage with society in a meaningful and intelligible way. Some simply explain their specialisation in an accessible fashion; but others shape public opinion through their ability to make new connections and place issues in context.<sup>15</sup> Universities have the ability, indeed a duty, to produce independent thinkers and clear communicators of courage. Noam Chomsky is, perhaps, the world's most illustrious example. Other essential characteristics of such intellectuals are a general lack of interest in monetary reward and in pleasing any figure of authority. Intellectuals are capable of self-evaluation and value highly the opinion of their peers. True intellectuals are open to criticism. They need no supervision and reject authority as it affects cerebral matters.<sup>16</sup> In the words of Colin Blakemore, Oxford University professor of neuroscience, they make universities places of 'intellectual freedom, tempered by intellectual criticism'.<sup>17</sup>

The bottom line is the fact that the primary loyalty of members of the intellectual world is to the requirements of academic discourse and the search for truth. Other institutions with a similar and parallel mission are the media and the judiciary,<sup>18</sup> although they do not enjoy the independence of the university. It is a true republic – a thing of its people. While they are not society's only repository of idealism, universities are one of few places 'in which this ... can be sustained'.<sup>19</sup> And it is within this context that André du Toit reminds us that the most important component of academic freedom is free speech.<sup>20</sup> This is spelled out clearly in article 9 of the Kampala Declaration of November 1990: 'The

13 C.R.M. Dlamini, 'Academic freedom and institutional autonomy in South Africa': 11.

14 J. Higgins, 'Academic freedom in the new South Africa': 107.

15 K. Ward, "Public intellectuals", geography, its representation and its publics' *Geoforum* 38 (2007): 1060.

16 C. Lombaard, 'There is rebellion afoot, and revelry: the nascent reformation of intellectual integrity within South African universities' *Education As Change* 10(1) 2006: 76.

17 C. Blakemore, 'Fearful asymmetry' *Oxford Today* 24(1) 2011: 33.

18 UKZN Faculty of Science and Agriculture, 'Academic freedom – a discussion document', 3 September 2007.

19 C. Lombaard, 'There is rebellion afoot, and revelry': 72.

20 A. du Toit, 'Critic and citizen': 92.

intellectual community shall have the right to express its opinions freely in the media'.<sup>21</sup> It makes academic freedom an intensely political issue.

Human societies, even at their best, tend to be restrictive or coercive. Sometimes, of course, this is for valid reasons: anarchy is an enemy of freedom. Within any society, academic freedom is specially created space that is remarkably fragile and has relatively few determined defenders – as, indeed, this book will show – even inside universities.<sup>22</sup> Defence of the rights and structures that make academic freedom possible is arduous and requires eternal vigilance. Nor is it unique: this is exactly the same struggle as that waged by journalists, trade unionists and other key members of civil society to maintain their essential rights. Graeme Moodie warns against too cavalier an interpretation of academic freedom, whether the issue is teaching and research, academic rule, or institutional autonomy. Clearly, no freedom is unlimited and universities have no monopoly on wisdom. The academy is bound to listen to other voices; exercise sound judgement, common sense and conscience; and apply what it has learned to its work.<sup>23</sup> It is indisputable that universities are situated within, and have responsibilities to, specific societies. But academic freedom, alongside others, 'is the measure of the health of a democracy, the canary in the coal mine'.<sup>24</sup> Moodie agrees and exhorts university staff to think less about their specific rights and more about the fact that they represent a beacon for society as a whole.<sup>25</sup>

Perhaps the most important aspect of academic freedom is the fact that it is part of a global ethic that gives international authority to academic enquiry and the acquisition of knowledge. Mill called universities a 'market place of ideas'.<sup>26</sup> The search for objective truth is a distinctive activity that requires judgement, self-sacrifice and, sometimes, even courage.<sup>27</sup> Historically, this has,

21 The Kampala Declaration is to be found in *Academic Freedom in Africa* edited by M. Mamdani and M. Diouf (Dakar: Codesria, 1994): 349–53.

22 I. Taylor, 'The limits of the "African miracle": academic freedom in Botswana and the deportation of Kenneth Good' *Journal of Contemporary African Studies* 24(1) 2006: 113.

23 G.C. Moodie, 'Academic freedom and the transformation of higher education' *English Academy Review* 14 (1997): 9–16. Moodie sullies his reasonable argument by quoting Robert Mugabe approvingly.

24 N. Chetty and D. Webbstock, 'The canary in the coal mine' *Mail & Guardian*, 21 August 2007 (Getting ahead supplement).

25 G.C. Moodie, 'On justifying the different claims to academic freedom' *Minerva* 34 (1996): 149–50.

26 A. du Toit, 'Critic and citizen': 99.

27 T.L. Haskell, 'Justifying the rights of academic freedom in the era of "power/knowledge"' in *The Future of Academic Freedom* edited by L. Menand (Chicago: University of Chicago Press, 1996): 68; R. Rorty, 'Does academic freedom have philosophical presuppositions?' in *The Future of Academic Freedom* edited by L. Menand (Chicago: University of Chicago Press, 1996): 21.

on occasion, involved persecution. Naturally, academic discourse must recognise the boundaries of civility, the rules of scholarly debate and the law of libel.<sup>28</sup> But academic work has its own inherent integrity recognised globally: the search for objective truth has characteristics that separate it from any other human activity. Universities are not, and can never be, the property of governments, political parties, or groups of individuals inside or outside specific institutions.<sup>29</sup> This explains why a university cannot adopt a political, dogmatic or ideological stance. It has to remain an autonomous institution in order to fulfil its true role. Otherwise, it simply ceases to be a university.

Given the nature of true universities and their relation to society as a whole, it follows logically that academics will subject their own institutions to very close scrutiny, especially in view of their public function. This inevitably includes the ways in which universities are governed and administered, a role not surprisingly endorsed resoundingly by UNESCO. ‘Higher-education teaching personnel,’ it says, ‘are entitled to ... freedom to express freely their opinion about the institution or system in which they work [and] freedom from institutional censorship.’ It goes on to say that university staff best do justice to their calling if ‘the environment in which they operate is conducive, which requires a democratic atmosphere’.<sup>30</sup> UNESCO recommendations explicitly promote the right to criticise the functioning of all institutions and elect a majority on academic bodies.<sup>31</sup> Shared responsibility, participation in decision-making and consultation are all listed by UNESCO as essential features of collegiality, without shying away from the fact that such privileges also carry with them obligations and duties.

Academic rule is clearly a key issue and the central theme of this book about UKZN. Today’s struggle for academic freedom involves asserting the right to sufficient independence of expression necessary for its survival. It was a matter

28 A. du Toit, ‘From autonomy to accountability’: 105–6. It is worth recalling that the notorious O’Brien affair at the University of Cape Town in October 1986 was triggered by provocative statements by the visitor that were ‘not, surely, the language of temperate academic debate’ (J. Higgins, ‘The scholar-warrior versus the children of Mao: Conor Cruise O’Brien in South Africa’ in *Intellectuals: Aesthetics, Politics, Academics* edited by Bruce Robbins (Minneapolis: University of Minnesota Press, 1990: 307)).

29 T.L. Haskell, ‘Justifying the rights of academic freedom in the era of “power/knowledge”’: 45, 54; J. Muller, ‘Editorial’ *Social Dynamics* 24(2) 1998: 110–11.

30 UNESCO, *Recommendation Concerning the Status of Higher-Education Teaching Personnel*, 11 November 1997: VI.A.27.

31 UNESCO, *Recommendation Concerning the Status of Higher-Education Teaching Personnel*, 11 November 1997: VI.B.31.

that rarely needed airing in the days of the collegial university. The idea that a member of staff would be disciplined for airing a viewpoint, unless it was blatantly defamatory, was unheard of. Above all, it would have brought shame and ridicule upon the university authorities – to have behaved in such a heavy-handed manner would have destroyed a university’s hard-earned reputation. Debate and dispute were often fierce – in the view of some cynics and humorists because the stakes were so patently low – but despite the level of disagreement, real or contrived, issues were settled within the bounds of generally accepted conduct. The Kampala Declaration (article 12) supports this view of the academy: ‘The autonomy of the institutions of higher education shall be exercised by democratic means of self-government, involving active participation of all members of the respective academic community.’<sup>32</sup>

Traditionally, academic rule has involved discussion of any matter that affects the purpose of the university at informal and formal levels taking into consideration every point of view and possibility; and voting on these in a democratic manner within university structures in the knowledge that the outcome will be respected and carried forward. Herein lies the foundation of natural authority within a university community as opposed to the power wielded by modern managers (see below). It has its roots in the very origins of universities: the original Latin suggests a community of scholars, teachers and students. Universities were first chartered in the Middle Ages and comparisons have been made with guilds. They were established in the belief that society would benefit from scholarship and the application of reason to the problems of the day. A premium was placed on writing and speaking persuasively, and education for lives honourably led, while it was well understood that a stable environment was essential for cerebral activity. The University of Bologna adopted an academic freedom charter as early as the 1150s. The concept of a liberal education emerged in Britain in the nineteenth century. At its heart was mental training and a holistic approach designed to ‘counter the effects ... of gross materialism’. It was not designed for vocational ends, but for scholarship in the broadest sense and the development of rounded, well-educated personalities.<sup>33</sup> The concept of academic community and autonomy is again explicit.

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32 The Kampala Declaration is to be found in *Academic Freedom in Africa* edited by M. Mamdani and M. Diouf (Dakar: Codesria, 1994): 349–53.

33 P. Slee, ‘The Oxford idea of a liberal education 1800–1860: the invention of tradition and the manufacture of practice’ *History of Universities* 7(1988): 65(quote), 66–7, 84.

## Post-colonial Africa and apartheid South Africa

Initially universities did not fare well in post-colonial Africa. The one-party state was much in vogue: all necessary debate, it was argued, would take place under the benign umbrella of the governing party. University establishments were rapidly indigenised. All this was said to represent the national soul and will, and appointees owed their positions to government. The state, 'having intervened to change the colonial universities was usually unwilling to give up its supposed temporary tenure as an effective interventionist and transformatory force'.<sup>34</sup> At a point in the late 1980s, academics in African universities rediscovered the previously despised virtues of academic autonomy.<sup>35</sup> In an out-and-out dictatorship such as Malawi, for example, the university fell into the hands of regime sympathisers or fellow travellers. Conference papers were vetted, although academics evaded this by producing two versions, one for the censors, but the result was a long-term 'culture of mediocrity'.<sup>36</sup> Academic freedom was badly compromised by preferred employment and African universities took on a number of general characteristics identified by Ibonvberé: 'ideological containment, propaganda and rhetoric, diversions ... building of personality cults ... defensive radicalism [and] political posturing'. Referring specifically to Nigeria, he goes on to blame 'waste, mismanagement [and] irresponsibility' for institutional decline.<sup>37</sup> The relevance of all these factors to UKZN will become apparent in this book and they are summed up in chapter 11. And John Higgins argued at the turn of the century that 'The ANC government seems bent on repeating the damage to academic freedom and university autonomy characteristic of much recent African experience'.<sup>38</sup>

Things can go badly wrong, even in societies that have a basically democratic image. Botswana has a generally good (although far from spotless and increasingly questionable) reputation in this regard, but in May 2005 Ken Good, a professor of politics of Australian nationality at the University of Botswana, was in effect abducted by the authorities and put aboard a flight to Johannesburg. Ironically, he had been in trouble before, deported from Rhodesia in 1973 by Ian Smith's regime

34 P. Hugo, 'Transformation: the changing context of academia in post-apartheid South Africa' *African Affairs* 97 (1998): 24.

35 M. Mamdani, 'University crisis and reform: a reflection on the African experience' *Review of African Political Economy* 58 (1993): 10.

36 D. Kerr and J. Mapanje, 'Academic freedom and the University of Malawi' *African Studies Review* 45(2) 2002: 82-3, 87 (quote).

37 J.O. Ibonvberé, 'The state and academic freedom in Africa: how African academics subvert academic freedom' *Journal of Third World Studies* 10(2) 1993: 40.

38 J. Higgins, 'Academic freedom in the new South Africa': 118.



for commenting on racism. This time, his apparent sin was to criticise what he saw as the authoritarianism of Botswana and describe its main export as blood diamonds. The ostensible reason for his deportation was a paper on the presidential succession, but his writings on the San may also have raised the ire of the government in Gaborone.<sup>39</sup> Good's university demonstrated collusion, indifference and silence to varying degrees over this episode.<sup>40</sup> It clearly had little concern for the Kampala Declaration, which requires that no academic shall be victimised in any way as a consequence of their intellectual work.<sup>41</sup> As if to emphasise the university's failings in dramatic terms, Botswana's attorney-general made the surreal statement that freedom of expression was an 'avant-garde right'.<sup>42</sup>

There are certainly influential people in contemporary South Africa who would agree with him. Reason and debate have never been very highly regarded in South Africa. Eddie Roux, professor of botany at the University of the Witwatersrand and one-time member of the Communist Party of South Africa, wrote of the 1920s:

a tradition has arisen that political disagreement shall be expressed in violence, the idea being that apparently if you don't like the other fellow's politics you beat him up to teach him better. Thus by a neat short cut you avoid all tedium of argument, prove yourself in the right and have the direct satisfaction of inflicting physical damage on your opponent.<sup>43</sup>

Verbal thuggery, delegitimisation of opposing viewpoints and demonisation all have a long pedigree and survive today even if overt forms of violence have disappeared. Under colonialism and apartheid unwelcome views were generally ignored, but if they proved too persistent they were labelled with pejorative names like liberal and communist. The consequences for individuals could be severe.

The apartheid regime produced a 'beleaguered academic community'.<sup>44</sup> The problem lay in laws that amounted to a massive and complex system of

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39 There are interesting parallels between his forced expulsion and the deportation of Bishop Ambrose Reeves from South Africa in September 1960 after the massacre at Sharpeville. Good now lives in Melbourne.

40 I. Taylor, "The limits of the "African miracle"": 102, 111-14.

41 The Kampala Declaration is to be found in *Academic Freedom in Africa*, edited by M. Mamdani and M. Diouf (Dakar: Codesria, 1994): 349-53.

42 I. Taylor, "The limits of the "African miracle"": 116.

43 E. and W. Roux, *Rebel Pity: The Life of Eddie Roux* (Harmondsworth: Penguin, 1972): 53.

44 A. du Toit, 'Critic and citizen': 95.

information control. Apartheid itself was a form of censorship in the sense that it disrupted communication between different groups of people and tried to dissuade them of the truth of their common humanity. It crudely distorted the education, media and information systems of South Africa. Occasionally the actions of the government were more muscular and activist academics and journalists were deported or detained without trial. Specific measures taken against the staff, students and institution of the universities of Natal and Durban-Westville from 1960 to the early 1990s were the banning of individuals, detention of persons without charge or trial, trials under both security and emergency legislation, the banning of books, defamation actions, various forms of intimidation, and even assassination.<sup>45</sup> Both staff and students were detained for varying periods of time under trying conditions.<sup>46</sup> The last overt measure to be taken against universities under apartheid involved regulations about state funding that threatened ‘subsidy cuts in the event of further campus activism’.<sup>47</sup> This was October 1987, just after the notorious Connor Cruise O’Brien affair at the University of Cape Town when students disrupted O’Brien’s lectures after he had questioned the academic boycott. It is hard to imagine such happenings in South Africa today. But this is to concentrate on the legislative system of oppression that was swept away in the last decade of the twentieth century. South Africa also has a long, sad and persistent history of conformism in thought, word and deed. It sustained imperialism and colonialism, it allowed apartheid to last as long as it did; and there is plentiful evidence that it severely afflicts post-liberation society.

Academic freedom and those who defended it in the face of apartheid’s authoritarianism served the cause of liberation exceptionally loyally and well. Some universities – those generally described as open and others that liberated themselves from apartheid – honoured a historical and moral duty to protect dissidents; collect and analyse data about human rights violations and communicate their findings worldwide; and support research issues such as justice and equity. Many students who passed through the liberal and liberated universities from the 1970s onwards moved into work for the trade unions and human rights organisations to become significant figures in the struggle for democracy. Patrick Bond provides an impressive list of University of Natal

45 C. Merrett, *A Culture of Censorship: Secrecy and Intellectual Repression in South Africa* (Cape Town: David Philip, 1994): 204–16.

46 Among them were Jo Beall (Durban); and Yunus Carrim, Yusuf Bhamjee, Vis Naidoo, Martin Wittenberg, John Jeffery, Sandy Jocelyn and Jacque Boulle (Pietermaritzburg). For the situation in Pietermaritzburg see C. Merrett, *Detention Under Three Emergencies* (Pietermaritzburg: Detainees Aid Committee, 1989).

47 J. Higgins, ‘The scholar-warrior versus the children of Mao’: 292.

members, including Steve Biko, Fatima Meer, Rick Turner and Francie Lund, who ‘generated innovative collaborative work with trade unions, communities, environmentalists, women and youth’.<sup>48</sup> David Welsh points out that the scholars of English-medium universities ‘produced a steady stream of research that was explicitly or implicitly critical of apartheid and the historical foundations of the unequal society’.<sup>49</sup> Jakes Gerwel, former rector of the University of the Western Cape and director-general of the presidency in Nelson Mandela’s administration, remembers ‘one of the exciting and major intellectual developments ... was the emergence of the revisionists and neo-Marxists; it changed the way people thought [about history] and eventually acted’.<sup>50</sup>

Imraan Valodia faults the old University of Natal for its parochialism, but points out that it ‘allowed little pockets of unusual, problematic, dissenting, troublesome – and even slightly embarrassing for the leadership at the time – initiatives and viewpoints to exist, and even to flourish and grow’. He mentions the university’s connections to trade union activity, particularly the Wages Commission of the early 1970s and the formation of the Congress of South African Trade Unions in the mid-1980s.<sup>51</sup> Kader Hassim of the African People’s Democratic Union of South Africa and a Robben Island prisoner provides further evidence, remembering that during the 1950s graduation boycotts at the non-European section, other demonstrations and harsh attacks in student publications were all tolerated by the university authorities without repercussion. ‘While there was apartheid at the university in many aspects, the freedoms of speech, assembly, press and conscience were at no stage threatened by the Malherbe administration. They were considered inviolable.’<sup>52</sup>

One of the staunch champions of freedom in the university and society as a whole was Deneys Schreiner, vice-principal of the Pietermaritzburg campus of the University of Natal from 1975 to 1987. Minister of Higher Education in the Zuma administration, Blade Nzimande, remembered him thus: ‘he was like a father figure because of his passionate commitment to the transformation of the then “white” universities, his hard work to make [young black students from the townships] feel accepted ... and his total commitment to the abolition of racism and apartheid’.<sup>53</sup>

48 P. Bond, ‘Rejoinder: collaborations, co-optations & contestations in praxis-based knowledge production’ *Review of African Political Economy* 35(116) 2008: 271.

49 D. Welsh, *The Rise and Fall of Apartheid* (Johannesburg: Jonathan Ball, 2009):183.

50 J. Higgins, ‘Gerwel: “class progress or class war?”’ *Mail & Guardian* 19 April 2013: 36.

51 I. Valodia, ‘As a matter of fact’ *The Witness* 5 December 2008.

52 K. Hassim, ‘No moral high ground at UKZN’ *The Witness* 10 December 2008.

53 C. Gardner, ‘George Deneys Lyndall Schreiner (1923–2008)’ [obituary] *Natalia* 38 (2008): 84.

Historian Howard Phillips reminds us that universities played a key role in the development of nationalism, Afrikaner and African.<sup>54</sup> He describes Wits as a well-intentioned institution whose ideals were not always matched by ‘deeds, practices and performance’ even though these put it beyond the pale as far as white society was concerned. Its saving grace was awareness of ‘blemishes and lapses’ and this gave it credence as an institution of worth.<sup>55</sup> The same might be said of the University of Natal, but there were signs of a change in tone before the merger. In 1997 Colin Tatz, who had been an undergraduate and masters student on the Pietermaritzburg campus in the 1950s, returned from Australia to accept an honorary LLD for his work on race relations and Aboriginal studies. He wrote a feature article for *The Sydney Morning Herald* that was reproduced in *The Natal Witness*. It referred positively to aspects of the new South Africa, but critically to crime and the Truth and Reconciliation Commission; and, crucially, to student unrest and ill-discipline at the university for which Tatz records ‘both affection and gratitude’. The result was a letter written at the behest of the vice-chancellor expressing outrage at the article’s contents and hinting that perhaps the degree should not have been conferred. Hypersensitivity to opinion about the university published in the press is clearly nothing new.

The essential values of the open and liberated universities of South Africa resulted in significant contributions, direct and indirect, to the Constitution and its Bill of Rights; and universities have continued this tradition after apartheid by producing challenging findings on HIV/Aids and globalisation. They played their part in the downfall of an illegitimate and often brutal regime and the construction of a modern participatory democracy. It was a history of flaws, but essentially honourable; a record of which those who owned it were justifiably proud; and should be vigorously defended in the interests of historical truth. Yet an opposing mythology is earnestly peddled. According to Mahmood Mamdani, the ‘white universities were islands of privilege, in which intellectuals functioned like potted plants in greenhouses ... In contrast, black universities coming out of apartheid were intellectual counterparts of Bantustans ... designed to function more as detention centres for black intellectuals’. Without a single shred of evidence he continues, ‘yet they were far more socially responsive than their white counterparts’.<sup>56</sup> This is historical fabrication.

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54 H. Phillips, ‘What did your university do during apartheid?’ *Journal of Southern African Studies* 26(1) 2000: 173.

55 H. Phillips, ‘What did your university do during apartheid?’: 177.

56 M. Mamdani, ‘There can be no African Renaissance without an Africa-focused intelligentsia’ in *African Renaissance: The New Struggle* edited by M.W. Makgoba (Sandton: Mafube, 1999): 131.

## Post-apartheid South Africa

South Africa's much-acclaimed post-liberation Constitution protects academic freedom. This means an entitlement to seek the truth and publish findings without hindrance, and there is little evidence that this right is yet obstructed in any major way. Significantly, essential university freedoms fall under the heading of freedom of expression in the Bill of Rights (chapter two of the Constitution). That will strike an ironic chord in the readers of this book. Theoretically, the Constitution of 1996 made the concept and practice of academic freedom more secure than at any other time in South Africa's history; and in any other part of the African continent. The Constitution clearly anticipates the independence of thought and individual conviction that are the hallmarks of true academia. They are, of course, a dire threat to the conformity universally desired by the powerful.

Optimistically, it was hoped that the birth of a democratic order would see an extension of academic freedom, in its various meanings, to all parts of the higher education sector; but 'instead the opposite has happened' with its erosion at the former open universities in particular.<sup>57</sup> In fact, the university was already under threat from new masters just as apartheid was being consigned to history's dustbin. The anti-apartheid debate on universities culminated in the 1994 report of the National Committee on Higher Education, which contained eerie echoes of the offerings of the notorious 1974 Van Wyk de Vries Commission. The pursuit of knowledge in the context of university autonomy was labelled academicism. Other positions saw universities as engines for socio-economic development and change, subject to government hegemony and the setting of societal goals. Thus, scholarly freedom would not be in question as long as the boundaries of accountability to government were conceded. This involves 'far greater centralized control of the universities than any apartheid government dared to dream'.<sup>58</sup> And Jonathan Jansen points out that this came at a time when state involvement meant less and less funding.<sup>59</sup> The sober truth is that academic freedom in its widest sense has been as much under threat in post-liberation South Africa as it was under apartheid.

The intentions and consequences of the Higher Education Act (1997) were highly significant. It repealed the private acts that placed universities under parliamentary oversight and established far tighter central government control

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57 A. du Toit, 'Institutionalizing free inquiry in universities during regime transitions: the South African case' *Social Research* 76(2) 2009: 644.

58 J. Higgins, 'Academic freedom in the new South Africa': 108-10.

59 C. Lombaard, 'There is rebellion afoot, and revelry': 73.

than ever before. The Minister of Education was now invested with sweeping powers, effectively a blank cheque, to merge or even abolish universities. In effect, South African universities became government departments, or organs of state in the Leninist language that the ANC has affected. Vice-chancellors were to become 'medium term managing directors', no longer long-term custodians of their institutions. They have transformed into apparatchiks with time-bound targets and performance indicators that determine their personal success or failure in the eyes of political masters on Councils and in government. Their decisions are thus bound up with individual agendas, ambition, ego – and, above all, sheer survival. Directives are filtered down through a series of highly rewarded line managers, messengers with disciplinary power.<sup>60</sup> This is, indeed, the ultimate academic factory.

But the Act's most sweeping change was a radical and cynical shift in the legal relationship between Council and Senate. Councils abandoned their largely financial oversight role to become both managerial and interventionist, with an equivalent reduction in the effective status of Senates. Traditionally, they had the last word on all matters that could be described as academic in the broadest sense. Councils kept their distance and maintained a watch on financial probity and good governance. It is no coincidence that Councils can be packed with political deployees and party loyalists. When this legislation was enacted it crept beneath the radar and there was little comment, let alone protest. Exactly where were South Africa's university vice-chancellors and registrars – on sabbatical, on holiday, simply asleep; or were they complicit? Consequently, authority in universities was transferred from academics from the world of ideas, reason and logic to those with very different backgrounds and objectives, including the overtly political. The fruits of this, for instance vice-chancellors operating under the delusion that they are chief executive officers, are all too evident in this book. It is a disturbing irony that, at the point of national liberation, South African universities fell victim to international trends and local agendas that seriously challenged their essential nature and the position and role of independent thinkers within them.

It is worth remembering that South Africa is not yet a mature democracy, but rather a country in which infant democratic institutions are guarded by the Constitution and its Bill of Rights against powerful forces that either wittingly or unwittingly fail to appreciate their crucial nature. Some actively seek to destroy

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60 C. Lombaard, 'There is rebellion afoot, and revelry': 71, 73, 74.

them.<sup>61</sup> One of the crucial tests of democracy is the extent to which powers are separated and the independence of the judiciary and other national institutions, such as the public broadcaster and the national prosecuting authority, are respected and guaranteed. In terms of the South African Constitution, bodies that guard democratic rights are known as Chapter Nine institutions and there is ample evidence that they are under considerable pressure.<sup>62</sup> Although universities do not number among them, they have many characteristics in common. And the threat to key institutions of the democratic state begs the question whether other liberal concepts such as academic freedom might soon be on a populist hit list. It is clear that the Protection of State Information (secrecy) Bill, passed by parliament at the time of writing and awaiting President Jacob Zuma's assent, and the proposed investigation into a media appeals tribunal are designed in part to prevent criticism of the new elite of ANC political heavyweights; ironic reincarnation of the absurd colonial sin of *lèse majesté*.<sup>63</sup> The secrecy bill could prove the tipping point, the right of access to information being in any case far from fully developed in South Africa in spite of constitutional guarantees and the Promotion of Access to Information Act.<sup>64</sup> This should be a matter of concern to academics as a potentially inhibiting factor for research.

### **Corporatisation, managerialism and neo-conservatism**

The complicated and often contentious recent history of universities in South Africa is due to the fact that transformation, already under way at the point of political liberation, coincided with a global trend towards greater corporatisation, managerialism and neo-conservatism in higher education. Almost without exception these trends have run counter to the core purpose and liberal traditions of universities. This book shows that in the particular case of UKZN, this tendency has favoured what we argue is authoritarianism and racial engineering. But the global trend has affected all universities to some degree.

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- 61 J.L. Gibson, 'The legacy of apartheid: racial differences in the legitimacy of democratic institutions and processes in the new South Africa' *Comparative Political Studies* 36(7) 2003: 798.
- 62 They are the Public Protector, Human Rights Commission (HRC), Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities, Commission for Gender Equality, the Independent Electoral Commission (IEC) and the Independent Communications Agency for South Africa (ICASA).
- 63 In 1935 the trade unionist John Gomas called King George V a parasite in a publication put out by the Communist Party of South Africa and was sentenced to six months hard labour, although the conviction was overturned on appeal (D. Musson, *Johnny Gomas: Voice of the Working Class: A Political Biography* (Cape Town: Buchu, 1989): 84).
- 64 The relevant sections of the Constitution of the Republic of South Africa (Act 108 of 1996) are 16(1)(b) and (d).

There are now greater pressures on universities to diversify their funding as government subsidies decrease in both real terms and as a proportion of budgetary requirements. This was particularly severe in Britain in the 1980s under the Thatcher administration and some universities never recovered from drastic austerity measures. Many university budgets rival those of small municipalities.<sup>65</sup> Increasing managerialism is burdensome as the new breed of university executives are rewarded handsomely with salaries four to five times those of professors. And this is financially costly in other ways, generating a vicious cycle as union militancy increases in response. In turning to the private and grant-funding sector to balance the budget, universities have begun to mimic the ways of the commercial world with devastating effect on the environment for free intellectual thought. Indeed, many managers began to see themselves in roles more attuned to the private sector than education. Contracts, lawyers and even litigation have become the order of the day at some universities. These trends were evident at the universities of Natal and Durban-Westville long before their merger into UKZN as vice-chancellors, rectors and their executives resorted to legal action, or its threat, in order to maintain their authority in a clear break with accepted tradition.

The financial and business links between higher education and industry have been tightened and academics have become entrepreneurs, running companies, earning consultancy fees and even selling lectures electronically. For the first time in history, it is now possible to be a relatively well-off academic. A militant take on this, recalling the role of some journalists in the wars against Iraq, is that 'we are in an era of embedded intellectuals'.<sup>66</sup> Derek Bok, former president of Harvard University, believes that commercialisation threatens the character, effectiveness and standing of the university to a significant degree. The most obvious danger is that money will begin to dictate the direction and findings of research and the timing and nature of its release into the public domain. Openness and collegiality, reckons Bok, are likely victims.<sup>67</sup>

In some cases pressure has been placed on academics to produce results palatable to sponsors. This type of contract research enabled tobacco companies, for example, to hide the dangers of smoking behind questionable science for

65 The annual budget of UKZN exceeded R1 billion in 2007.

66 J. Bratich, 'Fragments on machinic intellectuals' in *Constituent Imagination: Militant Investigations, Collective Theorization* edited by Stephen Shukaitis and David Graeber with Erika Biddle (Oakland: AK Press, 2007): 137.

67 S. Rimer, 'A caution against mixing commerce and academics' [review of Derek Bok's *Universities in the Market Place: The Commercialisation of Higher Education*] *New York Times* 16 April 2003.



many decades. Research integrity has been compromised in the interests of large grants and fame as was the case with the fraudulent claim of cold fusion in the United States in 1989 and the fabrication of human stem cell research in South Korea in 2004.<sup>68</sup> Practical, applied research attracts more attention from funding agencies than free intellectual enquiry and social discourse. China has set up an excellent university system for the technical sciences, but there has been little emphasis placed on the human sciences and this shows in a country that has an abysmal civil rights record. This must surely contain important lessons for South Africa, still establishing a rights culture after a history of colonialism, segregation and apartheid.

A new breed of higher education managers demanded that academics become more productive and started measuring their output in ways that undermined a university's fundamental values. Under new funding conditions, more research publications meant more income regardless of quality or originality. Performance management systems borrowed from the private sector started to measure academic productivity in crude ways backed by promotion and financial incentives. Universities became preoccupied by their national and international rankings that reinforced a culture of quantitative measurement. It is potentially destructive to attach much meaning to such rankings, but many university systems assign great importance to them.

Under a neo-conservative regime, tuition and other fees have climbed inexorably and resulted in growing anti-social student behaviour and violent demonstrations. France, Greece and Britain present recent examples of students taking to the streets to protest against austerity measures.<sup>69</sup> Higher fees mean that good candidates who do not have the financial means are left by the wayside. The massification promoted by the South African Department of Education has also had a detrimental impact.<sup>70</sup> Lecturers have to tackle large classes of under-prepared students with dwindling resources. Small class or tutorial sessions are something of the past for many universities and opportunities for one-on-one engagement are rare. Doing more with less has meant that the quality of tuition has deteriorated.

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68 F. Close, *Too Hot to Handle: The Story of the Race for Cold Fusion* (London: W.H. Allen, 1990); 'Disgraced cloning expert convicted in South Korea' *New York Times* 27 October 2009: A12.

69 B. Quin, 'Are British student protests a harbinger of future violence over austerity measures?' *Christian Science Monitor* 11 November 2010.

70 Department of Education, *A Programme for Transformation of Higher Education* (Education White Paper, 24 July 1997).

While academics have been gradually marginalised, the new class of executives and their managers has created a greater degree of bureaucratic requirement and constraint. There have been more forms to fill, more reports to write and more signatures to attach to a growing mountain of electronic spreadsheets, none of which add much value to the purpose of a university. Very few real academics want, or are able, to commit themselves to such onerous and largely unnecessary administration. This means that those who ascend the corporate ladder are very often individuals who have not succeeded in academia. With large salaries and power on offer within the management system, there is a lucrative goal for ambitious individuals prepared to toe the line.

Managerialism demands intellectual obedience, which in turn breeds subservience. There is no room here for the intellectual maverick. Individual insecurity at the highest levels of the university has bred arrogance and an autocratic attitude towards academics, increasingly regarded as subordinates and mere workers rather than colleagues in a shared enterprise. Powerful university managers have come to realise that it is more convenient to force a predetermined result rather than debate an idea. This may be a quick means to achieve a result, but at what cost? Such expedience is ultimately destructive to the very idea of the university.

## Collegiality

Bok deplores the top-down, bureaucratic and centralised university that has increasingly become the norm.<sup>71</sup> Conversely, valued practices such as collegiality, which once attracted much respect, have been devalued to the point where in some institutions this has become, literally, a dirty word. One critic on the Executive at UKZN let the cat out of the bag when she slammed the way 'decisions were made by colleagues at meetings, not by managers'.<sup>72</sup> She claimed that this slowed down the pace of change, failing to understand that what she was criticising was not structural, but simply a product of poor chairing; and, even worse, administration that failed to set reasonable deadlines. This is typical of the misguided approach of the new order and its contempt not only for what is 'close to the heart of the idea of a self-respecting university'<sup>73</sup>, but also international best practice.

71 D. Bok, *Universities in the Market Place: The Commercialization of Higher Education* (Princeton: Princeton University Press, 2003): 191.

72 L. Uys, 'An open discussion-based decision making model' in *Organisational Democracy: An Ongoing Challenge: Reflections from the University of KwaZulu-Natal* edited by D. Chetty (Durban: University of KwaZulu-Natal, 2005): 12.

73 A. du Toit, 'Critic and citizen': 100.

A debate about collegiality and, by implication, academic rule, has recently been going on at Oxford University in the light of proposals about structural change. 'Collegiality [means] shared responsibility ... As a way of running an institution it is not quick and it is not simple, certainly by comparison with a corporate-style management structure. But ... it seems to engender a passionate devotion to the good of the institution and an eagerness to debate how that good might best be achieved.' Andrew Graham, master of Balliol College, commented that Oxford University worked 'because of our sense of involvement', which in turn engenders trust.<sup>74</sup> UNESCO requires for an institution of higher education 'the principles of collegiality ... shared responsibility ... participation of all concerned in internal decision making structures and practices, and the development of consultative mechanisms'.<sup>75</sup> There is every reason for universities to be efficient and businesslike. But they are neither businesses nor production lines for graduates and research publications. UNESCO points out that teaching in universities is not simply a profession, but a form of public service in which 'self-governance, collegiality and appropriate academic leadership are essential components'.<sup>76</sup> Decisions in universities gain legitimacy if their collegial origins are clearly obvious. Collegiality may be seen by modern university managers as a weakness, but their view is facile: it is an indication of the mutual respect that strengthens any institution. Harking back to the spirit of the radical movements of the 1970s and 80s, academics need to act as a collective.

Ideally, university administrators dedicated to the promotion of teaching, learning, research and publication provide an enabling and supportive environment. But this has all but disappeared. Higgins laments the demise of good university administrators in South Africa who knew the right questions to ask and understood the mechanics of the 'horizontal democracy' that characterised a collegial institution.<sup>77</sup> Often academics in their own right, they understood their custodial role and that the most important people in a university are students and academic staff, not ambitious managers. Old-style, behind-the-scenes administrators, who carried considerable and crucial institutional memory, gave way to a new and numerous breed of brash bureaucrats – who pretentiously called themselves executive managers and commanded huge salaries – intent on forcing a pre-ordained template upon universities. Many of them might just

74 G. Ferry, 'In search of self' *Oxford Today* Hilary 2006: 15.

75 UNESCO, *Recommendation Concerning the Status of Higher-Education Teaching Personnel*, 11 November 1997: III.6, V.B.32.

76 UNESCO, *Recommendation Concerning the Status of Higher-Education Teaching Personnel*, 11 November 1997: III.6, V.A.21.

77 J. Higgins, 'The anti-realists of academe' [interview with Terry Eagleton] *Mail & Guardian* 21 September. 2007: Beyond matric: 4-5.

as well have been working in a food processing factory or a supermarket and their understanding of a university extended little further than the provision of a service to customers.<sup>78</sup> Predictably, they initially failed to prevail within a radically different value system, so bullying and then disciplinary action became more and more common; and often for trivial reasons.<sup>79</sup> The fear voiced by Fikile Mazibuko that ivory towers could become bureaucratic towers became all too true.<sup>80</sup>

There is widespread concern that universities have effectively lost their essential character as self-regulating communities of independent intellectuals. Coelho summarises them well, reminiscing about the Centre of African Studies at Eduardo Mondlane University in Maputo in the 1970s and 1980s: ‘scholars who were interested in far more than their careers and who took pleasure in the work they did. Uneasy about the world, they felt the need to do something, something which would contribute to it. These were academics whose purpose was not to describe or carry out rituals (including that of earning money), nor to prove their obedience.’<sup>81</sup> But instead universities are turning into educational conveyor belts serviced by compliant, docile academic serfs on short-term contracts kowtowing to line managers. Southall and Cobbing are alert to this danger: ‘academics are increasingly “human resources” to be redeployed, rationalized and retrenched according to how the university is “meeting the challenge of the marketplace”.’

They go even further, arguing that the Caroline White and Robert Shell affairs at the University of Natal and Rhodes University respectively showed the determination of modern management in higher education to impose general industrial relations law on universities regardless of the consequences.<sup>82</sup> The costs have been high, in terms of both financial resources and public relations image. The effect of such a regime upon intellectual curiosity and reasoned dissent is obvious: deference and self-censorship increasingly reign supreme. Fearless, independent analysis is under such threat that the very future of the university is at risk. It is wrapped up in the belief of many that university managements, particularly their executive committees or equivalents, see themselves as more

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78 T. Gibbon and J. Kabaki, ‘Staff’ in *Transformation in Higher Education: Global Pressures and Local Realities* edited by N. Cloete et al. (Dordrecht: Springer, 2006): 130.

79 M. Thornton, ‘Corrosive leadership (or bullying by another name): a corollary of the corporatised academy?’ *Australian Journal of Labour Law* 17 (2004): 164.

80 F. Mazibuko, ‘The university as a co-operative enterprise in education’ in *Organisational Democracy: An Ongoing Challenge: Reflections from the University of KwaZulu-Natal* edited by D. Chetty (Durban: University of KwaZulu-Natal, 2005): 8.

81 J.P.B. Coelho, ‘Memories of Ruth First in Mozambique’ *Review of African Political Economy* 35(117) 2008: 507.

82 R. Southall and J. Cobbing, ‘From racial liberalism to corporate authoritarianism’: 17, 33.

important than the rest of the institution put together. This would be fatal even in a factory or supermarket.

The corporate university has placed academic rule and freedom under dual threat – from institution and government, but mainly from the first. University autonomy, traditionally seen as vulnerable to state action, was also undermined because implicitly it requires meaningful participation by those tasked with fearless academic enquiry. The rot set in during the 1980s when deans of faculties ceased to be the elected advocates of their disciplines and collegial concerns; and became instead appointed line managers answerable to the Executive or its immediate subordinates. David Maughan Brown reminds us that in the late 1980s, University of Natal planning inspired by the British Jarratt Report on efficiency studies in universities was thrown out: ‘The inevitable resistance, led by Deans who were still elected by their Faculties, was sufficiently vehement to ensure that the recommendations were not implemented’.<sup>83</sup> The upshot was a process of five-year plans generated by faculties. But nonetheless the era of the often charismatic academic character working for the benefit of colleagues rapidly disappeared. Moodie, who has reservations about the limits of academic freedom, nonetheless argues that ‘governance by one’s kind ... is not to be lightly dismissed’. His reason is that ‘non-commercial self-regulation ... is justifiable because it makes use of the expertise of insiders with a vested interest in the prestige and performance of their profession’.<sup>84</sup> But in the academic world this was rapidly displaced by that of the ambitious academic bureaucrat whipping a cowed group of academics regarded as labour units into line. So ‘when an executive dean efficiently manages an increasingly apathetic faculty it is academic freedom itself ... connected to collegiality, which will increasingly be at risk’.<sup>85</sup>

### **Transformation, managerialism and their critics**

This was the general background against which South African universities entered the transformational, post-1994 phase of their history. The government played a strongly interventionist role.<sup>86</sup> It demanded wider access for black African students and acceptable pass rates despite the collapsing state high school system and the inability of many students to cope with, or pay for, a university education. The curriculum was attacked as too European and this gave rise to notions of grandeur about an African Renaissance, particularly

83 D. Maughan Brown, ‘Swings and roundabouts: centralisation and devolution in a multi-campus university in South Africa’ *Higher Education* 40(2000): 165–6.

84 G.C. Moodie, ‘On justifying the different claims to academic freedom’: 144–5.

85 A. du Toit, ‘Critic and citizen’: 101.

86 Department of Education, National Working Group, *The Restructuring of the Higher Education System in South Africa*, January 2002.

popular under the Mbeki presidency.<sup>87</sup> Soon the transformation agenda shifted to the racial mix of staff and university culture. Tried and tested academic appointment procedures were cast aside, marking the ascent of the ubiquitous human resources manager backed by legalistic processes. Adherence by senior academics to academic excellence in making appointments was attacked by agents of transformation as proving the existence of racism and an old boys' network. Centralised decision-making emerged as a convenient ploy to deal with supposed conservatism. Thus transformation was rapidly married to managerialism in a process that threatened both academic freedom and rule.

Most South African universities took transformation seriously, although they resisted direct government interference, regarding this as an affront to their autonomy. They saw it as part of their social contract to embark on programmes of redress. Their collective conscience, academic leadership and social discourse drove internal processes of change and they accomplished much while adhering to their own academic systems and processes. The liberal, English-language universities, including the former University of Natal, were at the forefront of the fight against apartheid, and transformational change was part of an evolutionary process that began at least a decade before liberation. Other universities saw their systems as an impediment to transformation and embraced government intervention. Their councils and management began to feel like extensions of the government. In some cases appointments were the result of cadre deployment reminiscent of the apartheid days when Afrikaans-language universities were at the beck and call of the National Party government. As in the past, universities that toed the line stood to gain materially in the short term.

Some universities resisted these pressures. The University of Cape Town, for example, continued to maintain low student ratios and demanding entrance requirements. This ensured that it has continued to enjoy a high international reputation and attract top overseas academics, including many from the rest of Africa. The University of Pretoria is the largest residential university in South Africa with more than twice the number of students than UCT, Stellenbosch University or the University of the Witwatersrand. Despite these numbers, there is an emphasis on quality teaching and all the universities mentioned have well-resourced programmes for under-prepared students. Two-tier structures give quality researchers support and resources, especially quality time away from heavy teaching loads and administrative duties.

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87 T. Mbeki, 'The African Renaissance, South Africa and the World'; speech delivered at the United Nations University, 9 April 1998.

Merged institutions such as the University of Johannesburg and Nelson Mandela Metropolitan University in Port Elizabeth have been founded on strong academic principles as they forge new South African identities. UJ, in particular, has been able to attract many good academics from other parts of the country. Rhodes, relatively isolated geographically, has maintained a distinctive identity, while the University of the Free State has battled with racial strife as shown by the Reitz Four saga.<sup>88</sup> The four universities of the greater Cape Town region – UCT, Stellenbosch, Cape University of Technology and the University of the Western Cape – remained essentially untouched by the higher education restructuring process in contrast to the universities of Natal and Durban-Westville in KwaZulu-Natal, the country's second most populous province.

Many of the historically black universities such as Zululand, Limpopo (formerly University of the North at Turfloop), Venda and Walter Sisulu University in Mthatha, having been created in the image of apartheid, continue to languish far behind despite government bailouts and interventions. South Africa might have been better served by shutting down these institutions or converting them into community colleges. Their weak institutional cultures have shown an inability to exploit the investments that came their way as part of the transformation agenda. The University of Fort Hare was considered untouchable because of its long line of graduates who became influential politicians.

Teacher training colleges were either closed down or absorbed into university education faculties.<sup>89</sup> Technical colleges, known as technikons under apartheid, were converted into universities of technology in a series of mergers. Many continue to be dogged by historical problems of endemic student unrest, financial difficulties and corruption; or total obscurity as in the case of the Mangosuthu University of Technology, whose vice-chancellor was nevertheless among the most highly paid.

In this context of managerial and transformational ideology, revival of an ethos of academic rule and good governance became increasingly attractive to many. If Mill's concept of a marketplace of ideas is accepted, then it follows logically that a well-argued case is more important than status; and structures and standards of administration should reflect this.<sup>90</sup> Academic debate belongs to everyone. It is many layered and multi-dimensional; involving ethical individualism, the

88 Andre Grobler, 'Varsity puts Reitz Four incident to rest' *Mail and Guardian* 26 February 2011.

89 At the time of writing there was the possibility that teacher training colleges might be re-opened, or that new colleges might be created.

90 R. Southall and J. Cobbing, 'From racial liberalism to corporate authoritarianism': 14.

exercise of conscience, and personal responsibility ‘in accordance with our felt convictions’.<sup>91</sup> Higgins puts it admirably, describing the university ‘as a place where scepticism – rather than authority – should flourish’.<sup>92</sup> Dlamini expands on this shrewdly, pointing out that ‘Highly intelligent and imaginative people often resent and resist orders from above’; suggesting that the creativity and climate of free inquiry essential to universities are endangered by recent changes in the ways in which they are managed.<sup>93</sup> Enslin, Pendlebury and Tjiattas take this even further: ‘in many contexts, dissidence is seen as nobler than compliance’.<sup>94</sup>

Yet, in the opinion of Peter Vale, corporatism and free market economics have ‘cowed the local academy. Why has there been such a muted response to the mantra of rationalisation, reporting and reorganization ... why have South African academics been silent? One reason is surely fear.’ He relates this to funding, such that ‘compliance has mattered more than contestation’; continuing, ‘Few moments are more disturbing for academics than to hear themselves infantilised by managers and bureaucrats. The result is plain: most conversations between the government and the universities are conducted by those who regard academics as infants and misfits.’ He points to the damage done to institutions, some of which are older than South Africa itself; and argues that what academics stand for has been systematically devalued by both government and university bureaucrats.<sup>95</sup>

As André du Toit puts it: ‘Traditional liberal discourse on academic freedom can no longer suffice: it is misleading in that it directs attention to supposed external threats rather than to relevant development closer [to] home.’<sup>96</sup> His general point supports Southall and Cobbing’s belief that legitimate dissent and robust criticism within higher education are increasingly seen by management as actionable insubordination.<sup>97</sup> More specifically, in Du Toit’s view, ‘far from taking off in different and exciting new directions, the research culture is battling to survive’.<sup>98</sup> It is a belief depressingly borne out by evidence presented in this book. Among other deplorable consequences, it shows a need to protect a

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91 R. Dworkin, ‘We need a new interpretation of academic freedom’: 189.

92 J. Higgins, ‘Academic freedom and the idea of a university’ *English Academy Review* 15 (1998): 10.

93 C.R.M. Dlamini, ‘Academic freedom and institutional autonomy in South Africa’: 4.

94 P. Enslin, S. Pendlebury and M. Tjiattas, ‘Knaves, knights and fools in the academy: bureaucratic control, social justice and academic work’ *Journal of Education* 28 (2002): 83.

95 P. Vale, ‘Of campuses and crocodiles’ *Mail & Guardian* 26(15) 16 April 2010.

96 A. du Toit, ‘From autonomy to accountability’: 128.

97 R. Southall and J. Cobbing, ‘From racial liberalism to corporate authoritarianism’: 34.

98 A. du Toit, ‘Institutionalizing free inquiry in universities during regime transitions’: 630.



young and fragile democracy from the designs of an old authoritarianism poorly disguised by alternative colour coding. It also tests the ability of academic staff to rally collectively to defend the most basic of rights in universities in spite of electronic communication, allies in the media and the interest of a worldwide higher education network.

Accelerated decline of the true university occurred during those delusionary and falsely euphoric years of the 1990s when optimism, fatigue and complacency in the wake of the fall of apartheid effectively disabled the South African human and civil rights movement. It abandoned its apartheid-inspired vigilance and engaged in naïve assumptions about people, processes and institutions. As Xolela Mangcu argues so accurately, civil society subordinated itself to the mystique of people's government. Non-governmental organisations, around which was clustered a great deal of rights-based activity, were deliberately marginalised by the new power brokers.<sup>99</sup> In a sense, South Africa was betrayed by the seductive appearance of the rainbow nation in the shadows of which authoritarians, opportunists and common-or-garden crooks seized their chance. Democrats abandoned their obligation to truth. They saw what they wanted and hoped to see, not what was really there. Of course, activists were exhausted and desperate for lives of normality. But it was nonetheless a betrayal.

The opportunities provided by a brief window of political liberalisation disappeared, as it were, in a flash. As long ago as 1998, Eve Bertelsen noted that the South African political Left had been rendered 'dispirited and speechless' by university change.<sup>100</sup> This was not unique. An Australian viewpoint a few years later described 'the mood on campus [as] a mixture of despair and self-deception'.<sup>101</sup>

The scene was set for what we argue was an alliance of managerialism and racial engineering that was to cause the implosion of the university that is the subject of this book. What sort of university did UKZN strive to become? This book will show that it chose a very different path from any other South African university. Ample evidence is presented from which we conclude that the global anti-

99 X. Mangcu, *To the Brink: The State of Democracy in South Africa* (Pietermaritzburg: University of KwaZulu-Natal Press, 2008): 123–4.

100 E. Bertelsen, 'The real transformation: the marketisation of higher education' *Social Dynamics* 24(2) 1998: 154.

101 D. Eden, 'Black sails in the corridor: treasonous minds and the desire for mutiny' in *Constituent Imagination: Militant Investigations, Collective Theorization* edited by Stephen Shukaitis and David Graeber with Erika Biddle (Oakland: AK Press, 2007): 264.

intellectual tendencies of corporatisation, managerialism and neo-conservatism have been used as a platform for racial engineering and suppression of dissent. In one of the great ironies of the brief history of UKZN, the agenda designed to create the premier university of African scholarship by hounding white academics and conducting a witch hunt of those of Indian descent, especially at the Medical School, has made the university less attractive to top black academics because the resultant atmosphere is not conducive to free intellectual enquiry. All good academics want to work in a stable environment where their endeavour is valued and appreciated; not among the ruins of a race-based social engineering project enforced by the illiberal means that destroy the essence of a good university. Other universities with aggressive affirmative action programmes have been more successful in attracting black African academics from within South Africa and from around the world while maintaining the highest international standards of academic governance and collegiality. And, of course, these institutions have gained from the tragic exodus of quality staff from UKZN.

# Subversion of a well-governed university

*The liberal institutions in the greatest danger are the universities – ultimately just public-sector institutions subject to the same mismanagement, political manipulation and disastrous affirmative action as the rest of the public sector.*<sup>1</sup>

VICE-CHANCELLOR BRENDA GOURLEY left the University of Natal in 2001 to take up the equivalent position at Britain's Open University. The search for her successor came at a significant time in the history of post-liberation South Africa: academic and journalist Bill Johnston makes the point that 'Within the English-speaking universities it had already become clear that no vice-chancellor could be picked who was unacceptable to the ANC, although under the Nats these universities had routinely picked anti-apartheid vice-chancellors and defied the government'.<sup>2</sup> It is not known how much direct political influence from on high there was in the selection and appointment process – possibly none, but it took place when President Thabo Mbeki's ideology of racial Leninism was gathering steam.

## Appointment of a vice-chancellor

The controversy over the appointment of Gourley's successor was stoked by myth-making characterised by a motion prepared for Council, proposed by president of Convocation, Zolile Mlisana, and seconded by president of the Durban Students Representative Council (SRC), Grant Heslop.<sup>3</sup> Their document spoke of professionals 'who have been bruised by this institution', made wild claims about lack of transformation and questioned the values of the university. 'Is there,' it asked, 'an environment safe enough for the scant number of senior Black academics and staff to freely raise their voices without intimidation where

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1 R.W. Johnson, *South Africa's Brave New World: The Beloved Country Since the End of Apartheid*. (London: Allen Lane, 2009): 318-19.

2 R.W. Johnson, *South Africa's Brave New World*: 169.

3 Motion for the Council, University of Natal.

issues of transformation are not handled reasonably?’ The erroneous impression was given that the university was an unhealthy place for certain groups. On the contrary, while flawed in many ways, it had always supported robust debate and protected those who confronted the apartheid state, as had the University of Durban-Westville in recent years.

The document also mentioned specific allegations of ‘nepotism [and] obstruction of transformation by senior management’ but provided no supporting evidence. This accusation was based on a document put forward by the Employment Equity manager that identified a number of areas of sharp practice in appointments, some of which were probably true. But it was hard to take seriously criticism such as ‘overemphasis on experience in a higher education context unrelated to operational exigencies’. It should come as no surprise that universities take such experience into account. This generalised and distorted picture was one of a number of ploys that created a poisoned atmosphere within which the appointment of the new vice-chancellor took place.

