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GOVERNMENT NOTICE GOEWERMENTSKENNISGEWING

DEPARTMENT OF EDUCATION

No. 1512

20 November 1998

HIGHER EDUCATION ACT, 1997 (ACT No. 101 OF 1997)

I, Sibusiso Mandlenkosi Emmanuel Ek, Sibusiso, Mandlenkosi Emmanuel Bengu, Minister of Education, do hereby, in terms of section 47(2) of the Higher Education Act, 1997 (Act No. 101 of 1997), publish the report of Advocate T L Skweyiya SC, the independent assessor (appointed under section 44 of the same Act) on the investigation conducted at the University of Transkei University, as set out in the Schedule.

S.M.E. BENGU

Minister of Education

DEPARTEMENT VAN ONDERWYS

No. 1512

20 November 1998

WET OP HOËR ONDERWYS, 1997 (WET No. 101 VAN 1997)

Ek, Sibusiso, Mandlenkosi Emmanuel Bengu, Minister van Onderwys, publiseer hiermee, kragtens artikel 47(2) van die Wet op Hoër Onderwys, 1997 (Wet No. 101 van 1997), die verslag van Advokaat T L Skweyiya SC, die onafhanklike assessor (kragtens artikel 44 van dieselfde Wet aangestel) oor die ondersoek ingestel by die Universiteit van Transkei, soos in die Bylae uiteengesit.

S.M.E. BENGU

Minister van Onderwys

SCHEDULE - BYLAE

**INVESTIGATION OF THE SITUATION AT THE UNIVERSITY OF TRANSKEI
BY THE INDEPENDENT ASSESSOR, APPOINTED BY THE MINISTER OF
EDUCATION**

REPORT BY:

**ADVOCATE T.L. SKWEIYA S.C.
(APPOINTED AS INDEPENDENT ASSESSOR
IN TERMS OF SECTIONS 44 AND 45 OF THE
HIGHER EDUCATION ACT, NO 101 OF 1997)**

ON THE AFFAIRS OF UNIVERSITY OF TRANSKEI

1. INTRODUCTION

In September 1998, the Honourable Minister of Education, Dr S M E Bengu, appointed me in terms of sections 44 and 45 of the Higher Education Act, No. 101 of 1997, to conduct an investigation into the affairs and attendant problems at the University of Transkei.

2. TERMS OF REFERENCE

A) General

The general purpose of the investigation has been to advise the Minister on:

- (1) The source and nature of the discontent at the University of Transkei; and
- (2) Steps required to restore proper governance, including the promotion of reconciliation, at the University of Transkei.

B) Specific

To enquire into and report to the Minister on any issue which I (as an independent assessor) may deem of importance, including the following:

- (1) The reason for the deterioration in the relationship between and among various constituencies and structures at the University;
- (2) The reason for the serious lack of confidence in the governance structures of the University, in particular –
 - a) The management approach of the University's Vice-Chancellor and Principal and Executive;

- b) Perceived problems amongst the members of the University's executive management;
- c) The role and functioning of the Council; and
- (3) The widespread discontent and tension that exist amongst the various constituencies within the University.

C) To make recommendations on -

- (1) The restoring of effective/proper governance at the University; and
- (2) What action, if any, ought to be taken.

3. INTRODUCTORY REMARKS

Although the Honourable Minister requested me to complete my enquiry and submit my report within 30 days of my appointment as an independent assessor, this became impossible because of certain logistical problems as well as the widespread discontent and tension that existed amongst various individuals and constituencies within the University of Transkei. However, the actual work done, did not comprise more than 30 days.

The investigation had to be conducted with the greatest sensitivity and understanding. Strife and conflict have virtually been the normal feature of the University of Transkei for the past four years. The level of mistrust, hatred and animosity between certain personalities and structures has reached alarming proportions and is seriously undermining the integrity and viability of an institution which has the potential of making an important contribution in the educational system of our country and of carving a niche for itself.

The history of the University in the last four years is one of confrontation; lack of trust, accountability and transparency; poor communication and a generally demotivated university community. This

kind of history has resulted in the "them and us" syndrome and parties are invariably adopting an adversarial stance in dealing with each other.

I found the situation at the University to be hopeless and debilitating to the extent that I am drawn to the conclusion that an appropriate body of the University (possibly the institutional forum envisaged in section 31 of the Higher Education Act) should draw up a written Code of Ethics and Conduct as to how the parties within the University should behave towards one another; such Code of Conduct would, *inter alia*, have to provide a guide on the obligations of various individuals, members of management, students, workers, academic staff, and members of Council towards one another.

