On the 17th March 2013, the HETN revealed written statements from five former security guards of the North West University (NWU) Potchefstroom Campus including the audio testimony of Mr Nicholas Mbaliso, a former Control Room security employee of the NWU Potchefstroom Campus that allege the existence of video footage relating to the death of former student Mr Thabang Makhoang.

The audio testimony by Mr Mbaliso, originally aired by Aganang FM community radio station, indicates how the NWU management provided false statements to the police and media regarding the circumstances of the student’s death; unsuccessfully attempted to stop Mr Mbaliso from looking at the video footage of Thabang Makhoang’s drowning; subsequently pressurised Mr Mbaliso to alter his original statement regarding the circumstances of the death of the student.

The audio testimony by Mr Mbaliso indicates how the NWU stage-managed the “official investigation” into the death of the student conducted by Adv. Vusi Pikoli and Adv. L. De Koning by not interviewing Mr Mbaliso; ensuring the presence of a university legal advisor during interviewing of witnesses; failing to provide requisite protection as an employer when Mr Mbaliso was allegedly assaulted and threatened with death by the Director of NWU Security Services, Mr Dolf Engels in full view of a white uniformed member of the South African Police Services (SAPS), (identified as a Colonel Brazer).
The audio testimony and written statements by Mr Mbaliso indicates how the NWU management subsequently dismissed Mr Mbaliso and four other university security personnel for their knowledge of the circumstances under which the student was drowned; subsequently dismissed Dr Ingrid Tufvesson, the NWU Executive Advisor to Council (see above photo) due to amongst others her knowledge of the above-mentioned matters and the role that she played in supporting the Makhoang family and influencing the former University Council to enforce liability for the death of the student.

The criminal charge of assault laid by Mr Mbaliso against the NWU Director of Protection Services have subsequently been withdrawn without any investigations by the SAPS. In the light of the new revelations contained in the audio footage and written statements, the HETN hereby rejects the validity and findings of the “official” NWU investigations into the death of Mr Thabang Makhoang and further wrote letters of protest to the Minister of Higher Education, Public Protector, SA Human Rights Commissions (SAHRC), Presidency, SAPS North West Provincial Commissioner as well as the Department of labour for further investigations.

The HETN further condemns the suspension and victimization of Mr Matshediso Drapeleng, the President of the NWU Institutional Student Representative Council (ISRC) by NWU Vice-Chancellor, Dr Theuns Eloff in the wake of the victimization meted out to Mr Lebogang Molopyane, (former SRC President of the NWU Mafikeng Campus) who had his LLB degree summarily withdrawn and his Masters’ degree studies terminated in 2012.

In light of above-mentioned facts and other forms of evidence at the disposal of the HETN, the HETN therefore calls on Dr Theuns Eloff to immediately step down as Vice-Chancellor of North West University due to failure to give leadership on transformation processes and tolerance for racist workplace practices.

The Higher Education Transformation Network (HETN) is legally powered by Xulu Liversage Inc.
HETN lays charges of unprofessional conduct against NWU Potchefstroom human resource management (HRM) staff

The Higher Education Transformation Network (HETN) has, on the 5th March 2013, formally lodged a complaint to the South African Board for Personnel Practices (SABPP) on behalf of 6 dismissed former employees of the North West University, Potchefstroom campus.

The founding principles of the South African Board for Personnel Practices (SABPP) indicates that all human resource personnel are subject to the Constitution and Bill of Rights of the Republic of South Africa. Personnel practitioners are expected to protect the legal and human rights of management and staff; ensure honest, non-violatory and fair personnel processes; treat all information with confidentiality; be responsive and proactive in relation to practicing responsible and accountable personnel practices.

In the SABPP’s Driving Ethics in the HR Profession Position Paper (2012: 3), the SABPP identifies unethical management decisions by HRM practitioners “witnessing management decisions and instructions in violation of employee rights” as part of unethical conduct committed by human resource management practitioners.

With a view to professionalize and regulate the HRM profession, the SABPP paper further states that “the SABPP will protect South African organisations against unethical behaviour of HR professionals through the provision of a complaints and disciplinary process for HR professionals registered with the SABPP(2012: 6).

In recognition of the above-mentioned mandate of the SABPP as a recognized statutory body for the HRM profession in terms of the Human Resource Profession Act of 2004, the HETN has formally laid complaints and requested for investigation leading to prosecution, on behalf of Dr Ingrid Tufvesson, Mr Nicholas Mbaliso, Mr Titus Legae, Mr Joseph Rolomane, Ms. Jeanette Matlakala and Mr Alfred Dingalo.

The HETN has filed complaints of alleged unprofessional conduct against three key human resource management (HRM) employees of the North West University (NWU) in the form of the:–

- Executive Director: Human Capital
- Manager: Labour Relations
- HR Officer

The HETN has further requested the SABPP to investigate and prosecute the individual and collective complicity of the NWU’s human resource management practitioners in implementing racist workplace practices and failing to exercise due HRM diligence. The HETN believes, in line with SABPP principles that HRM practitioners “witnessing management decisions and instructions in violation of employee rights” form part of unethical conduct committed by human resource management practitioners.

The HETN has laid the following charges of alleged unprofessional conduct against the above-mentioned practitioners, in their capacities as employees of the North West University (NWU) for amongst others being party to the maintenance of racist workplace practices; being party to the implementation of unfair workplace practices;

Being party to unfair collusions with union representatives to the detriment of employees; being party to the summary termination of employees without fair hearing; failing to protect a whistleblower in the workplace; initiating disciplinary action against employees disregarding ongoing employee grievance amongst others. SABPP preliminary investigations are still ongoing.
Foreword

Lucky Thekisho,
Chairperson of the Board

It is that time of the year again, when the HETN takes stock of its activities and assesses its progress moving forward. This has been a hectic year for the Network. The HETN has been in serious battles on several fronts. The Higher Education Network has recently converted into a Non Profit Organisation (NPO), whilst the network has had a protracted battle with the University of Pretoria (UP) on transformation. Afriforum has, through Mr Willie Spies, connived with the UP to silence and threaten us through court cases and punitive costs.

We have overcome because we are still continuing to expose racism wherever we find it. Mr Willie Spies together with the UP have taken us to court but their legal action is now stuck. They do not wish to continue, but lack courage to approach us for a truce as they are afraid that we will expose Mr Spies for what he really is. We are simply exercising our fundamental right of expression to our opinion, Asijiki, forward we go!

The time has arrived for the UP to finally be exposed on the 20th May 2013 in the Equality Court in Pretoria, where they need to take the country in their confidence and inform South Africa why is it so difficult to transform the UP? The Network will be waiting with keen interest to hear how the UP is going to respond to this important question.

We also thank the Judicial Services Commission for heeding to our call of objection to the appointment of Judge Cynthia Pretorius as a Deputy Judge President (DJP) of the North Gauteng High Court. We still maintain that she is currently not fit and proper to be appointed as a DJP. However, it will solely depend on her, when is she ready to identify with the aspiration of the poor masses of our people, by interpreting the Constitution of the Republic progressively, and in doing that, identifying with the aspirations of the majority of our poor people. Only then can she qualify to be fit and proper and we will support her to occupy any position in the Judiciary.

We support the Legal Practice Bill and as such urge the Minister of Justice and Constitutional Development to expedite the process of enactment. The sooner the Legal Practice Act is implemented the better for the legal profession’s transformation. We are in the process of exposing once more inconsistency in the operations of the Pretoria Bar Council.

We are once more pleased that Minister Blade Ndzimande has listened to us when we insisted that the initial investigations on the drowning of student Thabang Makhoang at the North West University were not done properly and should be re-investigated. In this regard, the Network together with its allies will do everything in their power to unravel this mystery as the truth will vindicate and free all of us. May the soul of Thabang Makhoang rest in peace.

The Network is in the process of establishing partnerships with the Black Lawyers Association (BLA), Black Management Forum (BMF) and South African National Civics Organisations (SANCO). We are also planning joint programmes of mutual benefit with fraternal organisations in the form of COSATU, NEHAWU, YCL, ANCYL and SASCO.

The Network is also in the process of professionalising itself through starting with its fund raising processes which will culminate in its launch sometime this year. Recruitment of membership will be enhanced and intensified so as to support its programs of representing the vulnerable, helpless, poverty stricken and downtrodden masses of our people. We intend to use our progressive Constitution of the Republic to fight for their inherent Constitutional rights.

The Network has declared 2013, the year for the poverty stricken, downtrodden communities. We appeal to all South African graduates to join the network and plough back to our alma mater and help transform higher education for the benefit of all and eradicate poverty.

Aluta Continua
This is the second issue of Graduate Network, the quarterly publication of the Higher Education Transformation Network (HETN).

Since publication of the first edition in Dec 2011, we have since received immense positive feedback, fought countless legal battles and exposed many things going wrong in higher education. Since its inception in February 2011, the HETN has made strides in highlighting critical issues which lie central to the transformation of higher education.

One of the above-mentioned is the lack of access to higher education that poor communities continue to suffer under almost 17 years since the dawn of the new South African dispensation. It is only through education that the son or daughter of a poor man can compete on an equal footing with the descendant of the privileged and wealthy. It is also through education that the employability of impoverished communities can be sustained.

In the last edition, we reported how anti-transformation political groupings such as Afriforum and Solidarity have successfully hijacked the Tuks Alumni Board of the University of Pretoria (UP). The UP, as the highest historically-funded university in South Africa, since the 1901 and post 1994 deserves special attention as it holds vast financial resources which we believe should be dedicated for the wellbeing of the entire SA nation. The transformation agenda of the HETN however, stretches beyond the UP.

In this edition, 2012 we expose the ongoing racist workplace practices, victimization of black employees and staff taking place at the North West University. Our investigations of the NWU workplace indicate that there is wholesale racism characterized by a high labour turnover and victimization of blacks with scanty compliance to statutory provisions such as the Labour Relations and Employment Equity legislation. We reveal how six former NWU employees are now unemployed due to unfair workplace practices of the NWU.

Beyond racist workplace practices, we can reveal today how the NWU attempted to cover up salient facts with regards to the death of former student Thabang Makhoang and how a former security guard and a former Executive Advisor to Council are now unemployed victims due to their attempts to assist the Makhoang family to get to the truth regarding the death of their son.

The Equality Court legal action against the University of Pretoria is about to draw to a close as is the High Court litigation initiated by Afriforum lawyer, Mr Willie Spies against the HETN in order to block our attempts to transform the alumni body of the University of Pretoria.

The Tufs Alumni Board led by Mr Spies does not represent the interests of black graduates of the pre-merger University of Pretoria nor does it pretend to represent the interests of former Vista Mamelodi alumni. In similar vein, the former Vista Sebokeng graduates and alumni find themselves in the wilderness as, although nominally incorporated into the North West University, they are not catered for in the same manner as other alumni of the NWU.

We reiterate the call by the HETN for open hearings into racism at the NWU to be convened by the Human Rights Commission (SAHRC) to allow the nation, former and current employees and students the opportunity to have their say and tell the truth with regards to the true state of affairs at the institution. In light of above-mentioned facts and other forms of evidence at the disposal of the HETN, the HETN therefore calls on Dr Theuns Eloff to immediately step down as Vice-Chancellor of North West University due to failure to give leadership on transformation processes and tolerance for racist workplace practices.

The merger of higher education institutions have left alumni of the former Vista University high and dry. These black graduates and alumni are today without an alma mater and are currently ignored and not being serviced by the very same merged institutions which were supposed to cater for them.

Racism in higher education is alive and well. The onus rests upon all progressive graduates and alumni to join hands through the Network and defeat it. Editorial Team

Editorial Team: Reginald Legoabe, Lucky Thekisho, Mophepane Makhele
Contributors: Lucky Thekisho, Dr Ingrid Tufvesson, Marvin Molopyane, Drapeleng Matschediso and Paul Ngobeni
Graphics: Courtesy of Gallo Images, Zapiro
Media Articles: Courtesy of Ekaam Books
Typesetting & Layout: Reginald Legoabe
Issued by the Higher Education Transformation Network, All Right Reserved 2013 ©
Feedback Comments to: enquiries@hetn.org.za, 453 Fehren Street Brooklyn 0184
Electronic Copy downloadable at www.hetn.org.za
I read Prof Ndebele’s article in City Press (27, February 2013) with interest. I’m sure many others did too but maybe not with the same sentiments I did. This article is not about Prof Ndebele’s piece but about reaching a stage when one, as an "educated" being, says with emphasis that “Enough is enough!” (EIE).