On 3 May a memorandum to university management was accepted by the chair of Council, Alec Rogoff, from the presidents of the three SRCs (Durban, Pietermaritzburg and Medical School), a person described as convenor of the Coalition of Solidarity and national president of SRCs, one Siphwe Zuma, and representatives of Durban campus residences and the South African Students Congress (SASCO). Claiming to speak on behalf of a spectrum of students, workers and academic staff ‘joined in oneness [and] in solidarity for decisive institutional change’, it vilified the university for ‘bask[ing] under the skies of rhetoric, tokenism and filibustering when it comes to tangible, fundamental institutional transformation’. It accused the upper echelons of the university of defending the apartheid status quo or pretending to accept change; and argued that deliberate policy had prevented any black academic from becoming a faculty dean. These alleged deficiencies the memo openly linked to the ‘fracas around the Vice-Chancellorship and bare reluctance of the university to appoint Prof. William Malegapuru Makgoba as the incumbent into the contended position’. This gave an impression of active lobbying and possible orchestration. The memo went on to talk about lack of mass participation and accountability, and racist sabotage of Makgoba’s candidacy, and demanded his appointment. Such pressure was totally inappropriate to any selection process in an institution of higher education and is indicative of the climate of the time.

The selection body was, as expected, a sub-committee of Council. What was novel, however, was the legislative context of the Higher Education Act (1997)

under which councils had acquired considerable powers of intervention. In the past, in order to ensure that a new vice-chancellor at least started off with a strong basis of support from a reasonably wide spectrum of stakeholders – professors, lecturers, support staff, students and the wider community – a two-thirds vote of the committee was required to endorse a candidate. Such a recommendation was then passed back to Senate. This highly inclusive process was under attack from early on. The Mlisana and Heslop document argued (ungrammatically) that ‘the much acclaimed “less than 2/3 vote” of the Selection has no integrity’. It went on to laud public presentations that won ‘overwhelming majority support’ as if the appointment of a new vice-chancellor was some sort of personality parade cum political crusade, which, indeed, to some degree it was and a foretaste of similar things to come. This was essentially a political process whose drivers understood exactly where pressure should be applied. On 31 May 2002 Council voted to offer the job to Makgoba.

The chairperson of the National Tertiary Education Staff Union at the University of Natal (NTESU-NU), Kesh Govinder, described the situation with quaint restraint as having ‘divided the University Community somewhat’.<sup>4</sup> NTESU-NU fulfilled an important function by circulating three documents reflecting different opinions and perceptions that may be taken as representative of key standpoints at the time. The first was a legal summary; the second and third presented positions for and against the decision taken by Council. The legal issues were technical and centred on the fact that the advertisement for the post had not anticipated the forthcoming merger with Durban-Westville. One fear was that a costly severance agreement might result. Legal opinion favoured re-advertisement, this time spelling out the interim nature of the post. More importantly in terms of governance, it was noted that in October 2001 rules had been confirmed requiring a two-thirds majority on the selection committee before a recommendation could be made to Senate.

But a white flag of surrender was already being waved by some. In a strange, expedient mixture of legalism and legal evasion, they recognised a political dimension and saw the future in terms of ‘prevailing circumstances, risk assessment and balance of power’. The flaw in the advertisement was regarded simply as a matter of risk of legal action. Makgoba had failed by only two votes to gain two-thirds support, so this too could be disregarded.<sup>5</sup>

4 Kesh Govinder to NTESU-NU membership, email, 20 June 2002.

5 This was a view shared by B.M. Zuma, Provincial Secretary of NEHAWU in a document dated 30 May 2002 addressed to the chair of Council. They had been cast, in his opinion, by ‘retired white contract employees’ and could thus ‘be discarded’. Zuma described referral of Council’s decision to Senate as a ‘necessary nuisance’. Senate itself he referred to as a cabal. All this would be amusing, if it were not so serious.

Fear of factionalism pervaded this view, but the real issue was a desire to avoid being labelled anti-transformation. The presentation of these views contained a curiously gratuitous, but prophetic, statement: ‘academic freedom is a concept that means different things in different epochs of Higher Education and in different societies’.<sup>6</sup>

The opposing view, supported with varying degrees of enthusiasm by a majority of Senate members and hundreds of staff, was robust: Council had broken its own rules; ignored a Senate resolution defending the legitimate procedure supported by 90% of its members with no dissenting votes (the SRC representatives had in a show of petulance that undermined their supposedly democratic credentials walked out of the meeting); and acted contrary to legal advice. It had ‘shown that it holds Senate and the university community it represents, in contempt’. Many regarded this as the greatest threat to university autonomy and academic rule since the dark days of the State of Emergency in the 1980s. The cause was seen as a betrayal of the trust that had previously existed between Council and Senate. Comparable events at the University of South Africa were held up as an awful warning of the future this could bring.

The more resilient opponents of Council rejected any ‘exchange of pleasantries’ (one of the reasons being rumours that undue pressure had been applied to members of the Executive by persons unknown). Alternative courses of action were put forward: a press release, newspaper advertisement, petition, or demonstration expressing solidarity with Senate. Some hope was vested in the Academic Freedom Committee, which had done sterling work under apartheid. It had in fact met on 19 March 2002 and with awful symbolism was never to do so again, in spite of subsequent attempts by a few members to petition a meeting to consider the threat posed by Council and alleged harassment of certain members of the Executive. Only three of its members unequivocally supported a meeting; shamefully, some members opened their email and failed to respond.<sup>7</sup> This was to prove the kiss of death for a crucial committee.

‘If NTESU does have the courage to publicly rebuke Council and express its solidarity with Senate,’ an anonymous commentator argued, ‘we need be under no illusions regarding the nature of the opposition we’re likely to face ... this despite the fact that it is manifestly clear that the current crisis is about Council and has nothing whatsoever to do with the suitability of Prof. Makgoba as a VC.’

6 Comment from a supporter of the Council’s decision, email to NTESU-NU members, 20 June 2002.

7 Barbara Nevill to Christopher Merrett, email, 26 July 2002.

The view concluded: 'Our university has a proud record of vigorously defending its autonomy, but unless we make a strong stand now, I fear that all the gains we've made in the past will be lost.'<sup>8</sup>

A Senate resolution had already summed up feelings.<sup>9</sup> Without commenting on Makgoba's application, Senate noted dismay at Council's decision to make an appointment, believing it had not applied 'its collective mind to the reasons advanced by Senate for not doing so' and that it had acted *ultra vires*. In the view of Senate, Council had acted arbitrarily and illegitimately, ignoring legal opinion and its own requirement – a two-thirds majority within the selection committee plus the support of Senate. The latter described Council's actions as expedient, bringing 'the University into disrepute' and seriously threatening its future. Condemning Council's action as illegitimate, it called for the Executive to request a review by the Department of Education into the composition and powers of university councils.

The ubiquitous Heslop described Senate's resolution as a 'spurious statement'. Denying that 'good governance had been flaunted [*sic*]' he predictably accused Senate of a hidden agenda and 'stalling the forces of transformation'. He was also offended that Senate had publicised its views, revealing a complete lack of understanding of the nature of open debate in a university, never mind a democracy. Then he criticised 'biased articles' that had appeared in 'strange newspapers such as the Mail and Guardian'.<sup>10</sup> Heslop's understanding of the university began and ended with the role of Council, which he appears to have regarded as some form of politburo. Predictably, the race card was thrown into the ring: Senate membership 'is made up of old white male professors who seem to believe that Senate should be equal to Council'. Introducing the concept of demographics, he then grandiosely threatened legislation to diminish the role of Senate. His document was a classic of denunciation and vilification in the interest of a self-styled vanguard representing the masses.

A projected meeting between Senate and Council was replaced by a far less logical special meeting of Senate, held on 24 June 2002 and called at the request of Makgoba to address questions that had arisen from the 'protracted nature of the selection process'. Makgoba had asked for the meeting in order to reach greater understanding in the light of negative perceptions that were 'being taken

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8 Comment contained in an email to NTESU-NU members, 20 June 2002.

9 Senate minutes, 5 June 2002.

10 His description of South Africa's leading weekly newspaper was even more misplaced. He was evidently unaware that Makgoba sat on its board.

advantage of by an opportunistic Press to exacerbate the resulting tensions'. He was searching for an 'internal unity of spirit and vision', a definition of 'opportunities and challenges', and 'team spirit'.

Paul van Uytrecht, who played a particularly courageous role in this crisis of governance, asked Makgoba the fundamental question: how could he align himself with the illegitimate actions of Council and then expect to run the university successfully? He received a standard answer about resolving disputes in a mature institution and living with 'mistakes'. But amidst this waffle, Makgoba let slip the view that Senate was advisory while Council wielded legal authority. Asked much the same question by Margaret Daymond, Makgoba, not yet an employee of the University of Natal, took on the task of defending Council, which he believed had 'act[ed] in the best interests of the institution'. Later in the meeting he responded to questions in a contradictory fashion by arguing that he had been a candidate so could not be expected to have knowledge of Council's selection process. The acting vice-chancellor and chair of Senate, David Maughan Brown, pointed out that Council had been legally advised of the illegitimacy of its actions, to which Makgoba responded with a plea to move forward in the context of a mistake. This was a common euphemism at the time for the blatant disregard of rules and the consequences of unconscionable actions.

As Mike Laing pointed out, far from a mistake, Council's actions had been deliberate and assumed that the end justified the means. Due process had not been served. What was to prevent future subversion of rules, especially in situations in which the necessary relationship of trust between Council and Senate had already been lost? How, he asked, 'would it be possible for Council's legitimacy to be restored or to move forward when a process of such a fundamental nature had been breached?' It was a vital and telling moral question, but in a practical sense outdated: Council was already supreme and Senate on the decline. John Swart pressed home the issue: Council was a body of transients whose decisions could have a lasting effect on a community of long standing. Makgoba's response to this was one of apparent understanding and commitment to the values of Senate.

The tired litany continued relentlessly: 'Fundamentals were a perception and decision of a particular time' and mistakes were historically common. Makgoba described himself as a 'man of principle and ethics' whose life history 'had been characterised by principle, integrity and honesty'. He also alluded to hurt suffered by him during the selection process. Question after question put the same point: how could the beneficiary of an illegitimate, and probably illegal, process be trusted to apply standards of good governance? We are of the view



that no convincing answer was forthcoming. The failure of Council to meet Senate for a number of spurious, bureaucratic reasons was interpreted by Isabel Konyn as a reflection of the fact that its members ‘did not really care and their hearts were not really in the running of this institution’,<sup>11</sup> a reasonable inference. By contrast, as the chair of the meeting noted in conclusion, Senate had done itself proud, ‘expressing itself ... in a forthright, articulate, concerned manner, debating extremely contentious issues in an eminently civilized manner’. He was proud of its performance.

Whatever the pride involved, it was a swansong. An air of fearful inertia overtook the university. To an extent this is understandable; what had been witnessed was in effect a swift institutional coup d’état. The actions of Council against a backdrop of re-racialisation within South African society and greater control over the higher education sector were ominous indications of things to come and potential peril for both academic rule and freedom. Similar threats in the apartheid past had resulted in street protests and special assemblies of the university. Yet in general there was no practical reaction and a university with a fair record of defending itself and the historic principles of higher education against past government thuggery had proved itself subservient and inept. Officially, nothing untoward had happened.

This was the University of Natal’s Munich, its October 1938. The chair of Council, Alec Rogoff, took the appeaser’s role of Neville Chamberlain; and there was ultimately even a meaningless piece of paper from a joint meeting of Council and Senate with background rhetoric about peace and honour in our time. It affirmed the principles of good governance and due process, recognised the separate authorities of Council and Senate without further elaboration, agreed to establish a joint committee to look at governance issues – and ‘offer[ed] Professor M.W. Makgoba our full support and co-operation as he takes up his position as Vice-Chancellor and Principal of the University of Natal’. The statement ended with a call for institutional unity.<sup>12</sup> The highly questionable actions of Council had resulted in the equivalent of the occupation of the Sudetenland and annexation of Czechoslovakia. The invasion of Poland was yet to come. That same month, August 2002, the Department of Education

11 All quotations in this section from Senate minutes, 24 June 2002. These minutes must be the most bizarre in the university’s history. Recording a series of questions directed at the vice-chancellor designate, they relate answers from an apparently disembodied third person speaking, as it were, from another plane. If this was deliberate, it indicated a profound appreciation of the surreal on the part of the minute taker.

12 Joint statement from Council and Senate issued by Alec Rogoff, 3 August 2002.

withdrew approval of the university's distance education programmes. It was indicative of 'another step on the way to a rigidly centralised and highly autocratic higher education system (already probably one of the most centrally controlled in the world).'<sup>13</sup> This view was to prove prophetic. With every crisis came further calls for oversight committees and transformation compacts, agendas and charters regulated by the Department of Education.<sup>14</sup>

In an interview with *The Natal Witness* on 15 August, two weeks before he officially assumed office, the new vice-chancellor laid his cards on the table. His objective was 'not to change faces but the ethos and values of the university'. He laid heavy stress on the merger with UDW as a means to achieve this, but could offer little more than staff statistics based on racial categories.<sup>15</sup> It was the view of an anonymous professor that Makgoba's plan to 'get rid of "so-called liberal colonial dinosaurs" on the university's staff' would immediately alienate and demotivate up to 70% of the people on whom he would immediately depend. Perhaps, the writer suggested, there was method in this. Either way, 'At least no one can complain that they were unaware of the agenda.' Writing at the same time, the liberal stalwart, Peter Brown, argued that 'standard anti-liberal prejudices' contradicted the vice-chancellor's professed scientific objectivity.<sup>16</sup>

But even if the agenda was understood, behaviour was ostrich-like. In spite of Senate's resolution, opposition to the actions of Council melted away and denialism kicked in. It was admitted that there were indeed threats to academic freedom in areas such as globalisation, government funding and resource allocation, but few were willing to agree that considerable danger now lay in internal governance. Perhaps it was simply too much to take in; that structures protecting hard-won autonomy could have collapsed so spectacularly fast, and that this could not have happened without internal betrayal. Johnson writes of South Africa under Mbeki in general about 'an intimidatory atmosphere in which most people were frightened to put their heads above the parapet. Inevitably, many businesses, individuals and institutions, including the Constitutional Court, voluntarily toed the line. The same logic had applied under apartheid: some of

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13 David Maughan Brown to Christopher Merrett, email, 13 August 2002.

14 See for instance K. Lewins, 'The trauma of transformation: a closer look at the Soudien Report' *South African Review of Sociology* 41(1) 2010: 133-4, dealing with the recommendations of the Report of the Ministerial Committee on Transformation and Social Cohesion and the Elimination of Discrimination in Public Higher Education Institutions, chaired by Crain Soudien in 2008.

15 *Natal Witness* 15 August 2002.

16 *Natal Witness* 22 August 2002.

the most despicable behaviour had resulted from voluntary collaborationism.<sup>17</sup> A disillusioned member of NTESU questioned the ‘capacity of the University’s collective conscience ... I believe that History will condemn us for having failed to react more strenuously in protest of a process which clearly valued ends above means, and subverted the values the University community professes to uphold’.<sup>18</sup> This failure to uphold academic freedom and autonomy had already been documented.<sup>19</sup>

There was an attempt to protest about an unrepentant Council that had undermined the good governance of the institution by boycotting the installation of Makgoba as vice-chancellor. It was noted that this protest was in part aimed at the person himself for accepting an illegitimate process. There were a number of significant absences. And when it came to the point of selecting a vice-chancellor for the merged University of KwaZulu-Natal, academic input was virtually non-existent and the process was forced through by a ‘political steam roller’.<sup>20</sup> That this should have surprised anyone simply highlights the atmosphere of political naivety within which most staff operated. Legislation governing higher education had been absolutely clear that councils would have an interventionist and political role in the new South Africa as ‘crucial instruments in implementing, evaluating and monitoring the transformation of our institutions’.<sup>21</sup>

### **An autobiographical preview**

The purpose of this book is to consider institutional history, governance and culture, not dwell on personalities. Nevertheless, the appointment of Malegapuru William Makgoba as vice-chancellor and principal of the University of Natal on 1 September 2002 is significant for two reasons: he made an enormous personal impact on the subsequent development of the merged University of KwaZulu-Natal; and the processes involved in his original University of Natal appointment were considered by many to be significantly flawed.

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17 R.W. Johnson, *South Africa's Brave New World*: 569–70.

18 Paul van Uytrecht to Kesh Govinder, email, 17 September 2002.

19 G.C. Moodie, ‘On justifying the different claims to academic freedom’ *Minerva* 34 (1996): 129.

20 Jonathan Draper to Christopher Merrett, email, 11 April 2003.

21 E. Cebekhulu and E. Mantzaris, ‘Stop beating about the bush – the UKZN merger: a tragic mishap’ *Alternation* 13(1) 2006: 91.

Five years before his arrival as vice-chancellor, Makgoba published his autobiography at an unusually young age.<sup>22</sup> It is rare, perhaps unprecedented, for a selection committee considering a new vice-chancellor to have available a frank, published memoir. This one chronicles what its writer clearly believes to have been a lifetime of struggle and sets out his credo, which provides a useful means of contextualising his University of Natal appointment. Not only this, but the foreword was provided by the then deputy president, Thabo Mbeki, who described the central events of Makgoba's book, 'an extraordinary battle about the future of ... the University of the Witwatersrand', as 'a contest between forces drawn from the national liberation movement ... and the White liberal establishment'. This is an extraordinary claim. At stake, argued Mbeki, was the question of who should set the agenda for change in the process of determining the university's 'dominant ideology'.<sup>23</sup> It was a forewarning that some universities in South Africa might go down a well-worn, post-independence African path. Significantly, Mbeki saw as the enemy, not the ideology of the apartheid era – but liberalism. This was encouragement for a new brand of authoritarianism and clearly recognised by Makgoba: 'The African and the Afrikaner are bonded together in a common vision, home, history, experience, destiny and future that the English cannot or do not seem to understand'.<sup>24</sup> Some might see proto-fascist undertones in such mystical nationalist sentiment.

Judged by conventional standards Makgoba spares no adjectives extolling his own virtues: his book is an example of self-advertisement and aggrandisement, exaggerated perhaps by a degree of repetition that escaped its editor. Mbeki sets the ball rolling by describing Makgoba as an 'intellectual giant',<sup>25</sup> an assessment he may later have revised during their bitter fallout over HIV/Aids. A mere nine pages later, Makgoba declares himself to be 'a first-rate, world-acclaimed African scientist',<sup>26</sup> something most would leave others to say for them in such a public fashion. Later on in his account he relates that 'my exceptional abilities and talent were easily recognised early in life' and that he had 'rak[ed] in awards and honours throughout my career'.<sup>27</sup> Of his record as a medical researcher he writes about 'my unquestioned brilliance as a scholar and pioneering achievements

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22 M.W. Makgoba, *Mokoko: The Makgoba Affair: A Reflection on Transformation* (Florida: Vivilia, 1997). Mokoko is a cockerel and Makgoba clearly intended his book to be a wake-up call.

23 M.W. Makgoba, *Mokoko*: vii, ix.

24 M.W. Makgoba, *Mokoko*: 115.

25 M.W. Makgoba, *Mokoko*: x.

26 M.W. Makgoba, *Mokoko*: xix.

27 M.W. Makgoba, *Mokoko*: 20, 31.

as a medical scientist, with few equals in my field and even fewer superiors'.<sup>28</sup> Curiously, his book contains no list of appointments and publications, the sort of information one might expect to back up such claims.

Makgoba returned to South Africa in October 1994, appointed as deputy vice-chancellor (academic affairs) at Wits University. A *Sunday Times* article suggests that he had no obvious political baggage and that at his interview he had appeared 'modest, accommodating and self-effacing'.<sup>29</sup> If the latter were the case, this did not last long and soon he was denouncing Wits as run by a right-wing liberal, elitist cabal.<sup>30</sup> Of this period he describes himself as the 'prodigal son' and 'master of all he surveyed'.<sup>31</sup> Indeed, his ambitions as laid out in his autobiography suggest something akin to the Second Coming, albeit allied to extreme bitterness and a strangely crude mode of expression: 'academically I had reached my orgasm'.<sup>32</sup> Declaring that 'my academic achievements internationally are written in gold and not pencil',<sup>33</sup> Makgoba goes further: 'Having spent the better part of my life abroad as part of the struggle, my natural alliance at Wits was with students and workers'.<sup>34</sup> However, he provides no discussion of political or other struggles in this account of his academic career overseas during which he appears to have integrated himself comfortably into a standard Western system of privilege and elitism. He projects himself as a giant of the struggle, but modestly rejects any thought of irreplaceability by saying, 'There are many Makgobas out there, just as there are many Mandelas, Bikos, Sobukwes etc'.<sup>35</sup> He openly records the fact that Wits deputy vice-chancellor June Sinclair called him 'an egotistical manipulator'.<sup>36</sup>

In his book Makgoba provides a fascinating and well-written account of his family background, but stretches credulity by linking battles over land in the late nineteenth-century Lowveld of Letaba that involved his great grandfather to the Wits affair of 1995-6.<sup>37</sup> He speaks warmly of Oxford, where he studied from 1979 at Wolfson College: 'I had the most wonderful academic experience

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28 M.W. Makgoba, *Mokoko*: 46.

29 *Sunday Times* 12 November 1995.

30 T. Leon, *On the Contrary* (Johannesburg: Jonathan Ball, 2008): 110.

31 M.W. Makgoba, *Mokoko*: 56, 58.

32 M.W. Makgoba, *Mokoko*: 60.

33 M.W. Makgoba, *Mokoko*: 114.

34 M.W. Makgoba, *Mokoko*: 97.

35 M.W. Makgoba, *Mokoko*: 106.

36 M.W. Makgoba, *Mokoko*: 231. He admits to arrogance (134).

37 M.W. Makgoba, *Mokoko*: 1-11.

of my life there'.<sup>38</sup> 'One of my early lessons at Oxford,' he recalls, 'was to learn to de-racialise my interpretation of statements, comments and innuendoes.'<sup>39</sup> Reflecting on his return to South Africa, he acknowledges the stand Wits had taken against apartheid and in support of academic freedom and human rights. Nevertheless, the university needed to be transformed to 'reflect the new society in word, thought and deed', a role for higher education that should have raised loud alarm bells for his Oxford associates. This would require, in his estimation, a 'mind set shift'.<sup>40</sup>

For Makgoba, Wits was a colonial institution ripe for transformation. In his view, among its sins and deficiencies were a preference for confrontation rather than co-operation and top-down management, ironically hallmarks of things to come at UKZN a decade later. The unpalatable characteristics of Wits were allegedly obscured by a 'liberal veneer': the term liberal is scattered around the book as a recurrent swear word with minimal regard for its true meaning.<sup>41</sup> In his view, 'liberal in reality ... was a mild form of apartheid'.<sup>42</sup> Oddly enough, however, he describes his father as 'very liberal';<sup>43</sup> and goes on to praise the ANC as the 'most liberal party in the country. Throughout its history ... it stood for those elements that are critical for a liberal society, ie freedom of speech, expression, religion, the rule of law, a constitutional government and a society in which infringements of individual liberty must be justified.'<sup>44</sup> For a movement so thoroughly infiltrated by the South African Communist Party for so long, this is an ambitious claim.

Among multiple accusations about Wits is the fact that its black staff felt alienated. Little proof is presented beyond nebulous feelings, a handy weapon for criticism and somewhat surprising from a scientist who prided himself on respect for hard evidence from an early age. This 'cultural alienation has become the centre of every crisis in our tertiary institutions,' Makgoba maintains.<sup>45</sup> He also argues that whites were used to an autocratic top-down system of administration, described as a junta in the case of Wits, in conflict with African ways of doing things.<sup>46</sup> But in a lengthy response to various critical letters that

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38 M.W. Makgoba, *Mokoko*: 37.

39 M.W. Makgoba, *Mokoko*: 39.

40 M.W. Makgoba, *Mokoko*: 49.

41 M.W. Makgoba, *Mokoko*: 11.

42 M.W. Makgoba, *Mokoko*: 184.

43 M.W. Makgoba, *Mokoko*: 17.

44 M.W. Makgoba, *Mokoko*: 102.

45 M.W. Makgoba, *Mokoko*: 75.

46 M.W. Makgoba, *Mokoko*: 79.

had appeared in *Wits Reporter*, one of his first complaints was that they had constituted a 'direct challenge to *my authority* as DVC Academic'.<sup>47</sup> Tony Leon, then a member of the executive committee of the Wits Council, notes Makgoba's liking for 'extreme and denunciatory epithets' and his 'lack of basic collegiality'. 'He displayed an almost reckless propensity to hurl abuse through the press,' records Leon; ironic in view of later events at UKZN. The basic tactic was 'a generalised race smear' designed to 'delegitimise the critique and the critics'. Held to account for this, Makgoba's supporters raised the standard bogies of conspiracy and racial persecution.<sup>48</sup> Makgoba was eventually suspended by vice-chancellor Robert Charlton for 'abuse of position' and proceeded to describe his detractors as monkeys.<sup>49</sup>

Like liberal, the term transformation appears frequently in Makgoba's book. It remains an elusive concept, so ill-defined that it scarcely registers above the level of slogan – a convenient state of affairs for those sympathetic to social engineering. The best definition he provides is fundamental or complete change; his main preoccupation being 'cultural survival and expression'.<sup>50</sup> 'Transformation is not negotiable,' he declares.<sup>51</sup> A glimpse into the future is provided by Makgoba's belief that Africans have a different way of thinking and doing things,<sup>52</sup> a troubling view eerily reminiscent of old white racist stereotypes. It also contradicts the generally accepted idea that universities are places of opportunity for people of all communities. Makgoba's vision seemed more in line with what Wits law academic Etienne Mureinik described as 'crude ethnic cleansing'.<sup>53</sup> Leon concludes that 'Makgoba's damage to Wits was profound'.<sup>54</sup>

South African universities, according to Makgoba, must 'capture and encapsulate the essence of Africa', seemingly dismissing global trends as irrelevant to the continent.<sup>55</sup> Universities should apparently be geared to 'total and genuine liberation' linked to 'the emergence of a new nation with a common vision, principles, values and culture system'.<sup>56</sup> A few pages later he argues that 'we do

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47 M.W. Makgoba, *Mokoko*: 91. Emphasis added.

48 T. Leon, *On the Contrary*: 111–12.

49 T. Leon, *On the Contrary*: 114.

50 M.W. Makgoba, *Mokoko*: 96, 97, 209 (quotation).

51 M.W. Makgoba, *Mokoko*: 186.

52 M.W. Makgoba, *Mokoko*: 100.

53 Etienne Mureinik quoted in T. Leon, *Hope & Fear: Reflections of a Democrat* (Johannesburg: Jonathan Ball, 1998): 244.

54 T. Leon, *On the Contrary*: 115.

55 M.W. Makgoba, *Mokoko*: 186.

56 M.W. Makgoba, *Mokoko*: 187.

not need to define our institutions any more in terms of language and culture'.<sup>57</sup> It is hard to discern exactly what Makgoba means and intends, but perhaps this is secondary because in a further passage Africans are treated as a homogeneous mass, apparently with a common destiny.<sup>58</sup>

Faced by allegations at Wits over the contents of his CV, Makgoba decided that he 'was going to teach these so called liberals and neo-Marxists a lesson', stating grandly and with a degree of medical poetry 'ask any Black academic anywhere in South Africa about academic harassment ... most of us have wounds or deep scars of this vicious psychological destruction by Whites'.<sup>59</sup> Again no evidence is given of personal experience, which is in any case contradicted by the brilliant career of which his readers are regularly reminded. Going further, he describes it as 'a modern form of global slavery and racism'. The crisis at Wits over Makgoba's CV was to be made into a defining moment in the history of transformation; the individual in question bizarrely drawing inspiration from British prime minister Margaret Thatcher's conduct during the Falklands War.<sup>60</sup> Makgoba remarks upon the removal of the Iron Lady as sad.<sup>61</sup> It is a telling comment, remembering that in January 1985 Oxford, Makgoba's old university and Thatcher's too, refused her the honorary doctorate traditionally bestowed on Oxford-educated British prime ministers. Makgoba claims a great transformatory victory at Wits, although this is not borne out by evidence – he was transferred to an academic post seen as better suited to his abilities – and puts forward no facts to show that much changed at the university after a great deal of blood-letting. In conclusion, Makgoba reflects on the subsequent personal misfortunes of his opponents, suggesting that these were a consequence of opposition to him.<sup>62</sup>

Castigating administrators as a second-class export from the metropolis to the colonies, Makgoba argues that South African universities require visionaries and leaders. He refers approvingly to military and religious figures, leaders with 'a simple story'<sup>63</sup> without apparently realising that the authority structures and blind faith common to the armed forces and churches, mosques, synagogues and temples are anathema to universities. Traditionally, academics, not management,

57 M.W. Makgoba, *Mokoko*: 189.

58 M.W. Makgoba, *Mokoko*: 188.

59 M.W. Makgoba, *Mokoko*: 114, 115.

60 M.W. Makgoba, *Mokoko*: 118.

61 M.W. Makgoba, *Mokoko*: 210.

62 M.W. Makgoba, *Mokoko*: 240.

63 M.W. Makgoba, *Mokoko*: 213–4.



have led universities into and beyond the existing frontier of knowledge and ideas through tried and tested methods of research and discourse in a collegial context. Makgoba appeared to have a very different institution in mind, one dominated by so-called leaders, that lends itself to the Big Man approach. Given the expressed belief that 'black people were here to ... take charge',<sup>64</sup> this becomes clearer.

It seems reasonable to conclude from Makgoba's book that by the mid-1990s he inhabited an oddly contradictory world spanning African and European cultures. He was academically able and deservedly moved on to an elitist career track in Britain and the United States. But the evidence of his own writing suggests that he had adopted the position of victim. Combined with an assertive personality (he does not dispute Sinclair's claim about his ego) this produced a toxic brew in which a predisposition to authoritarianism was apparent from his writing. The intriguing question is how many people had read his autobiography when he was appointed to the University of Natal. It contained obvious indications of Makgoba's future attitude towards liberal, open universities.

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64 M.W. Makgoba, *Mokoko*: 228.

# An unresearched merger

*We seem to have government by sociology with issues endlessly workshopped with stakeholders when very often such transparency is sought to justify a pre-ordained decision.<sup>1</sup>*

*Men are accomplices to that which leaves them indifferent.<sup>2</sup>*

ON 9 DECEMBER 2002, Minister of Education Kader Asmal announced that his far-reaching restructuring of higher education had received final Cabinet approval and that the merger of the universities of Natal (including Pietermaritzburg, he was at pains to emphasise) and Durban-Westville (UDW) would proceed. There was, records journalist Sharon Dell, ‘some outrage at what was seen as the double standards involved in a government policy which left historically white institutions such as Wits and UCT relatively untouched’.<sup>3</sup> To those names Stellenbosch and Pretoria, the other universities that with Natal made up the Big Five, could be added. But, by and large, there was little public interest.<sup>4</sup> The higher education systems of some South African cities and provinces were more thoroughly restructured than others and the political dynamic behind this has yet to be unravelled. The minister’s official reasons for the KwaZulu-Natal merger were a need to mend the divide between historically white and black institutions; promote staff equity; reduce duplication and offer a wider range of academic programmes; rationalise use of academic staff; and reduce the impact of unnecessary competition. Some of these were clearly driven by political, not educational, reasoning (why were they not applied throughout the country?). In Elwyn Jenkins’ unambiguous summary, it was ‘all threat and brute force’.<sup>5</sup>

## Merger background

Arrival at this point involved a long, complex and controversial process. Its origins quickly became lost in the mists of time and are worth recalling. In

- 1 P. Leon, *Weekly Mail* 10(20) 12 May 1995.
- 2 G. Steiner, *Language and Silence* (London: Penguin, 1969).
- 3 S. Dell, ‘Creating an African university’ *Natalia* 34 (2004): 88.
- 4 A. du Toit, ‘Institutionalizing free inquiry in universities during regime transitions: the South African case’ *Social Research* 76(2) 2009: 639.
- 5 J. Jansen, *When Does a University Cease to Exist?* (Johannesburg: South African Institute of Race Relations, 2005 – 40<sup>th</sup> Alfred and Winifred Hoernlé Memorial Lecture): 16.

1996 the National Committee on Higher Education started the ball rolling by focusing attention on institutional differentiation (popularly known as size and shape) and then proceeded to reform, in a fashion that was ultimately to prove reckless, the chaotic sector of teachers' training colleges. A suggestion that a higher education council should work in tandem with a forum was rejected in favour of a statutory advisory body, the Council on Higher Education.<sup>6</sup> The Higher Education Act of 1997 spelled out clearly the ANC's intentions regarding universities: central control and ministerial intervention. Furthermore, the concept of co-operative governance was introduced, giving all manner of interest groups the opportunity to marginalise the voice of academics.<sup>7</sup> After South Africa's second general election of the democratic era in 1999, Kader Asmal was appointed minister of education and the re-structuring of universities emerged as one of his pet projects. To some it appeared that he was interested in a process of reverse social engineering.<sup>8</sup> Asmal was an impatient interventionist, which did not always encourage discussion.

In April 2000 a plan based on size and shape was published, followed by debate about combinations. This could have resulted in an eminently sensible educational and financial outcome: the creation of a hierarchy of universities to serve different needs, including bedrock institutions or community colleges.<sup>9</sup> The merger option allowed by the Higher Education Act was not specified, but there was strong political opposition to the size and shape scenario. Allegations were made that it fossilised the apartheid structure of higher education, even though students were already voting with their feet. Jansen describes the plan as a 'courageous proposal whose brilliance lay in the fact that it was also a recognition of the on-the-ground capacities of various kinds of institutions ... [but it was] trumped by mindless black nationalist politics'.<sup>10</sup> As with much else in South Africa at that time, there was a failure to assess strengths and weaknesses and balance them for the greater good.

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6 N. Cloete, 'New South African realities' in *Transformation in Higher Education: Global Pressures and Local Realities* edited by N. Cloete et al. (Dordrecht: Springer, 2006): 275.

7 R.W. Johnson, 'Liberal institutions under pressure: the universities' in *Ironic Victory: Liberalism in Post-Liberation South Africa* edited by R.W. Johnson and David Welsh (Cape Town: OUP, 1998): 142.

8 J. Jansen, 'The state of higher education in South Africa: from massification to mergers' *State of the Nation: South Africa* 2003-4: 295-7.

9 A useful history of the surrounding debate is provided by S. Vally, 'Higher education: what does the future hold?' *Indicator SA* 17(3) 2000: 67-72.

10 J. Jansen, *When Does a University Cease to Exist?*: 4.

Events then moved swiftly – and obscurely. In February 2001 a draft national plan was released. Among the usual bureaucratic verbiage were some sensible ideas about economies and efficiencies, but not far beneath the surface was the political agenda. There existed a need, the plan declared, ‘to transform the higher education system to serve a new social order’. To this end universities were a ‘key engine for reconstruction and development’. The word merger remained elusive; instead there was emphasis on ‘restructuring of the institutional landscape of the higher education system’. The plan recognised that a degree of collaboration had already occurred (one of the most notable successes was, in fact, library co-operation among KwaZulu-Natal higher education institutions), but was adamant that true South African universities had yet to be built because higher education was rooted in apartheid. Voluntarism was rejected; regulatory powers would be used and ‘a new interventionist approach by the state’ was introduced.<sup>11</sup>

The plan was a masterpiece in the art of sweeping generalisation in pursuit of political objectives. With unqualified abandon it recorded ‘institutional cultures that have not transcended the racial divides of the past’. Then the plan announced that ‘the invocation of institutional identities that owe their existence to the colonial and apartheid past is not a legitimate defence’. Realistically, it recognised that some of the universities created by the apartheid government were in a state of collapse due to declining student numbers, mounting debt, mismanagement and poor governance, and pervasive instability. But, perversely, it determined that all existing geographic sites would continue to operate, although within new institutional and organisational frameworks. To crown it all, ‘The Ministry ... firmly believes that financial and capacity constraints must not be allowed to stand in the way of setting a vigorous national agenda involving ... mergers’, admitting that economies were not to be expected. The plan closed all debate on mergers, although ostensibly it left open the question of how these should be achieved. While recognising the collapse of a distinct part of the higher education system, it neglected to address the obvious possibility: close down or absorb the failed elements. It was, in short, a rescue mission that potentially jeopardised the rest of the structure. And it amply illustrated a clear intention to impose centralised control.<sup>12</sup>

In March 2001 a national working group on the restructuring of higher education had been set up. Headed by businessman Saki Macozoma, it numbered among its members Malegapuru Makgoba. After cutting a rapid swathe through

11 A. du Toit, ‘Institutionalizing free inquiry in universities during regime transitions: 638.  
12 South Africa, Department of Education, *Draft National Plan for Higher Education*, February 2001.

higher education campuses on a whirlwind tour from May to July 2001, its report called for a reduction in the number of universities from 36 to 21. Other findings and opinions would turn out to be of specific relevance to KwaZulu-Natal. The report rejected the idea of regional co-operation, except under central control; warned of the dangers of merging strong and weak institutions; and noted that mergers would be driven by interim councils. But, while emphasising the importance of targets and time frames, it set no deadlines. In looking at the situation in KwaZulu-Natal it feared that 'some institutions run the risk of becoming non-viable', citing one of the problems as under-performance.<sup>13</sup>

Within three months, Cabinet had approved a list of possible mergers. The largest of them was to be between the University of Natal (UN, Durban and Pietermaritzburg) and UDW, creating a unitary institution as demanded by the national working group. The South African University Vice-Chancellors Association (SAUVCA) voiced a credible suspicion that the justification for these mergers was post facto. It also drew attention to the fact that it was no secret that the historically disadvantaged universities were in a poor state, a 'political embarrassment [and] a development crisis'.<sup>14</sup>

Announcement of the merger between UN and UDW was slightly delayed because of the shocking state of the latter, the consequence of 'the politicised nature of UDW and its history of boycotts and disruptions'.<sup>15</sup> An independent assessor, Bongani Khumalo, was still busy with his report. Its findings were hardly surprising. They revealed that Council was so divided as to be dysfunctional and that the Executive had ignored due process. Khumalo recommended appointment of an administrator, but UDW was spared this indignity by virtue of the fact that the contract of the vice-chancellor, Saths Cooper, expired at the end of 2003. The minister's response was to instruct UDW to approve contractual agreements as required under the memorandum of agreement with UN; rectify the shortcomings revealed by the PriceWaterhouseCoopers audit completed in September 2003; and refer allegations of wire-tapping and other security-related matters to the South African Police Service. The last requirement was an indication of the deplorable conditions at UDW.

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13 South Africa, Department of Education, National Working Group, *The Restructuring of the Higher Education System in South Africa*, January 2002.

14 J. Jansen, 'The state of higher education in South Africa': 305.

15 S. Dell, 'Creating an African university': 88.

## The view from Chiltern Hills

On 14 November 2003 Asmal confirmed the merger for 1 January 2004 in terms of s.23(1) of the Higher Education Act. The physical location of the new University of KwaZulu-Natal would be the rather inappropriately named Chiltern Hills (in other words, UDW), a somewhat unfortunate start for an institution of the African Renaissance. Among other factors, its campus was not easily accessible, a legacy of apartheid-era planning relating to the Indian community and anticipation of political protest. This location was conceded by the University of Natal without meaningful discussion. It was a perplexing climb-down for an institution whose Senate in early 2001 had voted unanimously, and to the visible relief of then vice-chancellor Brenda Gourley, against a motion of merger with UDW. Just two years later an interim Council under Vincent Maphai was set up. Convocation was merged, but Student Representative Councils were for the while to retain their separate identities.<sup>16</sup> The choice of Westville as headquarters, the first decision of the new university in waiting, was clearly political; it was the precursor of many others devoid of educational or operational sense. Edgewood would have been a better choice on the grounds of its location (in Pinetown) and history. It had only recently been taken over by the University of Natal from the Department of Education, which had run it as a teachers' training college.

It is clear from the above that a great deal of nefarious activity had been going on at UDW during the year the two universities had been talking to one another about the merger. The attempt by Cooper and his supporters to thwart the Khumalo investigation through legal action was a final expensive flourish that failed because, predictably, it had no mandate from Council. Cooper's view was that an administrator would not be able to represent UDW's case adequately, thus making the merger unequal.<sup>17</sup>

The media focus on Cooper obscured UDW's deeply embedded poor standards of governance, culture of conflict and lack of collegiality and respect. No thought was given to the impact this would have on the new university. By inheriting the assets and liabilities of two universities, UKZN collected the toxic culture of UDW. There were also associated legal costs that from the outset would undermine the declared ambition to create the premier research-led university of South Africa, one of the largest in Africa. Many of the problems had arisen out of the restructuring exercise initiated by vice-chancellor Mapule Ramashala

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16 Government Notice 1688, *Government Gazette* 25737, 14 November 2003.

17 *Daily News* 7 November 2003.

from 1998 to 2000, after what had been regarded as a period of development and democratisation under the respected Jairam Reddy.

Managerial deans were introduced during this period, together with new schools that had generated a great deal of jockeying for turf.<sup>18</sup> This was not all. Collapse of the Indian language departments into an interim centre, without consultation, incurred considerable ‘political, intellectual and emotional fallout’.<sup>19</sup> It was understandably seen as an attack on the historical identity of UDW and on the position of a minority community in broader South African society. Parallels were drawn, somewhat melodramatically, with the fate of Uganda’s Asians in the 1970s and there was outrage at what was perceived as Africanisation. In the view of Bill Johnson, UDW was the first South African university to be subject to ‘cultural capture’ and stripped of its essential identity.<sup>20</sup> There was also a bruising debate over the future of engineering and the identity of professionals, of the sort that saps morale and institutional loyalty. It was an object lesson in the futility of restructuring without adequate buy-in at all levels.<sup>21</sup>

Nevertheless, there was, according to one account, some optimism about the process before Ramashala disbanded the strategic planning task team and made new appointments. Implementation was ‘fragmented and incoherent’, savings were not directed back into the academic sector and retrenchments were badly managed. The exercise ‘fell apart and UDW, which had started to assert itself as the leading historically black university in South Africa ... was back where it started’.<sup>22</sup> Turmoil among students led to the death of one, 23-year-old Michael Mkhlabane, shot by the police; academics left the university; and Senate passed a vote of no-confidence in the vice-chancellor. The authors of a series of articles on UDW during this period record the effects of state regulation, market forces and international agencies on a disadvantaged third-world university, but argue that the crucial factor was poor management. They conclude that the outcome might well be ‘submission to the external environment’, an effective incorporation by

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18 P. Gibbon et al., ‘Accounting for change: the micropolitics of university restructuring: part one: balancing books and ideas’ *South African Journal of Higher Education* 14(3) 2000: 15–16, 20, 21–3.

19 P. Gibbon et al., ‘Accounting for change: the micropolitics of university restructuring: part two: changing structures, contesting identities’ *South African Journal of Higher Education* 15(1) 2001: 41.

20 R.W. Johnson, ‘Liberal institutions under pressure’: 158.

21 P. Gibbon et al., ‘Accounting for change: the micropolitics of university restructuring: part two: 45–6.

22 J. Jansen et al., ‘Accounting for change: the micropolitics of university restructuring: part three: global pressures, local responses’ *South African Journal of Higher Education* 15(3) 2001: 36.

the University of Natal, seeing this as a triumph of neo-conservatism.<sup>23</sup> This is a contestable assessment, but it indicates that UDW was not a contented institution as the merger approached.

An interesting insight into UDW during the pre-merger year was later to be provided by the commission of enquiry into the School of Accountancy conducted by Advocate John Myburgh in June and July 2005. This arose out of allegations made by a disaffected student, Mary Govender, which attracted considerable press attention.<sup>24</sup> Govender alleged that irregularities had occurred in the school that undermined academic standards. After a special examination in March 2003, it was found, marks were altered; underqualified staff were promoted; and there were disturbing questions about the marking of a dissertation. Students and staff who benefited in some way from this haste to paper over the cracks ahead of the merger were inherited by the new university. There seemed to have been widespread collusion with such academic subversion in 'a culture of poor judgement and minimalist academic standards'.<sup>25</sup> Irregular promotions, especially in the support services, later came to light. Whether or not there was due diligence as required by the merger agreement,<sup>26</sup> much that comprised full disclosure depended on later chance events. The only way to repair this damage would be through impeccably well-governed structures and the appointment and promotion of persons of integrity.

### Preparation for merger

Mergers were an easy option for the government. Differentiation – or the size and shape route – would have required a great deal of political persuasion and lasting acrimony. Mergers were costly but, once decreed, the details could be left to the institutions concerned. In short, they were an expedient solution in more ways than one; adroitly transferring political tensions to the newly created universities. Patrick Fish sums up the history of South African university mergers as 'neither transparent nor carried out for any of the reasons that usually

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23 J. Jansen et al. 'Accounting for change: the micropolitics of university restructuring: part three: 37; S. Vally, Higher education: 67.

24 S. Jones, 'Varsity marks scandal' *Weekend Witness* 7 May 2005. Govender was expelled from UKZN in May 2005 after walking out of a disciplinary hearing into her personal conduct at which she faced seven charges, most of them referring to defamatory statements.

25 Christopher Merrett to Hilton Staniland, 3 February 2006.

26 University of Natal, Proposed merger between the University of Natal and the University of Durban-Westville: representation to the Minister of Education, undated: point 1.1.



lie behind a merger'; they failed to achieve efficiencies or financial economies of scale and probably cost the taxpayer because no significant part of a partially rotten system was closed down. 'It sought,' he writes, 'to transform the sector out of the inequalities of the past and in the process forgot to transform the sector into anything.'<sup>27</sup> This is an excellent analysis and summary, but it ignores the specific experience of UKZN. There, 'anything' turned out to be a process of social engineering and political agendas.

A great deal of the year leading up to the merger was spent discussing the name of the new university, officially noted as the 'single most emotive issue among staff and students'.<sup>28</sup> Much of this controversy was unnecessary, stirred up as a delaying and diversionary tactic. Unnecessary expense was invested in a public campaign to find a name and it attracted 1 500 submissions. The obvious name of KwaZulu-Natal that was inevitably adopted was viewed with considerable suspicion by some elements at UDW as implying either a takeover or a colonial past. It was hard to imagine how this could be construed, as the name of the province had encountered no significant opposition from any of its main political parties. University of Durban was supported by the geographically challenged who had never visited Pinetown or Pietermaritzburg; and a more serious case was put for University of the Eastern Seaboard, presumably expecting that the Eastern Cape would turn a blind eye. One commentator later pointed out that this name would have made the university sound like a surfing school.<sup>29</sup> In the event, Natal and UDW submitted separate suggestions in June 2003. There was similar disagreement about nominations for the interim Council. In November 2003 the institutional name and composition of Council were settled by the minister; who also announced on 11 December that UKZN's interim vice-chancellor would be Malegapuru Makgoba. This was an uncontested appointment, although it was believed that there were other applicants whose identities were apparently known only to Council.<sup>30</sup> It was a strange beginning for a transformed, supposedly transparent university.<sup>31</sup>

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27 P. Fish, 'As if it never happened' *M&G Higher Learning* October 2009: 11.

28 University of Natal, Proposed merger between the University of Natal and the University of Durban-Westville: representation to the Minister of Education, undated: point 4.

29 S. Pillay, 'Growing pains at UKZN' *M&G Higher Learning* October 2009: 3.

30 E. Cebekhulu and E. Mantzaris, 'Stop beating about the bush – the UKZN merger: a tragic mishap' *Alternation* 13(1) 2006: 92.

31 The other presumed main contender, Saths Cooper, somewhat incongruously for a psychologist, was later to pop up as the chief executive of South Africa's Road Accident Fund.

Some elements within UDW regarded the merger as a hostile takeover, ironically employing the jargon of the business world they deplored when criticising government for a strategy of ‘McDonalised [sic] of higher education in the name of transformation’. They predicted that the merger would be a failure ‘because all university committees are dominated by white former UN employees’.<sup>32</sup> Suntosh Pillay later described the process as an adoption.<sup>33</sup> During 2004, UKZN was in effect an interim university. Putting aside the controversy and media hype, it soon became apparent that this was an organisational merger devoid of real planning. In an act of supreme irony, an institution that was subsequently to market itself as a premier university of African research failed to research its own origins properly. Common sense indicated that a well-structured, consultative planning process over at least two years was necessary to achieve such a complex merger. Apart from the needs of the two institutions and their five campuses, there was no community impact study, consideration of general logistics, projection of academic standards, or assessment of long-term sustainability.<sup>34</sup> Such failure meant that for years there was no final structure for general administration (health and safety, facilities management, space planning and ancillary services). The obvious solution, letting individual campuses work in their own appropriate ways given a common policy structure and budgeting economies and equity, was regarded as politically incorrect and rejected without meaningful debate. Geography and appropriate business models were of absolutely no account. This indicated from the outset the triumph of ideology and expediency over efficiency, answerability and local ownership, and was to emerge as a severe flaw in the new institution.

Wild claims were made about the cost and other efficiencies of large educational institutions without any empirical evidence. On the contrary, in the view of John Aitchison, ‘it is abundantly clear that the best universities in the world are all of small to moderate size [certainly less than 20 000 students]’. By the same token, the optimum size for any academic unit was 25 staff and certainly no more than 50.<sup>35</sup> Distorted geographic perceptions were also employed freely; the most common error was to regard the city of Pietermaritzburg as part of the Durban metropolitan region. The matter of travelling 70–80 kilometres to meetings and the attendant cost in time, money and nervous energy was regarded as one of

32 E. Cebekhulu and E. Mantzaris, ‘Stop beating about the bush’: 102, 103.

33 S. Pillay, ‘Growing pains at UKZN’: 3.

34 Orde Munro to Christopher Merrett, email, 5 May 2003. The campuses were Westville (ex UDW) and Howard College, Medical School, Edgewood and Pietermaritzburg (all ex University of Natal).

35 John Aitchison, ‘Some thoughts about the restructuring of the Faculty and Schools of Education in the context of the merger’, 2003.

no consequence. The fact that Pietermaritzburg's campus functioned well was also seen as unacceptable, an indication of paranoia at high levels, evidenced – and exacerbated – by the somewhat naive suggestions that Pietermaritzburg should adopt a different governance structure. During 2003 there was unofficial discussion about the possibility of postponing the merger to allow for further thought and planning. There was a precedent for this in the arrangement between Potchefstroom University for Christian Higher Education and the University of the North West (formerly the University of Bophuthatswana) in which five years was allowed for the two universities to operate as branches under a broad institutional umbrella. Why this was not permitted in KwaZulu-Natal was never explained. Jay Naidoo, minister in Nelson Mandela's government, argued that the admirable Reconstruction and Development Plan required at least a year for its own developmental planning. This he was denied because, in his assessment, politicians think in the short term.<sup>36</sup> The same should not have been true of two universities full of thinking people.

### Centralisation and control

Asmal had been adamant when the merger was announced that the Pietermaritzburg campus was to be included, although no specific reason was given for his insistence. While amalgamation of campuses in a city such as Durban might be justified on a number of grounds (although Johannesburg was apparently exempt from such argument), the attachment of a large campus 80 kilometres away in the province's capital city had obvious problems. These were never entertained or seriously discussed at any point and history has proved the seriousness of this almost certainly deliberate neglect. The predicted poor relationships did indeed emerge. The point was politely made that a university scattered over a wide area and coming together from disparate histories might require subtle variations in the way different components were governed. This applied to varying degrees, of course, to all campuses. But it is also important to note that the authors, and most Pietermaritzburg campus staff, were accepting of the merger provided that their centre was not disadvantaged. Most would have subscribed to former deputy vice-chancellor Ron Nicolson's sound advice that when a hurricane approaches, the bold and the brave build a windmill – not a shelter.<sup>37</sup>

We acknowledge viewing the merger through Pietermaritzburg eyes, but this is not inappropriate as the key characteristic of the new university was centralisation and control, the very factors that Makgoba had decried in his criticisms of the

36 J. Naidoo, *Fighting for Justice: A Lifetime of Political and Social Activism* (Johannesburg: Picador Africa, 2010): 242–3.

37 R. Nicolson, 'The way forward' *Natal Witness* 30 April 2003.

University of Witwatersrand. The consequent authoritarian centralism was experienced at its worst in Pietermaritzburg, but it was felt throughout the institution not least on Durban's Howard College campus, which had practised its own brand of centralisation at various times in the past.

Given the *fait accompli* represented by the merger, which had created an extremely complex institution and one of the country's largest residential universities, and the clear intention to impose an organisational model that involved a headquarters and subordinate campuses, efforts were made to argue for a level of local autonomy along the following lines:

- representation of each campus on the Executive by someone responsible for keeping in contact with and promoting local concerns;
- the appointment of deputy deans of faculties and deputy heads of schools where the respective headquarters were located elsewhere;
- scheduling of meetings of committees on a revolving and equitable basis at all centres;
- objective measurement and fair distribution of resources;
- restitution (or establishment as appropriate) of the campus forum;
- equitable graduation and opening ceremonies; and
- sufficient levels of local authority and expertise where services such as finance, human resources and information technology were centralised.