There is an urgent need for soul-searching, a change of attitude and style of management if co-operation for achievement of the objects for which the University exists is to be attained and sustained.

4. MODUS OPERANDI

I embarked on a fact-finding exercise on and off campus of the University in Umtata, from 22 September until 14 October 1998. On 15 October 1998, I interviewed the Chairman of the University Council, Dumisa Ntsebeza in Cape Town; after that, I received written submissions from various interested parties which were either handed or delivered to me or faxed to me at my Durban fax number. One or two parties who sent me documentary evidential material did so anonymously, because they alleged that they feared being victimised. I received the last documentary evidence at my place in Durban on 7 October 1998.

I conducted interviews at Umtata with the following individuals, representatives and members of organisations:

- (1) Mr T Malema – Dean of Students

- (2) Mr M Dekeda – Acting Registrar, Administration
- (3) Mrs N Shitlhelani – Department Director Human Resources; and
Mr G Zilwa – Industrial Officer
- (4) Miss Z Mxunyelwa – Director, Internal Audit
- (5) Professor T S Mwamwenda – Executive Assistant to the Vice-Chancellor
- (6) The Deans of Faculties
- (7) Professor J Noruwana – Vice-Principal
- (8) Mr D Saunders – Financial Manager
- (9) Professor E D Malaza – Deputy Vice-Chancellor
- (10) Mrs D Garraway-Stayers – Director Public Relations
- (11) Mr N Anderson – former Director of Personnel
- (12) Professor Mazwai
- (13) Mr V K Ntshona – Student Academic Support Centre
- (14) UNITRA Academic Staff Association
- (15) Executive Committee of the Students' SRC
- (16) Non-unionised Staff Association
- (17) Members of the present Council at their Special Meeting of 9 October 1998
- (18) Executive Committee of NTESU
- (19) Former senate representatives, Professors Japata and Mthethwa
- (20) Mr Jefferies
- (21) Representatives of SASCO
- (22) Representatives of PASMA
- (23) Representatives of NEHAWU
- (24) Some members of the previous Council of the University (1993-1997).

Although Mr Norman Bunn had been scheduled as one of the persons I would interview, he failed to meet me and was reported to have no interest in seeing me because he had "no time for politics or political games". When I received a message on 13 October 1998 that he would meet me on 14 October 1998, I decided that I would not see him, as his

reported attitude made me come to the conclusion that my seeing him would not in any way contribute to the resolution of the problem at the University.

The last interviews I had were with the Vice-Chancellor and Principal, Professor Moleah, and the Chairman of Council, Mr Dumisa Ntsebeza. I decided to see them at the end of my aforesaid interviews so that I would be able to put to them, as the most senior officials of the University, whatever information I had gathered so that they could give me their perspective on such information. This opportunity was also offered to any member of Council (at the Council's Special Meeting of 9 October) who may have wished to give his or her perspective on the information gathered.

On the first day of my said interviews at UNITRA, NEHAWU members were on strike. After certain discussions with NEHAWU and with the top management of the University, NEHAWU acceded to my request to suspend and/or call off the strike to enable me to conduct my investigations in a more conducive atmosphere.

My first port of call on my arrival at the University on 23 September 1998 was the Principal's office, where I introduce myself to the Principal and Vice-Chancellor of the University. He arranged for me to meet the following persons who, I was told, were members of his management team:- namely,

- (1) Professor A T Moleah – Vice-Chancellor and Principal
- (2) Professor E D Malaza – Deputy Vice-Chancellor and Vice-Principal
- (3) Professor T N Luswazi – Registrar, Academic and Secretary of Council
- (4) Mr R Jefferies – Registrar, Finance
- (5) Mr M Dekeda – Acting Registrar, Administration
- (6) Mrs D Garraway-Stayers – Director, Public Relations and Development

- (7) Mr T Malema – Dean of Students
- (8) Miss Z Mxulyelwa – Director, Internal Audit
- (9) Mr Norman Bunn – Director, Technical Services.

I spent most of my first day on campus at meetings with the Principal's aforesaid management team and the executive of NEHAWU in an effort to bring about an atmosphere which would be conducive to my performing my task and also to bring about some common understanding and agreement by the two parties on some of the issues. I received full co-operation from NEHAWU concerning suspension and/or stoppage of their strike and co-operation with management on some of the issues I raised with them.