Of course, daring to say the above also comes with the risk of making career-limiting moves, but when one has reached the EIE stage, it’s normally when those with power to limit one’s career in the South African, which is the context in this case, have paled drastically in significance in relation to one’s sense of self, integrity, and concern.

The power of Vice-Chancellors, Rectors (of universities or just campuses), Deans, and long-in-the-tooth academics, are legend, and often that power has tentacles that extend to University Councils - sometimes even beyond. Some, like Prof Malegapuru Makgoba, have the advantage of showing notable results in the national transformation agenda, and therefore is heartily congratulated - mostly in silence. This “power of the educated” (PoE) at the top end of university management can either illuminate greatness with rainbow radiance or erase the thought that there is any by erasing it with blinding white strokes. Of course, academics and academic management are not the only educated ones; administrative staff is also educated, and students are being educated.

After almost fifteen years of observing the machinations of PoE, being impressed occasionally, but mostly disillusioned, has led me to a decisive EIE position. If I could, I would like to shout: “Listen you guys, you’re mostly men after all - universities are NOT your personal fiefdoms! The money you spend getting rid of people you don’t like does NOT come from your own pockets - it comes from the taxpayers! Yes, even from the pockets of the cleaners, gardeners, janitors, factory workers, security personnel, and miners - to mention a few! Now, the last time anyone did get to shout these statements is unknown to me - maybe because PoE got rid of them before they could and/or they’re not alive anymore. Maybe they moved to Australia or Canada, since Aotearoa refuse to have them go there anymore? Aotearoa is the Maori, read Indigenous, name for New Zealand, for anyone who might be interested to know.

Since I do not have the chance to say the above in an audible space, I will have to satisfy myself with drawing attention, through the written word, to the fact that while the general South African populace waxes lyrical about the perceived prestige of a number of our universities, the general public will never know exactly how their money is being used and/or abused unless they hold our institutions of higher learning accountable to publicly disclose their expenditure. If disclosure was made compulsory via every possible public media forum, the introductory web pages of the Department for Higher Education and Training (DHET) and those of Higher Education South Africa (HESA), annual university reports, and the like, it might denude a number of protectively covered frivolous and often unjust expenditure escapades of public funds by our higher education institutions. Tax payers could then measure the integrity and focus of each of these and take action against them, where necessary.

Such disclosures, in facts and figures, and in a truly transformative fashion, ought to have expansive disclosure on how much universities have spent in the last say ten years on ridding themselves of a “difficult person” or “difficult persons” (DP/s). Here reference is made to those people, who don’t “fit into” predetermined and pre-existing PoE groups; often because they work with and/or in the “institutionalisation of transformation”.

Surely DPs work in other areas too, one might be wont to point out, and this is true, of course, except that elsewhere-placed DPs are not specifically employed to change things, or at least to facilitate universities with realising their rhetoric on change, at the very least. In fact, elsewhere-placed DPs can find places and spaces to escape detection quite often should they wish to not let it be known that they are pro-transformation or pro-change.

DPs, not speaking about the “too afraid to speak-out” kind, say it like it is, as the adage goes, and they often attract the full might of those deemed to hold PoE. These DPs, for example, stand up in University Council meetings and tell the Chair that he or she is conveniently blind to the bad governance of their university, where the labour, human, and civil rights of students and staff are flagrantly abused despite the existence of policy and procedure and/or in the absence of the same. DPs tell the owners of the PoE that writing flowery reports on their “transformation progress” is a hoax because the blossoms are only non-durable plastic or paper. (continued)
Creative racialised processes and practices, as well as being frugal with the truth, is declared counterproductive by DPs, as they stand waiting for a creative labour process, arbitrarily placed on the continuum of legal to highly illegal, to appear so that they (DPs) will be made to disappear. It happens often, truly Mr and Mrs Taxpayer, I promise you!

Responses to DP’s by those sporting PoE can take spectacular forms. Most often the PoE landlords and women have acquired their education and power through the affirmative action of apartheid and not transformation. The tangibility and bitterness of the fruits of apartheid’s affirmative action continues to manifest itself in our universities. My experience has evidenced that the PoE is often utilised against DPs in the most educated cowardly fashions possible. For example, ever heard of “disestablishing a post”? Another is to wait until the main vexation to the PoE has left and then send out a university-wide communiqué unlikely to be challenged by the DP or DPs because they have no chance to rebut. Why can they not rebut you might ask. Well, it’s because they are gone – like mist before the sun – following the enactment of one or other creative, placed-anywhere-on-the-legal/illegal continuum labour practice. Add to this the complete recalcitrance of Human Resource management and educated cowardice holds total sway!

Many in the institution are not fooled by the sudden disappearance of the DP or DPs, or of the lack of substance in the communiqué, or even the overwhelming silence about the matter. Maybe, because they too have learned the value of “holding their peace”? So instead, they satisfy themselves with speaking about the cowardice of the educated in the corridors, at home, and/or in the confessional. Overlooked is the fact that there is no balanced view presented, since only power has spoken through its “educated” mouthpiece. Even the who, why, and when of those who educated power is blithely disregarded. Ah – the travesty of sheep-like behaviour! Silence is almost a comforting given. Power, after all, lies with those who speak, are listened to, and who have the might to exact extensive punishment if not listened to and obeyed.

Cowardice, according to umpteen dictionaries, is about the absence or lack of bravery, and being educated is about being learned or experienced in one or other subject. Hence, a combination of the two is about a learned or experienced form of a lack of bravery. It is about educated cowardice, which when it forms part of the make-up of those with the PoE, manifests as the highest level of educated cowardice and if this is in our universities don’t we have to do something?

Educated cowardice, however, requires certain elements to exist in order for it to have stubborn roots, tumultuous foliage, and abundant fruits. Some of these enabling factors are: collusive academics, fearful staff and students, blind local media, inefficient union representatives, sympathetic lawyers, dubiously purposed council members, and recalcitrant politicians. There are other nurturing elements for educated cowardice but those must remain for another discussion at another juncture.

South African history has created bedding and flourishing locations for educated cowardice and, where the abominations of the past were hatched, namely, those spaces where racialised educated cowardice was intimately taught and practiced, have been and continue to be revered by many. The soil there is found to be so rich that blossoms and fruit are likely to intoxicate existing and future owners of the PoE, and their supporters, for a long time. But, since every action is often met by an equal and opposite reaction, the PoE possessors of our universities are in danger, where educated cowardice is the norm, of being forcibly brought to a halt and possibly removed by educated bravery, made up by all manners of DPs and their supporters.

In the end, the question is probably: who would benefit from educated bravery that is transformatively excellent, sustainable, and empowering? Being biased, my bet is - EVERYONE! Now, dear heavens, pray that I remain educatedly brave because educated cowardice would just vex my soul and ancestry! Furthermore, may any career-limiting element of these words please have a minimal lifespan and maximum impact, because it was actually Prof Ndebele’s fault that I wrote them?

Dr Ingrid Tufvesson
An unashamedly unemployed DP, who walks in faith.
The current suspension of the 2012/13 President of North West University (NWU) Mafikeng Campus and the Institutional President of North West University does not come as a surprise, as spine chilling and worrying as this is, the victimization of Mr Matshediso is but one part of what seems to be a cleaning campaign by North West University to rid those that are rather vocal on transformation issues and those issues that some powerful people in the North West University would rather forget about. My name is Lebogang Molopyane and the following is my personal story and account on how I view all this things within North West University.....

I first joined North West University in 2008 when I enrolled for an LLB undergraduate degree. During the same year, there was a massive protest in the above mentioned institution that lasted for a period of about 6 weeks, perhaps also the most destructive such an institution has ever seen. This massive action was led by the PYA structures, specifically visible was South African Student Congress (SASCO) which I have been a member of since my first week in NWU.

The strike yielded a Ministerial Task Team report on NWU, which in response, the institution alleged was un-implementable. This was in 2009 and I was in my second year. This action by the institution prompted a lot of communiqués from PYA-led by SASCO in which I was active in, such communiqués spoke to the untruth of the statement held by the institution that the Ministerial Task Team report could not be implemented in NWU and further gave assertions that agreed with the findings of the Ministerial Task Team Report 2009 on NWU.

During the very same year, I became an Academic Affairs Officer of the Campus Student Representative Council (CSRC) for the 2009/10 academic years. At the beginning of 2010, we as a student representative body managed to force an increase in the intake of first time enrollers, all this under the leadership of the then-President Eugene Khokhong.

In 2009 in the transformation Colloquium, when specifically the Mafikeng Campus SRC differed bitterly about transformation issues, including the NWU’s definition of transformation in a debate that was led by myself as Academic Affairs representative and Itumeleng Mosiane who was then the-deputy President of Mafikeng Campus SRC, the Vice Chancellor Dr. Theuns Ellof said "you guys will not make it, I promise you, I can make your lives difficult", a threat he later apologised for and we thought it all well and forgotten.

In 2011, I became the President of North West University-Mafikeng and this automatically made me the Secretary of Institutional Student Representative Council (ISRC). The differences that one has had as a student activist have always been what one assumed are normal conflicts between student activist/leaders and management, issues such fee increment, increased intake of first years and so forth.

Having said the above, in 2012 after I was registered for a Masters degree and scheduled to graduate, the unthinkable happened. Firstly, the CSRC which I was the President of was expelled from Mafikeng Campus due to raising their dissatisfaction with the unilateral way management raised fees by not submitting the proposal of CSRC-Mafikeng to Council, secondly by using the majority of white Afrikaner males to vote for fee increment.

The Mafikeng Campus SRC spent close to a week camping outside main gate where we had to rely on donations for survival, all this at the full view of management. Ultimately, the impasse was set aside, rather than resolved, and we were allowed back on campus. Hardly two weeks after we were allowed back on campus, we learned of the news of the student that drowned in Potchefstroom campus (Thabang Makhoang).

As the Secretary of Institutional Student Representative Council (ISRC), I then made a call for an emergency meeting, which it must be noted, that the management tried to block by saying is not a scheduled meeting.

Ultimately the meeting sat at the Institutional Office of NWU in Potchefstroom. (Continued)
The Taboo in North West University: 
Chronicles of a Victimised Student Leader

by Marvin Malopyane

(Continued from previous page)

In this meeting we were told that there has been no fault committed on any part by University, an explanation I refused to accept due to the lack of sense in the facts provided by the Campus Student Representative Council of Potchefstroom campus. On the 12 March 2012, a few weeks after the emergency meeting in Potchefstroom and an emergency Council meeting which I was a member of and during which I had made known my dissatisfaction about the approach that the university opted to take in Thabang Makhoang’s drowning, I received a letter through the Campus Chief Investigating Officer, a certain Mr. Lechuti, the letter informed me of the following:-

That the university has discovered that they made a mistakes on one of my 2009 (second year) module and that the undergraduate director at the time, Prof Iya, had acted ultra vires in awarding me the aforesaid module. Thus, the university terminated unilaterally and without any option, my Masters degree and my scheduled undergraduate graduations to which I had already received an official invitation to attend. This effectively meant that as from my receiving such a letter I ceased to be a student of North West University and that in a blink of an eye, I was informed that i needed to vacate residence.

I subsequently went to the Campus Registrar, Mr. Robert Kettles to attempt to discuss the latter and the legality of the letter. His reply was rather short, “I am not going to discuss the legalities of the matter with you, you are at liberty to find a legal representative!”. This is the answer I received from a Campus Registrar who knew that I was studying on National Financial Aid Scheme (NFSAS).

I then went to Prof. Dan Kgwadi (Campus Rector)'s office on the campus, who upon my arrival at his office, called the then Dean of Student Dr. S. Thekisho to a meeting. During the brief meeting, the two gentlemen went against all odds to try to convince me that the decision that the university had taken was in my best interest. Initially they said that the termination of my studies was a quality control issue, then the story changed that there was now a complainant who had complained on why and how come I was graduating. To this day, the complainant has yet to be revealed to me.