These points applied equally to all campuses. There was general concern that change would be imposed for the sake of change and a demand that no local reform should occur unless it could be demonstrated that this would result in palpable benefits.<sup>38</sup> In the event, of the issues raised above, deputies were provided for campuses as appropriate; a few meetings, notably those of Senate, did eventually revolve; and graduations were held outside Durban. But in spite of warnings, centralisation was the general rule and this was to lead to a serious loss of immediacy, accountability, answerability and general functionality. It occurred amid an atmosphere of sloganeering about the need to 'vacate comfort zones' and 'break down old boy networks', and was to result in a decline in service standards and, perhaps more significantly, severe damage to staff morale. Increased managerialism in universities, as already noted, was a global trend,

38 Independent Higher Education Monitoring Group, 'Pietermaritzburg campus and the merger', amended version 5 December 2003. The basis of this document was an open meeting held in the Colin Webb Hall on the Pietermaritzburg campus on 30 April 2003 and a subsequent consultative process open to all staff. Also: 'Notes on a meeting of the Division of Administration, UNP held on Friday 9 May 2003 to consider merger issues'; and 'Notes on a meeting of the Divisions of Administration (UND and UNP) held on Tuesday 27 May 2003 to consider merger issues'.

but mergers simply provided further incentive and excuse, giving licence to circumvent structures such as Senate and faculty boards. Du Toit terms this ‘transformational managerialism’.<sup>39</sup> A great deal of effort was expended on marketing and image building. The new UKZN was subjected to a branding exercise in which a competition for and choice of a logo attained enormous and unwarranted prominence. The authorities declared that an identity was to be designed for UKZN, as if a university could be created by an advertising firm using a few catchy phrases. The idea that a university’s identity was the sum total of its teaching and research, its staff and its graduates seemed to have lost all meaning. UKZN’s elegantly designed logo was unveiled in February 2004 with Zaba Ngubane of Umlazi winning a R25 000 prize.

Centralism triumphed. Input from various campuses, particularly Pietermaritzburg, stressed the need to retain local identity, sometimes as a marketing tool, in recognition of the concept of strength in diversity. A general rejection of this approach hinged on the circular argument that the smaller, peripheral campuses did not contribute sufficiently to central costs, a point pushed strongly by Peter Zacharias who, rather ironically, came from the Pietermaritzburg campus.<sup>40</sup> This was a crude measurement of efficiency, but no one asked whether or not these costs were frivolous, as indeed many of them certainly were.

On 2 April 2003, Makgoba addressed approximately 150 staff on the Pietermaritzburg campus about the merger. Similar meetings took place on all five campuses. From the chair he dispensed a mixture of geniality, authoritarianism and political rhetoric, a potent brew new to most university employees but one with which they were to become all too familiar.<sup>41</sup> The future of the institution, he declared, would be ‘decided by the people’ and ‘everyone would have a voice’. Unwisely, he disparaged the local campus, referring to a false sense of local autonomy, and the university as whole, claiming that it was sliding down the research rankings. To applause from a small group of students, he issued what was interpreted as a threat: ‘things are not going to stay as they are’ and everyone was going to suffer discomfort. These were to many listeners not the words of a manager, leader or indeed of a vice-chancellor; but those of a provocateur. Asked challenging and pertinent questions from the floor he avoided practical,

39 A. du Toit, ‘Institutionalizing free inquiry in universities during regime transitions’: 641, 646.

40 Zacharias, a grassland scientist, was to rise to the lofty position of deputy vice-chancellor and head of the College of Agriculture, Engineering and Science in the new institution.

41 A record of this meeting was kept by Christopher Merrett and written up from notes on 2 April 2003.

helpful responses by bland references to academic leadership.<sup>42</sup> Mantzaris and Cebekhulu put it well: 'gross simplification and generalization of problems'.<sup>43</sup> It seemed to those listening that decisions about structure had already been taken regardless of possible or probable outcomes and it was the responsibility of those on the ground to make them work. Makgoba's routine fall-back position was an attack on the Anglo-American universities at which he had successfully spent so much time. The proposed new, as yet unnamed, university was to be a product of struggle, although no evidence was, or has been, put forward to substantiate such a claim. Perhaps most interesting of all, this pseudo-revolutionary rhetoric was accompanied by the latest big business jargon about corporate governance and branding, strange, but not unknown, bedfellows.

The outcome was a hierarchic and rigid structure that from the lofty heights of Chiltern Hills no doubt looked neat and tidy, but made little sense elsewhere and was in many cases very threatening. This method became known as planning by organogram. A plea for contextual organisation fell on very deaf ears. The truths that accessibility breeds efficiency and distance creates hostility were casually dismissed. At a shop floor meeting on the merger held in Pietermaritzburg on 30 April 2003 it was emphasised that centralisation of educationally and operationally successful systems would diminish answerability, immediacy and accountability. To add insult to potential injury, there was a palpable sense of opacity about the process and a realisation that a great deal had rapidly become non-negotiable. There was a strong belief, too, that neither educational nor management best practice were being researched. Plans, it was felt, were 'based on principles that are regarded as outmoded, unacceptable and unworkable'.<sup>44</sup> They ignored, for instance, modern thinking about flat management structures. The key issues to emerge from the shop floor meeting were soberly professional and disinterested: academic balance; operational efficiency; accountability; sufficient autonomy to encourage positive attitudes; grassroots consultation; respect for expertise; and cost-efficient management. A basic desire across the board was that for respect. None of this could be described as in any way colonial, as some alleged.

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42 Questions were posed by Anton van der Hoven, Paul van Uytrecht and Marie Odendaal among others.

43 E. Mantzaris and E. Cebekhulu, 'Universities: sites of knowledge, research, outreach and contestation' in *Organisational Democracy: An Ongoing Challenge: Reflections from the University of KwaZulu-Natal* edited by D. Chetty (Durban: University of KwaZulu-Natal, 2005): 34. Mantzaris was a professor of sociology and former chair of the Combined Staff Association (COMSA).

44 Notes on IHEMG-facilitated meeting on merger issues, Colin Webb Hall, University of Natal, Pietermaritzburg, 30 April 2003.

A single-faculty, single-school model was imposed on the new university even before it had a name. The status quo was rejected as a ‘default scenario’, although it remained unclear whether well-motivated status quo was or was not acceptable. A common curriculum across all delivery sites was also adopted as guiding principle, the repercussions of which are looked at in the next chapter.<sup>45</sup> Nor were votes allowed at Senate; the concept of consensus was applied. Under such circumstances, of course, the role of the chairperson, in this case the vice-chancellor, is dominant. The one significant opponent of the centralisation model presented to Senate on 7 May 2003 perceptively wrote that ‘we are in grave danger of inculcating a culture of group-think’.<sup>46</sup> The presentation made to Senate opposing the preferred model made the point that whenever a question of operational detail was posed, it was met by an off-hand, uninterested response that schools would decide on such matters. The grand planners seemed unconcerned about the fact that their plan could fail and even less interested in preventing such an outcome. It was pointed out that plans were put forward ‘in terms largely of organisational shape rather than strategic outcomes’, a cause for considerable alarm.<sup>47</sup> One of the motives for this was a desire to centralise the old University of Natal as a pre-emptive measure in order to bring UDW to heel after the merger. Supposedly valid, scientific-sounding arguments about critical mass and duplication of resources were in fact dubious: UKZN had been designed as a multi-campus institution to which over-centralisation would be a major stumbling block. Political agenda and educational, economic and administrative logic yet again parted company.

This situation arose out of the myth of consultation. Central management would claim to have consulted everyone. Then it conveniently discovered a pre-arranged outcome – ‘a murky “consensus” rather than vote on substantive matters where there are real differences of opinion’.<sup>48</sup> The antidote was seen to lie in a demand for proper procedures, but this was to prove futile and was criticised as non-African. Cebekhulu and Mantzaris provide a cynical, but largely plausible, explanation for this situation: ‘Academics never raised a voice of dissatisfaction over issues of governance, and those who took the front seat in the process did it for positioning themselves for positions of power’.<sup>49</sup>

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45 *Merger Newsletter* 5, 16 May 2003.

46 Paul van Uytrecht to Sidney Luckett, email, 22 May 2003.

47 Paul van Uytrecht, Presentation to Senate, 7 May 2003.

48 John Aitchison to Independent Higher Education Monitoring Group, email, 16 May 2003.

49 E. Cebekhulu and E. Mantzaris, ‘Stop beating about the bush’: 103.

It was blatantly obvious that international best planning was being ignored. The Big Man syndrome had now been joined by the inevitable Grand Plan. It was grossly out of tune with the times in which small-scale, cost-efficient units based on networking and local answerability were regarded not only as economically wise, but politically desirable in a democratic age. Understandably, a questionnaire circulated to academic and support staff on the Pietermaritzburg campus in May 2003 reflected a strong degree of negativity (71%) towards all aspects of the merger's organisational development. An even larger proportion supported a referendum.<sup>50</sup> Organised opposition to the official model and the attempt of the Independent Higher Education Monitoring Group (IHEMG) on the Pietermaritzburg campus to provide a forum for this was dismissed as 'biased and unrepresentative'.<sup>51</sup>

An air of extreme haste around the planning of organisational structures had a number of motivations, but it was driven by supposed pressure from the national Department of Education. This was used as a reason to short-circuit normal channels and thwart the dissemination of opposing views. An attempt to place alternative comments and suggestions on the merger website was blocked as the document containing them was deemed non-official. The danger that this effective suppression of views would breed conspiracy theory was pointed out.<sup>52</sup> In fact, the ministerial guidelines, while specifying a merger date, neither required such a frenetic pace nor disallowed due process.<sup>53</sup> However, an impression was created by the university Executive that haste was required and this had the effect of subduing and minimising dissent.<sup>54</sup> This realisation created a strong feeling that the merger was a totalitarian measure imposed by the minister of education that should be halted and renegotiated. But this presupposed that the university remained a community, whereas it was now driven by people with an alienating agenda.

There was a general lack of willingness to speak out. This can and deserves to be criticised, but there are extenuating factors. One was change fatigue; members of the university whose primary duties were to their students and their research had been bombarded relentlessly over the years by bureaucratic requirements, most of which made little sense. On top of this, much of the new discourse was perplexing, even disorientating because logical, rational questions

50 Paul van Uytrecht, Presentation to Senate, 7 May 2003.

51 John Aitchison to Paul van Uytrecht, email, 5 May 2003. Members of the IHEMG were John Aitchison, Andrew Cairns, Nithaya Chetty, Sid Luckett (fleetingly), Christopher Merrett, Ron Nicolson, John van den Berg and Paul van Uytrecht.

52 Peter Zacharias to Ronnie Miller, email, 9 May 2003.

53 Volker Wedekind to Paul van Uytrecht, email, 9 May 2003.

54 Paul van Uytrecht to IHEMG, 9 May 2003.



were answered with ever more irrational responses and even threats. Paul van Uytrecht evocatively called for a line to be drawn in the sand. Most staff knew exactly where that line was, but there were few brave enough to stand behind it in the face of racialised group and personal agendas. Most staff were nervous and subservient.

To put these developments in context, the obsession with centralisation was not simply a matter of corporate convenience; it was part of the national educational discourse of the time with the Higher Education Quality Committee (HEQC) in the vanguard. John Aitchison described it as a mix of ‘increasingly obsolete ideas borrowed from the real business world that is steadily abandoning them, mixed up with a lot of Soviet-era planned economy stuff that some ... exiles learned but did not abandon when ... centrally planned economies went down the tube. It has one fixed idea – control. It is a discourse that has not the slightest real interest in any idea of the university in relation to thought and knowledge.’<sup>55</sup> The issue in question was that of legislated institutional audits, ostensibly designed to assess the nature, extent and effectiveness of internal quality management. The crux of the matter lay in their scope, which included ‘the fitness of the mission of the institution in relation to local, national and international contexts [including transformation issues]’.<sup>56</sup> A response by SAUVCA following a meeting of quality assurance managers pointed out that, within a national transformation agenda, institutions wished to ‘define their own missions ... centrally defined purposes will lessen institutional diversity and that is not seen to be in the national interest’. It also noted that many terms and concepts were used without clear definition.<sup>57</sup>

This national example indicates the climate of the times. Aitchison described the SAUVCA response as a ‘craven submission ... what they should do is tell them to go away and never come back. But they have already accepted the terms of the discourse, namely, that central government bureaucrats can interfere with and control the inner life of the university.’ He went on to describe SAUVCA as a ‘useless bunch of *hensoppers* who are a disgrace to the university tradition’.<sup>58</sup> This helps to put into context the failure of the university community of UKZN to resist the imposition of a centralised model of governance.

55 John Aitchison to Kathy Luckett, email, 24 April 2003.

56 Higher Education Quality Committee, ‘Proposed criteria for the HECQ’s first cycle of audits, 2004–2009: discussion document’, March 2003.

57 South African Vice-Chancellors Association, ‘First draft of response ... to proposed criteria for the HEQC’s first cycle of audits, 2004–2009’, 16 April 2003.

58 John Aitchison to Kathy Luckett, email, 24 April 2003. A *hensopper* is a term meaning traitor that refers to the Boers who surrendered to the British in the South African War of 1899–1902.

## Politicisation

In the opinion of Johnson, ‘The inaugurations of black university vice-chancellors became coronations, with choirs, bands, displays and dance troupes.’<sup>59</sup> The new elite turned out at a glittering event on 30 September 2004 to celebrate the installation of a vice-chancellor. Astonishingly, and inappropriately, a large banner carrying his portrait and that of chancellor Frene Ginwala was strung across the entrance to the Westville campus, site of the new imperium, in a fashion reminiscent of authoritarian systems. Ashwin Desai denounced ‘a lavish ceremony bedecked in Africanised frippery ... while admissions policies disproportionately hurt students from poor, rural African backgrounds’.<sup>60</sup> As a counterpoint, it has been alleged that the new university was a model neo-conservative institution cutting student numbers to Department of Education directives in such a way as to exclude the deserving poor, and rewriting the rules of student elections so that SRCs dominated by ANC-aligned organisations in sympathy with the Executive were produced.<sup>61</sup>

The two were not incongruent. In many ways their juxtaposition served as a metaphor for the country as a whole, especially since 1999. The new university made a very public attempt to align itself with the government of Thabo Mbeki and the ANC. On 20 March 2004 an honorary degree ceremony at Westville for Nobel peace prize winner Albert Luthuli was addressed by Mbeki, a dubious choice since South Africa was then in the middle of a general election campaign. This event appeared highly contrived given that graduations were already scheduled for Westville and Pietermaritzburg campuses in May. It also abused the memory of Luthuli, a man who was a strong believer in non-racialism: he believed that ‘the unity between the races ... transcends our racial differences. Never once did Luthuli advocate a narrow black nationalism.’ In his view, each group would make its own contribution ‘to the enrichment of all’.<sup>62</sup>

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59 R.W. Johnson, *South Africa's Brave New World: The Beloved Country Since the End of Apartheid* (London: Allen Lane, 2009): 179–80.

60 A. Desai, ‘Put me with coolie and the squatters’ *Mail & Guardian* 24 February 2006.

61 Fazel Khan, ‘Merger’s neoliberal soul emerges from the mists of transformation rhetoric’ (undated document on behalf of the Combined Staff Association, probably published in 2004).

62 D.R. Briggs and J. Wing, *The Harvest and the Hope: The Story of Congregationalism in Southern Africa* (Johannesburg: United Congregational Church of Southern Africa, 1970): 291.

He would have been appalled at the short history of UKZN.<sup>63</sup> Makgoba was pushing an overtly ANC line in the press, telling *The Witness* that it was because of the ruling party that he was vice-chancellor of UKZN.<sup>64</sup> This was refreshingly honest, but seemed to contradict previous statements about ability and achievements. The following month in a weekend newspaper he derided opposition parties as practitioners of Chihuahua politics and came close to advocating a one-party state.<sup>65</sup> This was again candid given his proclaimed attitude to UKZN and what was subsequently to transpire. Much of the discourse within the institution began to sound more like that of an ANC branch, with frequent use of terms like mandates and structures, than a university.

By the time the merger was in full spate in 2004, two clear mutually reinforcing trends had emerged: myth and control. The former served the latter. In order to wield power effectively, the new rulers of UKZN had to grasp control over every significant facet of institutional life. On 27 February, for instance, the vice-chancellor ordered the removal of all old signage within 48 hours. For weeks, campuses remained without an identity because of confusion about the new logo, colours and format and delays with delivery. It all seemed highly symbolic in more ways than one: the ugly scars that represented the loss of old identity were a portent of events to come. And in order to justify new authority, its representatives had to mythologise the past and rewrite history. A lack of plausible evidence made this impossible in any academically acceptable way, so the exercise was reduced to one of slogans about dead wood, colonial remnants and racist and anti-transformation members of staff. When the accuser was required to produce substantiating fact, there was always recourse to nebulous or subliminal feelings. As John F. Kennedy put it, ‘the great enemy of truth is very often not the lie – deliberate, contrived and dishonest – but the myth – persistent, persuasive and unrealistic’.<sup>66</sup>

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63 For an account of Luthuli’s life that reinforces this point see S. Couper, *Albert Luthuli: Bound by Faith* (Pietermaritzburg: University of KwaZulu-Natal Press, 2010).

64 C. Naudé, ‘South Africa must still fight racism’ *The Witness* 22 March 2004.

65 *Sunday Times* 25 April 2004.

66 Quoted from J. Green, *A Dictionary of Contemporary Quotations* (Newton Abbott, David and Charles, 1982).

# A state of academic serfdom

*These proposals entrench the growing role of an unelected executive class who rule the university and employ academic serfs.<sup>1</sup>*

*Many of the university's important structures ... have been too silent on important issues. They have almost acquiesced in their own emasculation.<sup>2</sup>*

THE MARGINALISATION OF ACADEMIC and other professional staff preceded the merger that produced the University of KwaZulu-Natal by some years. As recounted in chapter 1, there had been a time when academics elected their deans. The best of them acted as advocates for their faculties: they did this by establishing a sophisticated balance between collegial responsibilities and the good governance of the university as a whole. In the mid-1980s, not so far distant days, the university was still governed by scholars. There are many examples, but one in particular made a particular impression on one of the authors of this book when he was a young member of staff. Professor Karl Nathanson, an agronomist, was dean of the Faculty of Agriculture at the University of Natal in the 1970s. He was an all-round academic and administrator, but also a man of 'integrity and his concern for the welfare of others stood out'. Former Pietermaritzburg campus principal Deneys Schreiner, who wrote his obituary, noted, above all, Nathanson's 'concern for the human condition'.<sup>3</sup> Such attitudes had gradually lost currency over the years.

## **From advocates to line managers**

In a famous crisis of the University of Natal in the 1990s vice-chancellor James Leatt had been unseated after a revolt by the deans backed by their colleagues. It was a complex scenario subject to varied interpretation, but whether seen as reactionary or otherwise it illustrated the power of deans with popular support. Now, reduced to compliant line managers like heads of schools and programmes

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- 1 John Aitchison, 'Some thoughts about the restructuring of the Faculty and Schools of Education in the context of the merger', 2003.
  - 2 John van den Berg to Nithaya Chetty and Christopher Merrett, email, 7 February 2006.
  - 3 G.D.L. Schreiner, 'Professor Karl Nathanson' *Natalia* 12 (1982): 75.

and various executives, deans at best were little more than yes-people, professional meeting attenders transmitting orders downwards from on high. Tony Bruton described it like this: ‘upward movement of power into management and top-down decision making processes’.<sup>4</sup> This elevated level has contained more and more people lacking an academic background: executive finance and human resources managers, for example. At worst deans had become indunas cracking the whip handed to them by executive managers with mindsets shaped not by academic collegiality, but industrial relations and legalism. Thus the indunas all too frequently found themselves taking part in disciplinary proceedings against dissidents. It has been suggested that this is a schizophrenic situation,<sup>5</sup> but if it had indeed become a psychological problem it was largely buried beneath deference. Governance of UKZN now amounted to little more than the decisions of its Executive acting like a politburo.

Labour law had changed working relationships at all universities, converting colleagues into employees. Staff in many universities felt that this had produced antagonism, and a loss of identity and sense of community. The legislation involved the Basic Conditions of Employment Act, the Labour Relations Act, the Employment Equity Act and the Skills Development Act, all of which had come into force between 1995 and 1998.<sup>6</sup>

‘Why has diversity become an ugly word?’<sup>7</sup> This was a sentiment shared by many staff, not only academic, in the face of a culture of centralisation. One of its most contested outcomes was the idea of a common curriculum across all centres and campuses of UKZN. Yet again, essential figures such as programme directors were largely excluded from the debate in line with the new doctrine of seniority, a colonial tactic long since banished from the old University of Natal, but adopted by the new UKZN elite to pursue its own ends. And, as was to recur throughout the short history of the new university, a legacy of rational, questioning co-operation was met by outright authoritarianism.

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4 A. Bruton, ‘The downside of the new managerialism’ in *Organisational Democracy: An Ongoing Challenge: Reflections from the University of KwaZulu-Natal* edited by D. Chetty (Durban: University of KwaZulu-Natal, 2005): 19.

5 T. Kulati and T. Moja, ‘Leadership’ in *Transformation in Higher Education: Global Pressures and Local Realities* edited by N. Cloete et al. (Dordrecht: Springer, 2006): 162.

6 T. Gibbon and J. Kabaki, ‘Staff’ in *Transformation in Higher Education: Global Pressures and Local Realities* edited by N. Cloete et al. (Dordrecht: Springer, 2006): 128, 144–5.

7 Nithaya Chetty to Pete Zacharias, email, 26 May 2004.

It was agreed that ‘wherever common modules can be constructed even if it means changing some of the material or the order, then it must be done’.<sup>8</sup> Commonality at first-year level was generally accepted, but its imposition upon later years of study threatened both specialised laboratories and the freedom to teach in creative and innovative ways. It was above all academically unsound. Where it destroyed the work of many years and the investment of whole careers, and disrupted well-established and academically and financially sound programmes, there was predictable outrage. This was a classic case of a clash between bureaucracy and professionals that was wantonly allowed to demotivate and distract an institution already suffering from multiple stresses: ‘why should we give up this [electronics] module with all the equipment and expertise that we have painstakingly acquired simply to meet a bureaucratic requirement?’<sup>9</sup> was a question typical of the time. Tampering with pockets of excellence could only be a matter of an institution shooting itself in the foot. The bureaucrats were fixated by structure and a fear that centralised schools would be undermined; but apparently unconcerned about potentially catastrophic academic outcomes. It was a sign of the times: a manifest desire for control at all costs.

In these circumstances, the finding of common ground had one inevitable consequence: descent to the lowest common denominator, an outcome in direct contradiction to the supposed purpose of the new university – to be a premier university of African scholarship. There was national recognition at the highest level that the teaching of science subjects should become more relevant to industrial and research applications, but common curricula put this in jeopardy. ‘There were pockets of excellence in our old institutions ... it does not make sense that one totally destroys these little success stories and somehow expects that out of the dust something new and exciting is going to manufacture itself’.<sup>10</sup> This was a highly pertinent point: there was and there remained in the culture of the new university a strong urge to destroy, yet expect the institution to function with its old efficiency. It ignored the truth that resurrection is a matter of faith, not practicality.

The furore around engineering was a case in point. The blueprint placed science at Westville and engineering at Howard College, flying in the face of the research cross-pollination and synergies that had spawned the sub-disciplines of the twenty-first century – materials, environmental, medical, nuclear and bio-engineering. It was an indication of a ‘colonial attitude towards technology’

8 Nithaya Chetty to Pete Zacharias, email, 26 May 2004.

9 Nithaya Chetty to Pete Zacharias, email, 26 May 2004.

10 Nithaya Chetty to Pete Zacharias, email, 26 May 2004.

that showed ignorance of the realities of globalisation and the importance of scientific literacy to the future of South Africa.<sup>11</sup>

There was also a great deal of muddled thinking around Africanisation of curricula, especially those for science subjects. This ignored the distinction between philosophy and methods, which are universal; and application, which must of course include local relevance. That African science could not be different seemed not to have occurred to some propagandists, who also missed the point that the national funding structure would in any case make sure that research was undertaken in the interests of South Africa and the continent in the spirit of African Renaissance. What was deeply disturbing was a sense that international best practice was seen by some as Eurocentric or colonial. There was also the persistent threat that Zulu would be introduced as a language of instruction, a monumental undertaking of particularly dubious benefit to science education. That idea seemed to have its source in certain vested interests in language departments in Durban that lacked students.

The overall academic plan, if it could be termed as such, was to register more and more students and put them in the care of fewer, less secure staff endowed with decreasing resources. The inevitable failure rate, given admission of increasing numbers of students ill-prepared by the collapsing government school system, was to be blamed on the bad teaching of insufficiently transformed staff lolling in old comfort zones.<sup>12</sup> The projected premier university of African scholarship ironically appeared not prepared to invest in teaching students, but was ready enough to criticise what was implicitly a racially defined group of teaching staff. As a result, professional bodies that used to regard the local university favourably as a destination for students and sponsorship started to look elsewhere to the universities of Cape Town, Stellenbosch and Rhodes.

There was a palpable desire to destroy what had existed before regardless of its quality or functionality; the destructive Zimbabwe syndrome, which trusts that from the ashes will emerge, via some African miracle, a new institution. But re-engineering the university was not a practical option: 'we don't have the luxury of being able to reinvent the wheel'.<sup>13</sup> Predictably this view was attacked by a functionary in UKZN's corporate communications department as 'hark[ing] back to the "good old days"'. UKZN was, apparently, en route to carving 'a niche as an African giant'.<sup>14</sup>

11 N. Chetty, 'Bent on destruction' *The Witness* 7 May 2005.

12 Senior Lecturer, 'Fight for a varsity's soul' *The Witness* 14 February 2006.

13 N. Chetty, 'Bent on destruction'.

14 D. Collins, 'Who is really bent on destruction at UKZN?' *The Witness* 14 May 2005.

The merger quickly resulted in a system of governance that was ‘centralised, top-heavy and highly bureaucratic’.<sup>15</sup> Travel between centres, especially from Pietermaritzburg and Durban to Westville, became commonplace; and all too often for ill-constructed, short-lived meetings lacking agendas or even purpose. Those who wished to keep abreast of events and participate in ongoing debate and decisions often had to journey at their own expense or dip into stressed operating budgets. Consequently, ‘faculty boards and school boards do not have full representation at meetings because of the impossibility of entire departments being able to travel’. Furthermore, it was pointed out, travel time (and paper pushing and red tape) ate into the time available for the core activity of academics. However, simultaneously academics were being berated for producing insufficient published research.<sup>16</sup> The approach to meetings ignored modern technology, such as video conferencing, and environmental concerns about the sustainable use of natural resources.<sup>17</sup>

Heads of colleges, deans of faculties, and heads of schools and programmes, together with all their deputies constituted ‘lines of communication [that] are blurred and make for a confusing and inefficient system ... the chances of a face-to-face meeting with the key decision-makers are somewhat slim’. The new layer of colleges created another barrier of bureaucrats and pushed ordinary members of staff even further towards the margins of the institution. Not only collegiality, but simple efficiency had been removed. Together with the common curriculum, this made innovation in teaching all the less likely. Added to time-wasting travelling it all meant that ‘We will not become the premier university of African scholarship if this level of bureaucratisation of our new institution continues unhindered ... the system is not academically sound, neither is it administratively efficient, nor is it cost-effective. I predict that we will wallow in frustration and inefficiency for some years to come while the quality of the students’ education and academics’ research outputs decline’.<sup>18</sup> This view was endorsed by educational experts, who pointed out that the new hierarchy of managers now common to South African universities was foreign to academia as it undermined individual judgement and subordinated it to ‘extraneous authority’ that had no regard for ‘equal standing in the decision-making process’.<sup>19</sup>

15 N. Chetty, ‘All tied up in red tape’ *The Witness* 21 December 2004.

16 N. Chetty, ‘Bent on destruction’.

17 Christopher Merrett to Hilton Staniland, memo, 27 June 2005 on behalf of 33 members of staff.

18 N. Chetty, ‘All tied up in red tape’.

19 P. Enslin, S. Pendlebury and M. Tjiattas, ‘Knives, knights and fools in the academy: bureaucratic control, social justice and academic work’ *Journal of Education* 28 (2002): 80.



## New authority

This new authority, basking in the attractions of quantification (research output) and reporting (academic line managers) was all too evident at UKZN. Richard Pithouse noted a mania for measurement and surveillance entirely at odds with 'the intellectual autonomy of the scholar affirmed and defended by the collegial governance of the university'.<sup>20</sup> It far exceeded the legitimate regulation of universities to ensure that they play a necessary role in the development of a democratic society, entering the realm of internal control, an entirely different agenda at odds with the purpose of a university. Clearly the new UKZN bosses had no time for the common sense view of Enslin, Pendlebury and Tjiattas: 'much of the time we can trust experts to make responsible decisions',<sup>21</sup> subject of course to the scrutiny of and possible contestation by various institutional interest groups.

Professor of Economics Geoff Harris was later to comment on the effect of excessive administration of teaching and higher degree supervision. The university, faced with some problems of abuse, instead of sorting out the culprits, had resorted to the classic tactic of weak, unintelligent management and set up a bureaucratic system. Looking back to the situation before the merger he commented:

There have been huge increases in the effort required ... to apply for promotion, for the approval of new modules and programmes and for ethical clearance for research. I know a number of staff who will not apply for promotion and who will not offer new [courses] as a result. Their enthusiasm ... and creativity have been stifled.

He went on to complain that masters dissertations were now required to undergo a process previously reserved for PhD degrees:

Whereas it used to involve a few simple steps and took around a month in my School for a mark to be entered following submission of a dissertation, it now involves numerous steps and takes an average of six months. There has, of course, been no change in the quality of the dissertations. The bureaucratic processes are classified in economic terminology as DUPs (directly unproductive activities); they take time and effort but contribute nothing, apart from delays, to the end result.<sup>22</sup>

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20 R. Pithouse, 'Shifting the ground of reason' in *Re-Imagining the Social in South Africa: Critique, Theory and Post-Apartheid Society* edited by H. Jacklin and P. Vale (Pietermaritzburg: University of KwaZulu-Natal Press, 2009): 155.

21 P. Enslin, S. Pendlebury and M. Tjiattas, 'Knaves, knights and fools in the academy: 82.

22 Geoff Harris, 'Bureaucracy: who do we work for?' Change@ukzn, 18 June 2009.



Catherine Burns noted the need to ‘weed out the top-heavy and senseless procedures that fail to deliver quality and reliability’. Red tape, she complained:

often frays, snaps, tangles or trips up people along the way. Often this bungling starts in the offices of people who gate-keep. We have found that the quality of students’ work has not improved by this; and that the marking and examining process is subject to harsh, undue, confusing and sometimes ludicrous delays. These come at great cost to students ... and this includes ... not only greater numbers of graduate students with few resources from within SA but also increasing numbers ... from other foreign and African countries, who are already burdened with almost impossible and onerous Home Affairs and monetary/time restrictions. All of this, in my view, undermines the process and the dignity of our degrees and of the ceremony of graduation itself.<sup>23</sup>

The fate of campus administration also illustrated the new order. Tight centralisation of functions such as safety and security, custodianship of the built environment and space planning, all of which had a clear need for local answerability and accountability, made absolutely no sense in operational terms

23 Catherine Burns, ‘Bureaucracy: who do we work for?’ Change@ukzn, 18 June 2009.

in a far-flung, multi-campus university – as long as sufficient co-ordination and co-operation could be shown. Nor did it have any resonance with current trends in the business world. The same applied to Human Resources and Finance whose efficient campus-based operations were now overlain by complex and ineffective lines of communication and reporting.<sup>24</sup> But the university authorities clearly knew their Lenin: it did indeed have a purpose in exercising control over key points where independent judgement, imagination and initiative had long been both encouraged and exercised in the past by a broader-minded university Executive.<sup>25</sup> The new requirement was for line managers, in the most restricted sense of the term, to filter orders downwards within ring-fenced responsibilities or silos. The role of the generalist administrator with wider vision was regarded as a threat to the controlling ambitions of the new managerial elite.

The multi-campus former University of Natal had previously been through several cycles of centralisation and decentralisation: there was no other university in South Africa with better experience of the pluses and minuses of either system or combinations of them. In the 1970s the energy crisis had encouraged devolution, but by the early 1990s the issue of organisational structure was back on the agenda. Significantly, those considering the options available took careful stock of various costs, financial and human; and other factors – flexibility, durability and potential for change. Again a degree of devolution was preferred, for a variety of sound academic and administrative reasons: it ‘would ... foster an ethos of decision-making, cultivate initiative on the part of administrators, and release energy into the administrative system ... reduce travel time and cost of travel ... [and] allow easier access to decision-makers, enhance the speed of decision-taking, and reduce levels of frustration’. Campus-based administration was able ‘to focus on centre-specific issues ... discussing matters which were often of local concern’. Subsequent changes towards the end of the 1990s reversed some of this devolutionary reform and opted for greater centralisation, but in practice at the time of the merger the campuses of the University of Natal still benefited from many of the advantages of decentralised administration. This minimised ‘administrative log-jams’ and demonstrated a shrewd understanding that the incumbents of ‘university-wide posts ... [were] unable to devote enough attention to the campus on which they were not based’.<sup>26</sup>

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24 Christopher Merrett, ‘Notes on a meeting of concerned Pietermaritzburg staff’, 11 November 2004.

25 R. Appignanesi and O. Zarate, *Introducing Lenin and the Russian Revolution* (Cambridge: Icon, 2000): 140.

26 D. Maughan Brown, ‘Swings and roundabouts: centralisation and devolution in a multi-campus university in South Africa’ *Higher Education* 40 (2000): 179.

This was hardly surprising. No large business worth its salt could afford to ignore the benefits of devolution, especially the opportunity to challenge staff to use their skills and initiative and grow in their jobs. But that was not, it seems, the objective of the new university. The new establishment bizarrely dismissed the existing system as patronage. Apart from the political agenda, it showed a stunning lack of understanding of campus administration. Over one weekend in mid-August 2005, there was an emergency on the Howard College campus and a conflict of interest between students and a conference in Pietermaritzburg: both required intervention and co-ordination from a high level of authority. Both had to be managed, successfully in these two cases given the fact that the old structures were fortunately still in place, by local staff on the spot with sufficient standing. The literature provides ample warning of the perils and deficiencies of the headquarters model, whose remoteness breeds indifference. Even where efficiency overcomes distance, service tends to be standard or abstract, ignoring local skills, knowledge and, above all, need. Delegated responsibility can be so successful that it involves outposts taking on tasks for the organisation as a whole where they have demonstrated special ability and aptitude. Local operating units tend to be, by their very nature, leaner, more responsive, accessible and accountable.<sup>27</sup> Former president of Harvard University, Derek Bok, agrees with this: 'corporate executives have made major efforts to decentralize their organizations and give more discretion to semi-autonomous groups to experiment and innovate'.<sup>28</sup> This is highly motivating and brings out the best in people.<sup>29</sup>

Yet campus administration was centralised by executive decree in the face of international best practice and common sense – and without any meaningful consultation. UKZN's choice was for a relationship depicted in uncomplimentary imagery such as parent-child, centre-periphery and metropole-colony. Indeed, the events around this tendency provide a useful cameo of the methods and rhetoric of the new order. On 17 August 2005, the Pietermaritzburg Facilities and Safety Working Group hosted an animated discussion among deputy deans and heads of support sections about arbitrary centralisation. A great deal of unease was voiced. Within 24 hours (and without official contact) the vice-chancellor had sent this peremptory response: 'The proposed structure for campus administration has been discussed, finalized and approved ... It is not

27 N. Brunsson and J.P. Olsen, *The Reforming Organization* (London: Routledge, 1993): 36, 165.

28 D. Bok, *Universities in the Market Place: The Commercialization of Higher Education* (Princeton: Princeton University Press, 2003): 25.

29 J.R. Galbraith, *Competing With Flexible Lateral Organizations* (Reading, Mass: Addison-Wesley, 1992): 111.

for negotiation any longer ... I hope this is clear and unambiguous'. When it was pointed out that there was unhappiness among many staff about this on practical grounds, the vice-chancellor's response was that 'There is difference between many people and old cliques ... I am reacting to interferences that are not constructive in processes within the university [*sic*]'. A further request for clarification brought the response that 'There are many old networks ... I suggest you open your eyes and put your ears close to the ground ... of course they work hard ... when you analyse the depth and details of this so called earnest work it amounts to undermining and interference'.<sup>30</sup> One of the issues exposed by the incident was legal responsibility under s.16(2) of the Occupational Health and Safety Act. This had been rationally addressed by a campus-based administrative structure with personnel on site and budgets in place to minimise risk to the institution. To centralise responsibility showed a reckless attitude to governance as well as a cavalier attitude to the law. In more general terms it 'resulted in a loss of local accountability, answerability and autonomy that ... undermin[ed] the day-to-day operation of the university'.<sup>31</sup> One of the motives for this was to demote and marginalise the role of professionals in middle management positions. UKZN did not want initiative and local accountability. It favoured fearful, compliant time-serving.

### Centre and periphery

It was perhaps inevitable that a university that had bought into managerialism, centralisation and authoritarianism should forget its own periphery. In late 2005, UKZN advertised the geographic repositioning of degrees and courses, but completely forgot to mention its Pietermaritzburg campus. There was no suggestion that this was deliberate, but it reinforced an impression that the campus was being marginalised. A former deputy vice-chancellor, Ron Nicolson, wrote a feature in the local paper extolling its virtues and referring to the difficulties of merging two post-apartheid universities. But, he added, 'the local campus feels that it is being overlooked and bullied. There is a high degree of demotivation and even despair among the staff'. He further listed delays, confusion, shortage of funds and 'perceptions (whether justified or not) of dictatorial bullying'. Wisely he pointed out that such a situation needed subtle handling: 'If we destroy the ethos, the morale, or the sense of its own identity in the local campus in order to create a monolithic uniformity we will destroy the goose that lays the golden egg, the place where students and alumni place

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30 Various email exchanges between Malegapuru Makgoba and Christopher Merrett, 18–22 August 2005.

31 Christopher Merrett to Senate Ad Hoc Committee, letter, 15 March 2006.

their loyalty and pay their money'. As befits a person of musical talent, Nicolson concluded by suggesting that the new university's leadership should function like the conductor of a choir. Taking their cue from the conductor, the voices of individual campuses could then be heard: 'it is the local campus and its staff and students who will do the actual singing'.<sup>32</sup> It was a subtle, intelligent plea for a harmonious institution, but this was far too sophisticated for the new autocracy.

Several weeks later one of UKZN's payroll praise singers accused Nicolson of confusion, of trying to maintain the status quo and seeing other campuses as the enemy. He was charged with elevating the interests of the Pietermaritzburg campus over all others; and of wanting to maintain a system of privilege. The sub-text suggested that a minority of staff wanted to sabotage the new institution.<sup>33</sup> It was a crude, disgraceful and unacademic attack, a shameful display. But it was a valuable insight into the values and approach of UKZN's establishment, which resorted to propaganda at the earliest opportunity.

Sheer inefficiency typified the merged university and frustrated the most basic of day-to-day activities. Centralisation and a lack of proper management were joined by a 'godlike authority to control' on the part of some administrative offices such as the central Buying Office, which usurped the roles of locally based staff and destroyed the supportive roles they had played. 'Arbitrary and summary instructions' on purchasing were issued. Horror stories were legion, especially regarding order numbers that now officially took three weeks to issue as opposed to the previous maximum of three hours. Scientific equipment purchases might, for instance, involve two possible international suppliers. But three quotes were now required, displaying 'a degree of ignorance and arrogance which is breath-taking'. One scientist A-rated by the National Research Foundation needed to replace an amino-acid analyser, the only functional unit in the country. He consulted international colleagues, applied to the university research committee and was allocated expensive capital equipment funds. His well-researched preference was a relatively cheap and powerful unit, but this was blocked by a Buying Office clerk who insisted on an even cheaper machine.<sup>34</sup> Similarly a chemistry professor on the Pietermaritzburg campus pointed out that 'we never worried about when chemicals and equipment ordered would arrive – things happened in an acceptable time frame. This is no longer true'.<sup>35</sup>

32 R. Nicolson, 'A marriage of unequals' *Weekend Witness* 19 November 2005.

33 D. Collins, 'Campus "singers" must take their cue from the conductor' *Weekend Witness* 10 December 2005.

34 Mark Laing to Ahmed Bawa, email, 12 July 2005.

35 Orde Q. Munro to Christopher Merrett, email, 27 February 2006.

It was symptomatic of the new order: those working in service departments, including the Executive, assumed omniscient powers. It was also an indication of meddling that had the appearance of deliberately targeting any system that worked. It defied the logic that change which takes an institution backwards, or even lets it stand still, is futile; and ignored the fact that progressive change is welcomed by all reasonable people.

### **Repressive signals**

In May 2005 Dasarath Chetty, executive head of communications, refused to broadcast a joint contribution published by the four recognised unions via UKZN's notice system: 'The University web and intranet is not to be used for presentation of subjective positions and interpretations by Unions. The Union may disseminate its information without using what is essentially a management tool ... We will however publish factual, unemotive notices of their meetings'.<sup>36</sup> This was a colossal blunder that revealed the top-down tendencies of the university hierarchy. Predictably it stirred outrage. Tony Bruton of NTESU-UKZN tackled the vice-chancellor on the issue and presented him with a selection of the comments received from union members. Malegapuru Makgoba's immediate reaction was to demand the names of the respondents, arguing that it was 'cowardly and unethical to ask for transparency and robust debate while hiding the names of respondents'.<sup>37</sup> But it was already clear that staff had good reason to fear victimisation. Bruton pointed out that the redeployment programme then underway was a threat to careers and it was unrealistic to ask 'individuals to stick their heads above the crowd'.<sup>38</sup> The university's authoritarian attitude to the use of the email system adequately confirmed such fears.

Comments were forthright, revealing and damning. Responses to the notice system furore were wide-ranging and the issue provided an opportunity to vent broader feelings. Rule by decree, admonition from above, secrecy, and divide and rule tactics, were all named and deplored. The Executive was described as a body that served itself, not the institution; and the disjunction between the pronouncements of UKZN's communications department and everyday working life was condemned as risible. The Executive was also accused of destroying collegiality and identification with the university, creating an adversarial climate and turning academic collegiality into worker solidarity: 'the lines have been drawn by the Executive. We at the coalface now need to draw our own

36 Kerry Pearson on behalf of Dasarath Chetty, 5 May 2005.

37 Malegapuru Makgoba to Tony Bruton, email, 15 May 2005.

38 Tony Bruton to Malegapuru Makgoba, email, 16 May 2005.

lines. This is the burden we all have to bear in helping to create this bankrupt mega institution. Things will never be the same again,' said an anonymous commentator. The arrogance and autocracy of the new order were deplored by many who looked back to the time when 'discussion was expected and accepted as normal'. The incident was described as an example of 'how neoliberalism and corporatism in the univ[ersity] destroys dialogue and participation' in an age of supposed democracy and transparency. The legitimacy of unions and their right to voice their opinions through university channels was in a sense drowned out in a welter of wider concerns, but the issue of censorship in a university clearly appalled a broad spectrum of opinion. The last commentator was quoted as saying that 'next we will not be allowed to meet on campus'.<sup>39</sup> This fear was to prove uncannily prophetic.

One of the most contentious aspects of big-picture executive managerialism involved the salaries and performance bonuses paid to the elite now in charge. In 2005 it was believed that R6-million had been set aside for bonuses for 17 members of the Executive, an average of R375 000 to add to the standard salary of R686 000. This millionaire managing elite was in stark contrast to lecturer and professorial salaries ranging between R100 000 and R400 000. The following year the vice-chancellor's package was believed to be R2-million, meaning that it had been increasing at 25% per annum. A particularly intriguing and revealing wage gap was that between the vice-chancellor and the lowest-paid worker at UKZN. By 2006 this had climbed to a factor of 26 times, a margin unheard of in the bad old days of colonialism and apartheid.<sup>40</sup> The salary arrangements of the past looked positively benign, although this was admittedly a reflection of the situation in the country as a whole. Where services had been outsourced, the margin could be twice as wide.<sup>41</sup> These were the sort of differentials increasingly seen in the private sector, but they were especially inappropriate to an educational institution. Apart from issues of equity and collegiality, they were paid out against a background of supposed financial stringency. The pertinent question was asked how performance at executive level in a university could be measured with any accuracy. Perhaps this is why the whole exercise was clouded in secrecy.

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39 Drawn from a collection of unattributed comments sent by Tony Bruton to Malegapuru Makgoba, email, 13 May 2005.

40 Tony Bruton and Sue Higgins-Opitz for NTESU, email, 9 February 2006. Their figures put average 2004 salaries at R828 000 for a deputy vice-chancellor and R400 000 for a top professor. They also showed pay packages and pay increases at the Universities of Cape Town and Witwatersrand to be far more modest than UKZN. In the late 1980s the differential between vice-chancellors and senior lecturers was a mere 2:1. By 2000 it had reached 4.5:1 (T. Gibbon and J. Kabaki, 'Staff': 145).

41 T. Gibbon and J. Kabaki, 'Staff': 147.



As was pointed out by Geoff Harris, even in the private sector disclosure of remuneration is mandatory and recorded in annual reports. In a publicly funded institution this should be even more urgent a requirement.<sup>42</sup>

In June 2005 a short strike took place at UKZN. It lasted just one day. On Thursday 2 June union leaders addressed a meeting of 300 people jammed into the Deneys Schreiner Lecture Theatre (DSLTL) on the Pietermaritzburg campus. It was representative of the entire spectrum of the university community from gardeners and Ukulinga farmworkers to professors. The last time the DSLTL had been so packed was on Friday 13 June 1986 in response to the detention of university staff and students under the third State of Emergency. Another full cross section of 225 people gathered the following day. On the previous Wednesday the vice-chancellor, angered by student demonstrations on the Westville campus that briefly blockaded the administration building, demanded that the police be called. This brief episode was indicative of discontent and of events to come.

The reckless and unreasonable exercise of power from the highest level was illustrated by the Desai affair. This had international repercussions. In 1996 Ashwin Desai had been a sociology lecturer and union official at the University of Durban-Westville at a time of discontent about retrenchments and outsourcing. A disciplinary process ended with termination of his employment and a ban on his presence on the UDW campus without the express permission of the vice-chancellor, Mapule Ramashala.<sup>43</sup> Seven years later Desai was appointed honorary research fellow at the Centre for Civil Society (CCS) on the Howard College campus of the University of Natal and the new vice-chancellor of UDW, Saths Cooper, lifted the UDW ban. By the following year CCS was, of course, part of the new UKZN. Since the 1990s, Desai had been involved at the interface of community organisation and academia, specialising in environmental and trade union issues in south Durban. In 2005 he obtained research funding from the Human Sciences Research Council, but was told by UKZN to apply for a contract post to pursue his work. However, the selection committee was instructed not to appoint him and he was then denied his old honorary post.

Makgoba's reason for this was that Cooper had only suspended the ban, not removed it since there was, he claimed, no document to prove the latter. Unbelievably for a man at the helm of a supposedly brand-new institution prone to discount the past of all its components, he argued that the UDW ban was

42 Geoff Harris to Vincent Maphai, chairperson of UKZN Council, 28 September 2005.

43 Desai's role at UDW was not without controversy and it remains contested. The authors are concerned here with his relations with UKZN.

irreversible and that this now affected the honorary post as well. Strangely as a vice-chancellor who appeared to exercise enormous power, he declared himself mysteriously powerless in this context. Desai described this, with good reason, as 'semantic nonsense' and ascribed it, understandably, to personal animosity. Among the international protestors were the high-profile Noam Chomsky and Naomi Klein together with 400 other objectors who signed a petition. The Committee for Academic Freedom in Africa (CAFA) asked Makgoba to reconsider his stance. All agreed that the episode was a blatant attack on academic freedom.<sup>44</sup>

The vice-chancellor denied this: 'nothing could be further from the truth'. But first he chose to describe CAFA as an 'unknown but self-appointed committee ... led by non-Africans, living out of Africa ... pontificating upon, acting on behalf of, and defending some anonymous Africans from the comforts [sic] of their armchairs in some distant corner of New York'. Desai, maintained Makgoba, had been found guilty of serious misconduct in the past and had failed to respond to Makgoba's request to lift the confidentiality clause that was part of the original UDW agreement. It was, argued Makgoba, all a matter of standards of good governance: he claimed to be fighting a mafia and its methods inherited from the merged institutions. He went out of his way to blame 'Indian' journalists for biased press coverage, claiming that 'African' reporters had been abused for asking awkward questions; and found some inevitable press inaccuracies in order to draw a veil over the broader issues. Significantly, he took a swipe at the media and 'ultra-leftists' for diverting attention from UKZN's main focus.<sup>45</sup>

In an online response to *The Mail & Guardian* article in which Makgoba put forward these views, Andile Mngxitama described them as 'intellectual gangsterism of the highest order'. The university of Steve Biko and Black Consciousness 'is now turning into a den of tribalism promoted from the top'. Where, asked Mngxitama, did Makgoba find time and energy to pursue the issue of the appointment of one academic while UKZN was embroiled in a nine-day strike (see chapter 6)? This was not the last time questions and doubts about the vice-chancellor's priorities were to be raised.

Richard Pithouse was equally robust: 'more or less everything in Makgoba's article is a lie'. He pointed out that CAFA was an organisation of academics in exile from repression and institutional collapse in African universities; Desai had released the UDW agreement; the culture of UKZN was one of corporate

44 D. Macfarlane, 'Chomsky opposes Desai ban' *Mail & Guardian* 13 January 2006.

45 M.W. Makgoba, 'Truth is often less sexy than sensation' *Mail & Guardian* 17 February 2006.

authoritarianism opposed by Desai and representatives of the broad Left and the anti-globalisation movement; the unbanning of Desai had been entirely legal; and Makgoba was racialising the issue. He made the interesting observation that the UKZN authorities were reading staff email; and pointed out that Makgoba, despite his denials, had indeed micro-managed the selection procedure.

Desai himself criticised Makgoba as promoter of the untrue and the illogical, illustrating this by the fact that he had indeed disclosed the confidential UDW agreement. But his main concern was the ‘haul[ing] out [of Makgoba’s] very well-worn deck of race cards’ and the slur of ultra-leftism thrown at critics. ‘But for the fact that Makgoba is African and deploys this quality as a pre-emptive cover for his mismanagement of the institution, he would have been laughed off campus long ago’.<sup>46</sup>

The ultimate tool to enforce serfdom was disciplinary action followed by dismissal. In May 2007 Fazel Khan, a sociologist who had a fine record of engagement with social movements in the Durban area, was fired on a charge of leaking a report of Council to the media. The case was widely regarded as seriously flawed, not least because of dispute about the confidentiality of documents in an institution heavily funded by taxpayers’ money. Khan was an easy target because he had unwisely claimed to have been erased from a photograph printed in a university publication in the fashion of the inter-war Soviet Union. This indiscretion made him an ideal victim and he was used to illustrate the power of a university Executive keen to establish a culture of compliance. In order to reinforce the point, Dasarath Chetty, pro vice-chancellor for corporate relations, wrote a sneering and disgraceful opinion piece about Khan’s dismissal that mentioned his charge but once; and rambled on about the issue of the edited photograph.<sup>47</sup> Events such as Khan’s controversial dismissal encouraged ‘widespread self-censorship by academics and university staff to avoid possible harassment ... [resulting in] a Soviet gulag mentality, where no comments are made, nothing new is ventured ... in case they are considered subversive or warranting punishment’.<sup>48</sup>

Fifty years before the founding of UKZN, the United States was subjected to an assault on liberties named after Senator Joseph McCarthy; and it is relevant to ask whether the university has suffered a McCarthyite type experience. Ellen

46 A. Desai, ‘Put me with coolie and the squatters’ *Mail & Guardian* 24 February 2006.

47 D. Chetty, ‘Khan comes a cropper at the UKZN’ *Mail & Guardian* 11 May 2007.

48 Faculty of Science and Agriculture, ‘Academic freedom – a discussion document’, September 3, 2007.

Schrecker recounts the targeting and blacklisting of so-called radical individuals through relentless pressure on conservative networks terrified into compliance by a fear of upsetting the powerful. There is only circumstantial evidence of such a system at work at UKZN, but Schrecker uses an interesting phrase: 'the stigmata of McCarthyism'.<sup>49</sup> At UKZN the stigmata are certainly borne by liberals and radicals of the Left, especially if they are white or Indian men of more than middle age. Many have had careers prematurely cut short or displaced.

McCarthy worked to a cynical, but effective, plan. He set up a popular cause and a supposed bogeyman; and then set about fabricating evidence to show that one was going to destroy the other. At UKZN the ideal is transformation, a conveniently elastic concept that has yet to be properly defined. The threat is alleged racism practised by 'old cliques' (liberals), 'misfits' (upholders of standards), those with 'conflicting interests' (members of staff associations and unions), 'settler intellectuals' (Indian and white staff), the 'compromised' (those who criticise political and personal agendas); and various individuals described by a variety of pejorative zoological tags. The intention, and the effect, has been to delegitimise certain opinions through allegations of bias. Both McCarthyism and the condition of UKZN arose out of paranoia and insecurity thriving on imprecision and lack of substance. The inevitable result is conformity and the requirement that intellectual activity should genuflect before institutional power as a test of loyalty. And just as individuals were effectively erased from American public life, so they were removed from the official UKZN community. In the United States people were demonised in terms of past, often adolescent, associations. UKZN staff have been defined not by their academic or administrative contributions, but on the basis of a fact totally beyond their control – skin colour; plus presumed ideology. Both processes justify the description of witch hunt; and in both cases they met with so little effective opposition that they may be regarded as compromise with the unimaginable. The result in both circumstances was a devaluation of institutional morality and integrity.