I also interviewed Mr Jefferies, the University's Financial Director, on finance-related problems at the University. Mr Jefferies was leaving for the USA on the day I interviewed him and was away for the whole of the duration of my investigation at the University.

I regard the aspect of the finances of the University as being an important factor in my investigation, because it impacts directly on some of the major problems which face the University.

5. IMPORTANT HISTORICAL BACKGROUND ON UNITRA

Many of the problems of the University have their origin in the Bantustan system and the association of the University, from its inception, with an authoritarian and anti-democratic system. These problems relate not only to the structure of management, but also the existence of overstaffing, and lack of competent supervision, and of productivity, in many of the non-academic departments. They also relate to the lack of a proper academic staff development programme, and a consequent lack of sufficient qualifications, among many members of academic departments. Another important background factor is the relative geographical isolation of the University which

makes the University excessively introverted, and tends to exacerbate internal conflicts.

It is common knowledge that, during the apartheid era and consequent establishment of some "independent" (Bantustan) States, many state institutions, including universities, were literally used as unemployment relief centres. This resulted in over-staffing. I am advised that staffing at UNITRA, like in many other historically black universities, far exceeds the norms in the "SAPSE" funding formula in just about every category. I am further advised that approximately 80% of the University's budget is used for wages and salaries. It is obvious from these facts that drastic restructuring needs to be done and this is a fact which is accepted by all parties, including NEHAWU.

Restructuring, however, should be done in a fair, humane, transparent and democratic manner; there should be absolute procedural fairness in going about it because it will invariably lead to loss of jobs on the part of some people. Innovative ways of dealing with the problem ought to be sought and debated.

I should perhaps interpose at this point to mention that during my interviews and consultations on campus, and before the end of September 1998, I learned that notices to have some 500 workers retrenched were to be served on the affected workers. My investigations at that stage had convinced me that there had been some flaws in the process and I accordingly appealed to management to delay giving such notices until such time as I had completed my investigations. My plea was, however, not heeded because of what I was told were "financial imperatives". I shall say more about this later in this report.

6. NATURE OF DISCONTENT AND THE CAUSE/CAUSES THEREOF

This will be dealt with under different headings:

6.1 Administrative and Management Structure

In the last four years, the University has not functioned with a full complement of its top management;

6.1.1 The University had two Acting Principals in the two years before the present Principal was appointed in 1994;

6.1.2 There was no Vice-Principal (Academic) for five years before Professor Malaza was appointed in 1997;

6.1.3 There was no Academic Registrar for almost a year until Professor Luswazi was appointed in 1997;

6.1.4 The University has not had a Registrar, Administration for years and is still functioning without one. There is currently an Acting Registrar, Administration.

6.1.5 Directors of Finance and Financial Managers have come and gone at a steady rate in the last five years.

6.2 Professor Moleah, on his arrival in July 1994, inherited the above incomplete and/or depleted top management which was almost immediately exacerbated by the strained relationship which developed between Professor Noruwana, Vice-Principal; Administration, and him. An acrimonious relationship has developed between the two. The relationship between the two is, in my view, irretrievably broken down and there is no chance that the two will be able to work together again. The situation became even more complicated with the Principal's clash and continuous differences with the previous Council (1993-1997) of the University.

The following are some of the instances when the Principal seriously differed with the University Council to the point where he refused to implement some of Council's resolutions and, at times, refused to attend some Council meetings.

- 6.2.1 The recommendations of the Council Sub-Committee to liberalise the shortlisting procedure;
- 6.2.2 Council's ratification of the disciplinary committee's findings on Professor Rachael Gumbi's sabbatical and the Principal's refusal to implement Council resolutions of 23 November 1995 and 5 December 1995 to the effect that the University should pay Professor Gumbi's salary and benefits up to the end of December 1995.
- 6.2.3 Council's decision to renew the contract of Professor Noruwana;
- 6.2.4 The Principal's appointment of a Deputy Vice-Chancellor without complying with the law, and contrary to the recommendation of Council.

The above differences between Council and the Principal appeared to have been caused by, among other reasons, the differences of opinion concerning his role and that of Council, the extent of his authority and powers as the Chief Executive Officer of the University and the extent to which the Chairperson of Council and/or Council itself can intervene in the running of the University.