In the following weeks, I went to Prof Iya, who was the then undergraduate director and he held a view that the faculty had set and they had not found anything out of the ordinary in whatever decision they made. Prof. Mbao, who is a Dean of the Faculty of Law in Mafikeng Campus told me in confidence that, I am fighting powerful people, I should go write the module, take my degree and leave, he also insinuated that some members of NWU management had come to his home at night looking for my transcript and external examiner's report of my mini-dissertation, the document he could not provide at the time of the night that they were looking for them.

Within a period of 72 hours, I moved from being a Masters student, a President of SRC and a Secretary of ISRC to being a non-student, university dropout and almost hopeless individual.

I believe that I have suffered this fate simply because I, as the President of CSRC and Secretary of ISRC was asking the uncomfortable questions on transformation, always referring to the Soudien Report and Ministerial Task Team report on NWU as well as my refusal to accept the explanation that NWU gave on the death of Thabang Makhoang. In truth I was a thorn on the side of management of NWU and they had to get rid of me.

Not surprisingly, the President of Mafikeng Campus SRC and an Institutional President of NWU, Drapeleng Matschediso has been recently suspended. His suspension too comes after raising questions on circumstances around the drowning of Thabang Makhoang in Potchefstroom campus in 2012 when I was still the President of Mafikeng Campus. We both got suspended at the time that we were SRC Presidents in NWU Mafikeng campus. We both have been raising transformation issues in NWU and they had to get rid of me.
Prof Nhlanhla Maake’s *Barbarism In Higher Education*, published in 2011 charts a real-life account about what happened to him when he decided to take on the powers of the University of North West University (NWU).

When this book was published, Prof Maake was the Executive Dean of the Faculty of Humanities at University of Limpopo. He describes a period during which he learned about the disappointing shenanigans and plots that happen at institutions of higher learning in South Africa.

When the then Minister of Higher Education approved the Higher Education Amendment Act 54 of 2000, this resulted in university mergers taking place between the then Potchefstroom University, Vista University Sebokeng Campus and the then University of Bophuthatswana (UNIBO).

According to Prof Maake, the merger of North West University exposed a rift between the institutions it was meant to unite down to interpersonal relations between staff, resulting in student protests, academics resorting to underhanded collusion, racism, corruption, nepatism, patronage, outright paternalism, victimisations and ultimately the loss of competent black professors and the steady erosion of institutional capacity at the former University of Bophuthatswana in Mafikeng.

Behind the proud achievement record of transformation lurks a furtive world with an utter disregard and a contemptuous cynicism that goes against the grain of meaningful progress. What gives this memoir credence is its extensive documentation of correspondence between protagonists and antagonists, and its references to contravened policies and professional improprieties.

The HETN notes with concern how victimisations at NWU and racism persists and how within a period of less than five years, no less than three successive esteemed lecturers and serving leaders of the NWU Mafikeng Staff Association have been dismissed for one reason or the other over the years, an indicator of ongoing victimization of black staff at the university.

*Barbarism In Higher Education—Once Upon A Time In A University* by Nhlanhla Maake (Ekaam Books) is available from R210 at CNA outlets. ISBN:139780620477741, EAN Number: 9780620477741
Towards the end of April 2007 I was confidentially warned by a colleague whose name I shall not reveal because he or she is still employed by the university, that the Vice-Chancellor of North West University was conspiring to lay charges against me for putting the name of the university into disrepute. As far as I was concerned it was because I had refused to be silent on the alleged acts of corruption perpetrated by his friend, Prof PJJ Prinsloo, the rector of the Vaal Triangle Campus of North West University. (Excerpt from 2011: 1)

My hunch told me that this was indeed coming but on the other hand I was deceived by the rational thought that the Vice-Chancellor was too shrewd to be so blatant in his acts. The latter was self-deception on my part, for it was only a matter of time until he showed his true colours and threw caution to the winds. Before appearing before the disciplinary hearing, in which I had to answer to three charges laid by him, in disguise as charges initiated by the university, I prepared the memorandum whose contents I shall share with you in a while.

I was going to present it as part of the preliminaries at the hearing, because then I harbored the naive confidence in the fallacy that North West University disciplinary procedures were going to be followed and that I was to be accorded a fair hearing. (Excerpt from 2011: 2).

My confidence in NWU’s rule of law and legality turned out to be a pipe dream for then I did not even suspect that the interests of the Vice Chancellor did not coincide with loyalty to the Core values of the university. It was only later that I realized his apparent inability to draw the difference between himself and the institution. It seemed to me that as far as he was concerned he was a synonym or a metonymy of the university and loyalty to him meant loyalty to the institution.

As it was winter, by 6 o’clock it was already dark, and when I approached the parking area, I was struck by the presence of white Opel Astra, which was parked about 20m from my car, facing the opposite direction. Alarm bells rang in my head.

What made me suspicious was that the engine of the car was idling, and I had never seen a car of that make and model at that parking area before, let alone at that time of the evening. The car that would normally be there when I left late was a green Peugeot, which was owned by one of the instructors of the youth cricket academy, who usually came to the academy after hours. The Peugeot was not there that evening. It was a peculiar coincidence that no car was there except the strange one. The place was deserted. The parking area was pitch dark and solitary, as there was neither moonlight nor artificial lighting…. I walked slowly to my car, hoping that the white vehicle would drive away, but it did not.

I thought I had a glimpse of their profiles in the glowing light of the dashboard lighting….The white vehicle remained stationary. I was alone and depended only on my instincts, which in the past had, by the grace of God, helped me evade at least three ambushes. I kept a sharp eye on the rearview mirror, and as soon as I turned around the bend and disappeared behind Building 25, I saw the headlights of the car come alive. I knew it was coming after me……In an area with a speed limit of 20km per hour I pressed my foot on the accelerator and shot from the first, through second and to the third gear without any pause in between……

After a distance of 200m I went over the first hump without slowing down, and the road rose with a steady slope and then I saw the headlights of the pursuing vehicle stop and turn right and following my direction. I accelerated to the second hump and I could see them accelerating. I had full confidence in my driving skills. The Volvo S70 I was driving that night was more powerful than the Opel Astra, even though the latter was far faster at taking off. (2011: 4)

After flying over the second hump I went into a dip and I lost sight of the car which was pursuing me in the rearview mirror and I knew that I had disappeared from their view. That was my chance to evade them. I switched off my lights, turned to the right and sped towards the gate, but instead of turning left again towards it I turned right into the parking near Building 6. I parked amongst a few cars which were there and I saw the car of my pursuers whizzing past at great speed going towards the gate. I paused for a while until a saw their tail lights disappearing out of the gate. My heart was beating in my ears with fear and adrenalin was pumping and flooding my body (2011: 5)

My mind was replaying the scene which has just unfolded at fast forward fast wind and suggesting to me what these two men would have done to me had they caught up with me. But I deeply believe that somewhere on that campus someone knows why that car was there and why I was pursued”. (2011: 6)
Attacks & Threats Against the Judicial Services Commission (JSC) must be condemned

By Paul Ngobeni, Independent Legal Consultant

Higher Education Transformation Network (HETN) members, have noted with concern the cowardly politically motivated attacks on the JSC by Advocate Smuts and retired former apartheid judge Johan Kriegler. We wish to reiterate that Smuts’ attacks on the JSC members are based on feckless plagiarism – as Adv. Smuts has simply rehashed, repackaged and parroted falsehoods, distortions and political propaganda he copied from the Democratic Alliance (DA) and the De Klerk Foundation.

In a brazen display of arrogance, Adv. Smuts has deliberately ignored countervailing empirical evidence that the JSC has continued to appoint white males to the bench. In a rush to brand the JSC as racist, Smuts has demanded that the JSC “must come clean” and admit that it has adopted a policy of not appointing white males. But that is not Smuts’ original idea- his rambling statement is lifted directly from a document by the Democratic Alliance entitled “The DA’S Judicial Review: Threats To Judicial independence In South Africa” http://www.da.org.za/docs/621/judicial%20review_document.pdf.

The Democratic Alliance complains about discrimination against whites, in the following terms: For example, in 2004, the JSC refused to appoint a white advocate, Geoff Budlender, to a permanent position at the Cape High Court. This was the third consecutive time that the JSC had rejected him. He was passed over in favour of a black candidate who is competent, but whose record is far less impressive than Budlender’s. Budlender was a co-founder of the Legal Resources Centre, and had been involved in several of the most important cases in post-apartheid legal history, including the first case heard by the Constitutional Court on the validity of the death penalty, the Treatment Action Campaign’s successful challenge for anti-retrovirals to be made available to HIV-positive pregnant women and the Grootboom case, which produced a landmark judgment on the rights of squatters. Budlender’s rejection prompted a senior colleague at the Bar to comment: “There is no white lawyer in South Africa who can match his credentials. If Budlender is unacceptable to the commission, then no other white male lawyer can make it”. .. Disenchanted with Budlender’s rejection, respected legal commentator Carmel Rickard called on the Judicial Service Commission to “be frank with the legal profession and say that white male lawyers should no longer apply for positions on the Bench”.

In addition to the DA there have been similar attacks on the JSC along similar lines. Shortly after the 2004 Rickard article referred to in the DA document, an article by Prof Hennie Strydom of the Rand Afrikaans University appeared in the 4th Quarter 2004 edition of Concensus magazine. Strydom decried what he claims were recent disturbing developments in the judiciary and in the Judicial Service Commission. He claimed that in pursuit of representivity in the judiciary, the JSC has adopted a de facto policy of refusing to appoint white males – however well qualified – to the bench. He also cited the refusal three times to appoint Geoff Budlender as a judge despite his alleged excellent qualifications and spotless anti-apartheid credentials.

Remarkably, Adv. Smuts has, without acknowledging that he was passing off and spewing DA propaganda he claims to be his original work, used the same line of attack and accused the JSC of having adopted a de facto policy of refusing to appoint white males to the bench. He ignores empirical evidence showing that white males were appointed to the bench at the very time Budlender and Gauntlett were rejected and simply regurgitates the propaganda call for the JSC to “come clean” about its policy of not appointing white males.

We note yet another despicable aspect of Smuts’ propaganda - in that he elected to rehash scandalous and defamatory allegations against the JSC that were actually considered and rejected by a High Court and the Supreme Court of Appeal, namely, that there is deliberate exclusion of white males in the judicial appointment process.

Recently the very argument of white exclusion was revisited and the JSC was taken to court by the Centre for Constitutional Rights, a unit of the F W de Klerk Foundation. In Cape Bar Council v Judicial Service Commission and Others (11897/2011) [2011] ZAWCHC 388; 2012 (4) BCLR 406 (WCC); [2012] 2 All SA 143 (WCC) (30 September 2011). The De Klerk outfit argued that the unsuccessful white candidates’ rights to dignity have been infringed in that “the JSC is not permitted to extend an open invitation to members of the legal fraternity to make themselves available for nomination as a Judge, if some of its members have adopted a policy in terms of which non-black members will not be appointed.” Id. at para.146. (Continued)
Attacks & Threats Against the Judicial Services Commission (JSC) must be condemned

By Paul Ngobeni, Independent Legal Consultant

The Court ultimately rejected the submission by the De Klerk Foundation that "a policy has been adopted in terms of which non-black members would not be appointed" and described the claims as "speculative and without an evidential basis." Clearly, this underscores that there is an intimidation campaign to label as racists with an anti-white agenda some members of the JSC who must evaluate the qualifications of certain white judicial candidates preferred by the minority opposition parties and lobby groups. These propagandists, like Smuts, embark on such actions with the forlorn hope that the JSC will succumb to these pressure tactics and blackmail and thus fail to advance the objectives in section 174 (2) of the Constitution.

As if to highlight his shameless and unbridled plagiarism and political bias, Smuts has repeated the same allegations rejected by the court as "speculative and without an evidential basis." He has fecklessly attempted to hoodwink the JSC and the public into believing that he has come upon some revelations regarding the JSC appointment process. This exposes him as a charlatan who walks in legal circles with ideological blinkers and pays scant regard to court judgments. Smuts has no respect for the judgments of our judiciary, especially those decisions not in consonance with his political agenda. Even worse, no candid scholar, no self-respecting honest advocate and no decent human being would have claimed, as Smuts did, that the JSC has "lost" all its court cases without mentioning that the mainstay of the racism charge against the JSC was actually rejected by the Court as "speculative and without an evidential basis."