McCarthy and his associates were showmen who knew how to exploit circumstances to their personal ends, one of which was the exercise of unbridled power. Their context was the beginning of the Cold War, hysterical anti-communism and an irrational fear of national betrayal. The South African equivalent is the end of apartheid and the use of reverse racism by self-designated victims in the name of transformation. Both involved the use of massive bluff against seemingly strong institutions; and their success can only be explained by

<sup>49</sup> E. Schrecker, *No Ivory Tower: McCarthyism and the Universities* (New York: OUP, 1986): 266.

coincidence of time and place. David Caute entitled his book on McCarthyism, with deliberate care, *The Great Fear*, and wrote about the ‘therapeutic rituals of repression’.<sup>50</sup> The parallels are striking.

As early as 2002, with major change in the air, a small number of concerned staff set up on the Pietermaritzburg campus a body that, saluting the style of the anti-apartheid resistance of the early 1980s, was called the Independent Higher Education Monitoring Group. Its purpose and principles had widespread support, but most people were too nervous to join in openly. Bruton accurately describes this as ‘indifference and quietism’.<sup>51</sup> It is exactly the same syndrome, then known as privatism, that pervaded campuses at the height of apartheid when many academics concentrated on apolitical research and avoided contentious topics in their teaching.<sup>52</sup>

Rhoda Kadalie’s analysis of national politics at the end of 2004 had strong echoes at UKZN. She argued that President Thabo Mbeki’s marginalisation and racialisation of the Democratic Alliance, the official opposition, and his dismissive treatment of its leader Tony Leon, was a matter of manufactured consent. As in the nation at large, the university’s power brokers defined the nature of its opposition in racial and ideological terms in order to determine the agenda and limits of debate. Kadalie wrote of a ‘platitudinous dominant discourse about the opposition that has become meaningless’.<sup>53</sup> One of the noticeable aspects of establishment rhetoric within UKZN was use of terms such as ultra-leftist and colonial that mimicked developments at national level.

Such behaviour often appeared to have no logical meaning and seemed perverse; but it was powerful enough to wrest control of the governance of the university. And at the coalface staff struggled on, although few had the courage to articulate these thoughts of a lecturer in anthropology at Howard College: ‘We graciously accept academic work that screams out to all who are brave enough to have a look: I couldn’t care less’.<sup>54</sup> And a large percentage of staff declined into hand-wringing apologists who accepted compromise by compromise, inch by inch a decline in the standard of governance and administration of the university in a colossal abdication of responsibility.

50 D. Caute, *The Great Fear: The Anti-Communist Purge Under Truman and Eisenhower* (New York: Simon and Schuster, 1979).

51 A. Bruton, ‘The downside of the new managerialism’: 21.

52 C. Merrett, *State Censorship and the Academic Process in South Africa* (Champaign, Ill: Graduate School of Library and Information Science, University of Illinois at Urbana-Champaign, 1991; Occasional papers no. 192): 10.

53 R. Kadalie, ‘Animosity, arrogance and abrasiveness’ *Weekend Witness* 31 January 2004.

54 S. Leclerc-Madlala, ‘Fiddling marks’ *Mail & Guardian* 30 January 2004.

# The myth of transformation and the re-racialisation of the university

*One of the great illusions which is powerful enough to have deceived successive generations of mankind is the belief that man himself by careful planning has it within his power to order the future in the way he desires. At least as far back as Classical times, men were drawing up plans which, when implemented, were intended to transform society; and succeeding generations of men have continued to do so. Very rarely have their blueprints produced results which have even approximated to what was intended or desired. Yet in South Africa today the illusion persists; and it is a dangerous illusion ...<sup>1</sup>*

*The transformation agenda at universities amounts to racial bean-counting ... made even more complex by the social engineering thrust upon universities, especially the Ivy League ones, by government.<sup>2</sup>*

*Racism is rife at university, especially in newly merged institutions where white staff are harassed, intimidated and victimised until they leave.<sup>3</sup>*

*Labels had conquered the men ...<sup>4</sup>*

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- 1 C. de B. Webb, 'The great illusion' *Theoria* 11 (1958): 12. Colin Webb, a distinguished South African historian and much-respected administrator, was deputy vice-chancellor of the University of Natal from 1984 until his death in March 1992.
  - 2 R. Kadalie, 'Transformation needs to be transformed' *The Witness* 7 September 2009.
  - 3 'Academic persona non grata' *Mail & Guardian* 28 March 2008.
  - 4 P. Abrahams, *Tell Freedom* (London: Faber, 1981): 276. Peter Abrahams was writing about black politics in the Cape in the late 1930s.

COLIN WEBB WAS writing (in the first quotation above) during the formative years of apartheid just before the Extension of University Education Act of 1959 came into force. He went on to describe the folly of the grand plan, arguing that history teaches that its long march can be influenced by humans 'in tiny fragments only, in small actions and deeds'. Even then, he pointed out, the results are rarely guaranteed. This was a humble and realistic view of history; the view of a notably humane man, an eminent historian and a true giant of South African academia. The more radical and grandiose the blueprint, Webb believed, the greater the chance of upheaval and the lower the possibility of 'happy consequences'. Solutions, in his liberal view, derived from human beings living individual lives; and the winning of trust by those who wield power. He was a profoundly political person who ignored none of its conventions. But he correctly rejected any suggestion that a 'cause or a programme has greater value than respect for human life and personality' and he harboured a profound distrust for radical reorganisation. He rounded off his essay by quoting Blake's *Jerusalem*: 'He who would do good ... must do it in minute particulars. General good is the plea of the scoundrel, hypocrite and flatterer.'<sup>5</sup> Tragically, those who dominate the new University of KwaZulu-Natal (UKZN) have tended to fall into the second category.

During the apartheid years, many members of the universities of Natal and Durban-Westville strenuously promoted the right to employ and teach those persons, regardless of race, best qualified for positions and places in a tertiary institution. In the late 1980s, marches were held in Durban and Pietermaritzburg in opposition to the quota system. The demonstrators held to the firm belief that universities cannot be organised around group identity – whether this be race, religion, ethnicity or any other factor that sets people apart from one another. With the demise of apartheid and its repressive legislation, it was expected that universities would function in the only way acceptable – on the basis of individual merit and proven ability.

## **Transformation**

It was widely accepted that there were four aspects of the university that could be transformed: its student body; its staff complement; and its curriculum – all of them legitimate areas of change. The fourth was a great deal more contentious: the way the university went about its business and governed itself. Change in this respect was acceptable only in so far as the university remained a university. Although the other areas, particularly staffing, produced disagreement, ultimately it was this last factor that was to lead to bitter conflict.

5 C. de B. Webb, 'The great illusion': 14–16.

The 1989 mission statement of the University of Natal proclaimed its opposition to apartheid, commitment to non-racialism and rejection of any sort of discrimination. At the beginning of the 1990s, 75% of the University of Natal's students were white. After a decade of considerable growth in numbers, only 25% were still white, a remarkable turnaround. 'The University of Natal,' wrote its former senior deputy vice-chancellor, David Maughan Brown, 'is widely regarded as having been in the forefront in the process of transforming Higher Education in South Africa. This is in no small measure due to its having been able to mobilise the very different strengths of its two campuses'.<sup>6</sup> Similarly, the University of Durban-Westville, created by the National Party for the Indian race group, had broken down barriers by admitting large numbers of African, and a few white, students. Between 1995 and 2000, Nico Cloete records, 41 000 white students left the state-run higher education system<sup>7</sup> and the University of Natal was a place they deserted in droves. Exactly why, and where they went to, is uncertain. In 2007, UKZN awarded 5 864 bachelors and honours degrees (80% to black students) and 767 masters and doctoral degrees (76%).<sup>8</sup>

Staff demographics were changing less rapidly, partly because of a revolving door: opportunities and high salaries for black academics abounded in a supply-starved market.<sup>9</sup> In the case of the former University of Natal, Maughan Brown pointed out that during the five years (1992-7) he was principal of the Pietermaritzburg campus, 'more black academic staff members than whites were appointed ... However, at the end of the five years numbers remained unchanged as our black academic staff members were being snapped up by the private sector or joining the government, in both cases for much higher salaries'.<sup>10</sup> The use of universities in KwaZulu-Natal as stepping stones to advancement at the expense of a lasting contribution was a source of constant frustration to established staff committed to their institutions. But even the best-endowed South African universities such as the University of Cape Town suffered to some degree from this syndrome in which vigorous and expensive affirmative action initiatives had little effect on the staff profile.<sup>11</sup> Geoff Harris described this as a zero-sum-game; and that a

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6 D. Maughan Brown, 'Swings and roundabouts: centralisation and devolution in a multi-campus university in South Africa' *Higher Education* 40 (2000): 178, 179.

7 N. Cloete, 'New South African realities' in *Transformation in Higher Education: Global Pressures and Local Realities* edited by N. Cloete et al. (Dordrecht: Springer, 2006): 270.

8 *South Africa Survey* 2008/2009: 464, 466.

9 P. Hugo, 'Transformation: the changing context of academia in post-apartheid South Africa' *African Affairs* 97 (1998): 21-2.

10 C. Naudé, "'How far we have come": Professor David Maughan Brown reflects on his 32 years at the University of Natal' *Natal Witness* 18 September 2002.

11 T. Gibbon and J. Kabaki, 'Staff' in *Transformation in Higher Education: Global Pressures and Local Realities* edited by N. Cloete et al. (Dordrecht: Springer, 2006): 139-40.



way out of it was not to lure academics away from other African countries. He also questioned the popular notion that such staff acted as role models.<sup>12</sup>

Meanwhile, the university remained functional in large part due to the loyalty, hard work and productivity of long-serving staff in the twilights of their careers. Their reward was mindless comment such as this: 'UKZN can no longer persist on [sic] providing superannuation to a whole cadre of White retirees.'<sup>13</sup> Then it was the turn of Indian staff to be targeted, under the pretext that Africans had been 'marginalised by the colonial and apartheid-derived dominance of whites and later by Indians ... [who were] ... angry, fearful and even opportunistic'.<sup>14</sup> Yet a corporate affairs publication on the merger published in November 2007 was quick to boast that black academic staff now constituted 52% of the total.<sup>15</sup> However, nearly six years after the merger vice-chancellor Malegapuru Makgoba was still not satisfied, noting a need to 'confront and eliminate the current pernicious and dominant conservative, medieval, monastic and racist notions about a university and knowledge production that often masquerade as liberalism and to eliminate the protection of standards often perpetuated by mediocre and research-unproductive white males from all institutions of higher learning'.<sup>16</sup> Exactly what this call for elimination (a fashionable term) meant is hard to know, but it certainly suggested that Makgoba still had a problem. This did not prevent him from claiming outstanding success for UKZN while the new Department of Higher Education simultaneously trumpeted the ongoing need for transformation.

The PhD proved a useful instrument in reshaping the institution. When earned from a reputable university it is a measure of personal scholarly achievement and research potential, but it says little or nothing about other skills required in the organisation of a successful university. However, it was used in selection processes for posts such as dean, deputy dean and head of school involving academic management at UKZN with little attention given to administrative experience and aptitude. There was also evidence that certain candidates were given specific, official encouragement that undermined the fairness of process. The undesirability of members of the Executive involving themselves in

12 Geoff Harris on Change@ukzn, 30 June 2006.

13 E. Cebekhulu and E. Mantzaris, 'Stop beating about the bush – the UKZN merger: a tragic mishap' *Alternation* 13(1) 2006: 97.

14 M. Makgoba, 'Asmal's objectives accomplished by UKZN with distinction' *M&G Higher Learning* October 2009: 6.

15 University of KwaZulu-Natal, 'Merger report 2007': 18.

16 M. Makgoba 'Asmal's objectives accomplished by UKZN with distinction' *M&G Higher Learning* October 2009: 6.

appointments to individual posts was pointed out.<sup>17</sup> The correspondence that related to a specific case was referred to the vice-chancellor who, early in his response, said, 'I do not need lectures about what it means to be disadvantaged,' a stunningly irrelevant response to issues of institutional governance. It was another illustration of the discarding of good governance. 'It is my role to identify and select the new leadership,' argued the vice-chancellor, apparently endorsing patronage and rendering numerous selection committees immediately irrelevant.<sup>18</sup>

The ongoing demand to classify staff and students by race, a factor no longer imposed by law (the Population Registration Act was abolished in 1991) and therefore now simply a matter of personal identification, was anathema especially to those who had spent many uncomfortable years fighting for a non-racial society. Franz Auerbach, the South African human rights activist, had pointed out in July 2001 on SABC radio that use of the term race is in itself racist. In post-apartheid South Africa people are purely and simply who they say they are. To use this as a means of categorisation in any institution, but especially a university, is to revert to colonial and apartheid ways of thinking. Its purpose can only be that of social engineering that ignores individual skill and worth. At best it is a blueprint for mediocrity, an unforgivable outcome in higher education.

Take, for instance, the Faculty of Humanities employment equity plan approved on 20 July 2006. This stated that 'We will transform the demographic profile of our staff at all levels to reflect the composition of our society' and proceeded to compare crude provincial population percentages with a racial breakdown of staffing levels. From this statistically inept exercise it was deduced that the faculty was short of 187 permanent African academics and a table showing the ideal number of African, Coloured, Indian and White persons in academic and support posts was published. The acceptable number of Whites was to decline from 404 to 59. 'All vacant posts,' the report concluded, 'will need to be filled by candidates from the designated groups' using 'aggressive equity appointments'. Exactly what constitutes an aggressive appointment remained unclear, but the report made no reference to the attributes of a successful academic. It was just a crude exercise in racial number crunching based on the idea that 'the goal of the Faculty is to become more representative of our society'. This is not the role of a university. Like the Black African Academic Forum (BAAF) document discussed below, it suggested the appointment of an equity commissar to oversee all appointments. And in similar vein it supported 'remuneration [*sic*] private

17 Paul van Uytrecht to Reena Budree, email, 20 December 2004.

18 Malegapuru Makgoba to Paul van Uytrecht, emails, no dates December 2004.

work', popularly known as moonlighting, 'as a retention strategy'.<sup>19</sup> In other words, racially preferred appointees would be permitted to pursue their material and lifestyle ambitions at the expense of their academic responsibilities. It is not unreasonable to suggest that students would be the first victims.

Africanisation of teaching had been taken seriously at the University of Natal, making 'very significant shifts towards placing Africa at the centre of the curriculum'.<sup>20</sup> As long ago as the mid-1970s Bill Johnson noted of South African universities as a whole that 'courses and syllabi have been thoroughly decolonised and reformed: in most cases there is little left to do'.<sup>21</sup> Yet this was persistently raised as an issue, often with a sinister subtext: 'curriculum transformation should not be resisted in the name of academic freedom'.<sup>22</sup> To the knowledge of the authors absolutely no one of significance was attempting to do so. There was indeed a case for further incorporation of 'indigenous and local knowledge' into the curriculum,<sup>23</sup> but this was presumably limited to humanities, life sciences and medical subjects. It was hard to see this having much relevance for accountancy, physics or statistics, for instance. Part of the debate seemed to be heading in the direction of the language of instruction, arguing that use of English was a restraint on students.

What was left? Johnson has a highly original interpretation of transformation, which he describes as 'almost metaphysical'. He also probes what he terms 'impossibilist politics', the posing of outrageous or unrealisable objectives backed by powerful agitators. This keeps an institution in a permanent state of crisis from which opportunists can profit.<sup>24</sup> To a degree this explains the history of the merged university. The only major remaining target for the transformers, and indeed the one in which they were particularly interested, was the way the university governed and conducted itself. This was an intangible issue that could be manipulated and milked forever. And it was bound to be particularly brutal in an English language university with a tradition of collegiality and participative governance – Afrikaans and ex-bantustan universities with a history of authoritarianism were far better placed to accept its new forms. As Kulati bluntly points out, the universities of

19 'Equity Plan, Faculty of Humanities, Development and Social Sciences, University of KwaZulu-Natal, amended and approved July 2006'.

20 C. Naudé, "How far we have come".

21 R.W. Johnson, 'Liberal institutions under pressure: the universities' in *Ironic Victory: Liberalism in Post-Liberation South Africa* edited by R.W. Johnson and David Welsh (Cape Town: OUP, 1998): 148.

22 E. Cebekhulu and E. Mantzaris, 'Stop beating about the bush – the UKZN merger': 100.

23 University of KwaZulu-Natal. *Strategic Plan, 2007-2017*: 7.

24 R.W. Johnson, 'Liberal institutions under pressure': 152.

Durban-Westville and Natal had fought against the external power of apartheid and were now faced by the internalisation of a similar threat – a ‘bitter pill to swallow’.<sup>25</sup> An Afrocentric view of universities had long been promoted by Herbert Vilakazi in the guise of a need to find indigenous roots. Essentially this boiled down to crude demographics and the narrow promotion of African languages and values, very often for personal gain. As Hugo points out, it was all eerily reminiscent of apartheid theorising, underlain in this case by Africanist academic careerism in the United States in the 1970s. Some of the surrounding rhetoric, almost all of it from those who benefited from American or European university education, was blatantly anti-Western.<sup>26</sup>

It was argued that the standard for South African education should be measured against the improvement of life for all its citizens, an indisputably noble sentiment that few would oppose. ‘In a society such as ours, we cannot justify a notion of standards that is based purely on individual advancement or enrichment. We cannot adopt standards that have the potential to destroy the humanity which Africans continue to contribute to the world and the environment’.<sup>27</sup> But the history of black economic empowerment has shown precisely the opposite and levels of individual materialism and corruption that equal any in the world. There has been little or no evidence of that humanity at UKZN, whose short history showed many signs of the very opposite; just as the main economic consequence of post-liberation politics was the enrichment of a new elite. The populists’ assault on standards is not a progressive force, but simply one of ‘mass mediocrity’<sup>28</sup> designed to entrench authority.

The essential traits of a university are non-negotiable, but the idea that it should serve its immediate community is entirely logical and uncontroversial. The universities of Natal and Durban-Westville had both contributed in significant ways to the struggle against apartheid; just as the new UKZN had a responsibility to play a major part in the development of a democratic South Africa with a modern economy and society. When Makgoba stressed that a university must be rooted in its local community and sympathetic to its needs, particularly those involving the improvement of ordinary lives,<sup>29</sup> he was putting forward absolutely nothing novel or revolutionary. To suggest that there were those who opposed

25 T. Kulati, ‘Governance, leadership and institutional change in South African higher education: grappling with instability’ *Tertiary Education and Management* 6 (2000): 187.

26 P. Hugo, ‘Transformation’: 25–6.

27 M. Makgoba, Academic standards: political myth or reality? *The Mercury* 30 August 2004.

28 A. White, ‘Academic standards must be maintained’ [letter] *The Mercury* 3 September 2004.

29 M.W. Makgoba, ‘The African university: meaning, penalties and responsibilities’ in *Towards African Scholarship* edited by D. Chetty (Durban: University of KwaZulu-Natal, 2005): 12–14.

such an objective was disingenuous and hid another agenda. The method was to create demons, promote their destruction in true McCarthyite fashion and deflect attention from the internal power struggle.

One of the early racial attacks was made by Dr Z. Mlisana who criticised the Academic Freedom Committee of the University of Natal as it ‘consisted of mostly white males’.<sup>30</sup> He was conveniently oblivious of the fact that its members were elected or appointed to it on the strength of their commitment to and expertise in the topic, some of this based on many years of hard struggle. Transformation ‘is currently being used by many as a euphemism for what is a crude racial agenda – getting rid of white faces and replacing them with black ones’. Over-representation of whites in universities was seen as *the* pathology, but it was in fact a *symptom* of deliberate human resource underdevelopment. This needed to be addressed in a fair, non-racial manner.<sup>31</sup>

### **The baboon debate**

The appearance in the *The Mail & Guardian* during March 2005 of an article written by Makgoba was a defining moment in the UKZN saga. Engagingly headed ‘Wrath of dethroned white males’, it compared contemporary white male behaviour with that of a troop of baboons.<sup>32</sup> After referring irrelevantly to the Boeremag and the then recent Equatorial Guinea coup attempt, Makgoba arrived at his main theme – what he saw as institutionalised racism and alienation. ‘The dawn of the new dispensation has retired a segment of previously dominant and ambitious white males prematurely ... a sector of white males have an adaptation problem,’ he argued. These people were a threat to ‘democratic transformation ... out of kilter with the mindset of liberated African society [and] oblivious to Ubuntu’. These were Makgoba’s ‘spoiler white males’ accused of the vice-chancellor’s very own definition of liberalism, one that included every characteristic any true liberal would immediately disown. A brief, and warped, version of recent world history led Makgoba to the novel idea of the ‘demise of ... Western values’ and several paragraphs celebrating a crude Africanist agenda. Having taken a swipe at the ‘whingeing white male minority’ requiring rehabilitation, Makgoba at last arrived at his main point: ‘let there be no doubt that sooner or later African dominance and the imitation of

30 University of Natal Council minutes, 3 May 2002: 199.

31 John van den Berg to ITMG, email, 23 August 2002.

32 The use of this term of abuse has a long history in South Africa and was employed, for example, by Robben Island prison warders to describe black political prisoners (N. Alexander, *Robben Island Dossier, 1964–1974* (Cape Town: UCT Press, 1994): 27).

most that is African shall permeate all spheres of South African society'.<sup>33</sup> This seemed to go even further than National Party ideology during the apartheid era when only some universities were required to reflect a certain culture and community.<sup>34</sup> The great Palestinian-American intellectual, Edward Said, had scornfully disposed of such an approach some years before in a University of Cape Town academic freedom lecture: 'to make the practice of intellectual discourse dependent upon conformity to a pre-determined political ideology is to nullify intellect altogether'.<sup>35</sup>

One of the virtues of Makgoba's unseemly diatribe was that it unleashed a barrage of perceptive comment about the South African condition and the state of UKZN. John Kane-Berman made the obvious point that any white vice-chancellor indulging in this type of attack would be 'looking for another job' and the university investigated for 'racism, "subliminal" or overt'. He went on to make a good case to show how right-wing whites had adapted to the new dispensation, sparing only a line for the liberals who were Makgoba's main target. Kane-Berman's reasoning for this was that liberals had never held power. But he was on firm ground in his criticism of 'cultural dictatorship ... [and] the dangers of majoritarian tyranny'. Kane-Berman ended with the vain hope that UKZN 'has checks and balances against the powers of its vice-chancellor'.<sup>36</sup>

There was a torrent of criticism in the letters column of *The Mail & Guardian* – under the droll heading 'Going ape'. The essence of Makgoba's case was immediately identified: in Jean-Philippe Wade's words, a new form of dominance and an 'Africanism that is the last outpost of colonial mimicry'.<sup>37</sup> George Devenish pointed out that Makgoba's views contravened both the letter and ethos of the Constitution, which emphasises equality.<sup>38</sup> In another response, Robert Morrell argued that it was folly to alienate white males who were 'the most productive researchers in South African universities'; and that a more intelligent approach, in everyone's best interests, would be inclusive. Morrell also pointed out that direction and process constituted an important part of transformation and required further debate, not prescription. 'Universities,' continued Morrell, 'cannot succeed other than to acknowledge human worth.' The position adopted by Makgoba was described as pernicious. Prophetically,

33 M. Makgoba, 'Wrath of dethroned white males' *Mail & Guardian* 24 March 2005: 23.

34 J. Higgins, 'Academic freedom in the new South Africa' *Boundary 2* (2000): 104.

35 E.W. Said, 'Identity, authority and freedom: the potentate and the traveller' *Pretexts* 3(1-2) 1991: 73.

36 *Business Day* 7 April 2005.

37 J-P. Wade, Letter in *Mail & Guardian* 1 April 2005: 20.

38 G. Devenish, Letter in *Mail & Guardian* 1 April 2005: 20.

Morrell asked, 'will Makgoba allow debate' or 'disseminate what borders on a racially divisive doctrine?' He concluded that Makgoba might be encouraging an officially sanctioned witch hunt that would result in a withdrawal of many staff from active participation in university affairs. Such privatism, he argued, would result in the loss of expertise and institutional memory, a far greater threat than the presence of white males.<sup>39</sup>

Beyond the university, Dan Roodt pointed out the contradiction in Makgoba's Social Darwinism: if Africans represented a process of the survival of the fittest, why then was there any need for affirmative action?<sup>40</sup> UKZN academic Mike Morris took issue with Makgoba's belief that only the victims of racism could 'understand, analyse and speak of racism' by asking if only workers and Jews could understand labour exploitation and anti-Semitism. 'Knowledge cannot function here,' he continued: 'universities become reduced to recording victims' voices'. Imitation of a dominant culture, as clearly demanded by Makgoba, Morris pointed out, required policing of an institution that was in any case in a perpetual state of flux and meant something different to everyone. In a stirring conclusion Morris spelt out the basic truth that all who 'respect the Constitution, democracy and the rule of law ... have a right to their own South African cultures, a right to hold diverse political viewpoints, indeed even a right to moan and whinge about transformation'.<sup>41</sup>

Makgoba's 'racial polemic' was described as 'paranoid ... and divisive' and the national need for balance and a middle-ground approach after years of white domination was stressed.<sup>42</sup> In her analysis of this episode, Kristina Bentley emphasised the matter of moral duty in the exercise of free speech. Regardless of the fact that the airing of opinions was an undeniable public good, their disrespectful content and lack of constructiveness in this case overrode an individual right.<sup>43</sup> Makgoba, even though he had written in his own capacity, had put UKZN's external relations in jeopardy. It was in sharp contrast to letters to the editor about governance published anonymously out of fear of reprisal under the catch-all and much disputed concept of bringing the university into disrepute.<sup>44</sup>

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39 R. Morrell, 'White, male, democrat, African' *Mail & Guardian* 1 April 2005: 22.

40 D. Roodt, 'You can't have your banana and eat it' *Mail & Guardian* 1 April 2005: 23.

41 M. Morris, 'It's my country and I'll whinge if I want to' *Mail & Guardian* 8 April 2005: 24.

42 N. Chetty, 'Bent on destruction' *The Witness* 7 May 2005.

43 K.A. Bentley, 'If baboons could talk ... J.S. Mill on freedom of speech and the limits of racial discourse' *Politikon* 33(1) 2006: 31-44.

44 N. Chetty, 'A random list of issues at the University of KwaZulu-Natal' 17 May 2005.

Makgoba had ended what became known as the baboon article with a demand that whites must 'imitate the things that matter dearly to Africans'.<sup>45</sup> This was a totally inappropriate sentiment for a university vice-chancellor: imitation is surely at odds with the ability to think, reason and communicate. It amounted to incitement to the very conformity that threatens the exercise of individual conscience and independence of thought, and destroys any university. Yet in his autobiography he had written that 'the laws of nature or science or for that matter scientific discoveries are not written in any particular language or culture, but transcend these ... scientific principles are in general universal'.<sup>46</sup> Perhaps most significant of all, Makgoba's published views in the baboon article were demonstrably in conflict with the Kampala Declaration: 'members of the intellectual community have a responsibility to promote the spirit of tolerance towards different views and positions and enhance democratic debate and discussion'. Furthermore, 'no one group of the intellectual community shall indulge in harassment, domination or oppressive behaviour towards another group. All differences among the intellectual community shall be approached and resolved in the spirit of equality, non-discrimination and democracy'.<sup>47</sup> Makgoba's article transgressed this African declaration in at least half a dozen ways. Indeed, Paul Trehwela in his intriguing comparison between Makgoba and the Nazi philosopher Martin Heidegger, juxtaposes their fixation with 'primate heritage' and 'primalness' and charts a pathway to fascism.<sup>48</sup>

But Makgoba had been given licence by the rhetoric of the merger: 'We are committed to building a university that will be academically excellent, critically engaged and *demographically representative*'.<sup>49</sup> Setting aside the contradiction between the first and third requirements, it is not of course the business of a true university to act as a cog in the wheel of a social engineering project as the apartheid years had shown. Consequently it was no surprise that, as pointed out by John van den Berg, 'the University has lost its way in its handling of Affirmative Action. As an institution we seem to have lost sight of the goals of AA, which should be to create a level playing field for the genuinely disadvantaged. The

45 M. Makgoba, 'Wrath of dethroned white males'.

46 M.W. Makgoba, *Mokoko: The Makgoba Affair: A Reflection on Transformation* (Florida: Vivlia, 1997): 15.

47 The Kampala Declaration is to be found in *Academic Freedom in Africa* edited by M. Mamdani and M. Diouf (Dakar: Codesria, 1994): 349–53. These quotations are taken from ss. 20–21.

48 P. Trehwela, 'Two vice-chancellors: Heidegger and Makgoba' posted on *Politicsweb*, 17 March 2008.

49 University of Natal, 'Proposed merger between the University of Natal and the University of Durban-Westville: representation to the Minister of Education: vision' [undated].



word “disadvantaged” seems to have disappeared from the discourse; this or else it is being used as a synonym for non-white’.<sup>50</sup> Judge and commentator Dennis Davis agreed: transformation tended to mean little more than demographic change. In the view of Davis, its true meaning was dignity, equality and freedom for all; and it ‘demands of us that we have the courage to resist those who will cry racism when we hold power to account’.<sup>51</sup> Another eminent writer agreed: Rhoda Kadalie wrote about ‘the pressure to fill formerly white universities with black faces’. She was to link this with a failure of performance, but perhaps more crucially made this point: ‘Unlike black universities, formerly white universities are under constant scrutiny for racial transformation, while black universities get away with murder’. She continued, ‘universities will not learn, because like the government, those in charge fail to understand that universities are lifelong institutions, there to be preserved for generations to come’.<sup>52</sup>

A year and more after the baboon article, Makgoba was interviewed by the *Sunday Tribune*: ‘chatting to him, one gets the impression of a proud African man’. He argued that only a few members of staff were concerned about the racial component of transformation; and claimed, erroneously as it would turn out, that dissidents had the freedom to express their views. Yet again he looked to the past and the claimed feelings of a specific group rather than at the bigger picture, accusing some academics of failing to ‘understand the pain that African academics have gone through’.<sup>53</sup>

This view had been contested some years before in the mid-1990s. Themba Sono had pointed out that ‘Truth and logic ... cannot vary with racial groups; nor can collectivity have primacy over independent individual judgement. This is a fundamental lesson African scholars in South Africa will have to learn in order not to repeat and replicate the ideological and subjective errors of the past – for to do so would merely be continuing that ignoble tradition in South Africa of closing the minds of Africans’. He reminisced about the tendency to political correctness during the struggle years and noted that ‘Go along in order to get along seems to be the guiding principle’. This had resulted in a loss of autonomy among black intellectuals who were all too often better known for their political credentials: the word community became ‘like a sacred figurine at a shrine’. University political correctness, Sono believed, is most likely at a time of change: the ambitious value their political role above academic aspirations

50 John van den Berg to IHEMG, no date September 2002.

51 D. Davis, ‘Beyond cheering and pie-throwing’ *Mail & Guardian* 30 January 2004.

52 R. Kadalie, ‘Transformation needs to be transformed’ *The Witness* 7 September 2009.

53 P. Mgwaba and S. Ngalwa, ‘A passion for change’ *Sunday Tribune* 3 September 2006.

because it is a quicker way to the top and this is a recipe for orthodoxy and the suppression of the questioning mind. As long ago as 1994, Sono had warned of the dangers of the very populism now being expounded.<sup>54</sup> Sono was implicitly supported by Adebayo Adedeji when he noted in his critique of the state of Africa that the European Renaissance had ‘exalt[ed] ... the individual over the collective group’.<sup>55</sup>

According to Paul van Uytrecht, ‘The tendency to use allegations of racism to avoid discussion of unpleasant or inconvenient topics serves only to erect further communication barriers between black and white’.<sup>56</sup> He was supported by an editorial in *The Witness*: ‘While members of the university community are coming forward to give their opinions in public forums, there is a growing tendency for them to seek anonymity for fear of reprisals ... a pattern is emerging. The perception is being created that far from listening respectfully and sensitively to the concerns of staff and students, management is riding roughshod over them and trying to intimidate its critics into silence.’<sup>57</sup>

### **Black African Academic Forum**

In late 2005 the Black African Academic Forum (BAAF) put out a long, wordy, repetitive document whose precise authorship was never identified, but it supported the brazen racist discourse that had become common at UKZN.<sup>58</sup> Its tenor was firmly based in victimology, claiming that UKZN ‘remained mired in discriminatory and dysfunctional tendencies’ that impeded the ‘norms, values and aspirations of the majority’. Its particular targets were the staffing complement and curricular [*sic*], and what was described as ‘the on-going business-as-usual environment’. It was scathing about the voluntary equity officers who sat on selection committees and who had often done an excellent job in difficult circumstances, meeting the requirements of the law and the spirit of the Constitution. It made a special plea for funding, conditions that ‘can facilitate an enriching social and family life’ and development programmes, and complained that new appointees had to spend time preparing lecture material rather than

54 T. Sono, *Dilemmas of African Intellectuals in South Africa: Political and Cultural Constraints* (Pretoria: University of South Africa, 1994): 42, 44, 48, 64, 70, 72, 84.

55 A. Adedeji, ‘African renaissance, economic transformation and the role of the university’ *Indicator SA* 15(2) 1998: 65.

56 Paul van Uytrecht, unpublished comment, 31 March 2005.

57 ‘University distress’ [editorial] *The Witness* 25 February 2005.

58 ‘Recruitment, retention, upward mobility and research and scholarship development of African academics at UKZN’ prepared by the Black African Academic Forum, October 2005.

getting on with research. Failure to produce research was blamed bizarrely on 'special social and familial circumstances' and 'non-African frames of reference'. And the document suggested that the development of a research proposal was beyond the capability of a lecturer with postgraduate qualifications. Rampant racism and an inappropriate working culture were claimed, but without a shred of supporting evidence.

It seemed that this particular group of black academics regarded the university as a place where they could demand racial preference and an easy ride, including specially tailored salary packages. It was a strangely colonial, dependent view of the modern world of academia that was not shy of advocating apartheid-style social engineering practices. Among other demands were the racial loading of selection committees (from outside if necessary); and a demand that 'all interviews that result in the unsuccessful appointment of a black African person must automatically be re-advertised ... where possible lower[ing] the preferred appointment level'. Equity officers were to be permanent employees; in other words, political commissars. All non-black applicants were to be scrutinised at a high level and the appointment of non-South African blacks was to be supported. There is a strong suspicion that the latter had a strong influence in the drafting of this document: South Africa was thus to become a bolt hole for refugees from the collapsing higher education systems of other African countries at the expense of the rights of South African citizens and permanent residents. This line was absolutely clear: Indian and Coloured, as well as female, South Africans should no longer receive any preferment. Bizarrely, the performance of deans and heads of schools was to be measured against the success or otherwise of the black appointees they were to be pressured into appointing. Each appointee was also to be provided with an 'individualized growth plan' with a detailed career path and the opportunity to pursue a doctorate overseas. Most telling of all, there was to be a budget for retention purposes in order to accommodate counter offers. It is easy to imagine, given the pervasive culture of corruption, how this could be systematically abused by regular job offers, real or imaginary.

These ideas, peddled as a 'culture of inclusiveness and understanding', were a perversion of the concept of a university, suggesting sinecures for individuals on the basis on self-proclaimed racial identity. Transformation was interpreted as a crude, even revolutionary, shift of power; and a university career regarded as a basic production line of quantifiable hurdles. Attitude, aptitude, commitment, energy and enthusiasm were all discounted: produce enough periodical articles and conference papers and you, too, can become a professor as long as you have the right racial designation and physical appearance. This was an unashamedly

materialist ploy by an aspirant, and frustrated, new ruling caste that had many parallels in broader society. Critically, it was dismissive of lecturing and showed no interest in community involvement. There is no evidence that this disgraceful document, which Hendrik Verwoerd might well have envied but would have been rejected by the Broederbond in its later years, was ever adopted as official policy. It was too brazenly opportunist even for the new order. But its very presence had a souring and demotivating effect on the university as a whole as did the existence of a racially exclusive university forum. And there was a fear that even a small part of this neo-fascist agenda might be used by an Executive with authoritarian tendencies in the interests of racial engineering.

When the BAAF document was debated in Senate, two dozen members aired their views. Only three or four denounced it and a few others voiced unhappiness with parts of it. The few who opposed it did so because of sweeping generalisation, lack of evidence and legal inconsistency: 'if this was a research report, I would have rejected it'.<sup>59</sup> Some of its supporters could move no further than basic demographics and crude percentages, yet demographics have no legitimacy in a university where achievement should create its own community and hierarchy.<sup>60</sup> A *Witness* editorial summed up the broader dimensions of the BAAF document: 'such sentiments fly in the face of everything outlined in our Constitution and in the minds of all thoughtful South Africans about non-racism, about equal opportunity, about appointments being made on merit without racial or cultural taint or discrimination ... it's racism of the crudest kind.'<sup>61</sup>

Few black voices were raised against the BAAF document and this was irrationally seen by some as disabling the opposition. It certainly divided the university community along racial lines in a way that was 'deep and damaging' and fed into a 'politics of hatred'.<sup>62</sup> There were various shades of opinion among black African staff, but there was a majority default position: it was convenient to remain silent. It was simply a matter of following a trend set by many of their white predecessors under apartheid who retrospectively used the excuse that they were working for change from within.<sup>63</sup> To adapt Karl Marx, history repeats itself as both tragedy and farce.

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59 Nithaya Chetty, email to colleagues, 6 February 2006.

60 R.W. Johnson, 'Liberal institutions under pressure': 156, 160.

61 'Editorial', *The Witness* 28 June 2006.

62 Robert Morrell, email interview, 7 July 2010.

63 P. Hugo, 'The politics of "untruth": Afrikaner academics for apartheid' *Politikon* 25(1) 1998: 46.

A more reasoned and reasonable face was put on the sentiments of the BAAF document by the human rights lawyer on the Howard College campus, Cephas Lumina. He argued that it is the task of universities to play a leading role in community development. This may indeed be an outcome of their commitment to the advancement of knowledge and rational thought, but it cannot be equated with demographic representivity. Lumina, like the BAAF document, lamented the absence of an enabling environment for black staff, ignoring the fact that true universities have historically provided just such an incentive. And admitting that many people are not racist, he found a convenient situation of indirect racism in which allegedly racist outcomes are the consequence of perfectly legitimate actions.<sup>64</sup>

## Gender violence

The race card was brandished whenever an issue, or the debate about it, became too embarrassing to handle – even when it was one that should have united the university community. In November 2007 a student was raped at the Mabel Palmer Residence on the Howard College campus. This was no isolated incident: it should have evoked spontaneous and widespread condemnation and a call for immediate action to be taken to secure the residences as places of safety. However, despite the courageous efforts of a core group of individuals, it became yet another racially divisive issue, deflecting attention away from the very serious issues at stake. What happened was tragic for the student concerned; the many academics and students who rallied behind her; and all those who had experienced violence – especially gender-based violence – at the university over a long period. It was a shameful episode.

The rape of the student was the culmination of years of lawless behaviour at the residences. Liane Loots, from the Gender Based Violence (GBV) Lobby Group, said that she was ‘aware of eight cases of rape that [had] occurred in the past four months that went unreported because victims had no faith in the university’s risk management services (RMS), the police or student housing’. In the rape cases recorded by Loots, the perpetrators were known to the students. These were not the only types of crime on the university campus. A lecturer was hijacked in April 2007 while driving a university vehicle, locked in the boot and driven off the campus. General petty theft was widespread. A former student wrote from the United States after the rape that Mabel Palmer residence was ‘anything but secure’.<sup>65</sup>

64 C. Lumina, ‘Misconceptions about affirmative action distort the debate’ *Sunday Tribune* 15 October 2006.

65 *The Mercury* 29 November 2007.

Press reports went on to record that an international student, a friend of the raped student, said that she had spoken to RMS about a theft earlier that year. There appeared to be no procedure available to respond to thefts and RMS asked her what action she wanted taken. The housing committee suggested a raid as the thieves were believed to be living in the residence. But RMS personnel simply stood at the doors of rooms and instructed the student to go through the belongings of fellow students. A few days later RMS informed the complainants that the case was under investigation and that they would like to fingerprint their rooms. That was the last they heard of the matter.

Monique Marks said a number of international students staying in residence had come to talk to her about their experiences. They had to bolt their doors for fear of men breaking them down at night and couldn't leave anything in an unlocked space, including fridges, without it being stolen. They were constantly harassed both inside the university and on the streets and found being in Durban very disturbing. They could not wait to go home to their own (so-called less developed) countries. Marks continued, 'I raised this issue at a meeting of the Global Studies Programme ... It was noted, but not taken terribly seriously. There is no way that we can allow or encourage our students to stay at the residences with this kind of intimidation and violation taking place'.<sup>66</sup> Catherine Burns pointed out that 'No matter how hard individuals have slogged-away [we have] seen periods of sustained and gross insecurity, fear and intimidation'. She added that even housing residence staff were intimidated and threatened by students, including elected student leaders. 'So no surprise, tragically, that we continue to see rapes, attacks, intimidation, thefts and gross alcohol abuse. These have become a fact of residence life and the fearful and anxious atmosphere ... is poisoning students' ability to work and study'.<sup>67</sup>

'Hearing about attacks on women and on gay students in a university residence, informally from a colleague, instead of through official channels or a university community news network was shocking in itself ... The extent of on-going violence and the lack of obvious avenues to respond to the situation has brought home to me the extent to which we at UKZN do not function as a community of mutual support,' said Marijke du Toit.<sup>68</sup>

A meeting was called by the deputy dean of student affairs, Bheki Themba Ngcobo, a couple of days after the rape. It was addressed by three other university

66 Monique Marks on Change@ukzn, 14 November 2007.

67 Catherine Burns on Change@ukzn, 14 November 2007.

68 Marijke du Toit on Change@ukzn, 15 November 2007.

officials: the deputy director of student housing, Sifiso Dlodla; the director of risk management services, Alpheus Dlamini and the security manager, Malcolm Stilles – and attended by several hundred people. The crowd quickly grew impatient with what appeared to have been an insensitive and slow response from university management and the meeting degenerated into a slanging match. A group of individuals led by Burns and Lubna Nadvi demanded that the vice-chancellor address the meeting.

What happened subsequently is hotly disputed, but was significant for the manner in which events unfolded. The activists were accused of manhandling Ngcobo, of insulting him and of not showing respect to university officials (none of whom were white.) It was claimed that the SRC had to escort Ngcobo out of the building. This was a totally ludicrous claim seeing that two of those who had addressed the meeting were from RMS and would have called for assistance had there been a real threat to Ngcobo's safety.

This was in sharp contrast to a second meeting held two days later when a more senior group of university officials met the group. 'They listened, asked questions, and did not boo, shout or threaten to manhandle anyone. The meeting was concluded peacefully,'<sup>69</sup> reported Nceba Gqaleni, deputy dean of the School of Medicine and frequent spokesman for the BAAF. This was sufficient evidence for him to label them as racist since they were apparently more attentive to an all-white group of officials. And so began a very public outburst claiming that the activists were only concerned about the well-being of this particular student because she was white, which she was not, and because she was foreign. Gqaleni and others asked why there was no such concern by these activists when black students were being raped at residences. They seemed less worried by the fact that the university residences were reduced to places of extreme insecurity than the race of the individuals protesting about it. They clouded the matter with peripheral questions and even here race was invariably brought into the discussion. For instance, why had the protestors not been concerned about a lack of funding for the residences occupied by African students?

'Instead of asking what Nadvi, a lecturer, has done about the declining living conditions at the residences, shouldn't [Gqaleni and others] be asking that question of themselves?' asked Ferial Haffajee, editor of *The Mail & Guardian*. She continued, 'They are the head blacks in charge and have the power and duty to make the residences safe ... Surely the question should be why the (African)

69 N. Gqaleni, A. Dlamini, S. Dlodla, S. Shabalala and B. Ngcobo, 'Selective outrage: on racism and rape at UKZN' *Mail & Guardian* 25 January 2008.

men in charge have not been angry at the rape of the African females. One rape is a rape too many and they should be ashamed that any one student has been raped at what should be a place of ultimate safety and freedom.’<sup>70</sup> Nadvi commented that racialising debate about gender-based violence had numerous pitfalls, introduced superficiality, and led absolutely nowhere.<sup>71</sup>

Bizarrely, rather than rallying behind the distressed student, the SRC chose to go along with a myth of white conspiracy. Its statement is symptomatic of the deranged tone introduced to many university debates.

We condemn the recent act by few white academic staff to confuse the issues of safety and security with their own dissatisfaction within the university. We call upon all these morons to stop abusing us as students to consolidate their own political gains. We feel used and abused by them and they should stop it! This, to us shows the immorality and inhumanity that is contained by these individuals ... these people should be acting like our parents and be sympathizing with us in such an unfortunate incident. We request The Almighty to curse them. To us there is no difference between the perpetrator [*sic*] and them. What could be identified are similarities, which is the lack of humanity and morality.<sup>72</sup>

Nadvi responded that it was ridiculous for anyone to argue that those demanding answers and action were doing so to undermine a black-led administration. This was particularly disturbing coming from some of the student leadership, although their views were rejected by many fellow students. Typically, concerned staff and students were accused by student leaders of having agendas. This raised serious questions about student governance, political mentoring, and the training of students as future leaders.

The ubiquitous Gqaleni<sup>73</sup> continued: ‘Haffajee criticizes African managers for not focusing on ensuring that UKZN residences are safe. Yet she does not tell Nadvi and [her] colleagues to focus on their core scholarly activities instead of creating trouble in the student residences.’ Here, he completely missed the point about the nature of a true university. It was a familiar refrain: in his view,

70 F. Haffajee, ‘In office, but not in power’ *Mail & Guardian* 1 February 2008.

71 L. Nadvi, ‘On rape and race at UKZN’ *Mail & Guardian* 30 November 2007.

72 SASCO press statement, 25 November 2007.

73 Gqaleni was obliged to leave the university in 2011 apparently under a cloud of financial irregularities.



and that of many university managers, academics are meant to think in silos. Their enquiring and critical minds and activism are not free to wander to areas deemed to be outside this jurisdiction. This indicates a deep fear by the new elite of academics as activists, whether inside or outside the university.

Throughout this furore, the vice-chancellor remained silent. There was very little useful communication from university senior management about the rape of the student and the subsequent ruction. There was certainly no public rebuke by the university management of the provocative statement made by the students, although the electronic posting on the university LAN was summarily removed.

Academics such as Lliane Loots and Thenjiwe Magwaza worked tirelessly to assist students in the residences on the Howard College campus as they had done throughout the year prior to this incident. 'I call on the SRC and students to mobilise publicly and constantly around these issues and to highlight intolerance for sexual discrimination and prejudice,' pleaded Julie Parle. 'Challenging human rights violations and helping to grow and insisting on maintaining a culture of mutual respect are surely our duty. Without these, academic freedom means very little indeed.'<sup>74</sup>

A safety review panel led by K. MacKay, an independent professional expert in the field of policing and campus security, assisted by Magwaza from the gender studies programme in the School of Anthropology, Gender and Historical Studies, was set up in late November 2007 'to consider the circumstances of the complaint of rape in particular as well as criminal activity in general in the residences; and to make recommendations to achieve international best practice in the prevention of such criminal activity'. The panel received submissions from a wide range of individuals and groups. From early on there was a sense that the university response should go beyond narrow safety and security concerns and that campus public culture and social spaces should be given adequate attention – a point made eloquently by Anthony Collins in particular at various forums. The GBV lobby group submission to the panel stated that 'gender based violence has complex social underpinnings. It can only be significantly reduced via implementation of a wider range of interventions and a strategically co-ordinated effort by all sectors of the University. As a tertiary institution with strong research, teaching and social intervention skills and expertise, the University should effectively utilize and resource its existing staff and skills to solve this problem.' There was a feeling that gender studies as an academic discipline had a role as part of the support services and suggestions were made that student governance structures should be

74 Julie Parle on Change@ukzn, 15 November 2007.

reviewed with more attention given to counselling. There was clearly a need for swifter responses to gender-based violence on campuses and for the deployment of women staff to residences. Many academics also wanted to be part of more effective interventions ‘to build [and] transform UKZN into a safe and respectful space for all students and staff’.<sup>75</sup>

The safety review report was submitted to university management in 2008, but stalled for all the predictable reasons. In the end a watered down version was released to particular sectors within the university such as RMS. One positive outcome was that the executive dean of students, Trevor Wills, set up a Safe Campus Project to attempt to address the unresolved problem of violence against students. The focus, however, was on traditional physical security measures, exactly what the GBV lobby had advised against. There was little university-wide discussion and debate on the report and its real impact regarding the issues raised during this frenetic period is very hard to assess.

Keyan Tomaselli argued that the rape ‘need[ed] to be understood in the context of the broader web of authoritarian and intolerant discourses and management practices that have typified the way that UKZN has been administered since the merger ... Dialogue, respect and humaneness has leached from the system and we now engage each other in a variety of institutional, departmental and other forums in totally disrespectful ways, via bullying, legal actions and hostile authoritarian language which has on occasion entered official and unofficial documents and fora, and via attacks on the integrity of concerned staffers and students from a variety of sources’. Authoritarianism, he pointed out, had become the norm at UKZN.<sup>76</sup> The rapist was never caught. Burns was served with a grievance notice by Ngcobo for manhandling him and for intimidation, but the matter was resolved through mediation.<sup>77</sup>

## Re-racialisation

Precedents and cautionary tales about re-racialisation abound in South Africa. Helena Dolny described her experience as managing director at the Land Bank from 1997 to 1999 as one of ‘ethnic cleansing’.<sup>78</sup> Her broader assessment identified a strategy of poisonous subversion based on the cynical use of race

75 Marijke du Toit on Change@ukzn, 4 December 2007.

76 Keyan Tomaselli on Change@ukzn, 29 November 2007.

77 Like many other concerned staff, Burns later left the university, in her case to work in the NGO sector.

78 R.W. Johnson, *South Africa's Brave New World: The Beloved Country Since the End of Apartheid* (London: Allen Lane, 2009): 173.

identity, the aspirations of the 'black nation' in relation to the apartheid past; and the tactics of guerrilla warfare – selective targeting in order to create disruption. Much was based on the culture of entitlement and there was no limit to the opportunism employed. This became the primary objective of some employees and explains the dysfunctionality that pervades many South African institutions: the sum total of the energy expended relates to politics. The essentials of good governance – fairness, accountability, responsibility and transparency – simply fly out of the window in such circumstances and the concept of senior officials as caretakers of a public asset becomes simply a fantasy.<sup>79</sup> The Land Bank was a warning of the future of UKZN.

George Orwell described a nightmare world in which a leader controls not just present and future, but the past as well.<sup>80</sup> This is a scenario that has played itself out at UKZN: the changes required by a particular version of transformation based on racial nationalism required a rewriting of the past. Interviewed at the time of her appointment as chancellor on 29 September 2005, Frene Ginwala (like Makgoba, a graduate of Oxford University) was quoted as saying that 'universities in this country face a particular challenge because historically they were used as instruments to brainwash South Africans to fit a limited scope in life'. This was an outrageously ahistoric comment.<sup>81</sup> In the opening paragraphs of her acceptance speech as chancellor of UKZN, she admitted that she was not from the educational sector, but this did not deter her from making some extraordinarily reckless suggestions: 'This new university now has a unique opportunity to examine and interrogate every assumption, accepted practice and purported tradition in the dominant concept of universities, and start afresh drawing its plans for the way forward on a blank sheet.'<sup>82</sup> But, as has been argued in this book, universities cannot be created from nothing: they have inherent roles and meaning. Without these they are not universities, but something else. The fact that the chancellor continued her rambling by choosing to condemn what she regarded as symbols of the past suggests that her overall thinking on the role of universities in post-apartheid South Africa was remarkably shallow. It was certainly not grounded in historic truth: she claimed that South African universities had rarely engaged in shaping the future, a preposterous and grossly irresponsible view of the past.<sup>83</sup> This type of distortion was much in vogue at the time: similar absurdities had been used during the 2004 general election campaign to discredit the official opposition.<sup>84</sup>

79 H. Dolny, *Banking on Change* (London: Viking, 2001): 303, 342, 346–7.

80 C. Hitchens, *Orwell's Victory* (London: Penguin, 2003): 63.

81 L. Barnes, 'University names Ginwala as chancellor' *The Witness* 6 May 2005.

82 F.N. Ginwala, 'Remaking the African university' in *Towards African Scholarship* edited by D. Chetty (Durban: University of KwaZulu-Natal, 2005): 6.

83 F.N. Ginwala, 'Remaking the African university': 8.

84 D. Forrest, 'Let's agree to disagree' *Mail & Guardian* 28 May 2004.

In his valedictory address to the University of Natal in 2002, David Maughan Brown had warned of the ‘possibility of self-aggrandisement and even self-enrichment being promoted under the guise of “transformation”’.<sup>85</sup> At the time, the test case was that of McCaps Motimele, accused of corruption and sexual harassment, but re-elected chair of Council at UNISA on the back of student protest. Maughan Brown’s concern that this might be replicated elsewhere was founded on the racial tension deliberately fostered by various groups around the then current appointment of a new vice-chancellor at the University of Natal. By the time of the Ashwin Desai crisis, just four years later, Desai was condemning the university as a whole for having allowed a combination of ‘naked race-baiting and the spurious deployment of the language of transformation for reactionary ends’. ‘Let’s be honest,’ argued Desai, ‘Makgoba is not building the excellent African university, he is its grave-digger.’<sup>86</sup> He summed it up succinctly: the hijacking of liberation discourse to empower the new elite.