I gather that the Principal has contended that the appointment of staff and, more specifically, the shortlisting of candidates, is the sole domain and falls under the competency of management. The Principal's view appears to be wrong if regard is given to the provisions of subsections 12(1) and (2) of the University of Transkei (Private), Act No 81 of 1996, read together with the provisions of section 31 of the Higher Education Act, No 101 of 1997, in terms of which the power of appointment of staff vests in Council. section 31(1)(iii) of the Higher Education Act imposes a duty on the institutional forum of a Public Higher Education Institution

to advise the Council on issues affected the institution, including: "the selection of candidates for senior management positions".

It is apparent from the above provisions of the two aforesaid acts that, in keeping with the new ethos of democracy, accountability and transparency, a more participatory procedure in shortlisting and appointment for senior management positions should be followed.

Besides the unhappy situation which arose because of Professor Mwamwenda's irregular appointment as the Deputy Vice-Chancellor (Academic) (he is now being employed as a special assistant to the Principal), concerns were also expressed in submissions made to me about the manner in which other appointments, namely those of the Director of Public Relations, the Director of Tertiary Education Linkages Project (TELP), the Director of the Research Source Centre and the Registrar of Finance, were made. It was contended that three of the latter officers were appointed from the Faculty of Education without the necessary prior consultation with the Dean of Education and that no contingency plans were therefore put in place to ensure that the staffing position of the Faculty of Education was not adversely affected by such appointments.

The Principal is also reported to be critical of what he perceives to be a restrictive and stereo-typed South African system of governance of higher education. He is said to favour a system which allows for appointments to be made on the basis of need, regardless of whether such post exists or not; he is said to regard the requirement that Council should approve all decisions,

including academic programmes and course structures, staff appointments and promotions, as unnecessary meddling by Council in the day-to-day management of the affairs of the University which should be the exclusive and prerogative domain of the Vice-Chancellor and Principal as the Chief Executive Officer of the university. The above reported approach and view of the Principal regarding the respective roles of Council and Principal is possibly influenced by the practice in the USA where, I am told, the president of a university wields much more power and authority than our university Principals in this country.

My understanding of the legal position and practice in this country is that the university council is the ultimate authority in the structures of the university. All the university officials, including the Vice-Chancellor and Principal, are accountable to the council. The Principal, as the chief executive officer, remains, in the final analysis, accountable to council as the ultimate source of authority in the university.

When a chief executive officer ceases to and/or refuses to execute resolutions of council, who are his employers, then the options are, in my view, limited.

In my interview of the Principal on 14 October 1998, he admitted to me that he had had an unhappy relationship with the previous Council, to the extent that he refused to execute some of its resolutions and decisions. He, however, pointed out that the position was not as bad with the present Council, save for one decision of Council which he said he was not prepared to accept because he felt that it would be unsafe for him to do so. Council had

resolved that the Principal should allow Professor Noruwana to park his care in an officially designated bay which is next to that of the Principal. The Principal contends that his safety would be compromised if he were to allow Professor Noruwana to park in a parking bay next to his.

The Principal is greatly concerned about his safety on and off campus; he moves around campus in the company of an armed bodyguard during the times that I saw him on campus. I was also advised that there are security guards at his house as well, at all times. I presume that the security measures are the result of a petrol bomb which was thrown into a portion of his office, causing damage to the office and some of the office furniture. He is so distrustful that a closed circuit system has been installed in his office which monitors movements in the passage on the second floor of the Administration block, where his office is located. A bell has been installed on the door which leads to the reception area of the Principal's office and this door is only opened once the person who rings the bell has been identified. He can monitor who comes and goes from the offices of Management Personnel on the second floor from inside his office. The situation is a very unhealthy one; it negates an open-door policy and also violates, to some extent, the rights of privacy of his colleagues.

6.3 Composition of Management

The management team of the University consists of the persons whose names are listed under paragraph (4) above.

From my interview with the Principal, I gained the clear impression that these persons were chosen by him to be part of his management team. This is of course consistent with the Principal's view of the meaning of management team as reflected in a memorandum which I have in my possession and which purports to have emanated from his office. In this memorandum the meaning "management team" is defined as follows:

"At UNITRA the management team is made up of top members of Administration as determined by the Principal (the underlining is mine), who is the leader of the management team. The management team of UNITRA is, therefore, the Principal's management team. The management team is to work together to ensure sufficient and effective administration of the university.

The management team operates by individual consultations and through the management meetings. The principle of its operations is akin to democratic centralism. Divergent opinions and positions are discussed and debated until conclusion and adoption of a management position. Once a management position is reached and taken, the entire management team takes ownership of that position and individual positions end. Under no circumstances are individual positions and differences to be conveyed outside management. As management we must speak with one voice and hold the common management position.