We note that Smuts and his cohorts have sought only the appointment of specific white male candidates whose political ideology would advance the interests of the DA in particular. It is not surprising that the DA leader, Hellen Zille, whose party has railed against alleged "cadre deployment" policy of the ANC, recently took the unusual step of nominating Jeremy Gauntlett for appointment to the Constitutional court. Consistent with their tactics, the DA and its proxies within the JSC went into a frenzied propaganda overdrive when their preferred candidate, Gauntlett, failed in his candidacy. This follows a pattern every time white male candidates favoured by the DA or some white interest groups fail in their bid to be recommended for judicial appointment. There is always hue and cry about so-called JSC discrimination against white males.

This syndrome manifests itself in the following manner: The non-selection of the white male candidate preferred by these lobbyist groups is invariably blamed on affirmative action and reverse discrimination against whites. The reaction has involved demonizing the JSC itself for alleged incompetence and political partisanship or even outright anti-white agenda. In some cases, it has involved unfair attacks on the qualifications of the selected female or black judge in an effort to buttress the argument that the "overlooked" or "snubbed" white male candidate was more qualified. Another subtle racist narrative by these groups runs along the lines that the JSC would have selected the white male if only it had intelligent people in its ranks. Smuts simply expanded on this theme to launch scandalous and false attacks on the JSC itself and the integrity of the individual commissioners. Unfortunately Smuts has resorted to outright lies and distortions in his toxic pro-DA narrative.

Smuts flagrantly misrepresents the provisions of our constitution as follows: He advances disingenuous diatribes and decries what he dubs the dominance of the ANC and politicization of the JSC without actually acknowledging that the very composition of the JSC, including political party affiliations, professional groups representations etc. is mandated by Section 178 of the Constitution. Of the 23 members of the JSC, sixteen (16) — the Minister of Justice, the members of the National Assembly, the delegates to the National Council of Provinces, the presidential appointees and premier — are politicians or political appointees while the remaining members are judges, advocates, attorneys and one law teacher.

The inevitable domination of politicians and political appointees in the JSC is not an aberration – it is firmly anchored in and dictated by Section 178 of the Constitution. Given apartheid history, the drafters of the Constitution were aware that the judicial appointments process may inevitably give more power to the executive and legislature but settled on this scheme which does not infringe on the separation of powers and was deemed essential for the legitimacy of the judges. Additionally, the fact that the ANC currently controls the executive, the National Assembly and the National Council of Provinces, and that the ANC has control over the appointment of a majority of the commissioners is the outcome of a democratic electoral process. Smuts and his cohorts show contempt of this democratic process and are fully aware that a change to the JSC composition will involve the mammoth task of a constitutional amendment or winning an election.
Attacks & Threats Against the Judicial Services Commission (JSC) must be condemned

By Paul Ngobeni, Independent Legal Consultant

(Continued from previous page)

Instead of a democratic process, Smuts and his cohorts have chosen an easier and cowardly way out – personal and vituperative attacks on the JSC and its members in a manner suggesting that the so-called ANC dominance of the JSC is foreign to the constitution and a product of political corruption. Nothing could be further from the truth.

We reiterate that Smuts’ attack on the alleged ANC dominance on the JSC is disingenuous and based on selective misreading of the law. Contrary to Smuts, the Constitutional Court addressed the composition of the JSC and its possible impact on the separation of powers in the First Certification judgment. Acknowledging the importance of judicial independence, the Court stated that the “mere fact … that the executive makes or participates in the appointment of judges is not inconsistent with the doctrine of separation of powers or with the judicial independence” required by the Constitutional Principles in the interim Constitution (paragraph 123). According to the Court, the Constitution’s vesting of judicial authority solely in the judiciary and its protection of the courts against interference from other branches of government are sufficient safeguards of judicial independence (paragraph 123).

Recognising that the JSC includes representation from the judiciary, the legal profession and opposition parties, the Court determined that the body “provides a broadly based selection panel for appointments to the judiciary and provides a check and balance to the power of the executive to make such appointments” (paragraph 124). Thus, the court affirmed that the JSC as set out in the Constitution is a sufficient check on the executive’s power and does not itself threaten the separation of powers. Once again, Smuts’ protestations are the hallmarks of intellectual dishonesty and disrespect of court judgments he disagrees with.

Another patent falsehood purveyed by Smuts is the suggestion that the constitution does not mandate transformation – Smuts actually asserts that the JSC is wrong in taking transformation and diversity into account when recommending candidates for judicial appointment. Almost all civilized countries take diversity into account during judicial appointments. Take for instance Canada where official and unofficial qualifications are always taken into account during judicial appointments. There the Supreme Court Act also requires that at least three judges must come from the province of Quebec (which is a French-speaking civil law jurisdiction). In addition to the statutory requirements, there is a longstanding practice of ensuring regional diversity on the Court.

There is also increasing emphasis on the appointment of judges who are functionally bilingual because the Court hears appeals in both English and French, Canada’s two official languages. South Africa, individuals like Smuts have resorted to demonizing the judges appointed by the JSC through a constitutionally sound process and have suggested that unqualified individuals are appointed simply because they are black and because of the dictates of the transformation agenda. And yet, published law reports are replete with evidence that the majority of horrible judgments overturned by high courts are actually issued by white judges. Additionally, Smuts and his cohorts conveniently downplay the provisions of Section 174 of the Constitution which provides for the ‘appointment of judicial officers in the following terms:

“(1) Any appropriately qualified woman or man who is a fit and proper person may be appointed as a judicial officer. Any person to be appointed to the Constitutional Court must also be a South African citizen.

(2) The need for the judiciary to reflect broadly the racial and gender composition of South Africa must be considered when judicial officers are appointed.

We note that international instruments such as the United Nations Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and Article 15 of the African Charter on Human and People’s Rights similarly support this constitutional transformation imperative. The state must affirmatively take steps to advance the interests of disadvantaged groups or categories of persons, which include among them African men and women. The JSC is obligated to ensure compliance with the crystal clear legal and moral duty to appointment more African men and women to the judiciary so that the bench is representative of our diverse society in terms of gender and race.
Attacks & Threats Against the Judicial Services Commission (JSC) must be condemned

By Paul Ngobeni, Independent Legal Consultant

(Continued from previous page)

Both Smuts and Kriegler have asserted that there is lack of clear standards for assessing the suitability and competence of candidates appearing before the JSC. They ignore the fact that the Constitution is deliberately non-prescriptive – it requires only that judges are “appropriately qualified” and “fit and proper persons” (section 174(1)) but does require the JSC to use any specific guidelines. This is not an omission but a recognition that members of a broadly based selection panel for appointments to the judiciary which draws on various talents from members of the legislature, the executive, political parties etc. can only perform their constitutional function if the judiciary shows respect and accords them space. Such a process does not involve science – it is a careful balancing act.

Inevitably, when making appointments the JSC considers a variety of factors including the candidate’s ability to perform judicial functions, his or her commitment to constitutional values and the symbolic value of the appointment. In this context, it is perfectly logical and legitimate that the likes of Gauntlett who previously put their litigation skills at the service of the apartheid state and who continued to argue for racially discriminatory judicial appointment methods in the post-apartheid era should be denied positions on the bench. No one can argue with the proposition that our judiciary should as soon as practicable be representative of our population as a whole. It is not illegitimate to consider whether the appointment of a candidate who otherwise qualifies for appointment will have a positive symbolic value for the community at large. It is essential that black South Africans should have confidence in their judges and should feel that they espouse the values of the new South Africa.

We note with dismay that Smuts has inadvertently exposed his hypocrisy and racial myopia in the process of launching attacks on the JSC. He attributes the non-selection of Budlender for judicial appointment to the alleged JSC policy of blanket prohibition on the appointment of white males. And yet he assiduously avoids mentioning that Budlender’s candidacy was rejected at the time when the JSC was in the hands of not only white leadership but under the stewardship of Budlender’s best friends and former LRC colleagues. At the time of Budlender’s JSC candidacy, Chaskalson was the Chief Justice, Craig Howie was the President of the Supreme and George Bizos was an influential member of the JSC.

Furthermore, according to the 2004 JSC Annual Report, “[p]rior to 1994 there were two black male judges, two white female judges and the rest were all white male judges. As at June 2004 there were 76 black judges, 126 white judges and 26 women judges of whom 13 are white and the rest black” (Judicial Service Commission, 2004: 2). Although the composition of the judiciary had changed significantly since 1994 and although the majority of new judges appointed by 2004 were black, the bench was still not demographically representative of South Africa at the time Budlender’s application came up for consideration. It is absurd to attribute the failure of Budlender’s campaign simply to anti-white attitude of the JSC. The issue of racial transformation continues to be urgent even to this day.

Although not susceptible to scientific measurement, diversity is a quality without which the Court’s mission of rendering justice to all our citizens likely to fail. The court will not be competent to do justice unless, as a collegial whole, it can relate fully to the experience of all who seek its protection. When viewed against South Africa’s background of apartheid oppression and gross human rights abuses, this transformation mission requires judges who are willing to subject their own conception of justice to rigorous scrutiny, realizing that those conceptions are based on a limited experience of the world, shaped in large measure by their gender, cultural background or social class in apartheid South Africa. Smuts’ persistent insistence that the JSC should put heavy emphasis on “forensic” litigation skills at the expense of transformation is misplaced.

13. In a similar vein, Smuts’ complaint about the alleged snubbing of Gauntlett exposes racist arrogance in the extreme – he is harping on the same theme that the failure of Gauntlett’s candidacy was due to the JSC’s bias, incompetence, mendacity and corruption. For Smuts it matters not that Gauntlett has gone on record to advocate racially discriminatory selection criteria for judges that would have adverse disparate impact on black people and Africans in particular. In 2005, a City Press article reported that Gauntlett had urged the Bar “to take ‘principled position’ that would see no African acting judge in Western Cape.”
Attacks & Threats Against the Judicial Services Commission (JSC) must be condemned

By Paul Nqabeni, Independent Legal Consultant

(Continued from previous page)

The paper reported that “Judge President John Hlophe and top lawyer Jeremy Gauntlett (SC) are engaged in an acrimonious battle over the appointment of acting judges, some of whom Gauntlett believes are not fit for the positions.” Gauntlett was “proposing the appointment of only senior counsel which, if agreed, could put an end to the appointment of African advocates.” At that time the paper reported that “none of the five Africans in the Cape are senior advocates. There are about 44 senior white advocates and six senior blacks (coloured/Indian).”

Reportedly Gauntlett was “urging his colleagues to take a “principled position” against the current system, being implemented by Hlophe to appoint junior counsel, who are in the main Africans, as acting judges, without allegedly ”vetting” them.” At the centre of the row was “the issue of whether attempts to deal with backlogs in the courts should be strictly implemented as such, or whether they should be used to advance the cause of transformation by bringing more blacks and particularly Africans into the courts as judges. Should the positions be reserved for senior counsel alone, as Gauntlett argues , no African would act in that court because there are no African senior counsel. It would effectively mean that except for the six coloured and Indian senior counsel, all the other appointees would be white.”

For Smuts, it matters not that this was not the first time Gauntlett was caught advocating a racist position. In one of the most seminal cases from the apartheid era, Komani No v Bantu Affairs Administration Board, Peninsula Area 1980 (4) SA 448 (A), Gauntlett argued against the abolition of the pass laws. He represented the apartheid state arguing for an extremist racist position that even apartheid judges found unpalatable. Gauntlett submitted that ”regulations restricting the right of residence at a particular place within a prescribed area[Pass  laws] cannot be construed as being unreasonable…” Id. The Appellate Court consisting of well known apartheid judges unanimously accepted the Komani petition and rejected Gauntlett’s extremist position. The Court held that the restriction was unreasonable and that the government had exceeded its power.