The message from on high was loud and clear: we’re in charge and we’ll do exactly what we want. When challenged, the race card was brandished with frequent use of the terms disadvantaged, marginalised and old boy network; and a generous measure of abuse. Universities the world over have suffered in the past few decades from excessive managerialism that has poisoned their essential worth, but the effect has been particularly toxic in South Africa when coupled to a racially distorted definition of transformation. Perhaps the starkest example of this occurred at the infamous Senate meeting of 27 February 2008, to be described in detail later. As part of his vilification of John van den Berg, the vice-chancellor said the following:

The VC of UKZN is an African. I was born that way, raised that way and I was socialized as such and I want that to become crystal clear. I’ve now had to say this. I cannot change nor apologise for being an African and my views and interpretation of the world being African ... My leadership, my values, my ethics, my integrity, my style are derived from this unambiguous African identity ... I’m not going to change it, I’m not going to apologise for it and I’m not going to work in an organisation that tramps on Africans because we have a history of that even in this university.

It was an extraordinary tirade in response to suggestions that he had prevented the inclusion of the issue of academic freedom on a Senate agenda. It did no credit to

85 C. Naudé, “How far we have come”.

86 A. Desai, ‘Put me with coolie and the squatters’ *Mail & Guardian* 24 February 2006.

any definition of Africanist or Africanism; and appeared to indicate a disregard for the universalist foundations of the true university. But then it got worse:

I therefore expect the university to respect my person, to respect my office and respect who I am. I also expect the university community to adapt to my leadership. I don't think they can change my leadership either to become a coconut or an Anglo-Saxon or whatever they are called in modern languages. I will never be like that.<sup>87</sup>

By any generally accepted definition this is both egocentric and insulting (the word coconut is deeply offensive to many Africans). These words are totally inappropriate coming from a representative of a modern university aspiring to international standing.

The basic flaw in this approach had previously been exposed: an inability 'to turn discussion from an essentially political debate into an academic one'.<sup>88</sup> This echoed the sentiments of Edward Said. While not denying the importance of nationalism, which he described as 'collectively organized passion', he exposed the futility of glorying in separateness, above all because it is an extension of nineteenth-century racial theory and colonialism. Universities, Said argued, were a celebration of all human culture. In support of this, he invoked Aimé Césaire's uplifting dictum that there is room for all 'at the rendezvous of victory'. Said used his own, personal experience of multiple identity to explain that 'over-mastering' created deprivation; to ignore the whole, denied academic freedom. Seeking the truth just in ourselves destroys the concept of the university. This led Said to his conclusion, in which he contrasted the authority of the academic potentate holding sway with the flexibility of the intellectual traveller willing to risk fixed positions and identity in the search for truth. The latter Said regarded as the highest form of academic freedom, a condition 'far more worthy of study and respect than self-adulation and uncritical self-appreciation'.<sup>89</sup>

'Beyond the bricks and mortar, there is something ethereal about a university – it is the culture of the place. University culture helps create a stable framework within which universities operate. Stable university systems are so necessary for the optimal functioning of universities.'<sup>90</sup> Christo Lombaard had made a similar

87 Reproduced from 'Incivility in governance at the University of KwaZulu-Natal: a report commissioned by NTESU', 2009: 47–8.

88 Nithaya Chetty to Malegapuru Makgoba, email, 20 February 2006.

89 E.W. Said, 'Identity, authority and freedom': 80–1.

90 N. Chetty, 'An opportunity that will not come again' *Mail & Guardian* 7 August 2009: 6s.

point some years earlier and emphasised the concept of academic integrity.<sup>91</sup> Stability is not to be confused with political conservatism; but guarantees the security within which ‘free intellectual thought flourishes and new ideas emerge’;<sup>92</sup> and disagreement can flourish without damaging the institution. In a stable university ‘no single individual holds unlimited power’, but ‘increasingly, powerful university managers find it convenient to foist change on their institutions in autocratic ways. The crass use of power trumps intellectual discourse as political rhetoric and populist beliefs increasingly hold sway.’ UKZN is, perhaps, the best example of this in South Africa: ‘the emergence of autocratic, managerialist behaviour has its roots in the pursuit of transformation’<sup>93</sup>; the entrenchment of a racist discourse of insult and incivility; and a system of racial patronage. This toxic brew amounted to a virtual declaration of war on the culture and practices of the former University of Natal, interchangeably and perversely labelled liberal and colonial. It resulted in the wanton destruction of systems and processes and the confirmation of a state of dysfunctionality.

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91 C. Lombaard, ‘There is rebellion afoot, and revelry: the nascent reformation of intellectual integrity within South African universities’ *Education as Change* 10(1) 2006: 74.

92 N. Chetty, ‘An opportunity that will not come again’.

93 N. Chetty, *Universities in a Time of Change* (Cape Town: University of Cape Town – T.B. Davie Academic Freedom Lecture, 12 August 2009).

## The serfs strike back

*We're striking because we are the university. We are the heart and soul of the institution; we are academics and cleaners, men and women of all races, and we are all committed to making this our university, where excellence, collegiality and humanity, rather than corporate greed and profitability at the expense of the student body, are the hallmarks of what a university means.<sup>1</sup>*

*Chetty-Chetty-bang-bang.<sup>2</sup>*

*Makgoba has led UKZN from one crisis to another ...<sup>3</sup>*

EACH WORKING DAY FROM Monday 6 to Thursday 17 February 2006 staff on the Pietermaritzburg campus of the University of KwaZulu-Natal met by the tree on the library lawn (it was a very African strike) to discuss developments and tactics. On several occasions busloads of staff, singing loudly and blowing vuvuzelas, departed for the Durban campuses to take part in their protests. This was part of the nine-day, university-wide strike. Not only was such a stoppage at a South African university unprecedented, but the level of resilience, solidarity and comradeship on the lawn and at meetings in the Colin Webb (Old Main) Hall was also extraordinary among a group of people too often prone to dwell on their differences over major matters. Library lawn speakers demonstrated great passion and came from surprising quarters. Some eloquent outdoor orators had never before spoken so forcefully to such a diverse group of colleagues; but nor were they likely ever to do so again. They were members of the four unions recognised by UKZN: the Combined Staff Association (COMSA), National Education, Health and Allied Workers Union (NEHAWU), University of Natal Staff Union (UNSU) and the National Tertiary Education Staff Union (NTESU), which had collectively been granted a certificate to strike by the Council for Conciliation, Mediation and Arbitration (CCMA) on 16 January. An estimated 1 500 staff took part on the first day of the strike, which was

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1 Senior Lecturer, 'Fight for a varsity's soul' *The Witness* 14 February 2006.

2 Nithaya Chetty at his farewell function at Epworth School on 12 December 2008, describing his ongoing disagreements with his namesake, Dasarath Chetty.

3 K. Panday, 'Makgoba: UKZN's funeral director' *Sunday Tribune* 10 September 2006.

covered on television by SABC1 and 2. While the CCMA had accepted that more than 50% of staff were unionised, members of the Executive claimed, without any apparent evidence, that the figure was only 40%.<sup>4</sup> By the end of the week the number of strikers had reached 2 000 and an even higher figure would be achieved later as staff completed registration obligations to students and then walked off the job.

## University on strike

Ostensibly, the strike was about pay – an increase over and above the guaranteed 4% and fringe benefits of R350 per month – but like many strikes the root of its popular appeal was far more complex. It was also about sabbatical and other leave entitlements, remission of fees, retrenchment packages (although UKZN repeatedly said there would be no retrenchments), and matching and placing. At all universities there had been a loss of trust and commitment as colleagues had been divided between line managers and employees.<sup>5</sup> But at no other South African university was there to be a prolonged strike. In this case it was a demonstration of broad opposition to poor governance and authoritarianism and a demand for a change of attitude at UKZN away from an ‘increasingly dictatorial and adversarial style of management’.<sup>6</sup> Many staff felt that recent developments had been an attack on their self-worth and this had generated ‘unparalleled anger’.<sup>7</sup> Contract staff felt particularly motivated to strike because of the acute uncertainty of their employment and the use of three-month contracts to cover semester-length courses.<sup>8</sup> Some staff, mainly women, had been working in the same job on short contracts for up to five years: ‘They had become invisible and disposable’, with a wide range of reasons employed to explain why they could not be appointed to permanent posts. Many of those at the receiving end of this regime identified it as neo-conservative, minimising costs as the university increasingly aligned itself with the corporations for which prospective employees were being trained.<sup>9</sup> Staff regarded themselves as an alienated resource to be used for the greater glory of a ruling caste and spoke out scathingly about the concept of negative work.

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4 Kesh Govinder, email to NTESU members, 7 February 2006.

5 E. Webster and S. Mosoeta, ‘At the chalk face: managerialism and the changing academic workplace 1995–2001’ *Transformation* 48 (2002): 72–3.

6 COMSA, NEHAWU, NTESU and UNSU, ‘Strike action at UKZN’ 6 February 2006; K. Arbuckle et al., ‘University strike’ *The Witness* 7 February 2006.

7 Christopher Merrett to Neville Richardson, email, 8 February 2006.

8 Contract Lecturer, ‘University strike’ [letter] *The Witness* 7 February 2006.

9 ‘The human face of cost-cutting’ *The Witness* 21 February 2006.



Meanwhile, ‘management ha[d] celebrated their inauguration with a lavish and costly party and voted themselves huge salary increases and bonuses ... we are all paying the costs of keeping them in their high powered jobs at the expense of quality education and an institution we can be proud of’.<sup>10</sup> Comment about bonuses was derisive in the absence of any evidence, quantitative or qualitative, of performance. Some of the Executive had neither the ability nor the inclination to engage with staff and find out the best way of running the university. Instead, non-functioning structures were protected because they had been constructed around well-connected individuals. Consequently, many staff now found their working lives increasingly meaningless because it no longer mattered whether something was done well, or done badly.<sup>11</sup> There was a strong sense that the institution was headed towards a point of no return.<sup>12</sup>

The strike was protected, but the ‘no work, no pay’ rule was implemented in terms of s.67(3) of the Labour Relations Act. Paul Finden, senior manager in employee relations, in painful legalese belatedly informed all staff of this decision and threatened to withhold pay from those ‘identified by evidence of striking which is in the possession of the university’. Exactly how this was to be achieved was not explained. Even more noteworthy was a curious demand made of staff ‘who wish to receive remuneration, notwithstanding the strike’ that they report to line managers daily and sign an undertaking of compliance with the conditions of employment. Failure to do so would be regarded as evidence of being on strike. Potentially legally problematic, morally indefensible and tactically lacking in finesse, this proved a massive mistake. It showed, possibly more than any other event, the degree to which management was out of touch with the realities of life and work in a university. The monitoring role required of supposed academic line managers generated a wave of outrage. To make matters worse, Finden added this unfortunate stricture: ‘should you refuse ... you are reminded that this constitutes a disciplinary issue and will be dealt with accordingly’.<sup>13</sup> It drew into the strike, in a highly public fashion, a number of senior academic staff. The most salutary response was addressed by veteran unionist Ari Sitas to his dean:

I am not a ‘line manager’, I am a Head of School [of Sociology and Social Studies]. I am heading or leading a large number of free South Africans and free professionals who are exercising their legal right to embark on an industrial action, according to their conscience.

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- 10 COMSA, NEHAWU, NTESU and UNSU, ‘Information to students’ 6 or 7 February 2006.  
 11 Carol Brammage to Christopher Merrett, personal communication, October 2006.  
 12 UKZN Lecturer, ‘Strike a last resort’ [letter] *The Witness* 14 February 2006.  
 13 Paul Finden, memo to all staff, 14 February 2006.

Furthermore, I am a trade union member and have exercised my democratic right as well. I am therefore, as democracy implies, a participant in the current stand-off and present on the campus throughout its duration. Therefore your instruction to take a register is an insult to my dignity, as a head of school, as an academic, as a manager and as a citizen of post-Apartheid South Africa.<sup>14</sup>

Sitas had raised a number of concepts evidently foreign to the wielders of power at UKZN: freedom, rights, conscience and citizenship had all been thoroughly trampled upon. And his reaction was not confined to veteran unionists. Emil Kormuth, head of the School of Biochemistry, Genetics, Microbiology and Plant Pathology (popularly known as the ‘school with the long name’) pointed out that academic heads of schools and deans do not take instructions from human resources managers or university lawyers and rejected Finden’s instruction as lacking legitimate authority.<sup>15</sup> Orde Munro, of the Pietermaritzburg School of Chemistry and a non-striker, refused to sign the undertaking by virtue of its heavy-handed approach: ‘University management has now actually succeeded in pissing most of its dedicated and level-headed staff off – we are not in this low-paying business to be micro-managed.’<sup>16</sup> This language was unprecedented from senior academics used to the polite formalities of university life.

The director of public affairs and corporate communications, Dasarath Chetty, then demanded that all media inquiries about the strike be referred to his office. It was another mistake, a laughable suggestion described by Jimi Adesina, professor of Sociology at Rhodes University and president of the South African Sociological Association (SASA) (of which Chetty as a sociologist was past president) as a gagging order reminiscent of apartheid South Africa. This expression of solidarity cheered the strikers and encouraged them to ignore Chetty.<sup>17</sup> The latter responded by saying that he was simply identifying the university’s official spokespersons authorised to speak on its behalf; and by accusing some staff of opportunism in interpreting this as a gagging order, and prejudicing the good name of UKZN and his personal integrity.

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14 Ari Sitas to Donal McCracken, email, 7 February 2006 reproduced as ‘Ari Sitas responds to management requests to inform on his comrades’ (Independent Media Centre – South Africa).

15 Emil Kormuth, School of Biochemistry, Genetics, Microbiology and Plant Pathology to John Cooke, dean, Faculty of Science and Agriculture, 14 February 2006.

16 Orde Q. Munro, associate professor of Inorganic Chemistry, to Paul Finden, 15 February 2006.

17 COMSA, NEHAWU, NTESU and UNSU ‘Information to staff’ 7 February 2006.

Adesina's open, widely copied letter to Chetty said that the latter's communiqué represented:

a grave and present danger to the essence of a university as an intellectual project and community – its very *raison d'être*. As sociologists we bear a unique responsibility to discern, ahead of time, the early stirrings of a virulent dictatorship, whether at the level of the state or civil society, or intermediate institutions such as a university ... It becomes particularly grave and an affront to our collective sense of duty when we ourselves become instruments of casual authoritarianism.

What especially irked Chetty, as revealed subsequently in court papers, was that Adesina compared him to Kaiser Matanzima, the former Transkei bantustan leader:

Let me end on the note of language and how the root of casual authoritarianism seems to be surviving. I have before me a copy of the banning order that the Government of the Republic of Transkei issued against Clarence Mlamli Makwetu [of the Pan-Africanist Congress] on 7 December 1976 ... Makwetu was asked by Matanzima to 'immediately withdraws (*sic*) together with your wife, children and household effects from the said area in the said district [Tembuland] and proceed to the Nyandeni area ... and thereto take up residence at a place to be pointed to you by the Magistrate.' All nice and orderly, isn't it? 'Proceed', 'take up residence', etc. Matanzima could argue that he never used the word 'ban' or 'restriction', as I suspect you would argue that your e-mail to the staff of UKZN never used the word 'gag' or said that UKZN staff could face disciplinary action if they flout your instruction. You could argue that it is an 'injunction,' an 'advice' not an order or even an instruction. But Matanzima fooled no one; neither will you!<sup>18</sup>

An exchange also took place between Nithaya Chetty and Dasarath Chetty in which the former argued that 'it is the draconian and dictatorial attitudes of our university regime that is prejudicing the good name of our university, and you and your department should take responsibility for continuing in this vein with your public utterances. Your *modus operandi* does not differ too much from tactics used by the apartheid regime in suppressing legitimate dissent.'<sup>19</sup>

18 Jimmy Adesina, open letter, 6 February 2006.

19 Nithaya Chetty to Dasarath Chetty, email, 7 February 2006.

Dasarath Chetty's blustering response was copied to the head of industrial relations.<sup>20</sup> Adesina responded to Dasarath Chetty:

Surely UKZN is still a university rather than a military barrack; even in military barracks one has to be quite compliant with the military rules of procedure of dealing with subordinates. In one quick shot you speak of the 'University Executive' as if it is a divine entity against which any expression of dissent ... qualifies for heresy, and then threaten a colleague of yours (a namesake who may be acting out of concern for the burden of a shared surname) ... You may feel under siege but you should be helping in finding solutions to the crisis not threatening people with whom you are in dispute.<sup>21</sup>

Dasarath Chetty then proceeded to sue Adesina for defamation, losing the case (with costs) twice over. In January 2007 his claim for R100 000 was dismissed by the Grahamstown Magistrate's Court. He had the audacity to appeal to the High Court in November 2007 with the same outcome. Chetty's reckless lack of perspective and decorum as a university employee were bankrolled by UKZN. All told, the university forked out R600 000 pursuing this fickle case. It was described by Nithaya Chetty, a Senate representative on Council, as 'scandalous ... in a year when the university is facing a budget deficit of incredible proportions'.<sup>22</sup> He was told by the vice-chancellor to concentrate on his academic work and that the university's financial difficulties were created by 'poor performing academics who direct their energies to matters peripheral to their obligations and contracts'. This tactic was not unknown: avoid the real issue and attack the integrity of the critic. It had been common practice by apartheid-era government ministers and party hacks. That this tactic should be used as a means of control in a post-apartheid university was extraordinary.<sup>23</sup>

The Senate ad hoc committee investigating the reasons for the strike later found Public Affairs to have exacerbated tensions: 'There is a perceived lack of credibility in the Public Affairs and Corporate Communications which was exacerbated by the role that this office was believed to have played during the strike.'<sup>24</sup> The report went on to recommend that the Executive develop a strategy to restore the faith of UKZN in this valuable function. This was, however, never

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20 Dasarath Chetty to Nithaya Chetty, email, 14 February 2006.

21 Jimmy Adesina to Dasarath Chetty, email headed 'Chetty vs Chetty', 15 February 2006.

22 Nithaya Chetty to chair of UKZN Council, email, 22 November 2007.

23 Malegapuru Makgoba to Nithaya Chetty, email, 23 November 2007.

24 Senate Ad Hoc Committee Report, 2006.

given any serious attention by management as Dasarath Chetty was allowed the freedom to run his portfolio as if it were his fiefdom. But his reward from SASA for resorting to legal action was censure at its annual general meeting held in Potchefstroom in July 2007: ‘SASA defends the right to freedom of expression, which includes academic freedom, and urges all members to uphold and defend these freedoms. SASA censures Prof. Dasarath Chetty for bringing a defamation case against the then President of SASA, Prof. Jimi Adesina, which, had it been successful, would have discouraged members of the academic community from practicing [*sic*] these freedoms.’<sup>25</sup>

Within a couple days of the start of the strike the phrase ‘the struggle for the soul of the UKZN’ had become common currency and its campuses had witnessed the remarkable and unprecedented sight of ‘60-year-old economics professors and cleaning staff together ... toyi-toying around the library lawns, chanting struggle songs last heard some 20 years ago’. This commentator compared UKZN with the ‘late unlamented *krokodil* regime ... Professor Malegapuru Makgoba also likes to wave his finger at people, call them liars and say they do not represent the majority’. Dasarath Chetty was described as minister of propaganda.<sup>26</sup>

A day typical of the strike on the Pietermaritzburg campus occurred on Tuesday 7 February 2006. About 200 people were present on the library lawn with banners and placards. Union representatives and student leaders addressed the throng who marched around the lawn singing and dancing. An observer noted ‘some innovative lyrics’. Groups of ten people then moved down to the main gate on Alan Paton Avenue, formerly Durban Road, where many anti-apartheid placard protests had taken place. They stood on both sides of the road and received public support, but were in fact breaking the picketing agreement that provided for a total of no more than ten protestors. When this was pointed out, the strikers obligingly dispersed.<sup>27</sup>

Thursday 9 February was designated a day of action for the Pietermaritzburg campus. Busloads of strikers from other campuses appeared, followed by certain university bigwigs including Finden who observed proceedings from the stairwell of the Administration Building. The picketing rules had been laid down some years earlier and were fair and unambiguous. One of them restricted demonstrations to university property, but a section of the strikers, including some Pietermaritzburg staff, were clearly intent on defiance. About one hundred

25 South African Sociological Association, AGM proceedings, 27 July 2007.

26 Senior Lecturer, ‘Fight for a varsity’s soul’ *The Witness* 14 February 2006.

27 Tony Bruton, email to NTESU members, 7 February 2006.

protestors marched to the Golf Road campus in search of lunch across a public road. Some of them, or other strikers, disrupted registration and upset furniture. This was in violation of the agreement between UKZN and all the unions.

Not surprisingly, the following day the university took them to the Labour Court and an interim interdict was awarded constraining them from marching and picketing beyond demarcated areas and disrupting registration using non-peaceful means. The university authorities were within their rights to oppose this aspect of the strike; although the question remains whether unruly and illegal behaviour had not been instigated by agents provocateur. This had been a common ploy of repressive state authority during the apartheid years and it is not beyond the bounds of possibility that it was used by UKZN. That same day a meeting took place between the vice-chancellor and the unions at which the latter were offered just a task team to look into grievances. Newspaper reports stated that the previous day Makgoba had been on SAfm radio complaining that a group of senior white, male academics were trying to remove him; and there were also allegations that he had made anti-Indian remarks.<sup>28</sup> This approach was vacuous: it would have been hard in post-liberation South Africa to find a more non-racial event than the 2006 UKZN strike.

The convenor and co-convenor delegated by the Pietermaritzburg strikers met the Msunduzi Municipality disaster management committee at the central fire station on Monday 13 February to obtain permission for a march on the provincial parliament by staff, students and alumni scheduled for Friday 17 February.<sup>29</sup> This was granted without difficulty. The march was co-ordinated from the office of the director of administration in terms of the legal right of all South Africans under the Regulation of Gatherings Act (1993) to 'assemble with other persons and to express ... views on any matter freely in public and to enjoy the protection of the State while doing so'.<sup>30</sup> It was a view significantly different from the attitude staff had come to expect from their institution's administrators. The resources of administration were mobilised to ensure that the march was successful and orderly and did not damage the name of the university: security was to be provided by risk management services whose members were to function as an escort; marshalls were organised by registry; and facilities management was to bring up the rear with one of its vehicles equipped with first aid facilities. The march planned to follow a route that, thanks to street renaming, could hardly have been more symbolic – Alan Paton Drive (Durban Road) and Albert Luthuli Street (Commercial Road) – to the provincial parliament.

28 *Weekend Witness* 11 February 2006.

29 They were Christopher Merrett and Marie Odendaal.

30 Christopher Merrett to Hilton Staniland, 13 February 2006.

Great personal commitment was devoted to the march and it was eagerly awaited. Its purpose was to hand over to a suitable representative, for onward transmission to the national minister of education, a memorandum about the autocratic management and underfunding that compromised the quality of education offered by UKZN.<sup>31</sup> The memo emphasised a ‘remarkable commonality of view among staff from all levels’. The main complaints concerned the stifling of robust debate; a lack of long-term academic planning and budgeting transparency; an unwieldy and unresponsive management structure and a culture of incivility restricting academic freedom; a divisive wage gap; and unacceptable labour practice affecting contract staff.<sup>32</sup>

The slogan of the strike was ‘Together we will overcome this oppressive management. Stand together and stand firm – we shall overcome’. Yet this inspiring message could not have been more wrong. On the afternoon of Thursday 16 February, a Pietermaritzburg library lawn meeting was commandeered by a member of staff who had been totally invisible in the strike thus far and presumably had connections in high places. He effectively called off the march by claiming that it was no longer necessary and would damage relations with UKZN. A historic, crucial moment had been ceded in circumstances that could only be described as extremely strange and disturbing. Did the strikers fail to seize it; or was it stolen? If they had been able to show to the public at large their concern about the decline of the university, would subsequent history have been any different?

On that crucial Thursday there was first a strangely sudden loss of interest from the national department of education in receiving a memorandum from the strikers. Second, strike leadership in Durban phoned to say that the march was no longer necessary. Third, there was the impassioned speech against the march mentioned above.<sup>33</sup> The sudden end to the strike officially announced that same day via a joint communiqué from the vice-chancellor and the unions meant that had the march taken place, participants were no longer protected by a strike certificate and would have had to apply for leave at the last moment. This justified long-held distrust of union leadership, some of whose members sounded more like political demagogues than university staff. Disgust was expressed that a high-profile way of communicating with the public had been discarded.

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31 Christopher Merrett and Marie Odendaal to Willies Mchunu, speaker of the KwaZulu-Natal provincial legislature, 14 February 2006.

32 Memorandum from striking staff to national Minister of Education Naledi Pandor, 17 February 2006. It was never delivered.

33 Christopher Merrett, email to colleagues, friends and comrades, 16 February 2006.

One striker generously complimented the organisers of the aborted march and expressed the view that ‘it undoubtedly made the Executive more nervous about the continuation of the strike’ and constituted a learning experience that would make a future protest easier.<sup>34</sup> The response was appreciative, but expressed scepticism that there would be a further opportunity because ‘the critical mass created by these particular circumstances will now be lost’.<sup>35</sup> This proved absolutely correct.

The joint communiqué released by management and the unions referred to ‘broad agreement’ on salaries and an acknowledgement of the extent to which these were falling short; and launched immediately into an apology to students and their parents. The other, more important issues at the root of the strike were to be addressed by a joint task team in the context of a university that apparently had miraculously rediscovered ‘frank and open debate’, a ‘spirit of collegiality’ and ‘full engagement of all issues’. The nine-day strike was described, inevitably in an era of trite statement, as a ‘learning experience for all concerned, an evaluation of which will be committed in institutional memory to guide us in our future path’. It was never discovered which wizard of corporate communications copied this from the spin doctors’ handbook, but it was to prove staggeringly wide of the mark. And the communiqué’s expressed confidence in a vice-chancellor who had just dragged the university through a destructive and lengthy strike only to concede to the original salary demands was also an amazing example of public relations gloss. At the expense of a dent in the institution’s budget that could be made up by manipulating contract workers, the hardliners on and around the Executive had won a significant long-term victory.

Soon after the strike ended a letter was written to the vice-chancellor (and copied to staff) querying a sentence in the joint communiqué of 16 February stating that ‘the university is being returned to normality’. That normality, the letter argued, consisted of the extreme frustration of ‘reasonable, diligent, intelligent people’ caused by ‘outdated and unwieldy organisational structures and attendant inefficiencies’. The letter described the experience of staff as ‘negative work’ in which initiative and imagination were destroyed and individuals set up for failure through system inadequacy. This was having a severe effect on self-esteem and self-worth, thus infringing upon the human rights of employees, and seemed to have no logical explanation other than political and ideological origins. Furthermore, there was a growing culture of incivility within the university that

34 Hilton Heydenrych, email to Marie Odendaal and Christopher Merrett, 16 February 2006.

35 Christopher Merrett to Hilton Heydenrych, email, 16 February 2006.



failed to respect its most precious asset – its staff. The letter concluded: ‘There is an urgent need for radical change to the way in which [UKZN] is structured, staffed and managed in order to address the current crisis’.<sup>36</sup> The terse response from the vice-chancellor was one of perplexed incomprehension.

### Observers in Senate

On 5 April 2006 a Senate meeting was held in the Colin Webb Hall on the Pietermaritzburg campus. Present in the gallery were five members of staff who were not current members of Senate, but who wished to observe proceedings. Such a practice had been common in the old University of Natal where allowance had been made for closed sessions should the nature of the agenda require them. This was an indication of the traditional openness of a university that reduced confidentiality to a minimum. But the vice-chancellor’s opening gambit at this meeting was to demand that the five should leave. This they did at once and without protest, but they immediately contacted the university registrar, Edith Mneney, for clarity. Her response was a bizarre piece of legal reasoning: ‘Senate is a statutory body and membership is prescribed by the Standard Institutional Statute. The Statute does not make provision for observers. The Vice-Chancellor, as the Chair of Senate acted according to provisions of the Statute.’<sup>37</sup> It was pointed out to her that absence of provision is not equivalent to prohibition; and that common sense dictated the very opposite. And, just as important, it was felt that the Senate should make its own rules, not have them arbitrarily decided by the chairperson.<sup>38</sup>

The vice-chancellor’s view was that ‘membership of Senate ... like a Board of Directors [is] prescribed by and in law as to who is a member. If you are not prescribed by and within law, you do not attend.’ He failed to take account of the fact that a university is a public, not a private, entity. The registrar also chose to take the line that Senate meetings were private, not public, neatly avoiding the issue of where university staff who were not Senate members fitted in.<sup>39</sup> This was yet another indication of institutional authoritarianism, perverted legalism, poor reasoning, a corporate sector mentality and lack of transparency.<sup>40</sup> And it was a

36 Christopher Merrett to Malegapuru Makgoba, memorandum, 24 February 2006.

37 Edith Mneney to Christopher Merrett, email, 6 April 2006. Strictly speaking the constitution of Senate is laid down in the Higher Education Act (101, 1997) s.28: Senate of a public higher education institution.

38 Christopher Merrett to Edith Mneney, emails, 7 and 8 April 2006.

39 Malegapuru Makgoba to Edith Mneney, email, 15 May 2006; Edith Mneney to Nithaya Chetty, email, 15 May 2006.

40 J. Jellars, ‘More unhappiness at UKZN’ *The Witness* 7 April 2006.

further symptom of growing restrictiveness within the university alongside an ostensible strengthening of democracy in society as a whole. It was pointed out that as citizens, UKZN staff could attend sessions of the national parliament and provincial legislature. But as members of a university they could not observe their own Senate at work.<sup>41</sup> Interestingly, the UKZN statute made it possible for Senate to appoint non-members to its committees, to which any of its functions could be delegated, suggesting that the idea of Senate openness and inclusiveness was not as far-fetched as the vice-chancellor and registrar made out.<sup>42</sup>

### **Strike aftermath and analysis**

The strike had clearly failed to shift the culture of arbitrary decision-making that had stimulated it in the first place. At first it appeared to diminish the fear factor, with 'a palpable sense of a university that belongs to its members, not just a set of corporate executives and a public relations machine'.<sup>43</sup> Striking had created an enormous sense of solidarity and comradeship and the promise of two investigations, one driven by Senate and the other by the unions, into the wider causes of the strike also raised morale. The Senate ad hoc committee comprised 14 members and attracted 200 submissions, most of them containing damaging information about UKZN and criticism of management. In April, the vice-chancellor sat up, took notice and demanded representation on the Senate ad hoc committee claiming that he was ex-officio a member of every committee of Senate. This was legally correct, but the demand that he should have access to all submissions raised fears among staff who had acted on the assumption of confidentiality as protection against victimisation. The committee was further undermined by a demand that its members 'reveal their interests'. The only qualification for sitting on the committee was Senate membership and a commitment to the concept of the university, but this new move seemed intended to tar some individuals in case the findings were too embarrassing for the Executive and there was a need to counter-attack.

The report was tabled before Senate in October 2006, but the vast majority of its recommendations never saw the light of day. Protracted committee work had the desired effect of stalling the process and giving management time to re-group. The Joint Union and Management Task Team report on governance, which was signed off by union and management representatives a few months earlier, was subsequently challenged by Makgoba. The vice-chancellor sought senior

41 Christopher Merrett, general email, 12 April 2006.

42 Statute of the University of KwaZulu-Natal, section 22(j)(k).

43 C. Merrett, 'University's essence' [letter] *The Witness* 21 February 2006.

counsel's opinion on the use of the term 'autocratic' in describing his style. The view of counsel – not surprisingly, perhaps, since the university would have paid handsomely for the service – was that the report should be rejected by Council. Unfortunately for Makgoba, he was on leave of absence from the university when the report was tabled at Council in December 2006. Christmas dinner was so much on the minds of many of the councillors assembled there that they did not look at the documentation carefully and the report slipped through on to the Council agenda without any discussion of the legal opinion. However, it took almost another year before Charlotte Mbali, who represented the unions, made a formal presentation of the report to the Executive of Council. The decisions of that meeting were never acted upon; the recommendations of the report were never communicated to the university community; and the minutes of that meeting mysteriously carried no detail. In 2007, the university dismissed Fazel Khan for allegedly leaking the report to the press. The university's case hung on a single witness who apparently did not present a shred of evidence.

The issue of supposed conflict of interest suddenly became very fashionable. In June 2006 the results of a Senate vote for its representative on Council were blocked. In explaining this matter to Nithaya Chetty and the reasons why Chetty was not invited to the first Council meeting after being duly elected, the vice-chancellor stated that questions had been raised that both Kesh Govinder, who was also newly elected on Council as a union representative, and Nithaya Chetty were members of NTESU. He also mentioned that there was a view that there should be a more equitable representation on the Council, presumably a reference to racial composition. It was not clear just who raised these questions, but this was at best only a delaying tactic because both Govinder and Chetty took up their rightful seats on Council in October 2006.

In their analysis of the strike Richard Sivil and Olga Yurkivska take issue with the Senate ad hoc committee that looked into its origins and described these as a 'confluence of anger'. They prefer to use the term discontent and explain this in the context of neo-conservatism. Its global corporate culture had wreaked havoc on virtually every facet of the traditional university. To this, of course, other ingredients had been added: a merger of two very different university institutions and an aggressive policy of transformation. Plausibly, Sivil and Yurkivska give credit to the radical tradition of the former University of Durban-Westville for the activism that produced the strike. Its immediate causes, they argue, were poor leadership and governance, a breakdown of trust, bad working conditions, job dissatisfaction, ethical dilemmas and general psychological malaise.<sup>44</sup>

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44 R. Sivil and O. Yurivska, 'University on the market: commitments, discourse, values and discontent' *Journal of Education* 46(2009): 100, 103, 105, 112–17. Strangely, the writers describe the UKZN strike as lasting 17 days (99).

Looking back on the strike over four years later, John Aitchison, veteran anti-apartheid activist and a highly influential figure in the struggle over academic freedom and good governance, agreed that a historic moment had been lost. But, he added, 'it was a very difficult moment to win'. He felt that the bureaucracy of the new order was already too well entrenched and the coalition ranged against it too fragile to effect a 'genuine revolution'. He referred to the 'ramshackle alliance' between the four unions and the fact that many of the strikers 'were not fully prepared for this struggle'. Just as the Paris revolt of 1968 failed to secure the crucial support of the workers, so at UKZN in 2006 the students were not engaged. Many were unreliable, some of them were hostile and their leaders had a cosy relationship with the Executive. A coup d'état by the deans was probably the only option (as happened in the early 1990s when James Leatt resigned as vice-chancellor of the University of Natal – see chapter 4), but by 2006 'they lacked the balls'. Apart from the pay award, the strike's long-term legacy was ultimately a deeply demoralised staff.<sup>45</sup>

The strike had brought to a head the Executive's deep-seated fear of unwanted press coverage. A code of ethics introduced in September 2006 was basically designed to inhibit staff from working with the press and to 'guide institutional behaviour'. This was of course total anathema to a collegial body driven by conscience and truth. The objective was not ethical, but conformist, behaviour. It was part and parcel of what we argue was an increasing tendency to label the most banal of university documents as confidential in order to inhibit discussion; and the most basic of university discourse vulnerable to disciplinary action and possible dismissal to enforce obedience.

A draft UKZN electronic communications policy circulated in September 2006 predictably caused uproar. This prompted Ahmed Bawa, deputy vice-chancellor for research, to write to the university community on 28 September to allay concerns: 'The draft policy does not permit the kinds of casual, non-formal, surreptitious surveillance that have been described in the Press by members of staff. When surveillance is required this permission would be sought from the Vice-Chancellor under very strict and clearly defined conditions.' This elicited the response 'What checks do we have in the system if the Vice-Chancellor himself feels the need to conduct surveillance for his own purposes?'<sup>46</sup> The policy did not see the light of day.

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45 John Aitchison, email interview with the authors, 7 July 2010.

46 Nithaya Chetty, email to Ahmed Bawa, 4 October 2006.

# The collapse of university discourse and the silence of the complicit

*One of the undoubted gifts we bring to the world is ... our capacity to affirm and celebrate our diversity ... we should not think that those who disagree, who express dissent, are disloyal or unpatriotic ... in the struggle days it was exhilarating because you had to justify your position in vigorous exchanges. That seems no longer to be the case. It seems sycophancy is coming into its own ... Truth cannot suffer from being challenged and examined.<sup>1</sup>*

ONCE THE DUST had settled around the strike, the conflict at the University of KwaZulu-Natal (UKZN) took on broader dimensions that created further internal crises. In mid-May 2006, Robert Morrell tackled once more the targeting and marginalisation of white academics, contrasting this unfavourably with the original mid-1990s promise of a non-racial society in South Africa.<sup>2</sup> He was spurred into action by a report by Xolani Xundu on a two-day conference in Tshwane on a presidential project called, with mystifying colonial undertones, the Native Club.<sup>3</sup> This included the view of Chris Landsberg that ‘while the natives fight it out, the settler intellectual domination continues’. The vision of the Native Club was a South Africa in which knowledge was derived from the majority indigenous culture, requiring a re-culturisation towards ‘African frames of civilisation, thought and philosophy’. It was pointed out in Xundu’s article that only 5% of academic research was produced by blacks. The cause was provided by Somadoda Fikeni of the National Heritage Council: the white establishment had copyright over credible black intellectuals. The highly unoriginal outcome of the conference was reported to be a decision to research *ubuntu* and ensure that it was central to the South African way of life. By way of response, Morrell criticised the Black African Academic Forum (BAAF) document discussed in

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1 Desmond Tutu, Nelson Mandela Lecture, 23 November 2004 (‘Look to the rock’ *The Witness* 24 November 2004).

2 R. Morrell, ‘Open season on white academics’ *Sunday Times* 14 May 2006.

3 X. Xundu ‘Black intelligentsia stirs’ *Sunday Times* 7 May 2006.

chapter 5 of this book and exposed the use of unsubstantiated claims of racism to pursue political and careerist agendas.

### **Discussion at a ‘mountain top hide out’**

Morrell was widely known as a highly principled opponent of racism and supporter of transformation.<sup>4</sup> His fear, however, was that race was increasingly being used to frame hollow policy that depended on mythical obstruction by non-African staff. In other words, university staff development was being driven by an agenda in which race, backed by executive authoritarianism, was replacing excellence as an academic criterion. Not only that, but the settler intellectual smear devalued many lifetimes of dedicated academic and administrative service that had placed some South African universities among the best in the world. Morrell summed up the situation:

The people who control the nation’s universities have choices to make. They can go down a narrow racial road and introduce racially partisan policies that threaten the credibility and health of their universities. Or they can continue the work of national reconstruction and institutional transformation, building truly non-racial, inclusive institutions committed to academic excellence that both address the inequalities of the past and retain the skills and confidence of non-Africans.<sup>5</sup>

It was a masterly statement that lay down a challenge to university democrats.

Indeed, it proved the catalyst for an attempt to revive a debate about the meaning of transformation through the ‘power of reason and criticism’.<sup>6</sup> It was in a sense a revival of the political Left that had played a significant part in the history of the old universities of Natal and Durban-Westville during the later years of apartheid. This was designed to counter a clearly pro-fascist development

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4 Robert Morrell had been deported by the regime of Kaiser Matanzima from the so-called state of Transkei in the mid-1980s along with seven other lecturers for joining a student protest at its university in Mthatha where he had been employed for three years. He was the founding secretary/treasurer of the Combined Staff Association (COMSA) at the University of Durban-Westville where his contract was not renewed for political reasons under the State of Emergency. In 1989 he joined the University of Natal and was to leave the merged institution in 2009 in part because of centralised, autocratic management, marginalisation of certain viewpoints and the decline of collegiality. As reporter Noelene Barbeau noted, he had a proud ‘history of fighting racial inequalities’ (N. Barbeau, ‘Top academic moving to Cape’ *Daily News* 24 December 2009).

5 R. Morrell ‘Open season on white academics’.

6 Nithaya Chetty to Christopher Merrett, email, 30 May 2006.

involving the authoritarian pursuit of strong group identity backed up by populist rhetoric, wild sweeping statements and doses of individual opportunism. Such was the tone of the BAAF document and in view of its clear threat to a deeply felt non-racial ethic shared by many staff, the UKZN branch of the National Tertiary Education Staff Union (NTESU) was challenged to take a position.<sup>7</sup> A general attitude of compliant silence generated anger in principled circles; but it was recognised that outrage, although healthy, was insufficient on its own. This led to the idea of a forum to promote meaningful transformation – change, for example, that would not compromise necessary efficiency and quality and would move away from the crudities of racial labelling and quotas.

The upshot was a meeting at the Assagay Hotel, Shongweni, on Friday 9 June 2006.<sup>8</sup> By ironic coincidence, in September 1928 the shape of university education in Natal had been decided with parallel symbolism when John Bews chaired a meeting at nearby Inchanga that brought together delegates from Pietermaritzburg and Durban and decided upon a two-centre university.<sup>9</sup> The Assagay participants (who included the authors of this book) shared a general sense of alarm about institutional collapse; re-racialisation and fracturing of the academic community; authoritarianism; inefficiency; devaluation of educational and human values; lack of process, procedure and trust; a culture of bullying and intimidation; abuse of disciplinary procedures; and declining educational value for students. It was felt that there was a responsibility to respond collectively and in an articulate way with an alternative vision to these calamitous trends. Above all, staff wished to work in a university to which they could contribute – preserving and strengthening it and restoring a sense of belonging, inclusivity and collegiality.

An alternative vision was clearly necessary. But it was a startling sign of the times that discussion centred on the effectiveness, or otherwise, of rational argument. Various ideas were put forward: the use of modern technology (a website); more traditional methods (a series of lectures); a petition; a press campaign; and

7 Robert Morrell to Wilhelm Meyer, email, 6 January 2006.

8 Those present were, in alphabetical order: Miriam Adhikari, John Aitchison, Keith Breckenridge, Catherine Burns, Nithaya Chetty, Jerry Coovadia, Christopher Merrett, Robert Morrell, Steve Reid, Nigel Rollins, Rajendra Thejpaul, Keyan Tomaselli and John van den Berg. Apologies and good wishes were received from: Ahmed Bawa, Chris Ballantine, Michael Chapman, Kesh Govinder, Steve Knight, Geoff Harris, Gerry Maré, Cyril Naidoo, Alan Rycroft, Paul van Uytrecht and Imraan Valodia. Details of this meeting are to be found in: Robert Morrell, 'Record of a meeting held at Assagay Hotel, Friday, 9 June 2006'; and Christopher Merrett, 'Notes on an exploratory meeting held by concerned staff of the University of KwaZulu-Natal at the Assagay Hotel on 9 June 2006'.

9 W. Bizley, 'John William Bews: a commemorative note' *Natalia* 14 (1984): 20.

co-ordination with alumni. A four-point plan based on proposals by Morrell was discussed and circulated for further input. It accepted transformation and racial redress as matters of crucial national importance; but also emphasised administrative and operational efficiency, decision-making processes respectful of academic opinion, and the blending of indigenisation and global values of excellence in higher education. These concepts were carefully aligned with provisions of the Freedom Charter. Another meeting to discuss such a plan was due to take place three weeks later in preparation for the launch of a more public forum. It was agreed that NTESU was a valuable organisation, but that a union was not an appropriate vehicle for academic concerns.

For many of those involved this was a moving experience recalling the struggles of the 1970s and 80s. For some, however, there were nagging worries about compromise that would devalue issues of high principle – something that would never have been entertained in the past. These concerns centred on the hardy perennials that stymied every attempt to move forward – representivity and a fear of stigmatisation. As one of the authors put it:

every time we discuss the present and future of the UKZN someone raises an objection to the racial composition of the gathering. [It is] frustrating beyond belief that in an institution dedicated to the search for truth and justice and the promotion of human and civic values through the acquisition of information, rational argument and the development of knowledge we are constantly dragged down this side road. Ideas and arguments surely stand on their merits, above all in a university.<sup>10</sup>

This raised the uncomfortable truth that even those who regarded themselves as progressive were prone to thinking in racial categories. They argued that this was a strategic necessity.

Even worse was the pervasive fear of being called a racist. It was pointed out that among the thirteen people who had attended the Assagay meeting were anti-apartheid activists who had been banned for up to ten years, deported (from Transkei), charged under repressive laws, and threatened by early morning calls from the Special Branch; or had their houses firebombed. Some had experienced more than one of these outrages. To be labelled a liberal or communist by the system in apartheid South Africa was no light matter and involved sleepless nights. A spot of post-apartheid name-calling should hardly warrant more than

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10 Christopher Merrett to Nithaya Chetty, John van den Berg, John Aitchison and Paul van Uytrecht, email, 10 June 2006.



a rueful pause, but seemed to have become disabling – which was, of course, the intention of those who dispensed such accusations so readily. But what were people of principle afraid of in a democracy – intellectual thuggery? Yet it was indeed the latter that was setting the agenda for debate in one of South Africa's largest universities.

The collective power of principled opposition suggested by the Assagay meeting basically involved rejection of racial categorisation, quotas and percentages, stereotyping, abuse and name calling. The meeting also called for the return of democratic decision-making where the voice of academics was once more heard and heeded. This was a call to reaffirm belief in human and academic values and reject opportunism. It was suggested from one quarter that a recommitment to the noble principle of non-racialism would be appropriate and that the Freedom Charter would provide a suitable clarion call: 'South Africa belongs to all who live in it, black and white ... our country will never be ... free until all our people live in brotherhood, enjoying equal rights and opportunities ... without distinction of colour, race, sex or belief'. It was also pointed out that the Charter proscribed as criminal 'the preaching and practice of national, race or colour discrimination'.<sup>11</sup> But the sense among some staff that this was the start of something historic was, unfortunately, not to be fulfilled.

### **Banning of meetings**

The reaction of the vice-chancellor came in the form of an early morning email headed 'Morrell rallying the Troops to Mountain top hide outs [sic]'. Referring to Morrell's four-point draft document, it demanded action. Makgoba's opposition focused on allegations that there was neglect by staff of academic work; he labelled them as 'subversive forces that masquerade in the names of transformation, the freedom charter [sic], the Constitution and inclusiveness'. In spite of the contents of the draft document, it was described as the work of 'self-styled leaders who live in the past' resisting transformation and equity. Much of the description of these individuals that followed was both totally untrue and suggested malice, therefore rendering it potentially defamatory. But there was also a touch of the burlesque:

the leaders of these pockets of resistance are so desperate that they have gone to the extent or resorted to rallying their troops to mountain hotel hide outs where they can discuss ways of undermining the success of the merger and the reorganization

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11 Christopher Merrett to Robert Morrell, email, 11 June 2006.

the University is undergoing. They use the language of change but do not practise change, they cite the freedom charter in order to appear like sheep in a wolf skin ... They clearly know that the average UKZN staff will not afford to follow them to these expensive mountain hide-outs. Of course these mountain-hide outs discussions are conducted under the pretext of intimidation and closing of debating space.

The management of the modest Assagay Hotel would no doubt have been surprised at their exotic location and the cunning disguise of their otherwise very ordinary customers.

An attack on Morrell followed. He was accused of arrogance and what could in the circumstances only be a futile attempt to 'undermine and silence leadership'. According to Makgoba, the Assagay meeting and follow-up were 'underhanded, unethical and unprofessional'. He indicated clearly that any discussion about the nature and future of the institution could only take place within official structures.<sup>12</sup> What he had done, very successfully as it would turn out, was to use rhetoric to paint a radical development in conservative colours. Why, asked the Morrell document's supporters later, was it not placed before Senate as the BAAF proposals had been? Double standards seemed to be at work.<sup>13</sup>

The evening before the advertised second meeting on Tuesday 20 June, the vice-chancellor sent a letter to its convener. It read in part:

It is standard university procedure that permission be sought, and granted, prior to any meetings of staff members on or off campus during normal working hours. This procedure is applied for, [*sic*] example, to meetings called by the Unions. It should be applied no less, in my view, in respect of the proposed meeting, which you intend to call. All University procedures must be consistently applied and, therefore, you are kindly requested to make application to the Human Resources Director, Mr Isaac Mafereka, for permission to hold your proposed meeting.<sup>14</sup>

12 It came in the form of an email to Fikile Mazibuko, deputy vice-chancellor for Human and Social Sciences and Renuka Vithal, dean of Education, dated 16 June that appeared to have been dispatched at 2.47am. It was also copied to a miscellaneous group of people, including John Aitchison, one of the Assagay 13. Significantly, it was quickly retracted, but not before it had been saved. Interestingly, 'wolf in sheep's clothing' was a phrase used to attack the Democratic Alliance in the lead up to the 2004 general election (D. Forrest, 'Let's agree to disagree' *Mail & Guardian* 28 May 2004).

13 L. Barnes, 'Varsity debate stifled' *The Witness* 22 June 2006.

14 Malegapuru Makgoba to Robert Morrell, 19 June 2006.

This was an extraordinary communication because Morrell had met the vice-chancellor for 90 minutes earlier in the day and gained the impression that a 'more collegial and cordial way of relating' had been established.<sup>15</sup> The suggestion that a group of academics discussing the affairs of a university at any time required permission and was to be compared with a trade union was preposterous and reduced the institution to the status of a kindergarten; the very opposite of even a very conservative view of academic freedom. This idea and the wording of the letter bore the hallmark of the sort of legal mind that favoured the academic serfdom model of a university.



Nevertheless, the meeting was cancelled. Morrell sought legal advice and was told that if he went ahead with the meeting, he could be charged with insubordination.<sup>16</sup> It was a glimpse of so much that had deteriorated in the university since the merger. When asked to produce the relevant procedural guidelines, the director of human resources inevitably could not do so. All he could offer was a set of rules governing trade union activity, not the legitimate discussions of groups of academics. The issue had now gone beyond a struggle over management style and the means of achieving transformation to a right to freedom of assembly and debate and the role and standing of academics. Matters at a university do not get more fundamental than this. The Freedom of Expression Institute naturally agreed:

15 Robert Morrell, email interview with the authors, 7 July 2010.

16 Robert Morrell, email interview with the authors, 7 July 2010.

this channeling and overregulation of debate clearly constitute a curtailment of the freedom to discuss matters of academic interest and importance across the university community ... without fear of retribution and in a context of mutual respect. Academics have a fundamental right of association within the university and should be able to meet freely to discuss any matter of academic interest.<sup>17</sup>

Since time immemorial, university staff gathered in interest groups to discuss matters of common concern, including the governance of their institutions. The effective ban had been preceded by an aggressive campaign that attacked on a number of fronts. 'I have been appointed and am responsible for transformation in the University,' thundered the vice-chancellor. Where had the group found its mandate? he asked, apparently oblivious to the point that academic discussion has a legitimacy of its own and requires no superior authority. Furthermore, it was described as divisive and failing to observe 'processes'. These, the vice-chancellor continued, are 'established and free of the old boys networks that have characterised racist liberal Universities in South Africa ... entrench[ing] molecular racism that masquerades as liberalism'. He concluded by threatening to take the group's documents to Council 'to show the extent of conservative resistance to transformation'.<sup>18</sup>

Not surprisingly this was seen not only as a further example of the closing down of debating space, but also, certainly in our view, as intimidatory. 'Past academics ... must shake their heads at what a bunch of corporately-controlled ineffectual wimps we have become,' wrote Mike Mulholland: 'academics were once able to act independently as a sort of conscience of society'.<sup>19</sup> The vice-chancellor was asked what right he had to take such documents to Council.<sup>20</sup> In explaining recent events to a wider audience, the Assagay 13 stressed inclusivity and transparency.<sup>21</sup> Campus-based meetings were proposed and three days after the effective banning a university-wide meeting was still planned.<sup>22</sup> Catherine Burns, who had accompanied Morrell as his witness when summoned by the vice-chancellor, commented on the frightening spectre of an attempt to open debate that was treated as the very opposite. She called for trust and respect. In response there was an appeal to recall the courage and comradeship of the

17 P. Gower, 'UKZN blocks debate on free speech' *M&G Higher Learning* March 2008.

18 Malegapuru Makgoba to Robert Morrell, email, 15 June 2006.

19 Mike Mulholland on Change@ukzn, 30 June 2006.

20 Robert Morrell to Malegapuru Makgoba, email, 15 June 2006.

21 Assagay 13 is not an ideal collective name, but as those involved never adopted a formal identity, yet represented a broad viewpoint, it is used for convenience in this book.