Management communicates with Council through the Principal.

In exceptional and extraordinary circumstances where a top manager feels compelled to communicate with Council, prior notification, in writing, must be given to the Principal."

- 6.3.1 All constituencies/structures of the University and an overwhelming majority of individuals I interviewed are extremely unhappy about the composition of the Principal's management team. This management team has lost all credibility, especially among the deans of faculties, academic staff and students.

There is a general complaint that most members of the management team have been picked at the will of the Principal, are junior in terms of experience and qualifications, and have little or no theoretical educational background. Consequently, the feeling is that they are not capable of participating in the discussions on the core business of the University, namely teaching, research and community service; their contribution in faculty restructuring is said to be almost non-existent; they are perceived not to have the capacity to plan the future of the University strategically and to have no capacity to work as a group to reach decisions and to accept responsibility for their decisions readily.

I am told that management meetings are extremely disorganised and haphazard; there is never an agenda which is prepared well in advance and there is also no minute-taking for any follow-up or effective follow-up.

The Principal's management team is said to lack sufficient capacity to provide institutional vision and tends

to stand aloof in providing institutional vision. Some of the examples given to me to illustrate the point are that:

- (i) The Principal's management team is said to have openly preferred the teaching hospital to be located at either East London or Port Elizabeth and that it was mostly through the efforts of the dean of the Faculty of Medicine and Health Sciences that Umtata was finally chosen as the location of the teaching hospital for the Eastern Cape, much to the benefit of the UNITRA Medical School.
- (ii) A second example given is one of an alleged neglect of the Butterworth branch of the University that is said to be floundering without a vision or direction; and
- (iii) Lastly, the input of the Principal's management team to the development of the three year rolling institutional plan that had to be submitted to the Department of Education by 16 August 1998 is said to have been minimal. Only two members of the management team are said to have contributed to the process and managed to stay throughout the two-day development workshop that had been organised for this purpose.

6.3.2 The deans of the various faculties at the University are concerned that the management team is not constituted as required by the statutes. The inclusion of middle management personnel, who have no academic expertise and strategic vision, has led academics in the faculties to adopt a cynical attitude towards "the management team" and resent directives and memoranda which emanate from "Management", brushing these aside as coming

from "the Maintenance Manager", "the Public Relations Director" and the "Dean of Students".

Occasional injunctions in the form of memoranda from some members of the management team are not uncommon and these are more often than not met with resistance and serious protests from staff and University structures who are seriously opposed to the top-down approach of management.

6.4 Committees

6.4.1 The basis of university governance is through its committees that are representative of structures. These appear in the University Prospectus. The committee system enables staff and students to participate in the running of the University and in decision making. Through committees the popular principles of transparency, representatively and accountability are realised.

6.4.2 The committees have become dysfunctional and the committees' structure of the university is in tall shambles.

To manage the service sector of the University, the Principal is said to have concentrated power in the hands of the Services Manager, Mr Norman Bunn. The duties and activities of the Housing and Physical Planning Committees are said to have been completely taken over by Mr Bunn who is at times assisted by the Acting Registrar, Administration. Mr Bunn is reported to be personally responsible for a major part of university activities, including physical maintenance, security, gardens and grounds, allocation of physical space, housing for all staff, tendering procedures and transport. The power given to him to authorise decisions over such

a wide spectrum of crucial activities has led to unhappiness among many members of the University community.

6.4.3 The Administrative Statutory Committees viz. Academic Planning Committee (APC), University Personnel Committee (UPC) and Senate, are not functioning properly. Although there are, as a matter of University tradition, clearly scheduled quarterly meetings of these committees in the university prospectus, the committees do not meet regularly. When the meetings are held as a result of constant pressure from the academic staff whose activities are adversely affected by the delays in decision making, it appears that no meaningful constructive and productive discussions take place in these meetings. No feedback in the form of Senate or Council approval is ever received on the few recommendations which seldom emanate from these meetings. It is reported that these recommendations are never considered in Council meetings, as Council remains pre-occupied with, and locked up in matters of interpersonal strife, conflicts and disputes largely involving members of the management team.

6.4.4 The final upshot is that the non-functioning of the committees of the University has resulted in the Principal essentially managing the institution by himself with the help of fairly junior heads of administrative sections and this has established a culture of management which, among other things, is characterised by extreme unquestioning loyalty. There appears to be total collapse of essential services which manifests itself in the current chaos, instability, degeneration of staff morale and even

neglect of gradual wear of physical facilities in the lecture rooms and University surroundings.