The Court recognized the right of Mrs. Komani to live with her husband. Smuts’ panegyric on Gauntlett’s “forensic skills” is a manifestation of his insouciance toward the rights of African people. Actually, Smuts’ position reflects unbridled contempt for Africans in that he expects the JSC to reward Gauntlett with judicial appointment in the face of his appalling pro-apartheid record. Smuts could care less about symbolism or the incalculable damage that Gauntlett’s appointment could visit upon the judiciary. Clearly, these cold hard facts are not enough to dissuade Smuts and his cohorts from their unfair and racist vitriol against the JSC. In pursuit of his political propaganda Smuts’ is not inconvenienced by any sense of shame or fealty to the constitution he pays lip service to.

Some opportunists led by Johan Kriegler, a former apartheid judge, have threatened a lawsuit against the JSC in the wake of Smuts’ resignation. The HETN wishes to warn against such puerile antics. We believe such moves are actuated by Smuts’ statements which are unscholarly, verdant with falsehoods and based on a deliberate distortion of our Constitution. Kriegler knows that the fallacious assertion that a policy has been adopted in terms of which non-black members would not be appointed has already been rejected by the courts as “speculative and without an evidential basis.” Kriegler’s persistent insistence at litigating the very issues laid to rest by the courts is frivolous and amounts to disrespect for our judiciary.

HETN members will remain vigilant and will vigorously oppose any opportunistic moves by Kriegler and other reactionary forces against the transformation of the judiciary.

There shall be no compromise in the relentless battle for the restoration of the dignity of black people and for the total transformation of our society.

On total transformation we stand!
Meet the Board of the Higher Education Transformation Network

Lucky Lempiditse Thekisho
LLM (Pretoria); LLB (Pretoria); BLC (Pretoria) Attorney at Law
Chairperson of the Board
Mr. Lucky Thekisho is an admitted attorney with over 10 years working experience across various sectors gained in various capacities across government and other sectors of the South African economy. He has completed his Bachelor in Civil Law (BLC), Bachelor in Law (LLB) and Master in Law (LLM) degrees at the University of Pretoria as well as university certificates in Advance Labour Law, Legislative Drafting, Human Resource Management, Environmental Law & Compliance as well Project Management. Lucky Thekisho is a professional member of the Law Society of the Northern Province, former Head of Ministry in the Office of the Premier (Northern Cape Province) and former Principal State Law Advisor in the Office of the Premier (Northern Cape province). He was a student leader of the South African Students Congress (SASCO), Trade Unionist (POPRCU) and also served as an SRC executive leader at the University of Pretoria (Tuks) from 1997-1999. He is a former Trustee and Board member of the Northern Cape Premier Education Trust Fund (NCPETF) and currently Deputy Commissioner at the Department of Correctional Services.

Reginald Sethole Legoabe
MBA (NWU); PGDM (NWU); ND.HRM (SABPP); AIM (UCT); CMS (Mancosa), CHRP
Executive Director
Reginald Legoabe is a researcher, development activist and Chartered Human Resource Practitioner (CHRP) with the South African Board of Personnel Practices (SABPP) with over 13 years work experience in managing SMME development, enterprise productivity and human resource development programmes across the local government, financial and services sectors. He has served as a former Provincial Media Officer of the South African Students Congress (SASCO) and holds a Masters Degree in Business Administration (MBA) and Post Graduate Diploma in Management (PGDM) with North West University; National Diploma in Human Resource Management (SABPP); Diploma HRM (BMT College); Associate in Management (University of Cape Town) and an Advanced Certificate in Management Studies (MANCOSA) and is currently completing his PhD doctoral Thesis with the University of Johannesburg (UJ). Reginald Legoabe is a Programme Manager responsible for Capacity Building at the Municipal Infrastructure Support Agency (MISA).

Mothepane Ledicia Makhele
MBA (NWU); PGDM (NWU); ND. Fin Man (Taletso FET)
Chief Financial Officer
Mothepane Makhele is an experienced financial management practitioner with several years experience as Accountant, Bookkeeper and Financial Management practitioner across the public sector and private sector government. She holds a Masters Degree in Business Administration (MBA) and Post Graduate Diploma in Management (PGDM) in Finance with the North West University as well as a National Diploma in Financial Management from Taletso FET College.
Elson Kgaka is an experienced jurist since completing his junior and senior degrees at the University of Pretoria in 1999 and 2000 respectively. He is a former student activist during his tenure at the University of Pretoria. Since qualification he has continuously pursued the practice of law with an accumulated experience of 12 years, serving his articles of clerkship under the watchful eye of esteemed jurists such as the current sitting judges of the High Court and the Supreme Court of Appeal at Seriti, Mavundla & Partners Attorneys. His experiences include, inter alia, public law practice in a senior position with the Road Accident Fund. After his stint with Public Law, Mr. Kgaka established ES Kgaka Attorneys of which he is the current Director, focusing his energy and skills on commercial litigation and alternative dispute resolution.

Hugh Zackey has 14 years developmental work experience gained in various capacities across government, the agricultural sector and other sectors of the South African economy. In terms of educational qualifications, Mr Zackey has a Bachelor of Arts (Pretoria University); MDP (University of Pretoria) and Higher Diploma in Development Planning (University of Pretoria). Mr Zackey is a District Manager at the Department of Rural Development and Land Reform.

Aubrey Masha is an experienced professionally registered Town Planner with the South African Council of Planners (SACPLAN) and has over 11 years experience in the local government sector and civil engineering industry. He is an experienced urban planning, outdoor space design, spatial and land use development, policy and strategy development practitioner and is currently Managing Director of AMK & AMS Town Planners and Architects (Pty) Ltd. Mr Masha holds a B.Sc Town and Regional Planning degree from the University of Pretoria as well as a Bachelor of Arts (Education) from the University of Limpopo.
The Higher Education Transformation Network (HETN) is an independent network of alumni from various higher education and further educational institutions across South Africa committed to the process of transformation of education and training.

We are a network of alumni from various higher education and further educational institutions across South Africa committed to the process of transformation of education and training to increase equitable and meaningful access to education, knowledge, skills and learning to ensure an education system that is more accessible by the marginalized and the poor; ensure progressive values of democracy, non-racialism, redress and broad participation and an education system to narrow and the elimination of socio-economic disparities through education.

The HETN attains its strategic objectives through lobbying, providing policy advocacy and promoting quality research output in collaboration with government, tertiary institutions, private sector and development agencies to improve access to and quality of higher education. We collaborate with government, tertiary institutions, private sector and development agencies to improve access to and quality of higher education and the relationship between education, training, skills development and youth employability.

Mission

The HETN is committed to the process of transformation of education and training to increase equitable and meaningful access to higher education, knowledge, skills and learning to ensure:

- An education system that is more accessible especially by the marginalised and the poor.
- An education system that is underpinned by progressive values of democracy, non-racialism, redress and broad participation.
- An education system whose value system identifies with the aspirations of the people to embrace the rich diversity of South African society.
- An education system that narrows the divide between intellectual and manual labour.
- An education system that serves the present and future social and economic needs of a peaceful stable South African society.
- The elimination of socio-economic disparities through education

Objectives:

- To lobby and provide policy advocacy for the transformation of higher education through the promotion of open learning principles in different educational sectors;
- To promote quality research output and learning programmes for the transformation of higher education.
- To promote knowledge on transformative and innovative methods of opening learning through research

Our vision is a society in which all people value, have access to, and succeed in lifelong education and training of good quality that meets national and regional priorities in the context of the global knowledge economy. The Higher Education Transformation Network is not an implementing agency but acts as a policy advocate, catalyst and facilitator to facilitate higher education transformation through networks and strategic advice as well as empirical data output.
The role of Students and Alumni in Higher Education Transformation

1. Introduction

by Reginald Legoabe

Empirical studies conducted by Banerjee et al (2006: 14) conducted on behalf of the Harvard University Centre for International Development, “higher education is correlated with better employment outcomes and greater labour market participation”. According to the study, “it takes a completed university degree to mostly escape unemployment in South Africa”.

According to findings from studies by Bhorat and Leibbrandt (2001) on the estimated returns to education for unemployed Africans in the South African labour market, primary and secondary education did not significantly improve chances of increasing earnings or finding employment. Tertiary education on the other hand significantly improved chances of finding employment and increasing earnings. According to Moleke (2005:2), education opens doors to substantially higher-paying jobs and employability.

In discussing the role of students in higher education transformation, the strategic role of higher education in supporting sustainable economic growth and development should serve as guidance. Prof Saleem Badat, former Chief Executive Officer of the Council on Higher Education and current Vice-Chancellor of Rhodes University said in a recent speech “the attempt to transform higher education occurs within the context of a formidable overall challenge of pursuing economic development, social equity and the extension and deepening of democracy simultaneously. For good political and social reasons, one or other element of this triad cannot be eliminated or postponed and tackled sequentially. They have all to be pursued simultaneously.”

Any discussion on the role of students within higher education transformation needs to take place within the context of higher education’s commitment to a developmental state and creating a united, democratic, non-racial, non-sexist South Africa. Whilst the Higher Education Transformation Network (HETN) is not suggesting that higher education become an extension of the democratic state, it is vital that higher education be in touch with the national priorities of the South African developmental state and contribute to the resolution of these developmental challenges in its learning delivery, its research output and community work.

According to findings by Luescher and Symes (2003:20) in their report on behalf of the Council for Higher Education (CHE), students “act as agents of change in higher education, play a very active advocacy role and build programmatic relationships with communities surrounding the institutions”.

There needs to be an increasing recognition of the central role of students as adult learners not only within their learning environments but also the manner in which higher education practitioners respond and allow students as adult learners to make positive contributions to the higher education transformation agenda. Cognitive constructivist andragogical learning theories by Malcolm Knowles have paved the way for a more integrated understanding of the student as an adult learner and have identified key characteristics such as the desire by students to take responsibility for own learning and an increasing need for self-direction in order to take control of their own lives.

According to Knowles (1975:14), adult learner self-direction appears “more in tune with adult learners’ natural process of psychological development” and maturation processes leading to the increasing development of an “ability and desire to take increasing responsibility for life”.

In the same mindset that Wee (2005: 127) advocates, “adults should be treated as adults” within learning environments, the role of students and their organised formations in higher education transformation should not be curtailed or under-emphasised. According to Ferguson & Dickens (2000), one of the most important social responsibilities of educational institutions, in a developing country such as South Africa, is a commitment to support community development in a practical and workable way, aiming to provide some relief from the inequality, poverty and the social problems. Through its past and current student corps, tertiary institutions in South Africa could play a fundamental role in becoming involved in the life and concerns of their communities, including learning through community involvement and service to the community.
According to Ference and Vockell (1994:25) the characteristics of the adult learner can be described as:-

1. Active:
Adult learners are usually willing to participate in the learning process. Given the opportunity and the proper incentives, they often prefer to be active rather than passive learners.

2. Experience-based:
Adult learners bring a wide variety of prior educational and life experiences to a new learning situation.

3. Expertise-based:
Adult learners are capable of being more self-reliant. Adult learners operating as independent individuals tend to want to accomplish things for themselves. They are often inclined to draw and rely on their own personal experience and knowledge to seek answers to questions and to solve problems.

4. Hands-on Approach-based:
Adult learners are typically faced with important matters in everyday life. As a result, adult learners tend to focus attention on real-world situations.

5. Task-Centred:
Adult learners are typically more active in performing tasks directed toward reaching a goal or solving a problem.

6. Problem-Centred:
Adult learners are more focused on dealing with problems they encounter in their particular life situation.

7. Solutions-driven:
Adult learners operate in the real world, focus on real-life problems and often actively seek out solutions to their problems.

8. Value-driven
Adult learners need to know why they should learn something before undertaking to learn it. Given the rationale for learning something, they will often invest considerable energy in investigating the increased benefits gained from the learning experience and the consequences of not learning it.

9. Skill-seeking:
Adult learners often actively seek out the attainment of new and improved skills in order to better meet and solve real-life problems.

10. Self-directed:
Adult learners usually perceive themselves to be independent and responsible for their own actions and have a need to be directly involved in planning and directing their learning activities.

11. Externally Motivated:
Adult learners are motivated by external needs such as the need for better job prospects and increased promotional opportunities.