22 Nithaya Chetty and Christopher Merrett on Change@ukzn, 22 June 2006.

struggle years in defence of fundamental academic rights.<sup>23</sup> Nceba Gqaleni's public and erroneous response on behalf of the BAAF was to tell the group it should have shown earlier interest in transformation and that it now wanted to 'disrupt university time'. He also alluded to 'emblematic support and expressions ... used by some people to mask their resistance to real change'.<sup>24</sup>

### Discussion stifled and issues of defamation

Keyan Tomaselli, one of the Assagay 13, summed up their approach: they wanted fundamental, not cosmetic, change. He addressed real issues by pointing to policy and practice that led to the loss of the best black students and young academic staff to other universities. 'The system is what is at fault,' he argued, 'not the academics within it'. His view was that the corporatisation of the institution was the root cause of the problem; arguing that the perceptual distance between the BAAF and the Assagay 13 was not that great, but exacerbated by the former's obsession with race. Both addressed the same conditions, but 'one group has responded with a race-based strategy, while a broader group with an inclusive alliance building non-racial strategy is the one that has been demonised by official UKZN responses ... The issue is that the UKZN has the means to deal with the problem ... [but not] ... the will or the vision'.<sup>25</sup>

There was an attempt to resurrect the process after the aborted second meeting of 20 June in order to '[reassert] our right as members of a university community to meet when and where we choose to discuss any matter pertaining to education and our institution in particular'.<sup>26</sup> One objective was to get the Assagay 13 document discussed as widely as possible by faculty boards in the hope of their support. And it was also felt that discussing transformation had now perhaps been superseded by a need to defend academic freedom. At a planning meeting at Edgewood on 28 July it was decided to proceed with a full-scale meeting on the Howard College campus on a working day in order to assert the right of academics to meet as they please and open up debate about transformation. The invitation would be sent out over the names of as many people as possible in order to minimise victimisation. But some members of the Assagay 13 felt that this meant moving too slowly and narrowly and that technology could be invoked to broaden and speed up the process. This is in fact what happened and

23 Catherine Burns on Change@ukzn, 22 June 2006; Christopher Merrett on Change@ukzn, 23 June 2006.

24 N. Mchunu, 'Academics "should have supported transformation earlier"' *The Mercury* 23 June 2006; B. Mthembu, 'Makgoba denies gag' *Daily News* 29 June 2006.

25 Keyan Tomaselli on Change@ukzn, 23 June 2006.

26 Christopher Merrett on Change@ukzn, 21 July 2006.

an online petition was started. Throughout the events of the latter half of 2006 there was a certain tension between those who felt that numbers were ultimately paramount and others who maintained that they were less important than the principles involved. In some ways this reflected the different demands of tactics and strategy. But in the long run it meant that 'efforts to move debate into a more public and open space seem ... to have been foiled'. Thought was given to the idea of operating at local level; but the gloomy conclusion that maintaining a virtual community was 'all we have left' was also expressed.<sup>27</sup>

There was to be a bizarre new twist to this saga of the unexpected. At the Senate meeting of 2 August the vice-chancellor announced that all those who had discussed the BAAF document in public were to face disciplinary action that could result in dismissal. There was substantial support for the idea that individuals who had spoken to the press were bringing the university into disrepute and disrespecting its structures. Nithaya Chetty pointed out that the BAAF document had been widely circulated and posted on the NTESU website on 20 April, although later removed.<sup>28</sup> He also reminded Senate that a university was a public institution and that the wider world had a right to information about its debates especially on crucial topics such as race. This situation seemed to reduce the Assagay 13's agenda to even more basic issues: principles of non-racialism; the right to meet; and issues of good governance and academic integrity.

Chetty contacted the spokesperson for the BAAF, Nceba Gqaleni, asking for debate and discussion, possibly facilitated by two senior members of the university, Ahmed Bawa and Pitika Ntuli, in order to promote inclusivity: 'we cannot address racial inequities by creating racial divisions'.<sup>29</sup> This reasonable request was met by a refusal to engage in discussion outside Senate. Gqaleni described Chetty as a hardliner 'with superior ideas' from a powerful, rejectionist group. Significantly, he mentioned that he had been 'wounded' in some incident in the Medical School in 1998.<sup>30</sup> Whatever the circumstances, it was entirely inappropriate that a university debate should be stifled because of one individual's state of mind and sense of victimhood. And it confirmed suspicions that debate and consensus were not on the agenda. The idea behind the BAAF document, it seemed, was that its basic philosophy would be adopted by diktat.

27 Robert Morrell, email, 17 August 2006.

28 Keith Breckenridge, email, 3 August 2006.

29 Nithaya Chetty to Nceba Gqaleni, email, 3 August 2006.

30 Nceba Gqaleni to Nithaya Chetty, email, 3 August 2006.

Not only was discussion stifled, but this was another example of what we regard as an ad hominem attack as a means of censorship. The psychology of some behind the BAAF document seemed ‘impervious to rational debate’.<sup>31</sup> Another ploy was the deification of university structures and denial of the fact that legitimate debate in a university is multi-dimensional and takes place at many levels.<sup>32</sup> A practical illustration of the depths to which matters had plunged was the failure of the board of the Faculty of Education to pass a rather mundane motion on academic freedom. There was a further continuation meeting in Pietermaritzburg of the Assagay 13 on 29 August, but it focused on an electronic petition. By the end of September fewer than 200 staff had summoned up the courage to sign this.

In the midst of this debacle it was announced that the vice-chancellor, described in a UKZN press release as an intellectual and visionary, was part of a South African Breweries-sponsored group off to the Football World Cup finals in Germany. It was hoped that he would observe and possibly contribute to South Africa’s plan for 2010.<sup>33</sup> He would have flown out of South Africa knowing that Morrell had announced his intention to sue him and UKZN for defamation. Makgoba had referred to Morrell in an email in such a way as to suggest that he was unethical and underhanded, a racist opposed to transformation.<sup>34</sup> This was not untypical of the approach towards individuals and constituencies of which the new establishment disapproved. Defamation actions are a minefield, but legal opinion suggested that Morrell had an excellent case. Predictably, the university prevaricated, showing that its power against individuals and groups lay not just in punitive action, but just as effectively by inertia.<sup>35</sup> The case lingered on for three years and was dropped at the end of 2009 after Morrell’s wife, the broadcast journalist Monica Fairall, died of cancer. He decided to let go of the case to honour her approach to life.

Makgoba’s defence was that the remarks he had made needed to be put into context. He had a duty to monitor developments in the university especially around the issue of transformation in view of the country’s apartheid past. Using Morrell’s draft document that arose out of the first meeting of the Assagay 13, he argued that the ideas contained in it ‘were directed at resisting or stultifying’ the transformation process. He alleged that Morrell had breached Senate confidentiality regarding the BAAF document by citing it in a newspaper article.<sup>36</sup> This latter issue was to take

31 Robert Morrell, email, 17 August 2006.

32 Christopher Merrett on Change@ukzn, 4 August 2006.

33 University notice from public affairs and corporate communications, 30 June 2006.

34 B. Mthembu, ‘Prof threatens court action’ *Daily News* 30 June 2006.

35 Robert Morrell, email interview with the authors, 7 July 2010.

36 Case 7939/2006 in the High Court of South Africa, Durban and Coast Local Division between Robert Morrell (plaintiff) and Malegapuru Makgoba (first defendant) and University of KwaZulu-Natal (second defendant), 15 September 2006.

on broader proportions when the dean of Education, Renuka Vithal, proposed at the Senate meeting of 4 October a code of ethics. Among other measures there was one to prevent Senate documents being discussed with journalists. It was suggested that academics needed guiding in such matters, clearly a means to 'suppress dissent and to punish those it deems to be out of line'<sup>37</sup> and a clear threat in our minds to academic freedom and the general right to expression. An overall trend was very clear: a stage-managed process of policy making using a series of rubber-stamping forums hidden from both public and wider university view, a true fiefdom approach to higher education management.

In the next chapter various lurid events, including a falling out among presumed allies within a managerial class more appropriate to a soap opera than a university, are described. They handily illustrate what we regard as the abuse of an institution derived from a culture of impunity and entitlement adopted by the new power elite. Meanwhile, academics trying, vainly as it would turn out, in a transparent manner to maintain standards of academic and administrative integrity were denounced for bringing the institution into disrepute.

Accompanying these sagas there were sinister developments among the student body. One example will suffice. In mid-September 2006 on the Edgewood campus a lecturer was targeted by demonstrators and his lecture disrupted. Those involved were breaking the law under the Regulation of Gatherings Act and their chanting in Zulu about war was perceived as threatening. Risk Management Services staff did little to control the situation and the lecturer had to be escorted off the campus by the police. The Department of Employee Relations sent a letter advising him to stay away for his own safety and he remained at home for months while the situation was supposedly under investigation. His right to pursue his career had been interrupted by mob rule, by persons conveniently unknown. The whole incident was cloaked in relative secrecy and stood in stark contrast to the Executive's zealous pursuit of staff it saw as problematic because of their individualism. That same body was clearly terrified of confronting students who had abused a member of the lecturing staff verbally and threatened violence. This symbolised an end to the rule of law at UKZN. Aiding and abetting this process were ongoing claims of racism. The dean of Education, later to become a member of the Executive, was one of the accusers, opting to present no convincing evidence but claiming that she could feel it around her.<sup>38</sup>

In such an atmosphere, institutional decay accelerated.

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37 John van den Berg to Senate members, email, 22 September 2006.

38 *Natal Mercury* 29 September 2006.



# The UKZN gulag

*The result is a Soviet gulag mentality, where no comments are made, nothing new is ventured and no new ideas are proffered in case they are considered to be subversive or warranting punishment. This degrades the academic functioning of any university.<sup>1</sup>*

MANY UNIVERSITY OF KWAZULU-NATAL academics continued to achieve high academic productivity despite the growing authoritarian attitude and behaviour of management. Management often used the international standing and productivity of its scholars as evidence of the success of its policies. Consequently, academics felt used. A huge chasm developed between the academic sector and management as academics were consulted less and less on matters that related to the running of the university. It called into question who and what constituted the institution and in time something had to give. There was already a steady exodus of quality academics from UKZN and many other South African universities were the beneficiaries. The real impact of this era at UKZN will be felt many years into the future.

## **The Soviet gulag**

The Soviet Union was full of contradictions, but it took more than 70 years to realise its full-scale collapse. The system suppressed basic human instincts to compete and excel on an open and fair terrain. It failed in the end in part because its citizens did not feel free despite the egalitarian doctrine of socialism espoused by its leaders. In pursuing a classless society, the Soviets created in a grave contradiction one of the most class-based societies of the modern era.

It was important for propaganda purposes for the Soviet masters to trumpet their successes and sympathisers benefited enormously from the system. Under these circumstances, mediocrity triumphed. In the 1930s, for example, Trofim Lysenko developed his pseudo-science of biology, which became known as Lysenkoism, and this caught the attention of the propagandists. Lysenko was appointed

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<sup>1</sup> Faculty of Science and Agriculture document on academic freedom, 2007.

leader of the Academy of Agricultural Sciences, where he subsequently ordered the persecution of researchers who subscribed to Western scientific methods. This resulted in widespread imprisonment and even the death of hundreds of Soviet scientists.

On the sports field, excellence was very often achieved through questionable means, for example by way of drug-enhanced performances. This enabled the Soviets to express their continued prowess and dominance in the world for so long. The race into space that reached incredible heights in the 1960s and the subsequent proliferation of nuclear armaments are also worth recounting. Soviet leaders chose to direct their intellectual capital and limited financial resources to these activities at the expense of building basic infrastructure and protecting the environment.

However, despite their dire circumstances, many Soviet scientists excelled. They sought solace in work as a diversion from the harsh realities of their world and buried themselves in their academic lives. It was, in the end, a matter of survival. They succeeded despite the system, not because of it, but the Soviet propagandists were quick to pounce on this as evidence of their own superiority.

Those who rebelled were treated harshly. House arrests, as meted out to the human rights activist and physicist Andrei Sakharov; banishment, often to Siberia; and exile were commonplace. Many were murdered or died in cruel detention camps. Of course, Stalin is especially known for his infamous show trials and subsequent purges, often of those working closest with him.

What does this have to do with UKZN? There are several points to dwell upon. To start, the UKZN Faculty of Science and Agriculture document on academic freedom accepted by the faculty board in 2007 made a direct comparison with the Soviet gulag: 'Academics are being harassed and threatened with litigation on a continual basis. These threats result in widespread self-censorship by academics and university staff to avoid possible harassment. The result is a Soviet gulag mentality.'<sup>2</sup> The largest and most active research faculty at UKZN had drawn a direct comparison with Stalin's regime.

Second, there was some evidence to suggest that academics sympathetic to the regime benefited preferentially and that this could grow in future because of the systematic erosion of academic decision-making structures within the institution. It was noticeable that sympathisers rapidly climbed up the corporate ladder, helping to creating an impression of an almost impenetrable ceiling.

2 Faculty of Science and Agriculture document on academic freedom, 2007.

Third, undue attention was given to what seemed to be politically correct endeavours. For example in an extraordinary university-sanctioned event on 27 February 2008, a cow and a goat were slaughtered in a cleansing ceremony on the Howard College sports fields, with the involvement of Isaac Young, the United States consul-general, Nceba Gqaleni, Department of Science and Technology/ National Research Foundation (NRF) chair of indigenous health care systems research and spokesman for the UKZN Black African Academic Forum (BAAF), and William Folk from the University of Missouri. The university announced that ‘The Cow Exchange Ceremony is a firm commitment of the participating universities to deepen their partnership with traditional healers. It is also a visible demonstration of UKZN’s vision of promoting African Scholarship’.<sup>3</sup> This sent shivers through some sections of the academic community who felt this was anti-intellectual activity not befitting a university.

Fourth, there was ample evidence to suggest that excellent academic work elsewhere in the institution was degraded for nefarious reasons, especially in cases where academics had not toed the official line. For example, the Centre for Civil Society (CCS) was continually threatened with closure. Patrick Bond, an incisive critic of the corporatist university, CCS director and one of the leading researchers in the institution, brought in substantial research funds. The names of Ashwin Desai, banned from the university, and Fazel Khan, dismissed by it, were also closely associated with the CCS. Later, the gender studies programme came under fire. Many activists there were publicly critical of the university Executive and agitated against gender-based violence and what they perceived to be racism at the institution. Academics such as Lubna Nadvi and Catherine Burns were harassed for their activism.

The destruction spilt onto the sports field. The University of Natal had been a great development ground for cricket, rugby and hockey, all traditionally white sports. For instance, Graeme Ford, past coach of the national cricket team and current coach of Sri Lanka, came through these ranks; and so, too, did Jonty Rhodes, Shaun Pollock and many others. However, for the past decade, these sport codes have been severely degraded and under-resourced at UKZN. Today, it is not expected that UKZN will provide talent for the provincial and national teams. Fortunately, there still remain strong high school and club systems of sport in the province that ensure provincial teams such as the Dolphins and the Sharks continue to have access to home-grown talent and the professional era of sport has helped sustain this development. At one point, an ex-Bafana Bafana<sup>4</sup>

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3 University electronic notice, 15 February 2008.

4 National soccer team.

player, rumoured to having been paid handsomely, was brought in to assist in the coaching of soccer at UKZN, but unfortunately, soccer still languishes in the doldrums at the institution.

At the end of the century's first decade there were about 150 NRF-rated researchers at UKZN, with four A-rated scientists.<sup>5</sup> The vast majority of academics are hard working, dutiful, committed and productive; and they contribute to all aspects of academic life, including teaching, research, community involvement and academic administration. But more and more they were drawn into remedial work to assist poorly prepared students. They made the university tick despite the high levels of administrative dysfunction and apparent race-based onslaught they had to endure on a daily basis. There remains a lot more goodwill among UKZN academics towards change and addressing the inequities of the past than is openly acknowledged by university management. Instead, many academics, with productivity clear for all to see, were viewed with suspicion because of their race and ethnicity. This strife resulted in much unhappiness and depression among academics and had the desired effect of silencing opposition.

University management often trumpeted the substantial international grants awarded for tuberculosis and HIV-related research at the Medical School. This helped assuage questions raised within Council and national government about autocratic management style. It is fair to say that UKZN benefited directly from the HIV/Aids pandemic in the province of KwaZulu-Natal, which over sustained periods of time has seen world record infection rates. The large foreign investment in the realm of HIV/Aids research is therefore not surprising and hardly serves as justification for a strong-arm management style. However, the Council Governance and Academic Freedom Committee noted differently: 'This major investment demonstrates the enormous confidence in the leadership and governance of the University as it continues to advance knowledge through globally competitive teaching, learning, scholarship, research, innovation and academic freedom.'<sup>6</sup> This begs the questions: who constitutes the university and who should take credit for its academic successes? Is it management or the academics doing the work? And does it really matter?

In a normal university, it should not matter, especially if all sectors within it are pulling in the same direction to pursue excellence in every facet of academic life. But UKZN is anything but normal and while it rides on recent successes,

5 Council Governance and Academic Freedom Task Team Report, 2009. These numbers have dwindled due to resignations since 2009.

6 Council Governance and Academic Freedom Task Team Report, 2009.

there is little to suggest that the future is bright. Productive academics bury their heads in academic pursuits as a diversion from their grim reality. Those who can leave do so, or have left already. Academics approaching retirement bide their time and watch their pensions.

One of the great contradictions of social engineering at UKZN is that in claiming to strive for a non-racial ideal, racial tensions have been greatly exacerbated and racial division and discord sown. Rhetoric has been used to address what were seen as racial inequities within the institution. Racist agendas were seen under every bed and linked especially to constructive criticism and advice. Racism in South Africa has been portrayed as a white phenomenon and yet fails to account for all hostile utterances. Open season was declared on so-called liberal white males; and whites and Indians were generally quickly blamed for a lack of transformation.

## **Medical School**

At the Medical School, an anachronism during the apartheid years as a blacks-only faculty within a whites-only university, the agenda constituted a witch hunt, what seemed to us to be a racial purge of the faculty's Indian academics. From 2005 to 2008, senior and productive people like Barry Kistnasamy, the former dean of the faculty, were among 13 Indian academics hauled through a disciplinary process based on trumped-up charges of racism. None of the charges was found to stick after a long and acrimonious legal battle that cost many of the defendants hundreds of thousands of rands and their careers. The initial investigation was rather oddly done by the auditing company Deloitte, which is more familiar with investigating businesses than academic institutions.

During the disciplinary inquiry, chaired by Mike Cowling, a UKZN law professor, just one of the accused was found guilty. This was for a very minor offence of insubordination, which absurdly arose because the individual felt aggrieved at being dragged through the process in the first place. After being exonerated of the charges, another one of the persecuted academics tried to seek an apology and financial compensation from the university for the costs that he incurred, but he soon ran out of funds. Some of the academics defended themselves on the technical grounds that the university did not have jurisdiction over them since they were also employed by the provincial department of health. The university later closed this loophole by signing a more binding agreement with the province regarding dual appointments; but not before an Executive member asserted that the academics who stood trial should have defended

themselves against the charges of racism rather than resort to technicalities. They were apparently honour-bound to defend themselves against empty and despicable charges. Of course, the university had considerable financial resources to draw upon in prosecuting this case, whereas the individuals concerned had to pay their own legal fees.

In defending his actions against Medical School academics, the vice-chancellor stated that 'We will continue to be vigilant against any form of racism and misconduct. We encourage students and staff to bring such incidents to our attention, in order that we can deal with them. We do not believe that this is the end of any such problems or that we have decisively dealt with racism. We have only done what we could to show that we take seriously the complaints of students and staff.'<sup>7</sup> There were palpable feelings that a witch hunt was under way.

This trial was viewed by many as a total abomination and sowed deep racial mistrust. The fallout was immense: morale sank at the Medical School and many quality Indian academics left. The standard of the medical degree took a nosedive and is not as revered as it was during the apartheid past, yet another irony of the new era. Senior and influential academics like Salim Karim appeared to do little to stem this onslaught, whilst others such as Hoosen (Jerry) Coovadia, with a lifetime of commitment to justice and democracy, were sidelined.

Perennial problems at the Medical School can be ascribed to racial politicisation that disadvantaged Indian staff; affirmative action and quotas; and a particularly militant student representative council that strayed far from the principled battle many of its predecessors fought during the years of Steven Biko, Coovadia and Ahmed Bawa in the heyday of the South African Students Organisation and the Black Consciousness Movement.<sup>8</sup> A 60-year battle to raise the quality of science and medicine at the Medical School was sacrificed on the altar of affirmative action and race-based politics. It might not recover from this. The story of the Medical School is long, difficult and sorry but also illustrious. It deserves a book of its own.

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7 Report of the Vice-Chancellor, 27 October 2006.

8 The prosecution of SASO officials following the pro-Frelimo rally of 25 September 1974 at Currie's Fountain in Durban became in effect a trial of Black Consciousness philosophy. Giving evidence for the defence were Steve Biko and Rick Turner, both of whom had strong links with the University of Natal and its Medical School (*Survey of Race Relations* 1976: 130–2).



## Commissions of inquiry

After the merger, a horrific pattern of costly litigation developed within UKZN, with commission after commission and investigation after investigation. Many of these matters could easily have been handled within university systems using in-house personnel, and in less confrontational and less destructive ways. To list only a few: the Myburgh commission (alleged irregularities in the School of Accountancy); the Deloitte investigation (alleged racism at Medical School);<sup>9</sup> the Gautschi board of inquiry (issues around Evan Mantzaris and problems within corporate communications);<sup>10</sup> the Magid commission (the Kanthan Pillay and Pumla Msweli-Mbanga affair and allegations of sexual harassment against the chair of Council and the vice-chancellor);<sup>11</sup> the Bawa report (Kanthan Pillay's ill-fated MCom. degree);<sup>12</sup> the Senate ad hoc committee (reasons behind the 2006 strike action);<sup>13</sup> the joint management and union

9 Eleven staff members were dragged through a disciplinary process with allegations of racism, all of which were found to be baseless.

10 As a result, Mantzaris was suspended and eventually signed an agreement for early retirement.

11 Subsequently Pillay and Msweli-Mbanga left UKZN.

12 As a result Pillay's degree was withdrawn.

13 A number of proposals were made to strengthen UKZN academic structures, but many were not implemented.

task team on governance (the 2006 strike);<sup>14</sup> the joint management and union task team on finance (again the aftermath of the strike);<sup>15</sup> the Christine Qunta verdict (Fazel Khan's disciplinary hearing);<sup>16</sup> and the Dumisa Ntsebeza inquiry (the John van den Berg and Nithaya Chetty issue)<sup>17</sup> – the list goes on. The vice-chancellor defended his decisions to use outside counsel by claiming that divisions between the former universities of Natal and Durban-Westville would prejudice findings. It was convenient to present the university as being finely balanced between competing forces with the vice-chancellor as arbiter. The costs of these cases reached tens of millions of rands and untold misery in human terms. But this has not seemed to bother Council, even while the institution faced serious financial deficits.

A haphazard trend appeared to emerge. When a problem arose the following strategies were employed:

- call for an investigation that could be helpful in stalling an issue, as was the case with the three separate investigations following the strike action in 2006;
- seek senior counsel's opinion on the outcomes of a wide-ranging democratic process when the analysis is uncomfortable, as with the joint management and union task team on governance;
- accept and publicise those outcomes that are palatable to the administration, as in the Fazel Khan case;
- don't release information when the results are not convenient or even embarrassing for management as was seen with Dasarath Chetty's failed defamation case against Jimi Adesina;
- selectively release information to the press when this is convenient, as was the case with the Sibusiso Bhengu-Fatima Meer report on the Kanthan Pillay/Msweli Mbanga matter;
- apply pressure and spread innuendo: in the case involving John van den Berg and Nithaya Chetty, for example, the vice-chancellor attacked their scholarly credentials at the Senate meeting of 27 February 2008;
- get a public apology in return for security in retirement, as happened in the separate cases of Evan Mantzaris and Mike Cowling; and so on.

An emerging theme appears to us to be the narcissistic and manipulative way

14 Proposals were made to improve working conditions, but implementation was patchy.

15 Improvements to financial systems were proposed.

16 Khan was forced to leave UKZN as a result.

17 As a result Van den Berg signed an agreement that allowed him to remain at UKZN while Chetty resigned.



of the powerful, helped along very efficiently by the employee relations office. It was often said that many Durban lawyers were laughing all the way to the bank because of the litigious and poisonous environment of UKZN.

### **Publicity and propaganda**

What is a gulag without a successful publicity and propaganda campaign? Here the vice-chancellor was supported by Dasarath Chetty, Deanne Collins and others. The annual budget for the public relations department exceeded R10-million at a time when the university was experiencing dire financial difficulties. Chetty's portfolio increased dramatically after his failed defamation case against Adesina. From executive director of publicity and communications, he rose to the position of pro vice-chancellor, a move that many interpreted as consolation for the failed defamation case.

Chetty seems to have had a strong desire to be photographed. His boardroom was adorned with grand pictures and many UKZN publications came replete with multiple pictures of him. With international relations drawn into his new set of responsibilities, Chetty catalogued his travels by publishing pictures of himself in various places in university publications over which he had editorial responsibility. Embarrassing self-aggrandisement appeared to be a prominent part of the new institutional culture.

For several years, the university routinely scooped multiple awards for marketing and communications from an organisation called Unitech. There were no fewer than eleven awards in 2006, including the golden award for the vice-chancellor. However, not many at UKZN seemed to know much about how their independent panel came to make decisions.

Following the incredulously successful 2006 awards ceremony, Chetty congratulated Makgoba for achieving the golden award, saying that

the Vice-Chancellor has empowered public affairs and corporate communications to set best practices and benchmarks in marketing and enhancing awareness of the UKZN brand. Unitech has provided us with a platform to assess and evaluate our work in relation to our peers in higher education, and thereby constantly raising the profile of marketing and strategic communication in this sector. These awards are an incentive to produce excellent work.<sup>18</sup>

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18 *UKZN in Touch* December 2006

In 2007, a few academics including Keyan Tomaselli were invited by Advocate Johann Gautschi to put forward proposals about how Dasarath Chetty's marketing, publicity and communications portfolio could be improved. For a brief while after the commission's second report was submitted to Council there were attempts by the publicity department to be more measured in its approach to public statements and in communications with the academic body. For example, editorial boards were proposed. Strangely, this report was not widely distributed or discussed within the university. Before long, old habits took root again.

The purges (as we see them) of the UKZN Executive were clinical. Although Makgoba was granted a second term of office as vice-chancellor, most of his close associates were not as successful. Dasarath Chetty applied for a second term in 2009, but was shown the door. Sooner or later, there is usually a fallout between those working within an authoritarian system. It later came to light that a book on the birth of UKZN edited by Malegapuru Makgoba and John Mubangizi omitted Dasarath Chetty as an editor; yet Chetty claimed that he was involved in the project and included as an editor in earlier draft versions.<sup>19</sup>

### **The case of Pillay and Msweli-Mbanga**

In late November 2006, Pumla Msweli-Mbanga dropped a bombshell on the university by lodging a grievance against Makgoba and the chair of Council, Vincent Maphai, for sexual harassment. Makgoba, it was claimed, grew antagonistic toward Msweli-Mbanga and undermined her as dean and acting deputy vice-chancellor of the College of Law and Management Studies after she scorned him. This followed on the heels of the Bawa report, which concluded that the awarding of Kanthan Pillay's MCom. degree was flawed because it was not supported by both external examiners. Pillay was the chief financial officer of UKZN and Msweli-Mbanga his supervisor. Pillay's thesis was entitled 'South Africa versus East Central Europe: a multivariate analysis of tax systems' and Msweli-Mbanga, with the apparent support of deputy dean, Dev Tewari, had allegedly overruled the examiners. Msweli-Mbanga blamed the exposure of this issue on conspirators, which was becoming another common accusation in the university: 'I firmly believe that these conspirators are using the media to bring into disrepute academics who have a steadfast track record based on integrity.' The examiners seemed, however, to hold another view. Elizabeth Stack of Rhodes University (the other examiner was Maeve Kolitz of the University of the Witwatersrand) criticised the thesis for poor use of English, erratic referencing, absence of editing and proofreading and general

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19 *The Creation of the University of KwaZulu-Natal: Reflections on a Merger and Transformation Experience* edited by M.W. Makgoba and J.C. Mubangizi (New Delhi: Excel Books, 2010).

lack of purpose. Her verdict was that the thesis was beyond redemption. Deputy vice-chancellor Ahmed Bawa was appointed to head an enquiry.<sup>20</sup>

The drama was heightened when it was revealed that Pillay and Msweli-Mbanga had had an intimate relationship. A disciplinary process was instituted against academics from the faculty of Management Studies who were associated with the awarding of Pillay's degree. Msweli-Mbanga, feeling that her job application for the position of deputy vice-chancellor and head of college was being interfered with, subsequently resigned from UKZN when she was offered a position at the University of Johannesburg. But she then claimed that her offer there was being prejudiced and asked that Council revoke her resignation while these issues were being addressed. And so began a very messy period in the history of the fledgling UKZN, which saw both the vice-chancellor and the chair of Council take leave of absence while these matters were resolved. Fikile Mazibuko, deputy vice-chancellor and head of the college of Human and Social Sciences, was selected as acting vice-chancellor. UKZN began to look like a circus.

This saga was punctuated by strategic leaks to the media of key documents and communications. In some instances, reports commissioned by Council first appeared in the papers even before being communicated to its members. It was a shoddy, drawn-out affair. An issue arose when the Council committee chaired by Mac Mia (Council vice-chair) looking into this matter presented its report to Senate's higher degrees committee considering the fate of Pillay's MCom. degree before Council had sight of the report. This was viewed by a section within Council as being severely problematic, even though it was within the ambit of Senate to adjudicate on Pillay's degree, an essentially academic matter.

Council was divided during the Msweli-Mbanga and Pillay crisis. The student representatives on Council, Sandile Phakathi (SRC general secretary) and Mdumiseni Ntuli (SRC president) came out guns blazing and in strong support of Msweli-Mbanga and Pillay, with councillors Comfort Ntuli, Sandile Ngcobo and Andre Young closely in support. They called for a special sitting of Council, which was held on 27 November 2006. Much later, it came to light that a surreptitious gathering was held the night before this meeting involving a selection of councillors, including some of the main protagonists in this episode, to devise a strategy.

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20 B. Mthethwa, 'UKZN probes awarding of degree to top executive' *Sunday Times* 1 October 2006.

Council instituted a tribunal with Judge Alan Magid as chair, supported by Thandi Orellyn and Christina Murray, to investigate the allegations of sexual harassment and victimisation; and also matters related to the MCom. degree. Many academics were incensed that Council had now subsumed the role of Senate over academic matters. A group of academics petitioned the registrar to hold a special meeting of Senate to re-affirm Senate's role as the body tasked with overseeing the academic functioning of the institution, and asked that the Senate sub-committee on higher degrees, examinations and procedures report to Senate on all aspects related to the awarding of the MCom. degree and its subsequent revoking. Mia was summoned to Senate to explain Council's apparent usurping of its rights to organise and control teaching, examinations and research; and determine the standard of proficiency of any university qualification.<sup>21</sup> The last ordinary meeting of Council for 2006 took place on 11 December. It was curious that a number of councillors insisted on going to the annual Christmas dinner at the expense of the university, after a rushed meeting, while the institution lay in crisis.

The academic authority of Senate was at stake and Makgoba clearly appreciated the leading role that Nithaya Chetty played during this crisis in standing up for it. Makgoba wrote to him in January 2007 after Magid completed his report (leaked to *City Press* before councillors had sight of it), which essentially exonerated Makgoba and Maphai, stating that 'I shall continue to need and value your advice. Your support has been an inspiration to me.'<sup>22</sup>

At about the same time, Maphai expressed gratitude to Chetty by saying that 'There was a time I had given up any hope of saving our great institution from the decay it was beginning to experience. But people of integrity like yourself went an extra mile to rise to the challenge when this was required, and did so relentlessly. Thank you so much. I am proud to call myself your colleague and to work with you ... I hope to benefit from your wisdom on how to proceed further.'<sup>23</sup>

Chetty fought for the integrity of Senate. The fact that Makgoba was exonerated through this process was immaterial and irrelevant, but this point seemed entirely lost. Makgoba emotionally hugged Chetty the next time they saw each other in January 2007. But barely half a year later, Makgoba and Chetty would clash over a different matter related to academic freedom and the integrity of Senate.

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21 Sections 21.2a and 21.2d of the institutional statute.

22 Malegapuru Makgoba to Nithaya Chetty, email, 17 January 2007.

23 Vincent Maphai to Nithaya Chetty, email, 29 January 2007.

# In the court of national and international opinion

*UKZN is committing suicide. It is losing its way and the respect of academics and institutions across South Africa and the rest of the world.<sup>1</sup>*

DURING LATE 2008 there was a surge in international public condemnation of the autocratic actions of the management of the University of KwaZulu-Natal. While the effect of this outpouring of criticism was like water off a duck's back, vice-chancellor Malegapuru Makgoba's public utterances in response did provide valuable insights. These help to provide clues to the short and puzzling history of the merged university.

## *South African Journal of Science*

The May 2009 edition of the *South African Journal of Science (SAJS)* carried an editorial on UKZN. This was significant. Issues of academic freedom that had afflicted the university over recent years had now entered the mainstream of science, a domain not always known for its liberal and social leanings. The editor of the *SAJS* recognised UKZN as 'one of the country's largest residential universities ... a national asset, but one of particularly crucial importance in the future development of the province of KwaZulu-Natal'. The editorial went on to lament that:

recent events at the university are a source of grave concern. Following several incidents, including a major strike by staff in 2006, last year each faculty was invited by management to make submissions on academic freedom at the institution ... But the vice-chancellor at two successive meetings refused to allow the document to serve at the university's senate ... this despite senate passing a motion specifically demanding that it be tabled. As a last resort, two of the authors of the report [John van den Berg and Nithaya Chetty] then discussed its contents with the media, and were immediately faced with disciplinary proceedings.<sup>2</sup>

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1 David Szanton to Mac Mia, 24 November 2008.

2 'Higher education transformation ... and the University of KwaZulu-Natal?' *South African Journal of Science* 105(5/6) May/June 2009: 162.

The editorial explained that it was no surprise that the Council committee<sup>3</sup> tasked with investigating this matter found no wrong-doing on the part of the vice-chancellor and noted, somewhat incredulously, that the three Senate representatives who served on this Council committee were appointed by the Council rather than elected by Senate. ‘The committee has largely ignored submissions relating to factual incidents of suppression of academic freedom in favour of an implausible conspiracy theory, for which they provide no substantive evidence, that the vice-chancellor is being unfairly portrayed as authoritarian by opponents of transformative change at the university.’

Whether a faculty document does or does not appear on the Senate agenda of any university would ordinarily be a mundane matter. It is not one that should catch the attention of what is arguably South Africa’s premier science journal, published by the Academy of Science of South Africa and attracting contributions from the country’s top scientists across all disciplines. Nor would the composition of any Council committee and the manner in which it is constituted be of interest to such a wide readership within the science community, if it were not for the alarm bells that the sorry case of UKZN had sent over a sustained period to all corners of the country as well as internationally. There had developed deep concern about what the failure of UKZN meant for the university system in the rest of South Africa: ‘this bleating cry could be dismissed as merely puerile were it not becoming alarmingly familiar.’

The *SAJS* editorial went on to mention the recent case of Paul Ngobeni, a deputy registrar at the University of Cape Town (UCT), who reached an agreement to leave his institution following a very public row with members of the law faculty over charges laid by the Constitutional Court against Judge John Hlophe. As a parting shot, Ngobeni labelled his former colleagues racist and claimed that vice-chancellor Max Price was not fit to lead UCT through transformation. ‘Such utterances are sadly not the harbinger of a society free of racial prejudice, but in particular they have no place in an environment dedicated to the pursuit of scholarship.’<sup>4</sup> This type of racist discourse had already become commonplace at UKZN, the stock refrain from some quarters when questions were raised about academic freedom and good governance.

### **Freedom of Expression Institute, SANEF and COSATU**

The issues that related to John van den Berg and Nithaya Chetty during the two-year period from May 2007 to May 2009 are presented in detail in the next

3 Council Governance and Academic Freedom Committee.

4 ‘Higher education transformation ... and the University of KwaZulu-Natal?': 162.

chapter. They were symptomatic of the deep fractures and failures of the UKZN Senate and caught the attention of a wide body of academics and organisations in South Africa and overseas. In early November 2008, the director of the Freedom of Expression Institute (FXI), Jane Duncan, expressed distress at UKZN's decision to institute disciplinary proceedings against Van den Berg and Chetty. The proceedings related to statements in the media critical of the conduct of Makgoba. This led to charges that the academics failed to exercise due care in communicating with the media, had released confidential Senate information, and had acted with dishonesty and/or gross negligence in claiming that Makgoba had no right to keep an item off the Senate agenda.

Significantly, the FXI saw this as a human rights issue and pointed out that there were less confrontational ways of dealing with disagreements, particularly in a university: 'While the FXI respects the right of the University to institute disciplinary proceedings against its staff, such proceedings should be instituted with due regard to their basic human rights, including their right to freedom of expression.' The FXI also noted that university management had recourse to the Press Ombudsman if it did indeed feel aggrieved by the negative press coverage.<sup>5</sup>

As will be seen in the next chapter, the UKZN Senate discussion on academic freedom, which failed so spectacularly, flowed from processes initiated by the Council on Higher Education task team on Higher Education, Institutional Autonomy and Academic Freedom (HEIAAF) that worked from 2006 to 2008 under the chairpersonship of the former president of the National Research Foundation, Khotso Mokhele.<sup>6</sup> The FXI referred to the reports of the HEIAAF, claiming that 'the disciplinaries fly in the face of the recommendations'. The authors of the report argue that if academic freedom is to be realised, higher education institutions must 'protect the freedom of expression of academics ... from undue sanction by their own institution'. The irony of a Senate discussion on academic freedom failing at UKZN is inescapable and points to the bizarre nature of this case.

The FXI had, over the years, paid close attention to growing acts of authoritarianism at UKZN and from time to time made public statements, assisted individuals under threat of sanction and provided help and support, especially legal advice. There had been a litany of cases at the university that involved academics being harassed and punished for their public criticism of the

5 Freedom of Expression Institute, 'FXI distressed by disciplinary action against two UKZN professors', 7 November 2008.

6 <http://www.che.ac.za/>

institution. The FXI pointed to the obvious: ‘Academics should be encouraged to play a public intellectual role, not punished for it.’ It saw this as a vital part of their jobs, and went on to state that ‘it is difficult not to read the charge that they failed to exercise “due care” in communicating with the media as code for failing to practice [sic] self-censorship in their criticisms of Makgoba.’

The FXI was endorsing the accepted norm that academics should be free to comment on any matter in the public interest without fear of retribution and without having to seek approval from university managers. Confidentiality within a university setting is anathema and should be restricted to very specific issues, such as some human resource matters. The default situation should be greater exchange of information, opinion and ideas, not less. In an incisive reference, the FXI showed just how far behind democratic norms UKZN had plummeted: the Constitutional Court had recently recognised the right of soldiers to criticise their employers in the South African National Defence Force.

The Senate is the highest authority available to reflect the voice of university academics. Of course, trade unionists might have a different view about this, especially on human resource matters. But on academic issues, it is clear that a properly functioning Senate is the basis for a free academic voice. Equally, a dysfunctional Senate, or one that is manipulated by extraneous and political forces, reflects an environment where academic freedom is weakened. Duncan, somewhat controversially, claims that the ‘Senate is an organ of state, and is therefore bound by the constitutional requirements of openness and transparency’ and confirms that confidentiality should be the exception applying only in ‘compelling situations’. Senate acts as the parliament of the university where ‘mandated representatives of different academic stakeholders can air their concerns’. Senate can only function in a free environment where senators can speak without fear of incrimination: ‘If free speech becomes impossible within Senate, it becomes impossible within the university as a whole, and academics will be reduced to the level of scribblers or hacks.’

The FXI drew a relevant connection with the free press, the mainstay of any democratic state, which should have easy access to primary sources of information. It is in the interests of democracy that the media is not forced to act clandestinely in reporting on events that are in the public interest: ‘The cumulative effect of these disciplinarys may be that employees stop speaking to the media, sources will dry up, and the media’s ability to report on pressing issues of public concern will be frustrated.’ This is indeed what transpired: UKZN staff now rarely engage with the media on any topic even if it is central to their academic work.



This point was also taken up by the South African National Editors' Forum (SANEF). In mid-November 2008, it expressed 'concern at the growing cult among institutions to try to curb freedom of expression by instituting disciplinary action against employees for criticising conditions at those institutions'.<sup>7</sup> The use of the word cult was highly appropriate to UKZN where, in some quarters, Makgoba appeared to have taken on a larger-than-life persona, revered by some staff and students who seemed to support him unquestioningly. Under these circumstances it was tempting to play the race card whenever the opportunity presented itself. This had the salutary effect of silencing people. Some unquestioning opportunists subsequently climbed the corporate ladder. And of course, there was the silent majority, all too fearful to peek above the proverbial parapet lest they be victimised. A climate of fear had an extraordinary effect; but without detracting from the very real threat that this posed, it is not possible to overlook the complicity that comes with silence.

The leading trade union federation, the Congress of South African Trade Unions (COSATU), also entered the fray. Its spokesperson, Patrick Craven, issued a statement 'on the unfair treatment of UKZN academics' explaining that COSATU 'reaffirms its commitment to the constitutionally enshrined principle of the right to freedom of expression, which applies to all South Africans, including those at tertiary educational institutions'.<sup>8</sup> This was a slap in the face for UKZN management: a university, as a bastion of democracy, should lead society in safeguarding democratic principles such as free expression, reminding society of its importance, and not the other way around as the COSATU statement illustrates. The notion of civil society urging a university to adhere to academic openness is not commonplace in the free world. Craven said that '[this] unfortunately raises legitimate fears that the university is attacking free speech and employees' rights' and went on to offer its services to help mediate a resolution to the dispute. By the time the COSATU statement was released, a settlement had already been reached between UKZN and John van den Berg; and Nithaya Chetty had resigned to take up a position at the University of Pretoria. So COSATU's magnanimous offer could not be taken up.

### **Other South African reactions**

Three weeks earlier, Alan Mabin, chair of the Wits Academic Freedom Committee, had also written to the chair of the UKZN Council informing him of its concerns. 'In order for the country as whole to thrive, we require world-class

7 *The Witness* 12 November 2008.

8 COSATU statement, 12 December 2008.

universities which can feed the economy and society with intellectual energy and innovation. Academic freedom sits at the very heart of this project since it is critical to innovation and excellence.<sup>9</sup> Crucially, the Wits statement connected free intellectual thought with excellence in scholarship. ‘An environment in which debate about the very nature and course of academic freedom is stifled, cannot be one in which scholarship flourishes.’ This view contrasted starkly with the prevailing attitude of managers at UKZN, who viewed academic freedom exclusively in terms of the narrow freedoms to teach and pursue research. Freedom of expression was somehow considered to exist outside this realm, leaving matters related to the running of the university to its self-styled bosses. The importance of academic rule as an essential part of academic freedom was either not readily understood or was conveniently misunderstood.

UKZN academics were meant to work in silos with their enquiring minds shackled to their immediate, discipline-specific work. From this viewpoint, it can easily be seen why Senate was regarded as a hindrance by management, a kind of irritation that would be wished away were it not for the fact that it is bound up with international practice. At UKZN, there was a preoccupation with maintaining international standing – much was said about the university’s Shanghai ranking, for example – whilst undermining many other aspects of academic life assumed by international norms. Such is the grave dilemma for those who endeavour to build something uniquely African by rebelling against everything deemed to be un-African. This mindset is parochial, of course, and has at its root the re-invention of the university. This is a recipe for catastrophe, resulting in enormous inconsistencies. After all, what is accepted from the European world – and what isn’t – is purely subjective and whimsical, in this case made all the more ironic by a vice-chancellor educated at Oxford.

The Wits letter referred to the cancelled faculty board meeting called to discuss the charges against Van den Berg and Chetty. This was a legally constituted special meeting of the Faculty of Science and Agriculture to be held on 11 November 2008, banned by the university authorities on the nebulous grounds that it interfered with the disciplinary process already under way. This was yet another attack on a constitutional right of academics to freedom of association.

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9 Alan Mabin to Mac Mia, 25 November 2008. The letter was signed by the following 27 Wits staff: Alan Mabin, Gillian Eagle, Conrad Mueller, Wesahl Domingo, Peter Delius, Adesola Ilemobade, David Coplan, Alan Rothberg, Isabel Hofmeyr, Anitra Nettleton, Marie Huchzermeyer, Gerrit Olivier, Mary Scholes, Belinda Bozzoli, Norman Duncan, François Viruly, Edward Moss, Aubrey Blecher, Barry Dwolatzky, Leon de Kock, Colin Richards, Ken Nixon, Ian Jandrell, Jane Taylor, Adele Underhay, Philip Bonner and Hilary Janks.

UKZN management had indeed seen fit to ban meetings, as the Robert Morrell and Assagay 13 affair showed. It later turned out that Chetty was also initially banned from participating in a seminar hosted by the Centre for Civil Society (CSS), jointly chaired by Morrell and Denis Brutus on 10 December 2008, until the FXI intervened. When confronted by the FXI, an about turn was engineered by conveniently blaming deputy vice-chancellor Peter Zacharias for the banning. In a bizarre twist of events, Chetty was then banned from hosting his own farewell function on university premises in Pietermaritzburg on 12 December. It had to be moved to the nearby Epworth School at very short notice.

The Rhodes University Academic Freedom Committee chair, Brenda Schmahmann, also released a statement in support of Van den Berg and Chetty on 18 November 2008. It is noteworthy that in South Africa, academic freedom committees currently exist only at the universities of Cape Town and Wits and at Rhodes. As noted in chapter 2, the last meeting of the University of Natal Academic Freedom Committee took place on 19 March 2002 and the merged UKZN saw no need for such a committee. The doomed Faculty of Science and Agriculture document on academic freedom, which failed to see the light of day at Senate, had proposed, among other recommendations, that UKZN should establish one, but at the time of writing this remains unfulfilled.

*The Witness* ran an editorial in support of Van den Berg and Chetty on 31 October, concluding that ‘UKZN has plumbed the depths: the charges brought against professors Nithaya Chetty and John van den Berg are a travesty. The fact that they are being pursued at such enormous expense, and without organised protest, shows that academic freedom at the local campus is, for the moment, dead. Soon it may be buried.’<sup>10</sup> It proved very difficult to organise protest meetings of any sort on the university campus. Many colleagues sought solace in posting comments on the online debating facility Change@ukzn, whose traffic reached its peak during this period.

The effective banning of the Faculty of Science and Agriculture meeting had a knock-on effect, for a similar meeting called by the Faculty of Humanities, Development and Social Sciences was also cancelled. The dean, Donal McCracken, succumbed to pressure and explained that

Having consulted the Registrar and the University lawyer I am advised that it would be inappropriate for us to proceed with the special Faculty of Humanities, Development and Social Sciences

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10 *The Witness* 31 October 2008.

Board meeting which is being requested by various members of staff in relation to the disciplinary cases concerning Professors Chetty and Van den Berg. The reasons for this are that such a meeting has the potential to disrupt the disciplinary process and to interfere with the merits and demerits of the case. It is suggested that members of faculty may wish to testify for the two professors where there is merit in them doing so.<sup>11</sup>

In responding to this shameful acquiescence, historian Keith Breckenridge, instrumental in setting up the Change@ukzn listserver, captured something of the absurdity of the situation in these stirring words:

It is important to note that the University is effectively preventing a constitutionally mandated assembly of the Faculty, using an entirely specious and evidently illegal claim that such assemblies may interfere with disciplinary processes. If employees, never mind academics, cannot assemble to discuss the merits of a disciplinary action where the employer appoints the judge, and a team of prosecuting advocates and attorneys on an apparently unlimited and invisible budget, then we certainly cannot claim to live in a constitutional democracy. The actions of the Executive in the last week, and your co-operation with them, places the University on a very dangerous path. You know, as well as I do, that history will be the real judge of our decisions.

The National Tertiary Education Staff Union arranged meetings on all five campuses on Monday 24 November 2008 to discuss, among other issues, the use of external lawyers in the prosecution of internal disciplinary cases. A petition arranged by NTESU in support of the two academics, and general academic freedom at UKZN, was signed by more than 1 300 academics from South African and many international institutions.<sup>12</sup> The seminar arranged by Patrick Bond of the CCS on International Human Rights Day, Wednesday 10 December 2008 on the Howard College campus, was seen in part as a protest meeting and was attended by several hundred people. The speakers were Chetty and Simon Mapadimeng, president of the South African Sociological Society.

Apart from a myriad of newspaper reports, commentaries, opinions and letters to the editor from the general public published in the local and national media,

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11 Donal McCracken to Keith Breckenridge, email, 13 November 2008.

12 <http://petitions.ntesu.org.za/ukzn/>

and the spectacular outpouring of support expressed on Change@ukzn by concerned academics from within UKZN and other South African universities, there was spontaneous and unprecedented international condemnation of the action taken by the university authorities against Van den Berg and Chetty.<sup>13</sup> The swift international interest arose in part because of the strong linkages that UKZN academics had nurtured with overseas academics over the years.

### **International reactions**

Among the international contributions was a letter from Gillian Hart, professor of Geography and chair of Development Studies at the University of California (Berkeley) that read: ‘The actions taken by the university administration against Professors Chetty and van den Berg are profoundly damaging to the university and its reputation. This damage has been compounded by the Director of Human Resources prohibiting meetings of academic staff. These actions make a mockery of academic freedom, and call the institution into disrepute.’<sup>14</sup>

A number of foreign academics had forged close ties with UKZN over the years by way of staff and student exchanges. Many of them had been actively involved in helping to strengthen some disciplines at the university. Some had helped raise foreign grants for UKZN and so they, too, had a vested interest in its future well-being. Hart continued, ‘This crisis comes on the back of deep systemic problems at the university. You must be aware that very large numbers of academic staff members in the Humanities have recently left UKZN, or are in the process of leaving,’ a point the university continues to deny vehemently, suggesting that these are, in fact, unproductive staff. In this way, the real impact of the foundation era at UKZN will only be felt many years into the future. Hart observed that

Since returning to South Africa in August, I have been in conversation with colleagues at Wits, UCT, UJ (University of Johannesburg), and other universities who see the dissatisfaction of UKZN academics as an opportunity to strengthen their institutions. Many are also appalled and saddened by the implosion of key parts of the university. The Chetty/van den Berg crisis is feeding into and intensifying a dreadful demoralization at UKZN, as well as its rapidly declining reputation both nationally and internationally. I urge most strongly that the University Council take action to halt and reverse this decline.

13 <http://lists.humsci.ukzn.ac.za/pipermail/change/>

14 Gillian Hart to Mac Mia, 19 November 2008.

Makgoba, however, had continued to insist that whites opposing black leadership and transformation were the ones raising issues around academic freedom at UKZN as a ploy for their racist agenda. He was quick to question the worth of dissenting academics while showing little modesty about his own achievements. In this way, he has often painted a picture of academics who are demoralised, contemplating leaving, and not worth holding onto. This was made all the more debilitating by the silence of the majority of academics, especially those with the potential to counter this view.

John L. Comaroff, the Harold H. Swift Distinguished Professor of Anthropology at the University of Chicago was another correspondent, protesting that 'Academic dissent from university authority, and the freedom to express that dissent, is a long-standing tradition in the scholarly world; far from bringing a university into disrepute, it is its very life-blood.'<sup>15</sup> Van den Berg and Chetty were accused of bringing the university into disrepute because of their public criticisms of the vice-chancellor, but what impact did the charging of the two academics by the university management have on the international reputation of UKZN? Comaroff continued:

To believe that UKZN is brought into disrepute by the expression of criticism by two of its professors is, quite plainly, absurd. The opposite is more likely to be true: that any effort to suppress the academic freedom to disagree – especially on the matter of academic freedom – will have harmful effects. Certainly, in the eyes of the scholarly world, the actions and comments of the two professors have had negligible effect on the standing of UKZN. The over-reaction to those actions and comments, however, and the rush to legally-framed disciplinary procedures, are bound to. It would seem much more judicious to avoid legalities or a punitive response, to encourage reconciliation, and to permit the debate over academic freedom.

David Lyon, writing on behalf of the Sociology Department at Queen's University in Ontario, added to Council chairperson Mac Mia's postbag: 'These actions ignore the basic canons of academic freedom, and jeopardize the good name of the university.' Commenting on the exodus of staff, especially from the Faculty of Humanities, Lyon claimed that 'such sustained drainage of gifts and talents in teaching and research threatens the very heart of the university. This state of affairs is likely to be further exacerbated if the university fails to find a just mediated settlement to the current crisis.'<sup>16</sup>

15 John L. Comaroff to Mac Mia, 19 November 2008.

16 David Lyon to Mac Mia, 22 November 2008.

Ben Fine, from the School of Oriental and African Studies at the University of London, stated in his contribution to Mac Mia that 'I do hope that, through the University Council, you will give your urgent attention to this matter and encourage not only a swift and satisfactory resolution to the conflicts that have arisen but also seek to ensure that the process of resolution is equally satisfactory. Otherwise, there will only be a further loss of morale and capacity at the University that may prove impossible to retrieve in the foreseeable future.'<sup>17</sup>

Among the more forceful submissions was one from David Szanton, executive director, International and Area Studies, University of California (Berkeley), who wrote to Mac Mia on 24 November 2008. In the mid-1990s, Szanton had initiated an exchange programme with UKZN and over the years witnessed the slow 'general collapse of morale of the academic staff at UKZN, and the continuing and planned departure of key academic staff and top flight students to other South African universities'.<sup>18</sup> In an incisive observation for somebody half the way around the world from UKZN, Szanton noted that qualified scholars could no longer imagine coming to UKZN: 'UKZN is falling apart.' This reflected the fact that UKZN appeared to have inherited everything that was wrong with the University of Durban-Westville, especially a Council loaded with political appointees. And so it was not surprising that the cry for understanding of the role of the university in society had fallen on deaf ears.