6.5 Role and functioning of council

There is general unhappiness within the University community about the alleged undemocratic manner in which the present Council was constituted. The intervention of the courts of law in the power struggled between the Principal and the old Council is said to have led to an "urgent" unceremonious declaration of the old Council as defunct. It is alleged that the present Council was appointed hastily and without proper consultation. The perception by most stakeholders is that the present Council was a hand-picked Council, consisting of people who were, in the main, favourably disposed towards the Principal. It is felt that the manner in which the present Council was constituted has resulted in a Council which has very little communication with the University community. It is alleged that Council remained silent for a long time when there was a crisis of class boycotts in the first half of this year; Council is alleged to have remained silent for close the three months (i.e. March to June 1998) when there was a real crisis on campus.

My assessment of the situation within Council and about Council itself is that, although Council has held several meetings:

- (i) Many of these meetings were special meetings and not the regular Council meetings where normal business of Council and university matters were discussed. Much time seems to have been spent in dealing with crisis after crisis which concern clashes between individuals. The Council does not discuss the business at hand in most instances, and tends to spend most of its time on crisis management. There are camps within Council who are more concerned about representing their constituencies

instead of being concerned with general issues which affect the University as a whole.

What is disconcerting is the apparent inability of Council to act with urgency on their own recommendations and/or resolutions. There appears to have developed two camps within Council – a pro-Moleah camp and an anti-Moleah camp. The Chairman of Council is perceived to belong to the former camp by virtue of a letter which he wrote to the Principal and which was apparently intercepted. The Chairman is accordingly seen as being partial towards the Principal and this has virtually paralysed Council's effectiveness and thereby undermined its ability to govern with authority. The divisions within Council have had the effect of undermining its effectiveness.

The perceived closeness between the Principal and the Chairman of Council has resulted in allegations being made against the Chairman of improper behaviour concerning the letting of his house at Umtata at some stage to University officials. I have investigated thoroughly this aspect of the matter and I am quite convinced that there is no substance of any impropriety on the part of the Chairman concerning the use of his house at some stage by some University personnel. I am nevertheless unhappy about the fact that the Chairman of Council is perceived to be partial. Members of Council are urged not to embark on activities which may compromise their independence.

It is important that Council should make the Vice-Chancellor and Principal aware of the importance of respecting policy, procedures and processes which are prescribed in the Act and regulations. It is in the best

interests of the University at large if the resolutions of Council, which are taken to ensure the smooth running of the administration of the University, are respected and implemented. If any official employed at the University, including the and Vice-Chancellor and Principal, fail and/or refuses to implement Council's decisions and/or resolutions, Council must act decisively. It is only a decisive Council, confident of its powers and having a sense of mission which can bring about stability at the University. Council is composed of credible and respected leaders in the community and I see no reason why they should not act decisively and in accordance with the legal requirements pertaining to their positions.

6.6 State of the University's finances

It has been impossible for me to go into any detailed investigation of the University's financial position because of lack of time and also because I do not believe I have sufficient technical knowledge in financial matters to have been able to express a definitive view on the finances of the University in the limited time I had in conducting the present investigation. Rumours are rife concerning the state of the finances of the University. The state of the University's finances is suspect, to say the least, from what I have been able to glean and gather in the short space of time available to me. A disclosure document which has been recently released as prescribed by the University Act, when staff retrenchments are considered, revealed an alarming state of affairs as regard finances. The University appears to have been on credit by well over R60-million up to about 1995; by the middle of 1996, the University was in the red by about R40-million. I am not convinced that the drastic change in the position of University finances has been accounted for.

One of the University officials, who is the Chairperson of the Library Committee, advises me that he found out through the report of the librarian in a Library Committee meeting that:

- (i) The University has only recently responded to payments for journals supplied last year after court summons had been served on it by the suppliers; and
- (ii) The new library construction cannot be completed because of a serious legal dispute with the contractors.
- (iii) I am told that early this year (1998) staff salaries could not be paid out on the due date and that this had a tremendously demoralising effect on the part of staff; there has been for the last two years a moratorium on the attendance of conferences by academic staff, which appears to have a severe debilitating effect on staff morale, as attendance of conferences by academic staff enables them to meet and share ideas with their colleagues from other universities, contributes to their own academic growth and development and enhances the prestige of their own institution. University research funding has recently been subjected to severe financial strains.