12. Internally Motivated:
Adult learners are often internally motivated by such factors as self-esteem, recognition, confidence, career satisfaction, and the overall quality of life."
The role of Students and Alumni in Higher Education Transformation

by Reginald Legoabe

The link between education, training, poverty & personal income

There exists ample empirical evidence alluding to a link between labour force training, productivity and income levels. Barro and Sala-i-Martin (1995: 4) conducted a comparative quantitative study spanning across several developed countries and found that the average years of a citizen respondent’s schooling had a 30% positive effect on the gross domestic product (GDP) output of the respondent’s country. Pscharapoulos (1994: 12)’s comparative study found out that one additional year of schooling is associated with higher wage earnings of between 7% – 10%.

According to a study conducted by Rodrik (2006: 14) on behalf of the Harvard University Centre for International Development, “higher education is correlated with better employment outcomes and greater labour market participation”. According to the same study, the labour participation rates of workers with a Matric or less between 1995 and 2005 has declined from 54% to 49.7% whilst the unemployment of workers with a Matric or less rose from 15.2% to 28.2% within the same period. Rodrik (2006: 14) thereafter emphasises that “it takes a completed university degree to mostly escape unemployment in South Africa”.

Lloyd-Ellis (2000: 3) asserts that in countries where tertiary education for dependants is still the responsibility of parents (as opposed to the state), parental incomes affect the human capital acquisition of their dependants. The study by Lloyd–Ellis (2000: 3) finds that children of parents who cannot afford quality tertiary education are most likely not to send their offspring to tertiary education and this indirectly causes low future earning potential for the offspring.

Thus, parents in the low-income earning bands are less likely to send their dependants to higher educational institutions, resulting in dependants earning lesser income in the labour market, thus resulting in families being entrapped in the cycle of poverty. The above-mentioned findings are consistent with Leibbrandt et al (2005: 10), who found that in South Africa, the decline in real individual income is attributable to the decline in returns to individual attributes such as educational background.

According to proponents of the Human Capital theory, expenditures on education and training are investments that individuals make in themselves to increase their personal earnings, marketable skills and productivity. Human capital theorists acknowledge that availability and cost of funds influences the volumes of individual learning that an individual acquires. In this regard, Moleke (2005: 2) indicates that parental income plays a role in the volumes of education that individuals acquire. The corollary from the above-mentioned is that if we are to pull poor communities out of the poverty trap, then children from poor communities need to be given meaningful access to higher education.

According to Moleke (2005: 2), the following predictions can be made in line with the principles of the human capital theory.

Any factor that reduces the cost of education (bursaries, scholarships, availability and access to study loans) leads to an increase in participation in education by making learning accessible and attractive.

People with more education have higher earnings in their peak work years. This could be regarded as the reward for postponing earnings and consumption while acquiring an education.

Through their involvement in student politics, students bring forth a rich source of ideas and perspectives due to their various social classes and backgrounds. The influence of party politics in student leadership is a positive phenomenon that is inevitable due to the higher education terrain being a microcosm of society in general. Further, students are influenced by many socio-political factors and thus cannot be expected to shy away from general societal influences which affect them.
The role of the student movement in higher education transformation has been in many instances limited to issues of access, establishment of broad transformation forums, financial exclusions, student funding and progress towards equity with regards to student, academic and non-academic staff composition at tertiary institutions. According to the Soudien Report on Transformation, Social Cohesion and the Elimination of Discrimination in the Higher Education Sector (DoE, 2008) students drop out for a variety of non-academic reasons such as racism, sexism and other forms of discrimination. Such practices contribute to failure and drop-out rates as do many other social reasons. Failures and drop-outs for any reason among students after they access universities or colleges is an enormous waste of both taxpayers and citizen resources.

Student organizations also has a potentially positive role in influencing education curriculum content to address key societal questions relating to, for instance causes of poverty, youth unemployment and the impact of globalization on SA and the African continent. Strong, vibrant and progressive student organizations are needed for these matters to percolate through the Student Representative Councils, Faculties and University Councils and through national fora on Higher Education.

Through involvement in student politics, students individually learn lessons of accountability, democratic practice, mandate and values of non-racialism, non-sexism and democracy. Thus, participation by students in student politics not only leads to individual leadership development but also has greater societal benefits for the larger student body. The role of students in higher education transformation is also necessary due to the influencing role played by government policy decision-making and market forces on the career choices and salary prospects of students.

Beyond the positive role played by currently registered students, former students or alumni of an institution also fulfill an immensely positive role in higher education transformation. According to Godfrey & Godfrey (1999), the value that alumni can add to the successful functioning of an institution has been generally underestimated by the South African higher education sector.

Empirical studies by Stone (2001) acknowledge that alumni as a stakeholder group can, due to their contributions (whether financially or socially) increase the credibility and longevity of their alma mater. The potential for alumni to conduct fundraising, their right to institutional Council representation, their ability to build a skills- and knowledge-sharing network and their potential for actualizing lifelong learning responsibilities could make a meaningful difference in the way an institution is perceived by prospective and existing internal and external stakeholders.

It is therefore strategic for institutions of higher learning to establish and maintain good relations with its alumni by involving them in decision-making, network-building and development processes towards the overall advancement of that institution. In order to do so, however, it is pivotal that the institution have established open and direct communication channels with alumni and ensure that its alumni reasonably represents a true reflection of the alumni demographics without any form of over or under-representation of divergent alumni interests.

Brant (2002) asserts that in addition to alumni donations, alumni serve many other purposes such as developing institutional ambassadors and advocates, recruiting prospective students and mentoring current ones, assisting graduates with career advancement, helping alumni to stay connected with each other, and providing secular feedback to the institution. Godfrey and Godfrey (1999) state that the popular notion that an alumni association or convocation is solely a network for social interaction has cost institutions valuable financial and human resources. Increasingly, universities are turning to their alumni associations for fundraising.

According to Els (2003), the majority of tertiary institutions in South Africa receive more funding from individual donors (mostly in the form of alumni bequests) than from corporate donors. According to Baade & Sundberg (1996), unlike corporate donors, former students act more out of loyalty towards the institution and out of concern for its survival.

Because of the high alumni membership profiles of universities, which indicate social standing, income and corporate status, these alumni networks could provide the institutions with valuable financial, intellectual and human resources that could lead to differentiation within the overall business strategy of the institution.
The role of Students and Alumni in Higher Education Transformation

(Continued from previous page)

Such strategic networking and utilization of resources emanating from an alumni network results in constructive social, political and economical positioning of an institution and the realisation of its strategic objectives in a much more cost- and time-effective manner (Barnard & Rensleigh, 2006).

According to Hung (2003), an efficient alumni network with external stakeholders assists the institution in positioning itself strategically in an often hostile external environment, as these stakeholders could act as brand ambassadors for the institution. In many ways, alumni are the real measure of a tertiary institution’s brand. Fundamentally, an institution’s reputation and prominence rest on the manifestations of its graduates: their knowledge and competence, successes, contributions, position and stature. These alumni reflect daily in numerous situations, places and interactions the core identity and values of the University.

According to Karlbeck & Montgomery (2002), alumni are not only future donors of an institution but are also continuing learners and are as such, an institution’s lifelong customers. Past students are also vital future corporate partners, student recruiters and employers, advocates, mentors and career advisers. Nielsen (2001) states that “Alumni provides a way for organisations to get value from people even after they have left the organisation.”

Aside from social and financial interaction, strategic interaction is another key benefit accruing to higher education institutions from alumni constituents. According to Nielsen (2001), alumni strategic interaction includes institutional council representation and community development through responsible citizenship.

According to the SA Standard Institutional Statute (SIS) for Higher education institutions (1997), the convocation of a state-subsidized tertiary institutions has automatic representation on the Council of that institution. Section 44(1) of the aforesaid statute refers to members of the convocation as consisting of the Principal, Vice-Principal, Registrars, academic employees and all persons who are or have become graduates of the institution.

According to Barnard (2005), it is clear that the alumni stakeholders of an institution automatically form part of the convocation of that institution. Barnard (2005) further states that a strong belief reigns within higher education circles that alumni involvement in the activities of their alma mater usually results from a strong sense of loyalty, participation in institutional institution’s best interest.

From this perspective, the alumni of an institution can make a priceless contribution to the macro management of the university, since these representatives would be the mouthpiece of a crucial interest group of the institution, namely its graduandi.

In conclusion, the role of students in higher education transformation should not only be limited to submitting protest memoranda on student financial exclusion matters but should be deepened to include strategic level representation on Councils, participation in Faculty Boards, making inputs on curriculum content issues, extending the university’s community work, strengthening the calibre and individual leadership quality of student leaders, community development and being involved in freelance pro bono community work aimed at community upliftment.

The role of former student graduates in higher education transformation should also be broadened to cover involvement in institutional council representation, network-building, recruitment as institutional ambassadors in the recruitment of prospective students and mentoring of current students, and as a source of loyal fundraising and institutional support.

The Higher Education Transformation Network (HETN) believes that this will go a long way in ensuring a common understanding and expectation from the student movement and higher education Administrators towards higher education transformation. It is only through education that the son or daughter of a poor man/ woman can compete fairly with a privileged child from opulent social classes and thereby pull their own families out of poverty.
REFERENCES

Els, R. 2003. The state of higher education public marketing, communication and development divisions: updating Buchanan with special reference to functionality and diversity considerations within a transformational context. Unitech: South Africa
Why Join the Graduate Network?

The HETN is a network of alumni from various higher education and further educational institutions across South Africa committed to the transformation of education and training to increase equitable and meaningful access to education, knowledge, skills and learning.

- Join the HETN to give us collective power in advocacy for interest-free study loans.
- Join the HETN to fight racism in higher education
- Join the HETN to give us collective power in advocacy for the removal of credit blacklistings and judgments by universities against graduates.
- Join the HETN to receive discounts on Colloquia and Research Conferences
- Join the HETN to ensure positive alumni representation of alumni interests at your alma mater
- Join the HETN to ensure more access for poor deserving students to higher education.
- Join the HETN to help create a platform for networking amongst graduates and help create opportunities for all.
- Join the HETN to help improve the labour productivity and employability of South African graduates.
- Join the HETN to improve the competitiveness and total factor productivity of the South African economy.
How Afriforum & Solidarity Hijacked Pretoria University Alumni Board

The Higher Education Transformation Network is in possession of evidence which reveal how in October 2008, in view of the looming elections of the Tuks Alumni Board, the rightwing Afriforum, Freedom Front and Solidarity, the rightwing trade union movement officially issued directives and lobbied its members and supporters as well as the old “Bond van Oud Tukkies” to vote for certain select pro-Afrikaner alumni in a bid to keep transformation away from the UP. http://www.solidariteittelkom.co.za/wp-content/uploads/2010/09/nuusbrief412-t.htm

Six candidates amongst them current and serving officials of Afriforum were nominated and successfully voted onto the Tuks Alumni Board. Since the current Tuks Alumni Board election process is conducted in secret, not open to external scrutiny, via the Internet and subject to manipulation, proxy forms fraudulently giving power of attorney to the Afriforum candidates were used without the knowledge, signatures or consent of voting alumni. In early 2010, a group of progressive alumni members aligned to the HETN initiated discussions with the UP executive management and current Tuks Alumni Board on the redrafting of the Tuks Alumni Constitution. This process was originally endorsed by the Council of the University of Pretoria in 2010 but has been since then reneged on by the current executive management of the UP. In an effort to address the status quo, the HETN engaged the executive management of the UP under the leadership of Prof Cheryl de La Rey with regards to the redrafting of the new Constitution and election process of the Alumni Board.

It became clear that whilst the process of drafting a new constitution has not been concluded, the current Tuks Alumni Board was unilaterally continuing with its Annual General Meeting and the election of new additional Board members. The arrogant and hostile conduct displayed by the current Afriforum-controlled Tuks Alumni Board left the HETN no option but to initiate legal action to apply for an urgent court interdict to stop the planned AGM meeting of the Tuks Alumni to be held on the 13th October 2011. Whilst agreement was subsequently reached with the UP management for the postponement of the Tuks Alumni AGM, for a preliminary negotiations timeline and for negotiations to commence on the 5th November 2011, due to new unilateral and unreasonable negotiation conditions imposed by the UP management and Tuks Alumni Board, the HETN delegates had no other option but to walk out of the negotiations due to lack of good faith displayed by UP management.