A group of 37 academics from the United States, Canada, Britain and Denmark made perhaps the greatest impact as their letter to Mac Mia was published in the press. Referring to the Van den Berg and Chetty case, they claimed that:

we are deeply concerned that the adjudication processes set in motion by UKZN's leaders run in the face of globally recognized standards regarding the rights of academic staff to speak and act on policies of their institutions and of higher education in particular and to maintain core responsibility for the review and discipline of academic colleagues. In respect of these standards, and with concern for the future of the University of KwaZulu-Natal in the worlds of scientific and humanistic learning and research, we respectfully ask you, first, to reconsider the process you have proposed; second, to restate the University's commitment to academic freedom, including the rights of academic staff to review, criticize, and debate

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17 Ben Fine to Mac Mia, 24 November 2008.

18 David Szanton to Mac Mia, 24 November 2008.

the policies and directions of their institutions; and, third, to reaffirm the University's commitment to standards of university governance consonant with the standards recognized by the UNESCO Statement of November 11, 1997.<sup>19</sup>

Daniel Herwitz, director of the Institute for the Humanities, University of Michigan, was able to make a particular impression as he had been on the staff of the University of Natal. He wrote to Mia and Makgoba on 24 November 2008 reminding them of the role played by Rick Turner in the fight against apartheid.<sup>20</sup> Through Turner and a great many staff and alumni, the University of Natal, and its successor UKZN, can justifiably claim to have played a significant part in the fight for the basic tenets of freedom and democracy. And so it is hugely ironic that in the post-1994 era of democracy in South Africa UKZN should have led the country in undermining the constitutional rights of its academics.

Herwitz wrote that 'With fear, everything you have so patiently done to build the institutional coherence and research record of the university is under threat, and why? For what purpose, finally? What is served that the entire younger generation should become ready to leave? Who in South Africa gains from this?' The answer, of course is that nobody gains, but in the short term a mass exodus of personnel, no matter their quality, does serve the interests of crude race-based social engineering. However, in the long term, this will have a serious negative impact on UKZN's ability to address the real inequities in society in any meaningful way.

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19 This letter dated 24 November 2008 was signed by Kwame Anthony Appiah (Princeton University), Chris Benner (University of California, Davis), William Beinart (University of Oxford), Stephanie M.H. Camp (Rice University), James T. Campbell (Stanford University), David William Cohen (University of Michigan), Jean Comaroff (University of Chicago), John Comaroff (University of Chicago), Frederick Cooper (New York University), Fernando Coronil (City University of New York), Donald L. Donham (University of California, Davis), Paul N. Edwards (University of Michigan), Geoff Eley (University of Michigan), Gillian Hart (University of California, Berkeley), Keith Hart (University of London), Gabrielle Hecht (University of Michigan), Daniel Herwitz (University of Michigan), Anthea Patricia Josias (University of Michigan), Preben Kaarsholm (Roskilde University, Denmark), Ivan Karp (Emory University), Corinne A. Kratz (Emory University), Pier M. Larson (Johns Hopkins University), David Lyon (Queen's University, Ontario), Shula Marks (University of London), Regina Morantz-Sanchez (University of Michigan), James Oakes (Graduate Center of the City of New York), Tejumola Olaniyan (University of Wisconsin), Derek R. Peterson (University of Cambridge), Lucia Saks (University of Michigan), Jonathan Sadowsky (Case Western Reserve University), Scott Spector (University of Michigan), Simon Szreter (University of Cambridge), Lynn M. Thomas (University of Washington), Penny M. von Eschen (University of Michigan), David A. Wallace (University of Michigan), Christopher Warnes (University of Cambridge) and Luise White (University of Florida).

20 Daniel Herwitz to Mac Mia and Malegapuru Makgoba, 24 November 2008.



Further international attention was focused on UKZN when at the Sixth Meeting of the International Council for Science Committee on Freedom and Responsibility in the Conduct of Science held in Paris on 18 and 19 May 2009, the case involving Nithaya Chetty was discussed under the heading 'Individual cases of the widespread persecution of scholars'.<sup>21</sup>

Such a barrage of criticism of a university must surely be unique in the annals of higher education in the free world. In the face of such widespread and forceful comment, it would take a very special personality and a particular institutional culture to continue doggedly with the charges against the two academics. From documents surrounding the case of Chetty and Van den Berg it would appear that Makgoba played a significant role in the prosecution efforts, with the compliance of his Executive, the employee relations office and the chair of Council. As will be seen from the next chapter, he marshalled the services of a top legal team, including two senior counsel from the Johannesburg bar, to drive the disciplinary process at great cost to the university. He undermined the mediation process that was set to resolve the dispute amicably by acting simultaneously as referee and player as is shown in chapter 10 of this book. He rejected a genuine conciliation attempt mediated by three senior and respected academics to resolve the issue. He did an about turn by first insisting that lawyers be kept out of the mediation process; and then blamed the university lawyers for rejecting its outcome. He pushed for the disciplinary process to go through with the threat of dismissal hanging over the heads of the two academics.

What drove this? Why was Makgoba willing to risk irreparable harm to the institution he was meant to protect? The dangers are clear enough from the quotations in this chapter. A glimpse into his thinking can be inferred from some of his communications and public statements. In a letter to Shula Marks, Makgoba said: 'I wish to state that the issue is not about academic freedom or freedom of speech. These are smokescreens for something deeper. Whatever information you may have, it is a distortion of reality and the truth.'<sup>22</sup> A few days later on 24 November 2008, Makgoba wrote to Marks again stating that 'You make the assumption that lawyers in South Africa do not understand academic freedom, even worse you make the assumption that the issue is about academic freedom because that is what has been peddled. On both counts you are dead wrong ... May I suggest that you begin to develop trust in African leadership of the university rather than simply imbibe what is being said.'<sup>23</sup> Here Makgoba

21 <http://www.icsu.org/>

22 Malegapuru Makgoba to Shula Marks, 21 November 2008.

23 Malegapuru Makgoba to Shula Marks, 24 November 2008.

seemed to see himself as beyond question simply because he is an African. This is a startling attitude for any academic, let alone the head of a university.

In writing to Ross Anderson, professor of Engineering at Cambridge University, Makgoba said: ‘Thank you. With due respect you do not fully understand the issues. South African democracy is not synonymous with British democracy. UKZN is not Cambridge, nor Oxford, nor are these two the standard bearers of norms in a culturally diverse world’.<sup>24</sup> Coming from a person who had been educated at Oxford, this must have come as a shock to Anderson.

Some months after the Van den Berg-Chetty affair, a Durban newspaper carried an interview with Makgoba following his exoneration by the Council committee charged with investigating the state of academic freedom at UKZN. Triumphantly, he goes on to make some extraordinary claims that give some glimpses into the disciplinary action against Chetty and Van den Berg:

I was at Wits and in 1995 I raised the issue of racism in universities and nobody wanted to believe me at the time. It was quite clear that despite the fact that Wits was portrayed as a liberal university, it was actually a cloister of closet racists who were using liberalism for their power, positions and privilege. It affected African staff and students very profoundly and negatively.

At that time (when appointed vice-chancellor of UKZN) there were a few white men who did not want me appointed. But vice-chancellors are appointed by the council, so the council appointed me. So I came with that background that not everybody was happy with my appointment, particularly white men who were at the time in positions of power and privilege.

White liberal men have always underestimated me. There is no doubt that I’m smart and I’ve been smart throughout my life. What I never understood is why people would underestimate a person with such accolades and achievements. When I was overseas I was respected, given opportunities, my due recognition. It is only in South Africa, in the white liberal sector, where I am seen through a different perspective. It was almost like swimming in a river with hungry crocodiles. Every time you think that white liberals are your friends, they are actually your worst enemies because they are very good at pretending. Not in England and not in America – only in South Africa. If you are a ‘yes-man’ they praise you because they are able to control you. They want you to be in their fold and, if you can’t, they find vicious ways of discrediting and defaming you.

Makgoba said he had come up against ‘these people’ starting at Wits: ‘there’s a network of these people from the universities of Natal, Rhodes, Wits and Cape Town. A network of a group of white liberal males who think they have the God-given ability for ideas on what constitutes a university, on what constitutes good behaviour and values.’ Makgoba said his confidence was not shaken. ‘Why should you worry about a small sector of disgruntled people? I am established, I have my networks and I don’t need these people in my life. They don’t feature, except as irritants.’

But it was the media that topped Makgoba’s irritant list. He believed there was a link between the media and the white liberal university establishment. ‘They are connected in the media and they use the media without any evidence or substantiation. And because there is this connection, their statements are taken as truth without any basis of evidence.’<sup>25</sup>

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25 *The Mercury* 22 May 2009.

# The battle for Senate in a disciplinary university

*I felt like a jack-ass.<sup>1</sup>*

THE FLOOD OF national and international criticism aimed at the University of KwaZulu-Natal related to a multiplicity of problems, but events in the university's Senate in 2007–8 lit the torch. Senate, which during the interim phase of the merger (2004–5) was a conflation of the old University of Durban-Westville and University of Natal bodies, was restructured with the promulgation of the UKZN statute in 2006. The overall balance of power then shifted even more significantly in favour of the largely appointed Council. But it took a systematic undermining of Senate by a faction within the university over the next two years to reduce this academic body to little more than another rubber stamp despite the determined efforts of a core group of academics. Some of them paid dearly.

## The Senate agenda

At a Senate meeting on 6 August 2008, the vice-chancellor and chairman of Senate, Malegapuru Makgoba, announced to senators that disciplinary action was to be taken against Pietermaritzburg professors John van den Berg (Mathematics) and Nithaya Chetty (Physics); and that the services of outside lawyers were to be employed to prosecute the university's case. Makgoba was quick to remind senators that any opinion expressed by them on the appropriateness of this action carried no weight as disciplinary matters were the prerogative of the university Executive and lay beyond the remit of Senate. That all the alleged transgressions related directly to events relating to Senate seemed to count for naught.

Van den Berg was present at that Senate meeting. Chetty was not, having resigned from the body six months earlier. Notices of disciplinary action were duly served on both of them two weeks later and they were charged with three offences:

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Malegapuru Makgoba speaking during a meeting to set up the mediation process involving John van den Berg and Nithaya Chetty, 16 September 2008.

- bringing UKZN and its vice-chancellor into disrepute through their alleged comments in the media;
- breaching the confidentiality of Senate proceedings through their alleged comments on the internal discussion forum Change@ukzn; and
- dishonesty and/or gross negligence by alleging that the vice-chancellor was not entitled to keep the item entitled ‘academic freedom’ off the Senate agenda.

The prosecuting team, comprising senior counsel, an advocate and a supporting firm of attorneys, soon made it clear they were seeking the dismissal of the accused.

The facts of the case show that Makgoba kept the item ‘academic freedom’ off the Senate agenda in spite of several clear and unambiguous Senate resolutions. And the rule on Senate confidentiality that Van den Berg and Chetty were supposed to have broken did not exist – it had to be argued to apply retrospectively by the prosecution. Given the opprobrium, both local and overseas, that came to be heaped upon the institution in the wake of its decision to prosecute Van den Berg and Chetty, it would also have been clear to any but the most jaundiced observer that it was this decision rather than the actions of two of its academics that brought the institution into disrepute.

The immediate conflict within Senate concerned the exclusion of faculty submissions on academic freedom from its agenda. This battle was, however, merely one in a more general struggle on the part of academics to have their voices heard and decisions respected; in short it was the quest for academic rule. The story of this chapter is about two academics who sought to defend this rule, and the authority of Senate, by insisting on the accountability to it of the university Executive. Their reward was racial baiting and a slew of ad hominem attacks from numerous quarters. In the end they were charged with misconduct by management of the institution whose academic structures they had sought to defend at great personal cost and for no personal reward.

In early 2007, Chetty was invited by Mala Singh, chair of the Council on Higher Education (CHE), to attend a workshop on higher education, institutional autonomy and academic freedom (HEIAAF). This workshop, held in Johannesburg in April, was the culmination of a national and public process that drew on contributions from a range of stakeholders in the higher education sector. Deputy vice-chancellor for research, Ahmed Bawa, represented the vice-chancellor of UKZN at this workshop.

Bawa and Chetty reported on the HEIAAF workshop to Senate at its May 2007 meeting and were invited to present a discussion document on academic freedom at its next meeting in August 2007. At this meeting, Senate resolved that faculties would be asked to engage with the Bawa-Chetty document and prepare faculty positions on academic freedom. The Faculty of Science and Agriculture mandated a four-person working group, headed by the dean, John Cooke, and including Van den Berg and Chetty, to prepare a submission in response to Senate's invitation. A document was duly prepared and, after several revisions, all unanimously endorsed by the faculty board, sent by the dean to the registrar for inclusion on the Senate agenda. The vice-chancellor's response was to refuse the document a place on the Senate agenda. This was a remarkable move: ordinarily it is the registrar who is charged with constructing a Senate agenda and normally it is a procedurally straightforward matter.

The impasse between the faculty and vice-chancellor appeared, at face value, to be the result of a simple difference in the interpretation of discussions on academic freedom that had taken place at the August 2007 Senate meeting. Both parties thought it useful that the faculty submissions be sent to the Academic Steering Committee (ASC) of Senate, a subcommittee proposed by the Senate ad hoc committee late in 2006 following the strike, but by the end of 2007 still not yet established. The faculty saw as the final goal the synthesis of a single university-wide policy document on academic freedom and believed that the ASC was the body best suited to perform this task. But whereas the faculty wanted their submission to be seen by senators and debated at Senate before going to the ASC, Makgoba was insistent that the submissions should go directly to the non-existent ASC, thus bypassing Senate altogether.

After the vice-chancellor's initial blocking of the faculty submission on this basis, Cooke asked Chetty, who was both a faculty representative on Senate and a Senate representative on Council, to help resolve the impasse. Chetty agreed and appealed to Makgoba to accept the Faculty of Science and Agriculture submission on the Senate agenda, pointing out that this was a faculty decision. Makgoba refused. Why was he so adamant that senators not see and comment on a faculty submission on academic freedom? In a telling email sent to Chetty, Makgoba revealed what was possibly his real motive for blocking the Science and Agriculture submission, when he wrote, 'I get tired of dealing with self-serving agenda items that do not advance our institution. We have gone past this phase and this document does not advance the debate.'<sup>2</sup> As the following excerpts show, the document did raise, in a forthright manner, very specific concerns about the state of academic freedom at UKZN.

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2 Malegapuru Makgoba to Nithaya Chetty, email, 12 September 2007.

Recent examples suggest that the current ethos within UKZN is not conducive to academic freedom and that the right to meet and the right to engage in scholarly debate have been challenged in the recent past at UKZN. Indeed, the very contentious assertion has been made that legitimate discussion on matters affecting the University can only occur within the University's formally constituted committees such as Faculty Boards and Senate. This channeling and overregulation of debate clearly constitutes a curtailment of academic freedom. Academics have a fundamental right to freedom of association within the university, and should be able to meet freely to discuss any matter of academic interest.

Adding to this is the prevailing culture of incivility and racial stereotyping that further impedes the free exchange of ideas. Debates within the institution have become highly racialised. The effect is to silence many people. This is at variance with our stated university values and runs counter to what we at the UKZN wish to achieve in our Strategic Plan.

There is a hyper-sensitivity around communication with the press at the UKZN. The university is a public institution, and its members have a right, indeed a duty, to communicate with outside organizations, in particular the press, in a responsible manner.

Academic Freedom must include the right of access to information. Justifiable confidentiality within a university should be restricted only to a very narrow range of issues, such as personal human resources matters, for example. There is a need to carefully review the status of confidentiality at UKZN by identifying instances where the need for confidentiality is clear and others where its imposition constitutes an unnecessary restriction. There is a need to articulate more clearly the collegial environment that is essential for Academic Freedom to thrive at UKZN.

The document eerily forecast the demons that were to haunt Van den Berg and Chetty. The vice-chancellor was of course entitled to his opinion on the Science and Agriculture submission. It is extraordinary, though, that he should also feel entitled to summarily and effectively dismiss, as essentially worthless, the opinion of an entire faculty (and college Academic Affairs Board – for this higher body had endorsed the faculty submission); and then to prohibit senators from forming their own opinions on the document, on the grounds indicated above.

It had become clear to the Science and Agriculture Senate representatives that getting the submission on to the Senate agenda was going to be an uphill battle. Senate would have to pass an explicit resolution to this effect, one that was utterly unambiguous and that could not easily be misinterpreted. At the October 2007 Senate meeting a substantial discussion on academic freedom developed and more clearly defined proposals about how to proceed were made from the floor. The vice-chancellor was travelling abroad and Senate was chaired by Peter Zacharias, deputy vice-chancellor and head of the College of Agriculture, Engineering and Science. It was resolved that the Faculty of Science and Agriculture submission on academic freedom would serve at the next Senate meeting; at subsequent meetings the remaining seven faculties would make their presentations; and that the submissions would thereafter be sent to the ASC (when established) whose task it would be to synthesise from these a university-wide policy position on academic freedom.

Given Senate's clear instruction on the matter, it was assumed that the Science and Agriculture submission on academic freedom would appear on the agenda of the next Senate meeting scheduled for 14 November 2007. It did not. Once again, the vice-chancellor was travelling abroad and could not attend the meeting, which was chaired by Johan Jacobs, the acting deputy vice-chancellor for research. Registrar Edith Mneney could offer no explanation why the faculty document did not appear on the Senate agenda, other than to say that the vice-chancellor had removed it.<sup>3</sup> At this meeting Van den Berg made proposals demanding that the vice-chancellor be present at the next scheduled meeting of Senate, that he explain his decision not to include the faculty's academic freedom document on the agenda, and that he rectify the matter at the next Senate meeting. These proposals were vigorously discussed and eventually adopted by a vote. All were passed with very substantial majorities. The confirmed Senate minute read:

Senate demands that the Vice-Chancellor undertakes to comply with the aforementioned Senate decision and to accept the Faculty of Science and Agriculture submission on academic freedom for inclusion on the agenda for the next scheduled meeting of Senate. 38 in favour, 6 against and 12 abstentions.<sup>4</sup>

Senate could not have expressed itself more clearly.

It is extraordinary that one of the three charges brought against Van den Berg and Chetty was for gross negligence and/or dishonesty by communicating a

3 Edith Mneney resigned from her position as registrar in early 2008.

4 Senate minutes, 14 November 2007.



view that the vice-chancellor was compelled to accept the Faculty of Science and Agriculture submission on academic freedom for inclusion on the Senate agenda. As the disciplinary case never went to trial, it is not known how the prosecution would have argued that the act of insisting that the chair of Senate comply with a Senate resolution constitutes an act of either gross negligence or dishonesty.

Makgoba was incensed after learning of events at the November 2007 Senate meeting. The next day, in a sharply worded email to Chetty, he expressed his anger at Senate's decision that academic freedom should be made a standing item on its agenda: 'Academic freedom is not a priority at UKZN but an obsessive preoccupation of certain elements within the University. You have got your priorities wrong again.'<sup>5</sup> The decision by Senate that academic freedom be made a standing item on its agenda was one of many to be ignored by the vice-chancellor.

It was also not long before the race card made its inevitable appearance. In a phone call to Chetty in early December 2007, Makgoba accused him and Van den Berg of having divided Senate along racial lines. He claimed extraordinarily that black staff and students were angry and that Van den Berg was now 'the most hated academic in the entire University'. Exactly how the issue of race came to be relevant to the Senate discussions on academic freedom was not explained.

In a further email sent to Chetty, Makgoba expanded on this:

The racial 'crisis' that was created by or within the last Senate has polarized the University again. The students are up in arms and the African community is very angry. That much is clear. Academic freedom is not the preserve of a minority or the preserve of previous dominant values. We have to deal with this openly and people have to answer rather than sweep matters under the carpet as has become a trend. I am confident that it will be resolved. In the meantime I want you to focus on your academic responsibilities i.e., teaching and research and I will focus on leading the University. I do not want a situation [to arise] where I am forced to monitor your every activity to ensure that you comply with your contract to the University. I hope this communication does not end up in that internet forum arguing for the status quo under a false name. It may be better still for you and I to meet rather than use emails.<sup>6</sup>

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5 Malegapuru Makgoba to Nithaya Chetty, email, 15 November 2007.

6 Malegapuru Makgoba to Nithaya Chetty, email, 7 December 2007.

The Internet forum referred to was the listserver Change@ukzn. This thinly veiled threat was of course to be realised less than a year later when Makgoba instituted disciplinary charges.

The implicit accusation of racism appeared to be Makgoba's coded clarion call to black staff and students for support around ethnic solidarity. It was a strategy that had been employed before and proved to be depressingly effective, for there is no doubt that divisions did develop within Senate. There emerged on the one side a group of vociferous African staff and students who rallied to Makgoba's defence and on the other a larger group of white and Indian staff who seemed paralysed into silence for fear of incurring the vice-chancellor's wrath and potentially being labelled racist. But these divisions could not reasonably be blamed on the attempts by the two senators to get their faculty document on academic freedom placed on the Senate agenda. They were rather the outcome of what seem to the authors to be a strategy based on racial mobilisation.

Chetty had had enough and in January 2008 announced his resignation from both Senate and Council. In a prophetic letter sent to his dean, John Cooke, and head of college, Peter Zacharias, in early February 2008, he wrote:

in the course of my duty, I have been vilified and humiliated, and attacked personally ... I have been bullied into submission ... I judge my position at UKZN currently as being vulnerable and exposed. I fear about my future here, and I will have to seriously consider leaving my institution if these attacks increase.<sup>7</sup>

The next meeting of Senate was scheduled for 27 February 2008. When senators received their copies of the agenda many were dismayed to find that the Science and Agriculture submission on academic freedom had once again been omitted. This was now the third time that it had been blocked; and the second time a clear resolution of Senate had been ignored. It was at this point that an exasperated Van den Berg chose to alert the wider UKZN community to what was happening. In a posting on Change@ukzn, he described the details of the impasse that had been reached in Senate and events leading up to it. His letter was strongly critical as the following excerpt shows:

The repeated refusal of the Vice-Chancellor to comply with legal Senate resolutions is, in my view, a most serious transgression and it is this that has now become the central issue. It is no

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7 Nithaya Chetty to John Cooke and Pete Zacharias, 10 February 2008.

longer about the fortunes of a certain faculty document or the right even of a faculty to speak to Senate, its mother body. These considerations are of course important, but they have been eclipsed by an issue of far greater importance and that is respect for the authority of Senate and the rule of law in our university.<sup>8</sup>

The media picked up on this posting and Van den Berg was interviewed by *The Mail & Guardian* and other newspapers.<sup>9</sup> Several other academics were approached to comment publicly on the issue and some of the reporters expressed frustration that nobody else wished to speak out for fear of victimisation. Chetty agreed to comment and was quoted briefly in *The Daily News* and *The Mail & Guardian*.

The vice-chancellor was present at the Senate meeting of 27 February 2008 and in a lengthy address sought to explain his refusal to comply with the resolutions on academic freedom passed by this body at its two previous meetings. His speech fills 21 pages in the Senate transcript. It is, in the main, an erratic tirade directed mainly at Van den Berg and Chetty. It also contains dire warnings of a racist conspiracy designed to harm him, but also a warning to detractors of personal triumphs over 'Afrikaners', 'Anglo-Saxons' and 'coconuts'. Excerpts follow – some of them are of a surreal nature:<sup>10</sup>

I want to be frank with some members of Senate who continue to first start this disunity, promote racial polarisation of this Senate and some of them have a history that dates over the last 12 months and there are examples of that ... Currently and contrary to public statements that I have seen ... there is no crisis in this Senate. There may be a confusion and an avoidance of the truth of the accuracy of statements that have generated I think the level of angst that all of you have been through ... If there is a crisis in the university, it is located in the academic

8 John van den Berg 'Crisis in Senate' Change@ukzn, 22 February 2008.

9 P. Gower, 'UKZN blocks debate on free speech' *Mail & Guardian* 14 March 2008: Higher Learning: 1. Others were *The Daily News* (6 March 2008), *The Witness* (10 March 2008) and again *Mail & Guardian* (4 April 2008). One of the charges levelled against Van den Berg was that his communications with the media on the conflict within Senate were reckless and irresponsible. Van den Berg had, in fact, in a private communication and before the appearance of any newspaper article on the Senate impasse, alerted Makgoba to the fact that he (Van den Berg) had been approached by the media seeking comment on the issue. Van den Berg contacted Makgoba again when he had been approached a second time by the press some months later. This is hardly consistent with reckless and irresponsible behaviour.

10 This and following passages are extracted from the Senate transcript.

research ... and academic qualification and the racialised staff/student relationships that our students experience. I want to stand in front of you here today and tell you as vice-chancellor of the university, I experience racial abuse in the university.

The resolutions, apparently passed by the Senate, followed a series of premeditated, one-sided and calculated false allegations ... These resolutions were passed in haste, loaded with emotions, they were calculated to harm, defame or damage my person and integrity as the vice-chancellor and my office. They were spurious in nature, placed cowardly on the agenda of Senate with the clear knowledge that I was out of the country.

Now, I have been in senior academic positions for the last 20 years ... chairing boards, organisations across the world. I've never on a single occasion been asked and been charged to have flouted rules or to have behaved unethically.<sup>11</sup> In fact I've numerous awards in my life for the ethical way in which I conduct matters that relate to organisations.

The vice-chancellor then made clear, in no uncertain terms, what he thought of the standing of the disputed Senate resolutions:

Having studied the resolutions in detail against the university statute, it appears that none of them have any force in law or in procedure and largely they are meaningless, do not carry any weight or substance to be implemented because these are disputed facts that I will come to. The whole process was flawed and in breach of natural justice prerequisites.

Makgoba did not explain how, in terms of the statute, the disputed Senate resolutions had no standing. Indeed, quite the opposite was true: the statute states clearly that the vice-chancellor must perform those functions determined by Senate. No logical procedural system would award a chairperson the unfettered right to ignore a democratic vote and the clear opinion of a properly constituted body.

It was clear that an excuse more cerebral than the racist conspiracy theory presented in his Senate speech needed to be found for Makgoba's non-compliance with Senate resolutions. The discovery that the October 2007 meeting was inquorate provided

11 During his troubled period at Wits University in the mid-1990s, Makgoba was suspended on the basis of such allegations.

useful ammunition. It was claimed that its decision that the faculty submissions on academic freedom should appear on the Senate agenda was thus null and void; and that all subsequent Senate resolutions on this matter were called into question.

Makgoba expressed himself thus:

Remember the decision on 3 October has no meaning because it really was a decision of just a group of comrades, about 56 and it can carry no force and in fact any CEO that actually implements that decision should be fired in any organisation, because it's the work of a minority again.

The inqorate argument, which was later used by the prosecution in the disciplinary case against Van den Berg and Chetty, would have appeared to any fair-minded observer with knowledge of university affairs as an obvious resort to technicality. But even this ran into difficulty when it was pointed out that the minutes of the October meeting containing the resolution on academic freedom were in any case confirmed at the next Senate meeting in November. In an effort to get around this, the prosecution then stated that although the minutes had been confirmed by a quorate meeting, the resolutions contained therein had not actually been explicitly ratified. This nonsensical view was directly contradicted by Jacobs, who chaired the November Senate meeting. In response to a query from Chetty, he confirmed, unequivocally, that the decisions taken at the inqorate October meeting were ratified with the confirmation of the minutes at the subsequent quorate November meeting.

But the most crushing counter-argument is surely the utterly unambiguous resolution passed at the quorate November Senate meeting demanding that the vice-chancellor place the faculty document on the Senate agenda, a resolution with which he failed to comply. No amount of legal sophistry on the part of the university's team of highly paid lawyers could get around this. Makgoba's non-compliance with Senate resolutions summarised his attitude to this body and the community of scholars it represented.

Makgoba's Senate tirade also included an attack on the scholarly credentials of Van den Berg and Chetty: 'As it turns out, some of these junior academics that I'm talking about here today are some of the least productive within our university.' Quite apart from its irrelevance to the issue at hand, his attack was also baseless.

I landed at OR Tambo and when I opened my mobile it was flooded with messages of anger, of dismay from members of Senate on how a few conservative individuals ... had hijacked the agendas of Senate for their own selfish [reasons] and polarised the Senate of the university along racial lines. That is what was said, and as I say, for John [van den Berg], this would be the third time that he does that. There were suggestions to me from my comrades, with whom I have fought many battles, to deal harshly with this individual, including some members of my own Executive I think who had been dancing to the tune, because maybe they had also not read the minute clearly.

Makgoba alluded to three instances of racist behaviour on the part of Van den Berg. The first example of supposed misbehaviour was his attempt at a Senate meeting in March 2007 to table a proposal admitting all senior professors to Senate upon request. The vice-chancellor, in fact, did not allow this proposal to be placed on the Senate agenda, nor did he allow senators to gain sight of the proposal to decide for themselves whether it should have a place on the agenda – an all too familiar occurrence. It was suggested that this proposal was racially motivated – an attempt to restore the ‘lily-white’ old male guard. The second example was a proposal tabled by Van den Berg at a Senate meeting in April 2007 that the agenda for all Senate meetings should be divided into restricted and unrestricted sections and that observers should be permitted to attend the unrestricted part of Senate meetings. This had been the custom at the former University of Natal. This proposal was also dismissed as racist and illegal. Van den Berg’s legitimate attempt to get his faculty’s submission on academic freedom accepted onto the Senate agenda was the third such instance of alleged racist behaviour referred to by the vice-chancellor.

### **Bhengu inquiry**

Makgoba concluded his address by stating that there would be no further debate on the matter. He then made two proposals. The first was that Professor Sibusiso Bhengu, who was a Council representative on Senate, be tasked with going through the transcripts of earlier Senate meetings with the purpose of determining what Senate had decided in relation to the faculty submissions on academic freedom. Senate agreed to this. This was, however, a strangely passive position for Senate to have adopted.

Even if one believed that the views of Senate were ambiguous on the matter – and it is hard to imagine how they could have been – surely it was not necessary

to appoint a special commission to try to uncover Senate's views on the matter. Why not simply ask Senate? A simple show of hands would have settled the matter, once and for all.

There is much evidence to suggest that the choice of Bhengu as sole commissioner was very strategic. During the period of Makgoba's brief tenure at Wits University and his bitter conflict with its establishment, Bhengu, then national minister of education, had intervened in the affair in support of Makgoba, believing him to be the target of a vendetta. These interventions were such that some regarded them as an infraction of the university's institutional autonomy.<sup>12</sup> The shameful report that Bhengu finally delivered to Senate will be tackled later.

Makgoba's second proposal was that punitive action be taken against Van den Berg:

My second recommendation is that Professor John van den Berg undergoes disciplinary inquiry for leaking documents of Senate and deliberations to members outside Senate on that famous journal called Change@ukzn. On a personal level, I shall subject I think Professor van den Berg's documents for legal opinion with a view to dealing with it as a matter of defamation to myself as a Vice-Chancellor.

Makgoba did not state what document of Senate Van den Berg was supposed to have leaked. Maybe he was referring to the Science and Agriculture submission on academic freedom. If so, his charge would have been a perverse one, for the entire conflict centred on the determined, but ultimately unsuccessful, efforts of the Science and Agriculture representatives on Senate to get their submission accepted as a document of Senate.

The vice-chancellor initially refused Van den Berg his right of reply, but was then persuaded to vacate the chair of the Senate meeting. John Mubangizi, deputy vice-chancellor and head of the College of Law and Management Studies, was asked to take over. He did so and granted Van den Berg his response. A visibly angry and defiant Van den Berg took issue with the vice-chancellor's description of his (Van den Berg's) earlier attempts at tabling items for discussion at Senate as acts of misbehaviour. Believing these to have been entirely legitimate, Van den Berg responded declaring that he would not be cowed into submission by these methods.

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12 Tony Leon, *On the Contrary* (Johannesburg: Jonathan Ball, 2008): 113.

Van den Berg then proposed a motion to censure the vice-chancellor for his repeated refusal to comply with resolutions of Senate. The acting chairman responded by stating that Van den Berg's motion of censure was problematic as the vice-chancellor had already provided a satisfactory explanation of events that showed he had in fact flouted no rules of Senate. Van den Berg's proposal received no support and was discussed no further.

Whilst no views strongly critical of the vice-chancellor himself were expressed, Van den Berg became the target of opprobrium. He was described by one senator as a 'remnant of apartheid who was still hard at work in terms of undoing the gains that we have made'. Another senator called him a hooligan who should simply be 'chucked out of Senate'. These comments were met with craven silence from the majority of Van den Berg's fellow senators. After this, Senate acceded to the vice-chancellor's view that the faculty documents would not be placed on its agenda. No senator, with the exception of Van den Berg, challenged Makgoba's version of events. Given the treatment that had been meted out, in particular threats of disciplinary action and a defamation lawsuit directed at him, this was unsurprising.

Senate never did get to see the Science and Agriculture submission on academic freedom as it was sent directly to the ASC. Some months later, a supposed summary of the submission, stripped bare of anything that might be construed as remotely controversial or strongly critical of the climate at UKZN, was presented to Senate. It elicited almost no comment. A discussion on the state of academic freedom at UKZN has yet to take place within Senate.

Bhengu had been tasked to investigate the events that had led to the impasse within Senate. He did so by interviewing many of the key individuals involved in the conflict and, purportedly, by scrutinising the minutes and transcripts of the relevant Senate meetings. Bhengu presented his report (marked strictly confidential) to Senate at its meeting on 28 May 2008. Possibly fearing it might be leaked, Bhengu chose not to attach a copy of it to the Senate agenda. This meant of course that senators were not able to study it prior to the meeting. At the conclusion of Bhengu's presentation, delivered via transparencies on an overhead projector, one group of senators broke out into spontaneous applause. Others appeared shocked at Bhengu's findings. Many senators had viewed the establishment of the commission from the outset with some suspicion. Mindful of the history of support shown by Bhengu to Makgoba, they doubted that his one-man commission would come to any conclusions that were critical of the vice-chancellor. Bhengu's report exonerated the vice-chancellor, absolving him of wrongdoing. There is not even the mildest rebuke of his actions in the report.



But it seems to have had another and more pernicious purpose: construction of a case for the prosecution of Van den Berg. Much of the evidence upon which this was based turned out, in the opinion of those closely involved, to be simply false. Arguably the most significant of Bhengu's recommendations was that Van den Berg be subjected to disciplinary inquiry for having 'brought the university into disrepute' through his comments in the media and on Change@ukzn.

Several senators at the meeting wanted Senate to endorse the Bhengu report's recommendations immediately, despite the fact that senators had no prior sight of the report and thus no opportunity to study it. This was the reaction more typical of a mob, not a gathering of rational academics, and to the credit of Senate it did not prevail. A further proposal that 'the University leadership deal with the recommendations emanating from the report' was also defeated with 20 votes in favour, 31 against and eight abstentions. Senate had thus made it clear that any unilateral action on the part of the Executive arising from the report's recommendations would not be supported by Senate. This majority opinion was later to be ignored by the vice-chancellor, as will become evident. After lengthy discussion, Senate resolved merely to 'receive the report' and instructed that hard copies of it be sent to all senators for discussion at the next meeting of Senate scheduled for August 2008.<sup>13</sup>

The Bhengu report turned out to be full of inaccuracies and the effect of each of them was to suggest greater wrongdoing on the part of Van den Berg. For example, the report stated that Van den Berg had acted without a mandate from his faculty. This was false. He had acted on instructions from and in support of his dean who, in turn, was acting on a clear mandate from his faculty. Van den Berg had co-operated fully with the Bhengu Commission. But he discovered to his dismay that its result was to exonerate the vice-chancellor and that, in effect, he was collecting evidence in support of a case of wrongdoing on Van den Berg's part. The latter's good faith engagement with the Bhengu Commission had apparently not been reciprocated.

News of the Bhengu report began to spread. The National Tertiary Education Staff Union (NTESU) released a statement to its membership expressing concern at the report's inaccuracies. The NTESU statement went on to note that 'statements regarding academic freedom are being blocked from appearing on the agenda of various forums at UKZN' and drew attention to what it saw as the 'continuing selective abuse by Management of UKZN, and their representatives, of confidentiality clauses in order to level the accusation of bringing the University into disrepute against staff'.<sup>14</sup>

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13 Senate minutes, 28 May 2008.

14 NTESU 'Statement regarding Bengu report for Senate', 4 August 2008.

This prompted the Black African Academic Forum (BAAF) to join the fray with a statement sent to its membership, describing NTESU's open criticism of the Bhengu report as an act so appalling as to be 'unprecedented in the history of UKZN or any other university'. The BAAF statement went on to declare

They clearly show us where they stand as a union in promoting rudeness and racist behaviour of a member of Senate under the disguise [*sic*] of academic freedom. The member in question has vowed to continue to disrupt Senate meetings. He has an agenda of taking UKZN back to Apartheid years. He has consistently been disrespectful and uncooperative in meetings and has unilaterally decided to be a spokesperson for the Faculty of Science and Agriculture.<sup>15</sup>

The target of this defamatory, ranting nonsense, all of it devoid of truth and fanciful in the extreme, was of course Van den Berg.

The Bhengu report was due to be discussed at the Senate meeting of 6 August 2008. It was clear to Van den Berg that his fellow senators needed to be alerted to the report's many serious errors and its obvious bias and that these facts needed to be placed on the Senate record. This he did by means of a document submitted for inclusion on the Senate agenda. In his submission Van den Berg pointed out that the Bhengu report, although it had a section devoted entirely to the views of individuals interviewed, recorded absolutely nothing of the views that he had expressed in his hour-long interview with Bhengu. Many of these were crucial to an understanding of the dispute. Even if the report had recorded these views only to refute them, there was at the very least an obligation on Bhengu to acknowledge the existence of a contrary view. He failed to do this, and it is arguably this effective censorship, rather than the many factual inaccuracies, that is the report's most damning inadequacy.

Van den Berg's was not the only submission that drew attention to shortcomings in the Bhengu report. The acting registrar, Jane Meyerowitz, tabled a document detailing further inaccuracies; and when Bhengu's report came up for discussion at Senate, Cooke criticised it for misrepresenting certain facts and for not giving a balanced account of his comments given in testimony.

### **Disciplinary action**

The Council-appointed Governance and Academic Freedom Committee (GAFC), tasked in December 2008 with investigating governance issues and

<sup>15</sup> 'BAAF statement, August 2008'

the state of academic freedom at UKZN, believed that the disciplinary case brought against Van den Berg and Chetty arose from Council's acceptance of the Bhengu Report. It is thus quite extraordinary that the committee chose not to study any of the details of the Van den Berg-Chetty case (this is openly admitted in the GAFC report), nor even to recommend that it be reviewed. The GAFC's failure to investigate the very real likelihood that the two academics had been charged on the basis of false testimony was surely an abdication of responsibility. Indeed, the case became the elephant in the room that the GAFC studiously avoided. And the university chose to award Bhengu an honorary doctorate in Education in April 2009. In the light of the damage caused by his tendentious report to Senate, it is a moot point whether this recognition and its timing were appropriate.

The events detailed in this chapter revealed much of the Executive's modus operandi. Senate's opinions, many members believed, were solicited only if there was little danger that the vice-chancellor might find them unpalatable. As one emeritus professor put it, 'Makgoba's approach was to listen to the argument in the senate and when he heard one that he liked, that became the decision'.<sup>16</sup> Senate was increasingly sidelined, a sad indictment of its members. Occasionally, the vice-chancellor met resistance, but as events showed, this was in our experience overcome by a combination of ad hominem attacks, including accusations of racism, partisan commissions, and the threat – and ultimately the reality – of disciplinary action.

It was clear to many observers that the root cause of the impending disciplinary action was personal, a perceived affront to the vice-chancellor that really had nothing to do with the supposed violation of university rules on the part of Van den Berg and Chetty. Given this, it seemed that a negotiated settlement between the two professors and Makgoba was possible, avoiding the need for a formal inquiry. Van den Berg and Chetty, acting on the advice of senior colleagues, then requested a meeting with Makgoba. He agreed, but said that it would be procedurally more correct for such a meeting to take place once the two academics had been served with their charge sheets. There was, of course, no good reason to delay such a meeting. In fact, the university's alternative dispute resolution procedures require parties in a conflict to engage in informal negotiation, through a mediator if necessary, as a first attempt at resolution. When Van den Berg and Chetty eventually received their charge sheets and asked again for a meeting with Makgoba, his response this time was to say that it would be procedurally more correct for such a meeting to take place after the

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16 C. Dennison, 'UKZN: where it all went wrong' *The Witness* 13 November 2008.

first meeting of the disciplinary tribunal, scheduled for 4 September 2008. The goal posts had thus been moved. It was clear that Makgoba wanted to subject Van den Berg and Chetty to the ignominy of a disciplinary hearing before he was prepared to engage in any discussion with them. He also made sure that he was present to witness firsthand their discomfort when the tribunal met. Makgoba arrived in his Jaguar, splendidly dressed, and looked to be avoiding the two accused when Chetty went up to greet him and struck up a conversation in full view of all concerned. This was not helpful to the prosecution's cause, for they needed to prove that the working relationship had broken down irretrievably. Makgoba abruptly ended the conversation and walked off.

The charge sheets stated that the accusations against the two academics were severe and that if proved could result in their dismissal. This warning was taken very seriously. NTESU appointed Professor Alan Rycroft, an expert in labour law, as its representative; and the services of Durban attorney and labour lawyer Dunstan Farrell were added to the defence team.

In a departure from normal practice, neither accused was at any stage suspended. Both were deputy heads of their respective schools and continued to teach and discharge their normal duties for the duration of the semester. The bizarre situation had arisen that the university was seeking the dismissal of two employees on charges of serious misconduct and yet was quite happy that the accused continue working in their administrative positions. This they did with support from their school colleagues and the faculty. This is hardly compelling evidence of an irretrievable breakdown in the employer-employee relationship that dismissal normally requires. But this was clearly not a normal case.

There were other startling abnormalities. The usual practice in internal disciplinary matters is to use senior staff from the university to chair the inquiry and prosecute the case. In this instance, UKZN appointed the prominent advocate Dumisa Ntsebeza, senior counsel and member of the Johannesburg Bar, as chairman; and Advocate Omar Moosa, senior counsel, as prosecutor; assisted by Advocate Marion Hutson and Attorneys Pather and Pather, all of them external to the university. Such an assemblage of legal heavyweights for an internal university disciplinary matter involving two rank-and-file academics was unprecedented. It was clear that the university was sparing no expense to pursue the case. Indeed, a document tabled at the request of Senate at its meeting on 11 March 2009 showed Attorneys Pather and Pather's final bill for the case to be R530 000 – and it is not clear whether this amount included all the legal expenses incurred by the university. Given that settlements were

eventually reached in these cases before the matter actually went to a hearing, the university must have been prepared and willing to spend an amount almost certainly in excess of R1 million.

Quite apart from its punitive purpose, this extravagance at a time of great financial need raised serious questions about the university's commitment to sound financial management. Questions also arose about the fairness of the process. The very modest defence team was financed from the pockets of the accused, the university providing no assistance. The staff union NTESU assisted the accused by setting up a fund that, in the end, paid entirely for their legal costs, but the disparity in resources led to a very unequal and unfair contest in which the interests of justice could not have been served. One of the recommendations in the GAFC report asks that the practice of using external legal representation in internal disciplinary hearings be reviewed.<sup>17</sup>

Makgoba finally agreed to a meeting with Van den Berg and Chetty. This took place in his office on 16 September 2008. Also present, at the invitation of the vice-chancellor, were two senior colleagues, Henda Swart and Dan Krige. It was at this meeting that Makgoba explained that he 'felt like a jack-ass' because of media reports of the Senate conflict that had shown him in a very poor light. He said that he could not respond publicly to these reports to explain his side of the story because he felt bound by what he claimed was the confidentiality of Senate proceedings and this had made him appear stupid in the eyes of the public. But what confidentiality was he invoking? In their communication with the university's lawyers, Van den Berg and Chetty's defence team asked their opponents to produce the rule stating that Senate proceedings are confidential. This they were unable to do, for the simple reason that there was no such provision in the statute, nor in any other university document. When the defence team argued that Senate proceedings could not possibly be confidential for the compelling and prosaic reason that its minutes are posted on the University's inner web and made available to the entire academic community, the response of the prosecution was to argue that although the Senate minutes are made available to all, Senate proceedings are not. The charging of Van den Berg and Chetty for breaking a confidentiality rule that did not, and still does not, exist was one of the more outrageous aspects of this bizarre case.

Makgoba's explanation that because of existing protocols he was unable to respond publicly to criticisms in the media seemed somewhat out of character. Tony Leon, who was a member of the University Council during the period of

17 GAFC report: recommendation 3.4.3: 82.

Makgoba's acrimonious conflict with the Wits establishment in the mid-1990s, writes that 'Makgoba turned his sniping against the Wits leadership into a full-scale assault in the media. He displayed an almost reckless propensity to hurl abuse through the press – or the written word – rather than in direct and personal confrontation'.<sup>18</sup> Either Makgoba had undergone a Damascus Road conversion since his arrival at UKZN in his approach to the media, or the real reason for his reluctance to engage with his detractors in open debate lay elsewhere.

Worse, a protracted debate on the matter might end with more damning evidence of actions on his part making its way into the public domain. The sidelining of Senate depended crucially upon it remaining closed. Makgoba's insistence that Senate deliberations remain confidential and his refusal to allow observers to attend Senate meetings had a definite rationale. In papers served in advance of the disciplinary hearing, he had made the strange claim that maintaining the confidentiality of Senate proceedings was necessary to protect the freedom of expression of senators during Senate deliberations. He also tried to argue that since Council meetings are confidential, Senate meetings should be too.<sup>19</sup> The reasoning in this argument is not at all clear and it failed to draw the important distinction between the fiduciary and parliamentary roles of Council and Senate respectively.

Makgoba proposed a way forward. Two facilitators would be appointed (in the end three were chosen) to meet Van den Berg and Chetty and the group would be tasked to draft a statement that reconciled the positions of the two parties. It was clear to all that such a statement would have to reflect a good measure of contrition on the part of the errant professors if it was to fly. In setting out the terms of this facilitation process, the vice-chancellor was insistent upon two things. The first was that lawyers were to be excluded from the facilitation process and the final settlement statement was to be drafted by the group, and not lawyers. The second was that the university's interests in the dispute needed to be placed in the hands of individuals who had greater experience of university affairs than him and who could be trusted to reach a settlement that secured these interests. He stressed that it was important for him, as someone intimately and personally involved in the conflict, to step back from the process and leave matters in the capable hands of the facilitators. All this sounded reasonable enough and Van den Berg and Chetty had little hesitation in accepting the vice-chancellor's proposed facilitation idea together with his terms. In truth, they had little choice.

18 Tony Leon, *On the Contrary*: 111.

19 Council members are bound by a confidentiality clause that came into effect in May 2008.

The vice-chancellor appointed Dan Krige, Ronnie Miller and Paulus Zulu as facilitators. The last of these was chosen by the vice-chancellor from a list put forward by Van den Berg and Chetty. The facilitators met the accused in early October 2008 and, after a productive meeting, Miller, who the vice-chancellor had chosen as convener of the facilitation process, prepared a statement that was accepted by all members of the group. The facilitators met the vice-chancellor the next day and handed him the settlement statement that had been agreed upon. Makgoba accepted it and thanked the facilitators for their work. The matter, it seemed, had been finally and amicably resolved. The only remaining question seemed to be what would be done with the statement. How were its contents to be disseminated? Miller phoned Chetty and conveyed to him the good news. Minutes later Van den Berg and Chetty were stunned to receive an email from Makgoba stating that having read the settlement statement he had decided that it was in the ‘best interests of the University’ that the disciplinary enquiry proceed. The facilitators, too, were informed of Makgoba’s about-turn. Miller was unable to explain to Chetty in a subsequent telephone conversation what had gone wrong. The facilitators withdrew and played no further role in the affair. Miller was later to say that he felt the facilitators had been effectively fired by the vice-chancellor. In subsequent correspondence between Makgoba and the accused, the former blamed the facilitators for the failure of the negotiation process, accusing them of having ‘ignored or watered down’ the ‘founding principles’. This accusation is, of course, entirely without foundation.<sup>20</sup>

There followed soon after this episode a document drafted by the university’s lawyers and sent to the accused requiring from them a full admission of guilt on all charges. Van den Berg and Chetty refused to sign. In their view, by first agreeing to accept the facilitator’s settlement statement, then later rejecting it, Makgoba had abandoned a verbal agreement.<sup>21</sup> By insisting that lawyers not

20 Malegapuru Makgoba to Nithaya Chetty and John van den Berg, email, 24 October 2008.

21 Robert Morrell points out that this pattern was paralleled very closely by Makgoba’s behaviour towards him in June 2006 over the meetings issue (see chapter 7): ‘It is thus with grave disappointment not to mention some astonishment that I received today, at about 18.00, a letter signed by you requesting me to get permission to hold a meeting. Leaving aside the technicalities, this letter effectively prevents me from attending a meeting planned some time ago to discuss matters that I consider to be of major importance. I take your letter to be an act of bad faith. In the 90 more minutes or so that we spent discussing issues of transformation and the relationship between ourselves you had ample opportunity to discuss with me your wish to prevent the meeting from taking place. I take your silence on this matter to be a sign that you were not genuinely open with me and that our conversation was in critical respects superficial. I am afraid I cannot develop trusting relationships on such a fragile foundation. I write this email, therefore, firstly to tell you that I shall not be exercising

be involved in the drafting of a settlement statement, then later instructing the university lawyers to prepare such a statement, Makgoba had in their view reneged upon a key aspect of the facilitation agreement. In determining that the university's interests should be placed in the hands of facilitators (the majority of whom he, moreover, had chosen), then later rejecting their judgment out of hand, Makgoba had reneged upon the remaining term of the agreement in the eyes of those facing charges. In his Senate speech in February 2008, he had claimed 'numerous awards in [his] life for the ethical way in which [he] conducts matters that relate to organizations'. It would not be unreasonable to suggest that his performance in the Van den Berg-Chetty facilitation process would not have earned him further plaudits.

The defence team made one further attempt to reach a negotiated settlement. On the afternoon of 24 October 2008, Van den Berg and Chetty, together with their NTESU representative, Alan Rycroft, met Paul Finden, the head of employee relations, in the latter's offices. After some initial discussion, they presented Finden with the draft of a settlement statement that they hoped the vice-chancellor might accept. Finden forwarded their statement to Makgoba, but his reply was immediate and unequivocal; it was rejected and the disciplinary enquiry was to proceed. This marked the end of attempts to reach a negotiated settlement. The timing of Makgoba's rejection of Van den Berg and Chetty's final settlement attempt was astonishing for reasons that are explained below.

That same day turned out to be one of some significance. For most of the month of October 2008 the university had been preoccupied with the visit of the Institutional Audit Committee (IAC). This committee, comprising in the main academics from outside institutions under the chairmanship of Professor Martin Hall of the University of Cape Town, had been tasked by the Higher Education Quality Committee (HEQC) to investigate all aspects of UKZN's performance and, as part of these investigations, had conducted interviews with a wide cross-section of the university community. After an exhaustive two-week investigation, the audit process culminated in a verbal presentation made by Hall at midday on 24 October. It was a preliminary report on the committee's findings and was streamed live to the entire university community. In attendance at the presentation was the full Executive including the vice-chancellor. The university clearly regarded this as an occasion of some importance. The import of Hall's address was far reaching, as the following excerpt shows:

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your invitation to phone you to discuss matters and secondly to give you a concrete example of a style of management which I think is doing great damage to personal relations in this institution.' (Robert Morrell to Malegapuru Makgoba, email, 20 June 2006).



While the panel understands the frustration that follows when key issues are debated through the media and the Internet before they have been fully resolved in the Senate and other committees, it is not feasible to attempt to control the dissemination of information in a contemporary university. The panel believes that the risk of attempting to enforce the formal rules for the dissemination of information through the use of disciplinary procedures is greater than the risk of allowing open access, and that the university and its leadership are robust enough to relax these controls in the interests of improving the institutional climate.

At the conclusion of Hall's address, the vice-chancellor closed proceedings by thanking him and his committee for their work and all those in the university who had been involved with preparations for the audit. Barely three hours after Hall had issued his open warning to the university regarding its overzealous enforcement of confidentiality through the use of formal disciplinary procedures, the vice-chancellor received and then rejected Van den Berg and Chetty's settlement statement; insisting instead that they be subjected to disciplinary action on charges relating to a supposed breach of Senate confidentiality. It is difficult to imagine an act showing greater contempt for the opinions of the IAC.

Hall was angered by the attitude shown to the findings of his committee and immediately wrote to Hugh Africa of the HEQC. His letter was published, in full, two months later in *The Mercury*.<sup>22</sup> Hall reveals that the IAC saw the problems caused by UKZN's confrontational management style to be so serious that they could not wait until the committee had completed its final report and had to be dealt with immediately. To this end the IAC had written to the Council on Higher Education asking it to intervene. An excerpt from Hall's letter to Africa follows:

The panel was provided with the full documentation relating to the current dispute between the vice-chancellor and Professors Van den Berg and Chetty. This case is about Senate and committee procedures and the right to share opinions with the wider university community. While it may well be important to clarify such procedures, the complaint against Chetty and Van den Berg is paradigmatic of the points the audit panel was making in its oral feedback, and will make in its proposed recommendations for the

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22 *The Mercury* 23 January 2009.

University's Improvement Plan, which will follow the completion of the audit.

Given this, it is surprising and distressing that immediately after the completion of the audit visit, the Vice-Chancellor and the Council decided to appoint a committee of inquiry to consider disciplinary action against Van den Berg and Chetty. I consider this to be a direct affront to the audit panel and to the HEQC. Given that, predictably, the matter has been immediately taken up in the media, there is the potential for serious damage to the credibility of the institutional audit process and the HEQC.