I am aware that a matter of particular concern to members of academic staff is the question of financial control. They have been frequently told that the core business of the University is teaching and research and yet the departmental budgets which were apparently laboriously prepared in 1997 were subjected to drastic changes and arbitrary cuts which, according to them, made teaching very difficult. The departments were not consulted on these cuts and there is a perception that departments and faculties were treated differently according to unknown criteria. I am advised that members of the Arts Faculty,

for instance, have been forced to buy paper for their own use and departmental use throughout the year; decisions to freeze funds earned from academic publications, and funds for research and conference attendance, were made by the Registrar of Finance, allegedly without any consultation with academic staff.

It is true that the Ministry of Education has reduced the budget in the last two years by about 30% with the evident intention of forcing the University to reform itself through the downsizing of departments and the retrenchment of staff. This has put the University under enormous pressure.

There is a strong feeling that it is unreasonable for the Ministry to expect the University to transform itself effectively in a short time while starved of funds. The Ministry should accept that universities of this type (i.e. historically Black universities) can only overcome the negative legacy of apartheid if they are given both time and money. There is a need for the government, through the Ministry of Education, to show greater understanding of the difficulty of transforming institutions of this type, and to realise that it will take a few years, and a good deal of money, to achieve positive results.

6.7 Restructuring

I have already made brief comments on restructuring in paragraph 3 above. I repeat the view I expressed above, that the giving of the notices to the 500 or so workers referred to above was hastily done, without having followed all the proper procedures.

There appears to be unanimity among all structures of the University that restructuring ought and should occur; however,

the view expressed is that there has been no proper and thorough consultation on the process thus far. From my assessment, there is substance in this view, but time constraints make it impossible for me to go into detail on this aspect. If, however, it is felt that more details are required on this aspect, I will be happy to meet and discuss this with officials of the Ministry of Education.

Many of the current tensions in the University stem from the insecurity of both academic and non-academic staff who feel threatened by the prospect of downsizing and retrenchment. For the non-academic staff this is no longer a prospect but is a reality. Academic staff expect that the same process will catch up with them sooner rather than later, and feel that the academic restructuring exercise which is being carried out, is being done in an arbitrary fashion. Given the threat to employment, and to the livelihood of staff and other employees at the University, it is hardly surprising that staff feel that they are powerless victims of processes over which they have little or no influence and carried out by a team of management which has little or not understanding of academic issues. The problem is compounded by poor communications, and the bypassing of statutory committees. This creates a situation in which problems are personalised, the staff are divided into factions, and many people are afraid to speak out on issues for fear of offending authority, or of being identified as members of particular factions. Some of the statements of members of management, as well as the use of sweeping legal interdicts, have helped to create an atmosphere which is deemed to be intolerant of dissent.

7. THE MANAGEMENT APPROACH OF THE UNIVERSITY'S VICE-CHANCELLOR AND EXECUTIVE

I have already dealt with some aspects of this heading in my report above.

Except for a few individuals (some of whom are part of the Principal's management team), all University structures without exception attribute the current crisis at the University of Transkei to what they allege to be the autocratic and dictatorial style of governance of the Vice-Chancellor and Principal and particularly to what is seen to be the undemocratic, non-consultative and non-transparent way in which he is said to conduct the affairs of the University. There is a general feeling of resentment and even hatred towards the Principal. Following the Tshombe Commission of Enquiry, there have been moves by some members of Council to have the Principal removed and/or suspended from his present position.

In my interview with the Principal, I have conveyed the strong feelings of resentment towards him by the general membership of the University community. The Principal indicated to me on my very first day of meeting him that he had no intention of renewing his contract as Principal, which I believe will come to an end at the end of June 1999. He also indicated to me that he had a period of time which was due to him as leave.

8. GENERAL ISSUES

There are various other issues of a general nature which I have not covered in this report in order not to make my report unduly long, but which are nevertheless important. Some of these aspects, on which I have strong and firm views, based on my consultations with various people and structures and from my assessment, are:

- 8.1 Various court interdicts which are in place. No university can maintain its stability and/or be run by way of court actions.
- 8.2 Various members of the previous Council have had to bear costs from their own sources on matters involving disputes which concern the University and at a time that they were members of Council;
- 8.3 There is apparently a court case or court cases which is/are pending against certain members of the University community (students).
- 8.4 Certain expenditure and/or debt incurred by leaders and/or some students of the University when they are to attend funerals of other students and also had to attend a meeting which was held with the Minister of Education in East London.