To further add salt to injury to the views of black and progressive Tuks graduates, the UP in 2012 proceeded to accept the nomination of the same Willie Spies of Afriforum/Tuks Alumni to the Council of the UP as part of the x4 exclusively white alumni who are envisaged to represent the interest of all Tuks alumni. The battle for the transformation of the UP and Tuks Alumni Board is still raging on with the Equality Court case initiated by the HETN in December 2012. The date of set-down has been set for the 20th May 2013.

Unmasking Afriforum Officials & Sympathizers who served on Tuks Alumni Board

The following are past and current members/associates/sympathisers of Afriforum/Solidarity on the Tuks Alumni Board:-

- Ms Alana Bailey - Deputy Chairperson of the Tuks Alumni Board and Deputy CEO of Afriforum
- Mr Adam Jacobs – former Economic Advisor of Solidarity
- Mr Cornelius Jansen van Rensburg – former Head: Community Affairs of Afriforum now
- Mr Johan Kriek – Associate of Afriforum & past Chairperson, Vereniging van Regslui vir Afrikaans
- Mr Kallie Kriel – Chief Executive Officer of Afriforum
- Mr Willie Spies – Chairperson of the Tuks Alumni Board and Legal Spokesman of Afriforum
- Mr Charl Oberholzer: former SRC President and Chairperson of Afriforum Youth
- Retired Judge William Brunt de Villiers, Honorary President, Vereniging van Regslui vir Afrikaans
HETN writes Letter of Objection against Appointment of High Court Judge Pretorius

It is has come to our attention that Justice Cynthia Pretorius of the North Gauteng High Court has been nominated and shortlisted for the vacant position of Deputy Judge President – North Gauteng High Court. We are alarmed by her nomination and hereby object thereto.

We are respectfully of the view that Justice Pretorius is not fit and proper to hold this position. The reasons for our view are elaborated upon hereafter.

THE HIGHER EDUCATION TRANSFORMATION NETWORK ("HETN"):

The HETN is a non-profit organization. The HETN consists of an independent network of graduates and ALUMNI from various Higher Education and Further Education institutions in South Africa. We are a separate legal persona with the broad aim of collaborating with Government, tertiary institutions, the private sector and developmental agencies to improve access to and the quality of education and the relationship between education, training, skills development and youth employability.

We are committed to the process of the transformation of education and training to increase equitable and meaningful access to higher education, knowledge, skills and learning to ensure the following:

- An education system that is more accessible, especially to the marginalized and the poor;
- An education system that is underpinned by progressive values of democracy, non-racialism, redress and broad participation;
- An education system whose value system identifies with the aspirations of the people to embrace the rich diversity of South African society;
- An education system that narrows the divide between intellectual and manual labour;
- An education system that serves the present and future social and economic needs of a peaceful, stable South African society;
- The elimination socio-economic disparities through education.

Our membership is open to all ALUMNI from various institutions from further and higher education and training, public and privately owned. Although our objectives have focused our attention and programs within the education sector, we have recently found that there is a need to protect the values of our democracy, cultural diversity, freedom, transformation and dignity throughout our broader society. Consequently, our focus has been broadened significantly. This broader focus has also been engendered by the recognition that although our membership have education and ALUMNI in common, they come from every sector of our society.

FACTUAL BACKGROUND:

Our objection to the nomination of Justice Cynthia Pretorius for the position of Deputy Judge President – North Gauteng High Court, emanates directly from our interaction with her in an urgent application in the North Gauteng High Court.

Prior to the urgent application launched by an attorney, Mr. Willem Durrandt Spies, we had objected to the election of Mr. Spies to the Council of the University of Pretoria. The reasons for our objection were based on Mr. Spies’ affiliation to the Conservative Party – TUKS; his chairmanship of the Afrikaner Studentewag, the student wing of the Afrikaner Volkswag and his behaviour in these capacities, particularly during his days as a student at the University of Pretoria, during which he disrupted meetings organized by the South African Student Congress at the University of Pretoria. We published the specifics of these actions and Mr. Spies’ views particular the support for the establishment of a separate Afrikaner Volstaat.

Moreover, we attacked the blatant lack of transformation at the University of Pretoria, particularly in the University of Pretoria Council and the ALUMNI elected thereto.

(Continued next page)
Mr. Spies launched the aforesaid application on an urgent basis, in the North Gauteng High Court, seeking to interdict the continued publication of the aforesaid. At the heart of the matter was the question of the ALUMNI of the University of Pretoria, the Constitution and membership of the ALUMNI Board and the lack of transformation of the said Board. The matter was enrolled before Justice Pretorius.

Justice Pretorius is a graduate of the University of Pretoria and consequently a member of the ALUMNI. In the circumstances we were and remain of the opinion that there is a reasonable apprehension that Justice Pretorius would not bring an unbiased judgment to bear upon the matter. Prior to the hearing of the matter, we shared this view through a media statement, which we attach hereto as annexure “A” and addressed a letter to the Judge President of the North Gauteng High Court, which we attach hereto as annexure “B”.

At the hearing, we applied for the recusal of Justice Pretorius. Justice Pretorius refused to recuse herself. Further, Justice Pretorius refused to accept the Respondent’s opposing affidavit, notwithstanding the urgent nature of the application and we were eventually forced to enter into a partial settlement of the matter.

RECUSAL:

As previously stated, after the matter was allocated to Justice Pretorius, we held the reasonable apprehension that Justice Pretorius, as a graduate of the University of Pretoria and a member of the ALUMNI would not bring an unbiased judgment to bear on the application before her. After corresponding with the Judge President of the North Gauteng High Court and issuing a press release sharing the aforesaid view, we commenced to apply for the recusal of Justice Pretorius on the day of the hearing.

Rather than calmly and judiciously dealing with the facts upon which the application for recusal was based, our counsel appearing in the matter was aggressively confronted by Justice Pretorius suggesting that the media statement prior to the hearing was an attempt to blackmail or to coerce her in some or other manner. In her own words, she asked our Counsel “Are you threatening me?”

Sadly, neither suggestion had any factual truth to it. The reasons for the application for Justice Pretorius’ recusal were genuine and of genuine concern to us. We are of the view that Justice Pretorius’ emotional and aggressive approach is not suited for a judicial officer and equally non-suited to an incumbent to the Deputy Judge President position.

Rather than deal with the application factually, legally and judiciously, Justice Pretorius approached it without any factual basis, as a personal attack upon her. This was improper. Justice Pretorius also without any cause suggested an impropriety upon ourselves.

The manner in which Justice Pretorius considered the application for her recusal, in our opinion, sends the incorrect message to ordinary South Africans suggesting that Judges are beyond reproach or question.

FAILURE TO ALLOW EVIDENCE:

In her judgement refusing the application for recusal, Justice Pretorius concluded that she could not find any factual basis upon which a reasonable and objective person could conclude that she would not have been impartial in deciding the application before her. We find this judgement strange because during the application for recusal, we made application to lead oral evidence on the said application.

The application to lead oral evidence was based on the fact that it was an urgent application and a comprehensive application for recusal could not be drafted prior to the hearing. Justice Pretorius dismissed the application to lead oral evidence on the point of recusal. We respectfully submit that the democratic values enunciated in our constitution particularly the right to dignity and the right to have a dispute resolved by a fair public hearing before a court necessitated that Justice Pretorius should have allowed the oral evidence on the point of recusal.
HETN writes Letter of Objection to JSC against Appointment of High Court Judge (Continued)

We respectfully submit that Justice Pretorius’ approach to the matter and her eventual conclusion relating to the reasons for her refusal of the application for recusal is evidence of her injudicious approach. We respectfully submit that she does not have the sober mind to properly and unemotionally consider matters in the constitutional context of our democracy which requires transparency, openness and sensitivity to the diversity of our country.

THE ISSUE RELATING TO THE USE OF AFRIKAANS:

During the application, we mentioned to Justice Pretorius that we have difficulty in understanding Afrikaans language, hence we were late with our answering affidavit. Notwithstanding this difficulty, Justice Pretorius provided us with an Afrikaans order only. At this point we must state that we are aware that the Afrikaans language is an official language of our country and enjoys equal protection with any other language. However, we respectfully submit, that when a member of the judiciary is humbly requested to communicate with the public in a language that is best understood by the public and in a language which that particular judicial officer is conversant, that judicial officer is obliged to do so.

We further respectfully submit that Justice Pretorius’ failure to do so is an indication of her injudicious approach in the matter. It is also a clear indication of her failure to appreciate the diversity of our country and to be sensitive to the needs of the common person in South Africa. We suggest, that this lack of appreciation, borders on arrogance and are not the qualities of any judicial officer, let alone a Deputy Judge President. Justice should not only be done, but seen to be done.

In the circumstances, we humbly request that you consider our objection carefully and favourably.
The Higher Education Transformation Network (HETN) hereby condemns the ongoing resistance by Law Societies and Judicial Bar Councils against the adoption by Parliament of the planned Legal Professions Bill. It is the strong view of the HETN that the adoption of the Legal Profession Bill will add value to the transformation of the judiciary and removal of unscrupulous practices by the legal fraternity.

The HETN hereby voices its support for the adoption of the Legal Professions Bill as we believe that state regulation is vital for the professionalization of the legal profession to ensure ethical conduct, accountability to society, application of common registration standards, practices, ethos and conduct by members of the legal profession.

It is the view of the HETN that for far too long, Law Societies and Bar Councils have been allowed to operate as federations of multiple fiefdoms and havens of racism with an oligarchy of lawyers operating free from censure, transparency and accountability for their decisions and actions. All too often the same Law Societies and Bar Councils which now oppose the professionalization of the legal profession have been practicing undesirable practices which serve to benefit themselves as opposed to society. Quite often, these subjective standards have allegedly allowed the proliferation of racism and exclusivism within the ranks of the legal profession.

A prime example of the above-mentioned alleged unfair and unscrupulous admission practices is the Pretoria Bar Council’s Training Committee’s allegedly recommended admission policy of allowing the children of member advocates to be automatically admitted to the Bar Council and be allegedly allowed to bypass the interview and examination entry selection criteria which are implemented on new pupillage candidates in the form of mostly black graduates.

A secondary example of the alleged hypocrisy and double standards practiced by the same Law Societies and Bar Councils is the selective investigation and prosecution of legal practitioners. The Higher Education Transformation Network (HETN), fully supports the Legal Professions Bill in transforming the judiciary as we believe that the time has arrived to also hold judges and magistrates who served under the old pre-1994 dispensation accountable in terms of their compliance with the Constitution, ethical conduct and accountability to society.

The Higher Education Transformation Network (HETN) hereby condemns the unfortunate statements made by Prof. Jonathan Jansen of the University of Free State (UFS) on the untimely death of former President Nelson Mandela. It is our belief as an alumni body that Prof. Jansen is displaying unbecoming conduct of a senior university academic fulfilling the role of a Vice-Chancellor of a public institution of South Africa.

Despite Prof. Jansen’s surprising denials on the abovementioned, we have noted over the years constant irresponsible utterances, senseless tirades by Prof Jansen aimed at all and sundry and in particular, Higher Education and Training Minister Blade Nzimande as part of endless publicity-seeking stunts. As part the above-mentioned publicity stunts, racists at the University of Free State (UFS) who have no respect for blacks and who forced blacks to consume own urine without remorse were publicly paraded and offered shameful amnesty in artificial reconciliation exercises for the sake of media publicity without due regard to the interests of the victims or addressing fundamental transformation issues.

Instead of wishing ill of former President Mandela’s health, Prof Jansen should focus his efforts more constructively on transforming the University of Free State which remains a bastion of higher education racism where qualified black academics are still victimized and hounded out of the university workplace for their positive contributions to transformation.

It is our opinion that the appointment of Prof. Jansen as Vice-Chancellor of UFS was indeed a major mistake as his antics reveal him as a major disappointment to graduandi and an example of the type of myopic management thinking prevalent within the corridors of Higher Education South Africa (HESA).
The Higher Education Transformation Network (HETN) acting on behalf of its alumni membership, hereby notes the public attack perpetrated by Higher Education South Africa (HESA) aimed at ridiculing and tarnishing the integrity of the HETN on the 11th April 2013. We hereby wish to respond to this unwarranted attack by the Vice-Chancellor representative body.