There is also a clear risk to the University as a whole, given the deep divisions before the merger and the evidence we found during the audit visit of the widely deleterious effect of this style of management. The matter is further complicated by the fact that the University's Council has, in effect, disbanded the Institutional Forum. This deprives the University of one of the organizational mechanisms intended to deal with key issues of institutional culture and transformation and is contrary to the requirements of the Higher Education Act. The audit panel has recommended to the CHE (Council on Higher Education) that this issue needs to be taken up ahead of the completion of the audit report. I have no doubt that all of these issues will be made explicit, with appropriate recommendations, in the final written report that the audit panel will make to the HEQC. However, this will be well into 2009 and there is now a clear danger of serious damage to the University before the report can be finalized. Given this, I request that this situation be brought to the attention of the HEQC as a matter of urgency, and an appropriate course of action be considered.

Rycroft's response to the crisis was factual, blunt, chilling and realistic:

I have been asked by various staff members to report on developments in the disciplinary matter between the University and Professors John van den Berg and Nithaya Chetty. I was appointed by NTESU to act as the union representative at the hearing. Until now it was the request of John and Nithaya not to make the charges public because a facilitation process was in progress. However on Friday 24 Oct 2008 the vice-chancellor halted that process because he believed it is in the best interests of the University to proceed to a disciplinary hearing ... From the beginning there was a strong

sense among all the legal representatives that this was an unusual matter that arose from different understandings of the Senate, and in particular the roles of its elected representatives, and that ways to avoid disciplinary action should be explored.

After detailing the failed mediation process, Rycroft went on to report:

Nithaya and John have urged the vice-chancellor to be open to a solution that is not primarily concerned with findings of guilt, but rather one that seeks to build new understandings and collegial relationships ... On 24 October 2008, the Vice-Chancellor rejected a second submission from John and Nithaya which attempted to bridge the divide.

Nithaya and John have been told that the University regards the charges as so serious that dismissal is a possible sanction. The money that the University is prepared to spend on the disciplinary enquiry suggests that it is taking this seriously ... As a labour lawyer I have to question what kind of advice the legal team is giving to the Vice-Chancellor. If there has been misconduct, workplace discipline is meant to be corrective, not punitive. The CCMA and Labour Court have established norms that reject dismissal for employees of long service, with clean disciplinary records and where the employment relationship is not broken. In these circumstances the University appears to be acting against labour norms in pursuing a matter capable of a mediated settlement.<sup>23</sup>

It was soon after Rycroft's posting that the Van den Berg-Chetty affair erupted into the public domain. The many messages of support that were received by the beleaguered professors as well as the avalanche of condemnation that descended upon the management, from sources both local and overseas, has already been documented in chapter 9.

A pre-hearing meeting that involved just the opposing teams of lawyers was held on 18 November 2008. The report that Rycroft sent to Van den Berg and Chetty soon after this meeting was not at all encouraging. In it he wrote that 'we had an informative but depressing meeting with the University lawyers. They are under clear instructions to argue for your dismissals and aim to establish that the employment relationship/trust relationship has broken down completely. The university's case is that this has nothing to do with freedom of expression or

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23 Alan Rycroft on Change@ukzn, 4 November 2008.

academic freedom; it has everything to do with governance.<sup>24</sup> At the pre-hearing meeting the university lawyers had, intentionally, shown something of their hand. The prosecution was going to call upon a host of senior university administrators as witnesses, including the vice-chancellor and several other members of his Executive, to testify about the confidentiality of Senate proceedings. The purpose of their testimony was to argue that Senate confidentiality, although not a written rule, was an unwritten norm and that it was irresponsible to believe otherwise. These same witnesses would also testify to the breakdown in the working relationship with the two academics and to the fact that the deliberations within Senate had become racially polarised as a result of the actions of the accused. This invocation of race worried the defence team.

Rycroft ended his report back on the pre-hearing meeting by saying, ‘You will see that they are rolling out the big guns ... my impression is that Omar Moosa [the prosecutor] will be arguing for dismissal. This makes a facilitated settlement all the more important if you can achieve this.’ The message that Rycroft and Farrell were delivering to their clients was painfully clear: they stood little chance in the disciplinary enquiry and would, in all likelihood, be fired if they went through with the process. This was a bitter pill for Van den Berg and Chetty to swallow and a salutary lesson on the politics of power in the new South Africa. Winning a case in which your opponents can choose the prosecution, the judge (and jury) and the amount of money they wish to spend on the case, and without bankrupting oneself in the process, is not possible in the real world. The veracity of their claims about events within Senate and the standing of supposed rules on confidentiality mattered little in the end. For the case was not about truth, but rather the exercise of naked power and the extent to which this could be resisted by the collective action of NTESU, concerned colleagues, both within and outside the university, and civil society. Truth and justice, never mind good governance and due process, counted for less than nothing in one university in post-liberation South Africa.

On Friday 21 November 2008, Van den Berg signed an agreement with UKZN, bringing to an end its disciplinary action against him. The agreement comprised, in essence, an apology to the university and its vice-chancellor and the issuance of a final written warning ‘to refrain from engaging in conduct of the kind set out in the charges leveled against him and from making any defamatory or disparaging remarks about [the vice-chancellor]’.<sup>25</sup> This amounted to a gagging order. Chetty refused to sign and on 26 November 2008 tendered his resignation from his alma mater.

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24 Alan Rycroft to Nithaya Chetty and John van den Berg, email, 18 November 2008.

25 O.A. Moosa, SC to Malegapuru Makgoba, letter, 26 November 2008.

## Governance and Academic Freedom Committee

If the UKZN authorities expected the furore generated by the Van den Berg-Chetty affair to die down after Chetty's resignation and Van den Berg's signing of a settlement agreement, then they were to be rudely disappointed. The opposite happened. Condemnation intensified and the picture emerged of a university Executive at war with its staff. Matters came to a head after news of the turmoil at UKZN reached the office of the national Minister of Education, Naledi Pandor. Her instruction to UKZN leadership was carried in the headline 'Clean up your act' that appeared on the front page of a Sunday newspaper. The minister was also quoted as saying that 'Academics must enjoy the right to express their views freely ... I believe all universities are spaces of tolerance of criticism, inquiry, review and debate.'<sup>26</sup>

Following Pandor's intervention, the chairman of Council, Mac Mia, released a statement to the university community. In it, he discussed the underlying issues brought into focus by the Van den Berg-Chetty affair and reaffirmed the university's commitment to 'upholding the highest standards of academic freedom'. Mia announced the establishment of the governance and academic freedom committee (GAFC), whose task it was to investigate issues related to governance and academic freedom at UKZN. He promptly followed this with a further statement that appeared to pre-empt the findings of the committee: 'As a University our commitment to academic freedom remains firm in the face of a small minority of dissenting voices who do not see or wish to see the bigger picture of transformation and change.'<sup>27</sup>

The GAFC comprised four Council members – Phumla Mnganga as chair, Hugh Africa, Phumelela Ntombela-Nzimande and Peter Olsen, SC – and three Senate members – Thabisile Buthelezi, Dharmanand Baboolal and Isabel Konyn. However, questions regarding the committee's credibility were raised from the outset. The selection process was entirely opaque. For instance, Senate had unbelievably played no role in the choice of senators to serve on the GAFC. NTESU raised objections in a submission it made to the GAFC, but in his covering report, Selby Baqwa SC, appointed to oversee the work of the GAFC, dismissed these, stating that Council had acted entirely within its mandate as defined in the statute in establishing the GAFC. Baqwa missed the point by a mile and more. The question was not whether Council had the legal authority to appoint such a committee. Clearly it

<sup>26</sup> *Sunday Tribune* 7 December 2008.

<sup>27</sup> 'Statement by the Chair of Council on Good Institutional Governance and "Academic Freedom" at UKZN', 12 December 2008.

did. The pivotal issue related to credibility, not legality. What was not realised was that Council itself stood to be judged in this matter.

The GAFC began its work in early 2009. The committee engaged with individuals who requested to be interviewed and also invited testimony from leading experts from South African academia. It received a total of 103 written submissions and submitted its final report to Council in May 2009.

The GAFC report defines academic freedom in a narrow sense as the right to teach and research without undue interference and then goes on to announce, somewhat disingenuously, that there was no evidence of infractions of academic freedom at UKZN. The right to teach and research without undue interference had never been called into question and the committee was well aware of this. The key issue was the right of academics to question and criticise the manner in which their institutions are governed, a right widely recognised as an important aspect of academic freedom.<sup>28</sup> The GAFC places this right under freedom of expression, not academic freedom. The difference is not just semantic: academic freedom is a constitutionally defined right that should give scholars added protection from those seeking to victimise them for their opinions.

Despite this shortcoming, substantial progress would still have been made if the report had acknowledged that the climate within UKZN was not conducive to freedom of expression and that the space for dissenting opinion had been closed down. This it did not do. It simply stated that 'a sector within the University fears that when they voice opinions or comments which go beyond those relating to teaching, learning and research, they will be dealt with in ways which suppress their right to Freedom of Expression' and continued that 'not all sectors in the University shared these fears'. This came as no surprise. What the GAFC needed to do, but did not, was to determine whether concerns regarding the suppression of freedom of speech were well-founded. All they were prepared to accept as real was a perception of a curtailment of freedom of expression.

The vice-chancellor was quick to react to this finding. In a newspaper article that appeared soon after the release of the GAFC report, Makgoba is quoted as having said that 'For three months newspapers were being written with stories saying Makgoba this, Makgoba that, and then people are asked to come forward

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28 This point is made in K. Bentley, A. Habib and S. Morrow, *Academic Freedom, Institutional Autonomy and the Corporatised University in Contemporary South Africa* (Pretoria: Council on Higher Education, 2006): 29; and also in the FXI's submission to the GAFC.

and provide evidence and no one comes with any evidence.<sup>29</sup> Contrary to his claim, people did indeed come forward to provide evidence, a mountain of it comprising several hundred pages of testimony. It included a detailed NTESU report on the Van den Berg-Chetty disciplinary case, which documents a litany of infractions of academic freedom and freedom of expression. The committee was also aware of the well-publicised incident in June 2006 when a group of academics (the Assagay 13) was prevented from following up a process to discuss the issue of transformation at UKZN. There is a fleeting, somewhat oblique, reference to the incident in the report, but nothing more.

Other incidents were passed over entirely. One example was the cancelled special meeting of the Faculty of Science and Agriculture described in chapter 9. Historian Jeff Guy went public on this issue. He strongly criticised a new and unhealthy deference to lawyers that had emerged at UKZN and a consequent emphasis upon procedure. While not dismissing the last, he warned of ‘forgetting about that other feature of democratic governance – matters of principle’. These, he believed, had been neglected and ‘procedures [had] become an end in themselves, obliterating our responsibilities as academics and as citizens’. Guy came to the obvious and responsible conclusion as a democrat that principle overrides procedures that have lost meaning, and said the meeting should have gone ahead.<sup>30</sup> This indeed is what would have happened at both the universities of Durban-Westville and Natal in the days of anti-apartheid struggle. The dean, John Cooke, resigned from the university in early 2009 to take up a post in Botswana.

The GAFC’s failure to find any fault with the Executive’s attitude to the principles of academic freedom and freedom of expression reveals its profound shortcomings but is perhaps unsurprising. To reach findings that were strongly critical of UKZN, the committee would have been forced to acknowledge, at the very least, some culpability on the part of the vice-chancellor. This they appeared most reluctant to do, choosing instead to tiptoe around Makgoba’s sensitivities. Instead of criticising his behaviour, as the authors believe it should have done, the GAFC made excuses, blaming the merger, institutional racism and a supposed small minority of dissenting voices allegedly opposed to transformation. The GAFC also failed to comment on the emasculation of Senate, a problem noted during the institutional audit in October 2008.

And yet, despite its many shortcomings and the fact that it had ‘tiptoed around sensitive issues’,<sup>31</sup> the job done by the GAFC had some redeeming features.

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29 *The Mercury* 22 May 2009.

30 J. Guy ‘Losing the plot’ *The Witness* 19 November 2008.

31 C. McKune, ‘Tip-toeing around Vice-Chancellor Makgoba’ *South African Journal of*

Although failing to grasp the nettle in some crucial areas, it was unequivocal in others. It called for the review of university disciplinary policies, processes and procedures to be expedited. It also recommended a review of the processes and procedures of Senate and the establishment of an office of ombudsman. This sounded promising, but some of these recommendations had been made in the past by other committees and never implemented.

A careful reading of the GAFC report does reveal some quite startling information. Makgoba's response to accusations that disciplinary procedures within the university were being (mis)used to silence dissent and settle personal scores, was to say to the press that 'all the disciplinary decisions were decisions of the Council backed by evidence'.<sup>32</sup> But a revealing comment in the GAFC report, made with reference to the Van den Berg-Chetty case, shows this claim to be false and confirms precisely the accusations Makgoba was seeking to deny: 'Whilst Council accepted the Bhengu report, it did not make a decision specific to the disciplinary action'.<sup>33</sup>

There can be little doubt that the university's decision to act against Van den Berg and Chetty, and the widespread condemnation that this action precipitated, did much to harm the reputation of UKZN. These events led to a heightened awareness of many important issues, including academic freedom and freedom of expression, university governance, and transformation at UKZN and beyond. Whilst the GAFC did not make a direct link between its recommendations on university governance and academic freedom, the recommendations have a direct bearing on academic rule and indicate the extent to which it has been compromised at UKZN by autocratic leadership. Makgoba's bravado in the press, claiming victory on the basis of a report that he saw as having exonerated him, shows a lack of understanding of its real import.

It is instructive to refer again at this point to the Land Bank of the 1990s. Helena Dolny described how necessary, justifiable, professional action was twisted into racism, reflecting that her contrary experiences in Mozambique could perhaps be explained by a commonly held socialist agenda that minimised the race issue. She felt like 'a detainee preparing for interrogation' and the enquiry that followed bore out this perception. Abusive and defamatory accusations, improper allegations and dirty tricks (intimidation and violence) all featured in the process that led to her departure. Her accusers even made use of the well-

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*Science* 105(5-6) 2009: 163.

32 *The Mercury* 22 May 2009.

33 GAFC report: 71.



worn pejorative term liberal clique, an odd way of smearing the widow of one of South Africa's best-known communists. Manufactured charges, a deliberately drawn-out, heavy-handed disciplinary process and the prospect of financial ruin, albeit with a high chance of vindication, all put paid to her job.<sup>34</sup> We think there are some distinct parallels with events at UKZN.

It is a supreme paradox, but one that appeared entirely lost on the university's managers, that in seeking to promote a faculty document that exposed a climate of incivility, the racialisation of debates, the overzealous imposition of confidentiality and an overly litigious institutional culture, two of the document's authors came to be vilified, accused of racism and later subjected to disciplinary action for a breach of confidentiality. The irony of this was captured in a letter of thanks sent by Van den Berg to his supporters. In it he wrote with dignified magnanimity:

Eighteen months ago a small group of academics in the Faculty of Science and Agriculture sat down to draft a discussion document on academic freedom. Its purpose was, ultimately, to stimulate institution wide debate on this important principle. It has succeeded in doing this in a manner not anticipated but to an extent beyond our wildest expectations. The personal cost has been enormous, but the struggle has not been in vain and this is something that I take heart from.<sup>35</sup>

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34 H. Dolny, *Banking on Change* (London: Viking, 2001): 233, 239, 241, 248, 346-7.

35 John van den Berg, letter, 27 November 2008.

# The soulless university

*The silencing of an opponent sounds alarmingly like an admission that we cannot answer him.<sup>1</sup>*

*There are many parallels between Thabo Mbeki's presidency and Makgoba's reign at UKZN.<sup>2</sup>*

*Group ideologies thrive at considerable cost to the general utility: life to them is death to a republican morality like ours.<sup>3</sup>*

THE CENTRAL THEME of this history of the University of KwaZulu-Natal is academic governance. At the time of the merger in January 2004 it was suspected by some that university transformation might result in subversion of academic rule. Three years later it was officially recorded (in contorted bureaucratic language) that 'the most important formative decision made by the merging partners was that the "new" University should not emerge by default as a convenience of compromise but rather by design with an explicit intention to undo the past'.<sup>4</sup> Since transformation of the student body, staff complement and curriculum were all either proceeding as fast as was practicable, well under way or virtually complete at the predecessor universities, institutional culture was likely to be a main target.

This, however, did not prevent UKZN management playing a powerful and populist demographic card under the illusion that numbers provide legitimacy.<sup>5</sup> It marked the imposition upon UKZN of an essentially racist discourse and the flowering of a culture of patronage.

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1 C. Russell, *Academic Freedom* (London: Routledge, 1993): 44.

2 B.J. Karumbidza, 'UKZN's Makgoba: another five years' *The Witness* 14 May 2009.

3 D. Bromwich, *Politics By Other Means: Higher Education and Group Thinking* (New Haven: Yale University Press, 1992): 159.

4 University of KwaZulu-Natal, *Merger Report, 2007*: 27.

5 H. Giliomee, 'Liberalism in South Africa and its enemies' in *Opposing Voices: Liberalism and Opposition in South Africa* edited by M. Shain (Johannesburg: Jonathan Ball, 2006): 69.

Imraan Coovadia writes perceptively about the Doomsday clock, a measure of future hope.<sup>6</sup> This has different meanings for different groups of people. Faced with Africanisation, minorities feel their time is literally running out. African members of staff have no reason to feel anything but confident regardless of effort. Far from the declared dream of the merger, a cutting-edge university of African research, UKZN appeared oddly resonant of the era of apartheid. Just the demography had changed.

Perhaps the most destructive legacy of all periods of domination, whether termed imperialist, colonialist or apartheid, is a privileged, materialist elite that finds it convenient to continue to portray itself in terms of victimhood. This is both hypocritical and socially destructive, and it explains in part the post-merger histories of the universities of Durban-Westville and Natal. The new UKZN has suffered from a toxic combination of corporate managerialism, neo-conservatism, ethnic nationalism and radical rhetoric; significantly, there is something for nearly everyone except those who believe in the traditional values of a university. The authors argue that these disparate strands of thought and belief have fed one another and reinforced an elitist and managerialist approach that had already become a disconcerting feature of higher education before the merger.

In this they disagree with Richard Pithouse who sees transformation and corporatisation as contemporary but separate issues, although he concedes that it is 'very easy for legitimate critique of corporate authoritarianism to be dismissed as a racist backlash against African management'.<sup>7</sup> The argument here is that managerialism has provided precisely the tools that social engineers, especially those masquerading as victims, required to re-racialise the institution. They constitute an unholy alliance of authoritarians dressed up in the language of Africanism using corporatist methodology to enforce obedience from university serfs. This has destroyed the ethos of a true, collegial university. It is indeed an 'industrial university setting'.<sup>8</sup> The predecessor universities had many flaws and problems, but by and large their staff regarded themselves as custodians and servants of educational institutions of regional and national significance. For this they worked hard and for relatively small reward. The new elite appear to believe they own the university and that it can be used for any purpose – social engineering, political advancement and personal gain included.

6 I. Coovadia, 'Midnight' in *Load Shedding: Writing On and Over the Edge of South Africa* edited by Liz McGregor and Sarah Nuttall (Johannesburg: Jonathan Ball, 2009). Imraan is the son of Jerry Coovadia, one of the Assagay 13, and a member of the English department at UCT.

7 R. Pithouse, 'Shifting the ground of reason' in *Re-Imagining the Social in South Africa: Critique, Theory and Post-Apartheid Society* edited by H. Jacklin and P. Vale (Pietermaritzburg: University of KwaZulu-Natal Press) 2009: 157, 160.

8 N. Chetty, 'The academic voice' *The Witness* 23 December 2008.

The tone for a revolution in governance was set by the ascension of the last vice-chancellor in the history of the University of Natal. This was as much a celebrity event with political overtones as an appointment process: there was essentially just one participant. Furthermore, it was brutal in its language and tactics. These coup d'état characteristics were repeated when UKZN was established. Events then unfolded with almost inevitable progression, although why UKZN in particular should have had this experience remains a question to be answered by other observers.

The merger process was largely devoid of substantial content and fell victim to the smoke and mirror games of the world of corporate affairs and public relations. Much was made of the need to brand the new institution, so great energy was put into deciding on its name, logo and other symbols and slogans. This completely missed the point that a university rises and falls on its reputation and solid factors of measurement. Ideology and expediency, not academic criteria, were the order of the day.

Systems prone to authoritarianism thrive where they can identify an imagined enemy that becomes the focus of populist dissatisfaction. Extraordinary coalitions can be easily maintained in this way. Initially a supposed old boy network variously identified as colonial, white male and liberal served the purpose at UKZN, although it had no factual basis in recent history. The serial crises at UKZN have repeatedly been blamed on a national network of white liberals from the former open universities.<sup>9</sup> Pejorative terms such as old clique and settler intellectual were also used, together with a number of well-known zoological descriptions. In time, staff of Asian extraction were added to the catalogue of unacceptability. The myth was perpetuated that anyone who criticised the policy or practice of UKZN was opposed to African leadership or transformation.<sup>10</sup> The purpose of this was to delegitimise the voice and opinions of selected parts of the university community and, when such name calling failed to work, accusations of conflict of interest and bias were introduced.

Virtually every university document of note was declared confidential. This often flew in the face of reality because no document circulated to scores of people could be designated as such; nor were the contents particularly sensitive. The object was to prevent wider debate both within the university and outside, especially in the press. Construction of myth was used to justify any course of

9 C. McKune, 'Tip-toeing around Vice-Chancellor Makgoba' *South African Journal of Science* 105(5-6) 2009: 164.

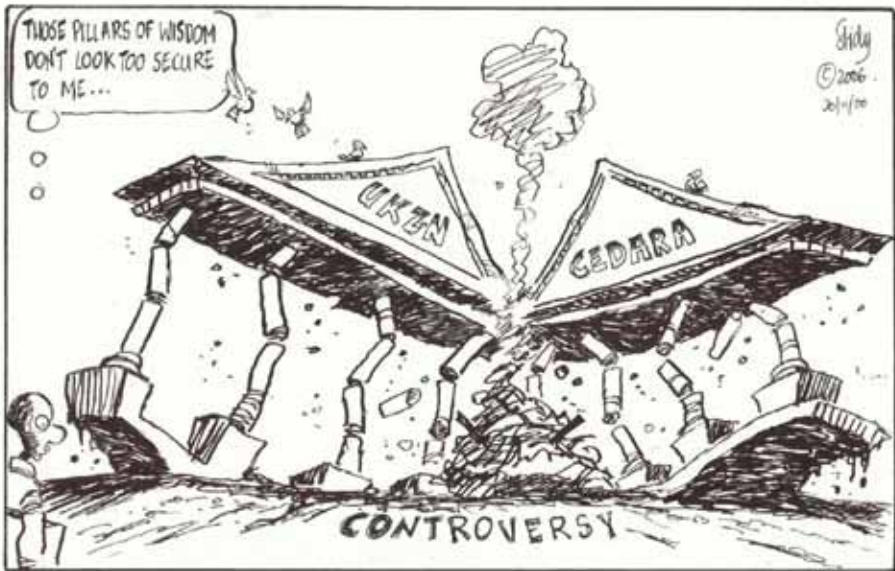
10 N. Chetty, 'Recounting the myths of creation' *Mail & Guardian* 27 August 2010: 5s.

action regardless of its rationality or efficiency. Erasure of the past was a priority. Working systems were swept aside with cavalier abandon on the grounds that they belonged to a discredited tradition. Without plausible replacements, a descent into dysfunctionality began. Executive control has thrived in the resultant despair and uncertainty. Another tactic was that of permanent, contrived crisis. This enabled various constituencies within the staff and student bodies to open a tap of agitation whenever required. The rape issue described in chapter 5 illustrates this well. An issue that should have united everyone of goodwill took on racial connotations. But above all, there was a state of permanent organisational change with a history that stretched back to UKZN's predecessors from the 1980s onwards.

In the background there were prominent leadership and university publications that helped to boost the new image. However, good, self-sustaining universities do not need leaders, particularly visionaries with grand agendas. They grow from their own inherent energy and enthusiasm. Their vice-chancellors and other office bearers should be, apart from as few in numbers as possible, custodians of values that sustain institutions from generation to generation and ensure continuity. Their purpose is to provide an enabling environment for academic rule. This custodial, conservationist approach is essential to the survival of intellectual inquiry and the freedom to think. The values for which universities stand do not fare well in uncertain or revolutionary times: academic freedom and rule cannot operate in universities that of their own volition adopt an exclusive ideology and divisiveness. By way of complete contrast, Saleem Badat, the vice-chancellor of Rhodes University, had these profound words to say after his appointment in 2006: 'There will be no dramatic changes. There are no imposed vision and strategies. That's not how I believe an institution – especially not a university, and especially not this one – should be run.'<sup>11</sup> Both the University of Cape Town and the University of the Free State were also later to appoint in Max Price and Jonathan Jansen listening vice-chancellors with a belief in inclusivity. Why did UKZN not actively seek leadership capable of this level of maturity and wisdom?

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11 *Grocott's Mail* 9 June 2006.



Instead, it has been characterised by control. Many aspects of the short and troubled history of UKZN defy rational, logical explanation until this is factored into the equation. It accounts for the enormous bureaucracy that has grown with the merger and become so oppressive that it has disabled many basic functions. It is not just a matter of finance and human resources, two areas of traditional irritation to academics. Academic life itself has suffered. As recounted above, research, new courses and postgraduate registrations have all been stifled. Extreme forms of surveillance have intruded, including monitoring during the strike of 2006, the probable reading of email and possibly even more outrageous measures.<sup>12</sup> Much of this has thrived on legalism, and lawyers with a penchant for obscure interpretation have featured in most of the university's crises. Many of the outcomes have been bizarre.

In his T.B. Davie Academic Freedom Lecture, Nithaya Chetty linked the increasingly managerial ethos with a more litigious environment:

how else can one force compliance with the quagmire of intellectually offensive rules and regulations that have come to govern our

<sup>12</sup> A member of the university Executive and the line manager of one of the authors would not discuss certain matters with him in his office. They would go outside and sit on a bench under a tree.

universities? Managers are abdicating their responsibilities to the courtroom, often with devastating consequences, and with a brutal legalistic interpretation of what a university should be. This is giving rise to what Dr Jane Duncan, former director of the Freedom of Expression Institute, has referred to as the 'disciplinary university'.<sup>13</sup>

It should perhaps be noted that a tendency to resort to lawyers to protect the fragile egos of university managers was already evident in its predecessor institutions, but UKZN has turned this occasional practice into standard procedure.

Control has also been promoted by collective identity and thinking. South Africans are historically prone to excessive degrees of group conformity at the expense of principles and conviction based on individual conscience. Fortunately, the academic world has its own inherent culture that produces sufficient numbers of individuals indisposed to what it regards as illegitimate authority. As in the days of apartheid they are not prepared to be subjected to and oppressed by institutionally imposed restrictive ideology. So, although UKZN has been largely quiescent and accommodating of the new regime (a reason for investigation of its own) it inevitably threw up a few stubborn individuals unprepared to give up a valuable legacy.

They turned to obvious mechanisms of resistance: first, the remaining structures of democratic governance within the university itself; second, traditional freedoms of assembly and expression; and third, other democratic institutions outside the academy with shared values, such as the press. The result was an immature reaction from the authorities based on insecurity that soon crossed permissible borders of behaviour into incivility, abuse and ultimately that all too familiar feature of contemporary South African institutional life, disciplinary action. The results were draconian and to an extent farcical. The struggle over Senate was reminiscent of Alice in Wonderland:

Alice felt dreadfully puzzled. The Hatter's remark seemed to her to have no meaning in it, and yet it was certainly English. At this moment the King, who had been for some time busily writing in his note-book, called out 'Silence!' and read out from his book, 'Rule Forty-two. *All persons more than a mile high to leave the court*'. Everybody looked at Alice. 'I'm not a mile high,' said Alice. 'You are,' said the King. 'Nearly two miles high,'

13 N. Chetty, *Universities in a Time of Change* T.B. Davie Academic Freedom Lecture, Cape Town, 12 August 2009.

added the Queen. ‘Well, I shan’t go at any rate,’ said Alice; ‘besides, that’s not a regular rule, you invented it just now.’ ‘It’s the oldest rule in the book,’ said the King. ‘Then it ought to be Number One,’ said Alice. ‘Let the jury consider their verdict,’ the King said, for about the twentieth time that day. ‘No, no!’ said the Queen. ‘Sentence first – verdict afterwards.’<sup>14</sup>

Irrationality, authoritarianism, expedient invention of regulations, abuse and abandonment of the rule of law: all are part of the wonderland of UKZN. Certainly, all were evident in the action taken against John van den Berg and Nithaya Chetty.

Dissident staff at UKZN turned to their only hope in a desperate situation – their institutional and constitutional rights. Both proved illusory. University management took the line that only certain channels, or processes, were available for legitimate debate; and then went about stage-managing their conduct and outcomes. Ironically, the establishment readily resorted to hierarchy, a pulling of rank and a truly colonial *modus operandi* that had long since been conquered in UKZN’s predecessor institutions. Dissidents were told that they were junior, unproductive and operating outside their permissible zone. The era of the talented academic well able to pursue teaching, research, writing and involvement in broader university affairs (as well as wider civil society) was clearly over. Staff were now expected to work in narrow silos, as teaching- and research-producing machines, that left unhindered the top-down exercise of power.

It was a chilling indication of the extent to which good university governance and academic rule had been subverted. In effect the rule of law had been substituted at UKZN by authoritarianism that sometimes descended into tyranny. These trends are evident throughout the short history of the merged university, but no more so than around the struggle for Senate described in chapters 9 and 10 of this book. Entitlement and impunity characterised these developments and explain the irrational outrage when university members exercised a constitutional entitlement to talk to the press, the fourth estate of democracy.

Under these conditions of oppression and manipulation, debate descended to the lowest common denominator. This involved racial slurs and sloganeering and occasional resort to mob behaviour. These disquieting symptoms of institutional meltdown did not simply upset a dissatisfied and substantial group of staff; they were described in trenchant terms by well-informed outside observers, many of

14 L. Carroll, *Alice in Wonderland* (London: Diamond, 1993): 77, 131, 136.



them familiar with higher education in KwaZulu-Natal. They uniformly reacted adversely to the insertion of authoritarian values into the institutional culture of the new university.

Perhaps this goes some way towards answering the intriguing question: why the debilitating and disabling quiescence and fear among a body of professional, intelligent and astute people, some of whom had squared up in different but combative ways to the apartheid state? Some well-established academics were reduced by UKZN to hand-wringing, subservient apologists pretending that each incursion into university freedoms was just a minor concession. In the mid-1980s the security police in Pietermaritzburg operated from the top floor of the Loop Street police station. The entrance door was steel plated and it shut with a clanging finality. Many academics made the unwilling acquaintance there of Brigadiers Beukes and Jacques Buchner, the top expert on the ANC, or their shadowy, usually nocturnal operatives. Yet twenty years later, under a democratic dispensation, most academic staff were frightened off by Executive disapproval or a spurious accusation of racism. It is hard not to succumb to a sense of betrayal, or at least one of grievance that privileged academics did not live up to their obligations to principles of academic rule and freedom. Part of the problem was a steady outflow – under a barrage of misgovernance – of the talented and able, especially to the universities of Johannesburg, Pretoria, Cape Town and Rhodes, where the true essence of academia continued to be valued. One of three reasons for Robert Morrell’s decision to leave UKZN at the end of 2009 for UCT was a ‘decline of collegiality and the steady exodus of friends and colleagues ... the best qualified, most productive and energetic staff are leaving because they find working conditions intolerable’.<sup>15</sup>

A possible explanation for this bleak picture is to be found in the decline of the social sciences, the intellectual foundation of most academic activists during the apartheid era. As John Higgins has written, in an age of globalisation applied disciplines have been in the ascendancy, accompanying what he describes as ‘an increasingly instrumental and economist view of the purposes of higher education’. This has had the effect of removing critical voices intimidated perhaps by another trend identified by Higgins: ‘the pressures of an applied nationalism’.<sup>16</sup> The imposition of a certain brand of patriotism has been all too evident at UKZN. And it is possible that relativism and post-modernist thinking has also devalued critical thinking. It is noteworthy that the struggle for academic rule at UKZN featured more natural scientists than was the case in the anti-apartheid struggle.

15 N. Barbeau, ‘Top academic moving to Cape’ *Daily News* 24 December 2009.

16 J. Higgins, ‘Dilemma of the humanities’ *Mail & Guardian* 24 June 2011: 49.

Misleading statements made in official university publications bore little relation to the truth. Indeed, UKZN became a propaganda agent. Its aim was apparently to ‘ensure effective governance through broad and inclusive participation, democratic representation, accountability, and transparency that serves as an example that contributes to building the democratic ethos of our country’, a picture that its members found hard to identify. The strategic plan went on to promise a ‘climate of organizational citizenship where all staff recognise and understand their role in ensuring the success of the university’. This suggested a sub-text of authoritarianism that was to be found not far away: ‘collegiality includes recognition of responsibility and accountability, including the consequences of non-compliance’. The plan further professed a belief in ‘effective and responsive management systems and processes that provide a caring and responsive service to meet internal and external needs in a pragmatic and flexible manner’.<sup>17</sup> Of these qualities, there is little evidence – as this book has shown.

A disturbing question is why Council, granted considerably enhanced powers under post-apartheid legislation, acquiesced in these bizarre trends and practices. It demonstrated a notable lack of leadership and appears to have operated largely under the influence of the vice-chancellor. This is not unique: a similar trend has been observed elsewhere in the South African higher education system by Adam Habib, now vice-chancellor of the University of the Witwatersrand: ‘Council’s primary role is to monitor management and see that it operates within the framework of institutional and legislated policies ... Currently management and in particular vice-chancellors have far too great a role in determining the make-up of their Council. The result is that Councils can become personal networks, which makes it impossible for them to check on management effectively’.<sup>18</sup> At UKZN the issue of accountability seems to have been as foreign to Council as to the Executive. The new managerial culture, in the words of Morrell, spread like gangrene.<sup>19</sup> UKZN has taken on the characteristics of a university in which ‘management and academic unions confront each other around the bargaining table rather than in Senate or at the Faculty Board’.<sup>20</sup> Indeed, Senate has become just another committee in an emergent ‘blue-collar university’.<sup>21</sup>

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17 University of KwaZulu-Natal, *Strategic Plan, 2007–2017*: 6, 13, 14–15.

18 A. Habib, ‘The institutional crisis of the University of the Transkei’ *Politikon* 28(2) 2001: 176.

19 Robert Morrell, email interview, 7 July 2010.

20 A. du Toit, ‘Critic and citizen: the intellectual, transformation and academic freedom’ *Pretexts* 9(1) 2000: 100.

21 N. Chetty, *Universities in a Time of Change* T.B. Davie Academic Freedom Lecture, Cape Town, 12 August 2009.

In November 2004, Jonathan Jansen, then dean of Education at the University of Pretoria, delivered the Hoernlé Lecture of the South African Institute of Race Relations in Johannesburg. He entitled it *When Does a University Cease to Exist?* and it is instructive to compare his views with what emerged during the formation and early years of UKZN dissected in this book. His greatest concern was the danger of dragging down what were world-class universities. He attributed ‘the disturbingly poor quality and credibility of higher education leadership after apartheid ... to the demise of the South African university’. He voiced disgust at the salaries of vice-chancellors and the councils that awarded them, highlighting the poverty of many students. In his 2004 T.B. Davie Memorial Academic Freedom Lecture at the University of Cape Town, Jansen had already argued that ‘a university ceases to exist when the intellectual project no longer defines its identity, infuses its curriculum, energises its scholars, and inspires its students’. He specified state interference, ethnic chauvinism and the suppression of views as major obstacles to the future of South African universities. A university’s existence is fragile, he argued, ‘when it represents nothing other than an empty shell of racial representivity at the cost of academic substance and intellectual imagination’.<sup>22</sup>

Responding to Jansen’s lecture, *The Witness* editorialised about the ‘virus of political correctness’ and the creation of the antithesis of the true university.<sup>23</sup> But has UKZN reached Jansen’s point of no return? There are undoubted signs. What is particularly worrying is that it is easy to deconstruct institutions, but extremely hard to rebuild them:

Universities are rather fragile places. It can take many decades to build a ‘great’ university – in a reputational sense of the word – but only a little while to cause reputational damage to an institution ... [and] ... history shows that it is difficult to change the course of a failing university.<sup>24</sup>

There is no doubt in our minds that academic rule has been effectively destroyed. Freedom of expression has all but disappeared. People are afraid to speak up at meetings, especially in front of Executive heavyweights and their hatchet men and women. Few academics any longer engage with the press on any topic including their own speciality, let alone matters of university (mis)governance.

22 J. Jansen, *When Does a University Cease to Exist?* (Johannesburg: South African Institute of Race Relations, 2005 – 40th Alfred and Winifred Hoernlé Memorial Lecture): 10–11.

23 *The Witness* 25 November 2004.

24 N. Chetty, ‘An opportunity that will not come again’ *Mail & Guardian* 7 August 2009: 3s.

And, although the UKZN establishment may argue with justification that the traditional components of academic freedom are intact, it has suffered in its broader sense. Conrad Russell argues that freedom of speech is the 'essence of the academic process itself'.<sup>25</sup> The Academy of Science of South Africa has backed this up from a local perspective, believing that 'the university and the research community function best within a collegial system of governance and an intellectually free environment'. Its vision goes on to say that 'only open and unfettered inquiry by creative and highly trained professionals can deliver research of the highest quality' which require 'the freedom to research, write, and speak robustly and professionally, without fear or favour on any topic including the impact of science on society'.<sup>26</sup>

It is worth remembering that these are universal, international principles. UNESCO, for example, is quite clear about the need for academics to have 'freedom to express freely their opinion about the institution or system in which they work, freedom from institutional censorship ... Higher-education teaching personnel can effectively do justice to this principle if the environment in which they operate is conducive, which requires a democratic atmosphere'.<sup>27</sup> Nor is this a Eurocentric opinion as the Kampala Declaration shows (see chapter 1). Yet Richard Pithouse, a former member of staff, has pointed out that 'Elite nationalist, corporate and left authoritarianism, operating from within and through the University of KwaZulu-Natal ... made it very difficult to hold a place in the academy and to simultaneously engage with popular politics in a manner that respected the intellectual and political autonomy of that politics'.<sup>28</sup> He went on to describe Frantz Fanon's account of the expulsion of honest intellectuals from the post-colonial university hijacked by nationalism.

Indeed, 'academic freedom appears to be a distraction, a kind of irritation that is barely tolerated by many of our politicians and a growing number of university managers who are driven by their own sets of interests. Increasingly now, even some academics and students are dismissing the importance of academic freedom in the face of other competing priorities.' It is a sign of utter failure that the UKZN regime has been unable to find collegial and internal ways of resolving conflicts: 'external lawyers should be kept out of the university disciplinary processes. A university ombudsman is helpful in easing tensions and preventing the escalation of problems, especially during this time of change.' In his UCT Academic Freedom lecture, Nithaya Chetty went on to say that

25 C. Russell, *Academic freedom* (London: Routledge, 1993): 44.

26 Academy of Science of South Africa, 'Academic freedom statement' 15 March 2010.

27 UNESCO, *Recommendation Concerning the Status of Higher-Education Teaching Personnel*, 11 November 1997: III.6, VI.A.27.

28 R. Pithouse. 'Shifting the ground of reason': 142.

I can understand why somebody might be disciplined for, say, vandalism, or assault or for showing up drunk for work, but I cannot fathom out the need for charging somebody for what they say. I think that no thought or utterance should be banned from a university, no matter how repugnant that view might be. The constitution, of course, gives conditions under which freedom of speech is not protected, such as inciting violence, hatred, racism, etc ... “Bringing the university into disrepute” is not a justifiable charge, for what does it mean? Its nebulous nature has meant that it is a catch-all for getting at people who might be considered to be undesirable.<sup>29</sup> South Africa has been here before, of course: it is all too reminiscent of apartheid-era courts that struck down legislation and regulations as void for vagueness.

Chetty in his August 2009 lecture at UCT came to the gloomy conclusion that academic freedom is on the decline at South African universities and he challenged academics to keep the concept alive. ‘When society finally wakes up to the importance of an independent, critical and credible academy,’ he said, ‘let it not be that we look about and cannot find that which we can call a university.’<sup>30</sup> Nico Cloete had raised this issue several years earlier in a more pragmatic context, arguing that universities are ‘failing to reproduce themselves ... they are not producing the next generation of knowledge producers’.<sup>31</sup> Remembering Colin Webb’s prophetic words from the late 1950s about the folly of grand plans, it is worthwhile considering Bill Johnson’s point that had it not been for the 1959 Extension of University Education Act, a well-educated, professional black middle class would have long been in place to defend the liberal universities.<sup>32</sup>

It is shocking to conclude that while freedoms have broadened for all South Africans in society at large since 1994, the space for academics to exercise their rights within UKZN has in our experience drastically narrowed. It is even more disturbing to realise that there was a greater degree of academic freedom in the wider sense in an anti-apartheid university operating under draconian laws. Part of the blame for this can be ascribed to the years of euphoric neglectfulness that followed the first free elections and when the mythology of the rainbow nation was uncritically accepted. Extremely naive assumptions were made about people,

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29 N. Chetty, *Universities in a Time of Change*.

30 N. Chetty, *Universities in a Time of Change*.

31 N. Cloete et al. (eds), *Transformation in Higher Education: Global Pressures and Local Realities* (Dordrecht: Springer, 2006): 220.

32 R.W. Johnson, ‘Liberal institutions under pressure: the universities’ in *Ironic Victory: Liberalism in Post-Liberation South Africa* edited by R.W. Johnson and David Welsh (Cape Town: OUP, 1998): 141–2.

processes and institutions. Civil society went to sleep in the late 1990s during a period of political liberalisation unique in South Africa's history. Key spaces were filled by authoritarians and opportunists. Democrats saw what they had been programmed, and hoped, to see; not what was really happening. Therein lay the seeds of massive institutional damage.

Jonathan Jansen puts his finger on one of the specific problems: 'the withering away of the public intellectual has meant that those who stand up and speak truth to power are more likely to be seen as oddities or even as eccentrics precisely because there are so few others doing the same'.<sup>33</sup> As he notes so eloquently, 'it would be easy to be fooled by the symbolic functions and routines of university life, and mistake this for a university'. Among other negatives he records the 'madness of managerialism [that] has displaced the power of the intellectual community as the distinctive feature of university life'.<sup>34</sup> This goes some way towards describing the situation at UKZN, which has suffered the added ingredient of racially inspired authoritarianism. And it is a supreme irony that Kader Asmal, the minister of education who was directly responsible for university mergers, is on record as saying that pre-merger higher education represented 'the geo-political imagination of apartheid planners'.<sup>35</sup> Indeed, some of it did. But part of Asmal's legacy lies in an institution of higher education that is a travesty of all a university in a modern democracy should be.

This should be a matter of serious concern: higher education is a crucial national asset. But the authors believe that what they have described and analysed should not be seen purely as an academic or university issue. It holds warnings and lessons for all sectors of South African society where governance issues often lie at the root of behaviour that is unsatisfactory or even destructive for institutions and individuals.

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33 J. Jansen, 'Intellectuals, the state and universities in South Africa' in *The Poverty of Ideas: South African Democracy and the Retreat of Intellectuals* edited by William Gumede and Leslie Dikeni (Johannesburg: Jacana, 2009): 151.

34 J. Jansen, *When Does a University Cease to Exist?*: 3, 8.

35 Quoted in J. Jansen, 'Mergers in higher education: theorising change in transitional contexts' in *Mergers in Higher Education: Lessons Learned in Transitional Contexts* edited by J.D. Jansen (Pretoria: University of South Africa, 2002): 159.

# Epilogue

THIS BOOK HAS focused on issues relating to the establishment of the University of KwaZulu-Natal up to early 2009, by which time both the authors had left the institution. Since then, UKZN has remained mired in controversy with periodic reports indicating simmering tensions. The heavy handedness of the university authorities in dealing with voices of dissent as outlined in this book has, in our opinion, had the desired effect of silencing many critics.

Some academics have moved to other universities, or even other careers. Some bide their time as they approach retirement and an eerie silence has descended on UKZN. Discussions on the Change list server have turned to such mundane matters as the future of the Memorial Tower Building coffee shop on the Howard College campus, while important university governance matters hardly elicit a comment, although there was a new flurry of courageous dissent in early 2013. Just before this book was finalised the faculties of UKZN were abolished in favour of mega schools headed by managerial appointees and accompanied by another round of jockeying for position. Lower down in the pecking order fear, uncertainty and demotivation reigned. Just a few academic and administrative staff had the courage to protest and it was feared that their search for solidarity would end in familiar disappointment. There was also critical debate, including a letter to the press, about outsourcing of cleaning, security and gardening staff. However, many staff were resigned simply to toeing the line. Interminable and often seemingly pointless change is undoubtedly a method of control that can diminish dissent.

UKZN continues to blunder its way through restructuring plans. From the mid-1990s to the present day, the institution has been in a constant state of change, with no end in sight. For instance, more than a decade ago, the Physics and Chemistry departments on the Pietermaritzburg campus were merged to form the School of Chemical and Physical Sciences. When UKZN was created in 2004, this school was split. Physics on the Pietermaritzburg campus was forced to merge with Physics at Westville to form a single school, with some service teaching continuing on the Howard College campus. This occurred within the structure of a cross-campus Faculty of Science and Agriculture, residing within the College of Agriculture, Engineering and Science. The claim made then by deputy vice-chancellor and head of college, Peter Zacharias, was that multi-subject schools were not working out and that there was a need for strong

disciplines as a basis for multi-disciplinary teaching and research. However, Zacharias was bent on the college model, which to all but the most detached observer was a superfluous bureaucratic layer that had absolutely no meaningful academic purpose.

The latest plans, unveiled in 2011, did away with faculties altogether and recreated cross-campus multi-discipline schools. Physics and Chemistry were once again in discussion about merging to form a single cross-campus school of a size to rival that of a small faculty. This state of continual change is unsettling for any university and made even more unbearable by autocratic leadership. Senate has been reduced to rubberstamping, so it is no wonder that these changes were bulldozed through with no regard for institutional memory.

The merger planners staked very high claims on the college model. In pursuing the dream of an African university, zealots needed a structure that was distinctly different from anything used before, especially anything that resembled the former institutions. Quality and efficiency took a back seat in pursuit of this ill-advised dream. The latest restructuring was tacit admission of failure of the college model, for in effect the institution went from a two-level system (schools and faculties) prior to merger, to a three-level system (schools, faculties and colleges) after merger, and now back to a two-level system (schools and colleges). Just the terminology has changed. UKZN has tried to re-invent the university. The problem is that it has taken much of the past decade for the planners to come to understand the folly of their ways, and at a price. But in the process the faculty, the level at which academic rule has proved in the past to be most effective, and at which academics found it most appropriate to organise, has been eliminated.

In 2008, UKZN underwent a routine audit by the Higher Education Quality Committee (HEQC) of the Council on Higher Education (CHE) as discussed in chapter 10.<sup>1</sup> The chairperson of the audit committee, Martin Hall, made it known in his feedback to the university that all was not well and that academic

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1 CHE resolution on the Institutional Audit of the UKZN, October 2010; David Macfarlane, 'Controversial UKZN audit under wraps' *Mail & Guardian* 14 January 2011; Martin Hall, 'Varsity's voices of dissent gagged' *Mail & Guardian* 14 January 2011; Shirley Brooks, 'Crisis of credibility' *The Witness* 24 January 2011; Shirley Brooks, 'University dispute causes a crisis of credibility' *Mail & Guardian* 28 January 2011; David Macfarlane, 'Authoritarianism just tip of iceberg' *Mail & Guardian* 11 February 2011; Nithaya Chetty and Christopher Merrett, 'Feudal academy is on the road to suicide' *Business Day* 15 February 2011; Renuka Vithal, 'CHE audits "might never be the same again"' *Mail & Guardian* 25 February 2011.



freedom was under threat. In a letter to Hugh Africa, chairperson of the HEQC, Hall wrote that continuing disciplinary action against academic staff was an affront to the audit panel and the committee. This letter was leaked to *The Mercury* in January 2009. Subsequently, vice-chancellor Malegapuru Makgoba claimed that the entire audit process was compromised and Hall's letter showed bias on his part. The audit report was rescinded by the CHE in 2010 despite the finding that it 'generally meets international standards of quality assurance practice in institutional audits' and that the CHE was 'unable to firmly conclude that the letter from the chair of the audit panel did not have an impact on the drafting of [the] audit report'.<sup>2</sup>

This was a betrayal of university staff, who had worked tirelessly to prepare documents and make submissions in the hope that an independent audit would address the institution's problems. Makgoba attacked Hall publicly and the CHE, which appointed him in the first place to head the audit, failed to stand by him.<sup>3</sup> The CHE impugned the reputation of the audit panel, but for what narrow political gain? It has through this process damaged its own standing in the eyes of the academic community, the one it is meant to serve.

The parallels are very interesting: in writing to Africa, Hall claimed that Makgoba's ongoing pursuit of disciplinary charges against John van den Berg and Nithaya Chetty was an affront to the audit panel. The CHE did nothing to investigate this. In fact, Africa, as a member of UKZN Council, served on its governance and academic freedom committee that eventually exonerated Makgoba of any wrong-doing in 2009. When Makgoba complained to the CHE that Hall's letter compromised the audit process, the CHE put in place a process to investigate this. Many observers suspected conspiracy and a pre-ordained result.

Makgoba seems to have suggested that it was Hall who leaked his letter to *The Mercury*.<sup>4</sup> This was never proved. Ahmed Essop, acting director of the CHE, claimed that Hall was wrong to communicate with the head of the HEQC on a matter that was central to the audit panel he chaired. This is, of course, preposterous. It was surely Hall's duty to do so. Then, there is the not so minor point of the role of the independent Australian representative Mark Hay, who was previously a CHE employee and now its new head of audit. Essop's long-winded explanation had the appearance of an attempt to cover up some form of collusion.

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2 CHE resolution on the Institutional Audit of the UKZN, October 2010.

3 Malegapuru Makgoba, 'Vice Chancellor's communiqué' *Mail & Guardian* 18 February 2011; Ahmed Essop, 'CHE panel "acted with integrity"' *Mail & Guardian* 21 February 2011.

4 Malegapuru Makgoba, 'Vice Chancellor's communiqué'.

Makgoba asked how, since the CHE comprises 20 or more members, he could have influenced their views. This argument should, by implication, also be applied to the audit committee: if there was bias by the chair, how could he have influenced the views of the entire audit committee?<sup>5</sup> All of its members are well known and highly respected within South African academic circles. Peter Alexander's letter to *The Mail & Guardian* suggests that the audit committee conducted itself impeccably.<sup>6</sup>

The CHE involved Makgoba in its decision to investigate his claims, but the audit committee was not consulted by the review committee. Its members were only notified that forensic auditors had been appointed to investigate the matter of the leaked letter. The CHE did not communicate its decision to withdraw the report to the audit panel and only informed its members after this omission had been pointed out in the media. This exposes a chronic lack of even handedness on the part of the CHE.

How will the CHE try to recover from this rudderless state? Many academics have always felt that the CHE is just another layer of unnecessary academic bureaucracy. This recent episode shows that it adds little value to South Africa's higher education system. It has no real authority to act on its mandate and appears to awaken from its slumbers to serve an essentially political role whenever it is called to do so. This is a suicidal path for the CHE. Its future is seriously in question after acquiescing to what can at best be described as political pressure. This performance could not have been possible without the knowledge and approval of key individuals in high places. The authors salute Hall for daring to stand up on behalf of the many hundreds of UKZN staff too disempowered to speak.

This episode signalled a new development. For the first time the toxic brew that characterised governance at UKZN had ceased simply to be a source of wonder and perplexity to other, well-run universities. It had now begun to affect

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5 Members of the audit panel were Peter Alexander (director, Centre for Sociological Research, University of Johannesburg); Robin Crewe (vice-rector: research, University of Pretoria and president of the Academy of Science of South Africa); Themba Mosia (registrar, North West University); Colin Johnson (retired pro vice-chancellor, Rhodes University); Kaya Mgenyana (dean of Health Sciences, Walter Sisulu University); Sizwe Mabizela (deputy vice-chancellor: academic and student affairs, Rhodes University) and Robyn Harris (director: Governance, Policy and Planning Services, Victoria University, Australia).

6 Peter Alexander, letter published under the heading 'Education council's credibility zero' *Mail & Guardian* 4 February 2011.

higher education at a national scale. The failure of the CHE illustrates the pervasiveness of higher education bureaucracy and its striking lack of relevance to crucial issues such as academic freedom and good governance; a testament to the triumph of process over real substance that afflicts so many parts of democratic South Africa.

There was to be a final twist to this story. In January 2013 Blade Nzimande, minister of higher education, announced the appointment of an oversight committee of seven people to monitor progress on university transformation; and advise on policy to combat racism, sexism and other forms of discrimination so that universities would become places where all could flourish. The person appointed to head it was Malegapuru Makgoba.<sup>7</sup> Both he and Nzimande referred to ‘scars’ acquired in the battle for change. It is indeed an apt word. Beyond doubt UKZN is a scarred institution.

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7 *Mail & Guardian Online* 23 January 2013.

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