9. RECOMMENDATIONS

- 9.1 The institutional forum envisaged in section 31 of the Higher Education Act, No 101 of 1997, should immediately be established at the University of Transkei. In tandem with this process, the institutional statute as envisaged in section 33 of the Higher Education Act should immediately be submitted to the Minister for approval and publication.
- 9.2 The notices served on the 500 or so workers should immediately be withdrawn and the University should immediately continue with the restructuring process which it has started. The names of people who should drive the process should be approved by Council. Council should set a date by which restructuring ought to have been completed. A reasonable period for restructuring is, in my view, a period of approximately one year.

In the exercise of restructuring, the University should examine its role in society with special reference to conditions in the area/province where it is situated. The University must create a niche for itself and cannot justify its existence by trying to

compete on unequal terms with older established institutions.

The production of the rolling plan might have been an opportunity to involve all members of the University in thinking about these issues. It seems that this opportunity has been missed and a top-down plan has been hastily produced with insufficient input from academic staff.

9.3 The Vice-Principal, Professor Noruwana, should immediately assume all his official responsibilities, including attendance of the executive management team meetings as prescribed in the University Statutes.

9.4 The executive/management team must be reconstituted as provided for in the Statutes.

9.5 Council and Senate committees as well as other administrative committees must function properly and meet regularly as determined in the University prospectus.

9.6 Council should facilitate investigation of the state of the University finances in order to verify the rumoured allegations which are rampant that corruption of alarming proportions, theft and fraud are being perpetrated in the institution. This investigation should comprise a comprehensive audit in which the Department of Education should be actively involved as well.

9.7 There is an urgent need for a determined effort to democratise the institution, to improve lines of communication within it, and to ensure that issues are properly discussed, and decisions made, through the statutory channels.

9.8 Whilst it is appreciated that the authority to hire and to fire and/or to fulfil any obligations of an employer is that of the Council, the honourable Minister of Education is nevertheless requested to persuade the Principal to immediately go on leave for the duration of the leave period that is due to him. During this period, the Council should urgently look at ways of working out a retrenchment package and/or package for early retirement of the Principal and the post of Principal and Vice-Chancellor should be advertised without delay.

9.8.1 It is my respectful view that the relationship between the Principal and all constituent structures of the University has irretrievably broken down to such an extent that I see not prospect of normality being restored to the University as long as Prof Moleah remains Principal of UNITRA. Accordingly, if the recommendation made in 9.8 above is not immediately put into effect, Council should seriously and urgently consider the future of the Principal in the light of the facts stated hereinbefore in this report and his attitude to some of Council's resolutions and/or decisions. In considering the position of the Principal, Council is, however, urged to do so, by following all the correct procedures in law.

9.8.2 Council should seriously consider the introduction of an independent and credible caretaker management during the interim period. This management could include people from outside with experience in the running of higher education institutions.

9.8.3 The advertisement for a new Vice-Chancellor and Principal presuppose the establishment of the institutional forum as recommended in 9.1

9.9 The viability of the existence of the University is bound to be seriously compromised if there is no strict compliance with payment of fees by the students. Strict rules and regulations concerning payment of fees should be set and complied with.

9.10 In the minutes of one of Council's meetings it appears that the Principal was given wide powers to bring court proceedings on behalf of the University. My recommendation is that no legal proceedings must be instituted on behalf of the University without prior authorisation of Council and or its executive.

- 9.10.1 I strongly recommend that all existing court actions be withdrawn and that no party should pay any costs.
- 9.10.2 I also strongly recommend that members of the previous Council who were ordered to pay costs in their personal capacities be reimbursed if they did pay such costs.
- 9.10.3 I further recommend that the students' debt in respect of transport which they had hired to attend funerals and the meeting with the Minister of Education in East London be paid by the University.
- 9.10.4 Fees of lawyers should be paid.

The above recommendations are made with a view of promoting reconciliation at the University of Transkei.

Dated at Durban this 18th day of November 1998.

ADVOCATE TL SKWEYIYA S.C.

CONTENTS

No.	Page No.	Gazette No.
GOVERNMENT NOTICE		
Education, Department of		
<i>Government Notice</i>		
1512 Higher Education Act (101/1997): Investigation conducted at the University of Transkei.....	1	19501

INHOUD

No.	Bladsy No.	Koerant No.
GOEWERMENSKENNISGEWING		
Onderwys, Departement van		
<i>Goewermenskennisgewing</i>		
1512 Wet op Hoër Onderwys (101/1997): Ondersoek ingestel by die Universiteit van Transkei.....	1	19501

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