In its statement, HESA is surprisingly silent, attempts to draw circles and fails to address repetitive irresponsible and publicity-seeking statements committed by its member, Prof Jonathan Jansen and instead chooses to attack legitimate concerns raised by the Higher Education Transformation Network regarding the commitment of some of its member Vice-Chancellors to attaining real higher education transformation and the elimination of racism in higher education.

Indeed as the HETN, we reiterate our valid concerns, as an alumni body and stakeholder in higher education, that there exists myopia and groupthink within the ranks of South African Vice-Chancellors and by implication within the corridors of HESA as their representative body. This myopia and groupthink manifests in grandiosely-blind and intellectually arrogant opposition to the statutory mandate of government to facilitate quality higher education to all communities and address poverty under the guise of so-called “protection of institutional autonomy”.

Contrary to HESA’s assertion that our “unsavoury comments and remarks about HESA are often baseless and devoid of an appreciation of its mandate”, our criticisms of the armchair critic role of HESA are valid given that it is now over 3 years ago since the 7th January 2010 when HESA signed an undertaking with the current Minister of Higher Education, Dr Ndzimande and pledged a public commitment to facilitate increased access to higher education and to ensure that higher education remains affordable for most individuals and families.

To date, this empty public commitment by HESA has not been actualised and the status quo has remained unchanged notwithstanding the R6 billion worth of investments and budgetary increases facilitated by government including the planned building of two new universities in Mpumalanga and Northern Cape.

Notwithstanding the above-mentioned, we have within a period of two (2) years since our establishment highlighted repeated examples of certain Vice-Chancellors (including a former Chairperson of HESA) who continue to allow the practicing of racist workplace practices, tolerate the forging of open alliances with racist political entities, continue practising secret hidden salary bands that perpetuate discriminatory remuneration between black and white employees, victimize black students and staff, continue to flout employment equity and labour relations legislation as well as privatise reserves which were accumulated due to unfairly favourable apartheid state subsidies.

Beyond selfishly advocating for an increase in the salaries of Vice-Chancellors and wasting resources in futile legal battles with the state aimed at protecting alleged “institutional autonomy”, HESA’s silence on the above-mentioned matters has been deafening to date.

To further add salt to injury, the same HESA and its statutory cousin, the Council on Higher Education (CHE), which is dominated by the same Vice-Chancellors and/or their proxy appointees, have both over the years moved at a snail’s pace on matters to do with transformation and racism in the higher education sector and are now miraculously and surprisingly up in arms and questioning the credibility and legal standing of the newly-established Ministerial Committee on Higher Education led by the esteemed, Prof. Makgoba on the basis that he is a serving Vice-Chancellor and pushing a particular agenda.

This is notwithstanding the hypocrisy practiced by HESA and its predecessors when they sang praises to the appointment of Prof. Crain Soudien to lead the famous Ministerial Standing Commission into Racism in Higher Education (Soudien Commission) in 2008. It is our opinion, as an alumni body, that HESA has in reality deviated from its self-proclaimed mandate and is in reality an oligarchy of learned friends and associates who are apt to blindly defend each other whilst sipping tea from airconditioned offices at state expense.

Instead of attacking the HETN’s policy stance on critical discourse without valid cause, HESA needs to conduct a thorough self-introspection on their patriotic loyalties to the country first before pointing accusatory fingers. As an alumni body, we harbor no apologies about our agenda to transform higher education and will not hesitate to proactively take to task any tertiary institution or HESA itself to the requisite legal fora (as we have already done with the University of Pretoria) should this become necessary.

It is thus the correct view of the HETN that some (not all) the same academia and members of HESA are themselves posing an impediment to higher education transformation. There is also no doubt that there are countless men and women of high integrity within HESA who do not share some of the openly stated policy positions of the organization.

Higher education institutions and managers should realize that institutional autonomy should not be mistaken for lack of accountability to the South African nation that establishes and funds them.
Afriforum Lawyer Obtains Temporary Interdict Against HETN

The Higher Education Transformation Network (HETN) condemns the unfair manner in which its legal defense was prejudiced during its defense against the application for an urgent interim interdict brought by Afriforum legal advisor, Willie Spies at the Northern Gauteng High Court (Case No: 5786/2013).

Despite, the HETN’s request for Judge Cynthia Pretorius to recuse herself from the case due to conflict of interest and perceived subjectivity, our request for recusal was denied. Our reasons for requesting the recusal were based on the following facts:

1. The attempt by Mr Spies to interdict the HETN relates to a nationally important legal case currently lodged in the Equality Court against the University of Pretoria, Tuks Alumni, and Mr Willie Spies with a direct bearing on the interdict requested for.
2. Judge Pretorius is a member of Tuks Alumni as a graduate of the University of Pretoria
3. Judge Pretorius has had working relations with retired Judge Isaac William Brunst de Villiers who is an active Honorary President of the Vereniging van Regslui vir Afrikaans, a known ally of the Afriforum rightwing grouping and also an active Board member of the Tuks Alumni Board
4. The HETN legal team was refused the right to file its responding affidavits by Judge Pretorius office due to late submission as the Applicant’s legal papers were drafted in Afrikaans
5. The litigation against the HETN is being undertaken by Mr Johan Kriek, Chairperson of the Vereniging van Regslui vir Afrikaans who has working relations with retired Judge de Villiers and also serves with Mr Spies on the Tuks Alumni Board.

Noting the refusal of the honourable judge to recuse herself from the case as per our request and further noting that the HETN’s condonation for the acceptance of its responding affidavits and supplementary request to put a witness on the stand have fallen on deaf ears, the HETN legal team subsequently entered into a voluntary settlement agreement with the legal representatives of Mr Spies.

The terms of the voluntary out-of-court settlement (which was subsequently made an order of court) were to the effect that the HETN temporarily consents to an interim court order subject to the admission of its legal affidavits, the reservation of costs and final deliberation of the above-mentioned case by the Northern Gauteng High Court on the normal case roll.

Contrary to media reports, the HETN has not been defeated by Afriforum but voluntary consented to an out of court settlement, pending the finalisation of the case, that resulted in the granting of the temporary interdict. The HETN legal team had no other viable option in the light of the acute subjectivity, hostility and unfairness that its legal team faced from the judge in attendance on the day.

The HETN further intends to appeal the cost order by Judge Pretorius against the HETN and further believes it is within its constitutional right to appeal the refusal by the judge to recuse herself in the above-mentioned matter. We believe it is crucial that we appeal the recusal and subsequent cost order due to our concerns that poor communities on behalf of whom we advocate will become afraid to raise pertinent issues which are in the interests of a democratic South African society due to the fear of punitive legal costs and legal executions by those who think they have the power to manipulate and subvert the legal courts system in South Africa.

The HETN remains confident that it will succeed in its legal action against the University of Pretoria (UP), Mr Spies and the Tuks Alumni Board at the Equality Court. The HETN’s legal action is aimed at compelling the UP from proceeding with the appointment of x4 white alumni from the Tuks Alumni onto the Council of the University of Pretoria.

The HETN’s legal action at the Equality Court also seeks to further highlight the exclusion of black alumni from the university’s alumni structures as well as the non-compliance by the University of Pretoria with the principles of the Education White Paper 2007; the Employment Equity Act of 1998 as well as illegal workplace practices such as different salary bands for black and white staff, illegal prolonging of contractual probation periods and refusal to promote black staff at the university which are entrenched as part of normal HR practices of the university.

Higher Education Transformation Network is legally powered by XULU LIVERSAGE Inc. ATTORNEYS
The Higher Education Transformation Network (HETN), hereby condemns in the strongest terms, the provisional registration of Akademia College, Solidarity/ Afriforum’s private college by the Council for Higher Education (CHE). We question the processes utilized for the accreditation of the Akademia College’s learning programmes by the Council for Higher Education (CHE).

We wish to question the criteria and guidelines utilized by the CHE for granting provisional accreditation status to Akademia College to an institution belonging to a pro-white Afrikaner political entity that exclusively admits Afrikaans-only students to the exclusion of non-Afrikaans underprivileged students speaking other languages who cannot access the College’s courses at the prices the College’s courses are being delivered at.

The HETN believes that the accreditation of Solidarity/ Afriforum’s Akademia College is inconsistent with the principles of Section 4 of the Constitution, the Education White Paper of 1997 and Higher Education Amendment Act 21 of 2011. The Education White Paper of 1997 states that higher and further education needs to promote fair equity of access to all students who are seeking to realise their academic potential while eradicating all forms of unfair discrimination. The Higher Education Act of 1997 (as amended) also espouses the principle of ensuring equal access to education to provide optimal opportunities for learning for all.

Contrary to promoting the interests of a unified South African society to advance economic prosperity and fight poverty, Solidarity and Afriforum are playing a very divisive nefarious role in higher education by seeking to entrench the exclusion of blacks from higher education. The fact that Akademia only admits Afrikaans students and thus potentially discriminates against students who wish to study in other languages and also claims Christian values implies that it will potentially not admit non-Christian students who wish to undertake studies.

The Council for Higher Education’s myopic interpretation of Section 29 (3) of the Constitution of the RSA lacks the fundamental understanding of the constitutional objectives of uniting and reconciling the nation as envisaged in the preamble and other relevant sections of the Constitution. Whilst the HETN does not have a problem with Afrikaans as a medium of instruction, however, Akademia College needs to cater for potential students who are not conversant in Afrikaans. It needs to be noted that English is a compromise language for many African students and is therefore necessary to be utilised as a medium of instruction at the College.

What is becoming clear according to the view of the HETN is that there has not been full or accurate disclosure of the politically inspired ownership behind Akademia College when the CHE considered the accreditation of the institution. It is clear that the CHE has failed its quality assurance duties through failing to detect the politically inspired objectives of a rightwing-inclined organization whose stated objectives is amongst others “the protection of minority rights and intervening on behalf of people who are disadvantage by affirmative action”.

The CHE, in failing to accordingly advise the Department of Higher Education (DHE), has allowed a rightwing-inclined political entity to officially conduct learning to an exclusive section of the South African populace in an exclusive language contrary to the Constitution of the Republic of RSA. The HETN is extremely concerned about the above-mentioned, given that the CHE’s Higher Education Quality Council (HEQC) National Review Committee, which is tasked with considering new applications for official accreditation of learning programmes and registration of institutions of higher learning already has a senior academic from Solidarity/ Akademia College serving on the same body.

The HETN has received the CHE’s official response to our request for the review of the Akademia College’s accreditation and remains unconvinced by the CHE’s interpretation of the Constitution of the Republic regarding this matter. Whilst the HETN remains open to discussions with the CHE on the matter, we do not rule out legal action should we fail to come to an agreement on the matter.
Graduate Social Scene: Photos from Alumni Networking Braai
held 30th March 2013 in Brooklyn, Pretoria
With the registration of the HETN as an Non-Profit Organization (NPO) Reg No: 116-851, the HETN Board has authorized the collection of membership fees with effect from 4 May 2013. Membership fees are now R360 per annum or R30 per month. Please complete membership forms and refer to banking details below.

**APPLICATION FOR MEMBERSHIP**

**PARTICULARS OF APPLICANT:**

Surname: ___________ First Names: ___________ Title: ___________

Address (Postal): _________________________________________________________________________

Postal Code: ___________

Address (Home): _________________________________________________________________________

Postal Code: ___________

Tel No. (H): ___________ Cell No.: ___________

E-Mail: ___________ Citizenship: ___________

I.D.No: ___________ Date of Birth: ___________

Language Preference: [ ] A [ ] E Home Language: ___________

**EDUCATION**

Name of Tertiary Institution: _________________________________________________________________________

Academic Qualification Obtained: ___________ Student Number: ___________

**DECLARATION:**

I, ___________ the undersigned, certify that the information given on this form is true and correct and hereby undertake to abide by the Constitution of the Higher Education Transformation Network (HETN), abide by its objectives and maintain my membership subscription should I be accepted as a member.

Signature of Applicant: ___________ Date: ___________

**BANKING DETAILS**

Account Name: Higher Education Transformation Network
Bank: First National Bank
Branch: Church Square, Pretoria
Branch Code: 251445
Account No: 62409984798
Account Type: Cheque

Membership Fees- R30 per month or R360 per annum
Racism in Higher Education is Alive and Well

Join the HETN and help us End It!