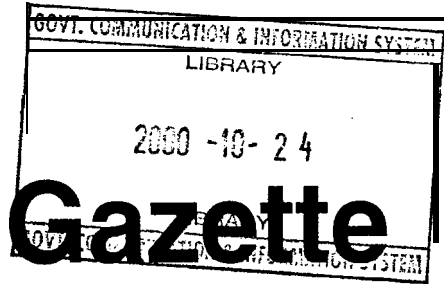


REPUBLIC  
OF  
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REPUBLIEK  
VAN  
SUID-AFRIKA



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OKTOBER

No. 21654

**We can have the power to prevent AIDS**

AIDS  
affects  
us; all



A  
new  
struggle

Prevention **is the cure**

**AIDS  
HELPLINE**

**0800 012 322**

DEPARTMENT OF HEALTH

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**GENERAL NOTICE**

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**NOTICE 4067 OF 2000****DEPARTMENT OF EDUCATION****HIGHER EDUCATION ACT, 1997 (ACT No. 101 OF 1997)**

I, Kader Asmal, MP, Minister of Education, in terms of section 47(2) of the Higher Education Act, 1997 (Act No. 101 of 1997), publish the report of Professor Thandabantu Nhlapo, the independent assessor (appointed under section 44 of the same Act) on the investigation conducted at the University of the North, as set out in the Schedule.

**Professor Kader Asmal, MP**

**Minister of Education**

**INVESTIGATION INTO THE AFFAIRS OF THE UNIVERSITY OF THE NORTH BY THE  
INDEPENDENT ASSESSOR APPOINTED BY THE MINISTER OF EDUCATION IN  
TERMS OF CHAPTER 6 OF THE HIGHER EDUCATION ACT, NO 101 OF 1997**

**REPORT TO THE MINISTER,  
THE HONORABLE PROFESSOR K. ASMAL, MP**

**1. TERMS OF REFERENCE**

- 1.1 The purpose of the investigation is to advise the Minister on:
- \* the source and nature of the ongoing discontent at the University of the North; and
  - \* steps required to restore proper governance and management, including the promotion of reconciliation, at the University of the North.
- 1.2 To make recommendations on:
- \* the nature of the problems; and
  - \* possible steps to be taken to restore effective management and governance at the University
- 1.3 Completion and Report
- \* The independent assessor to complete his work and submit a report to the Minister within 30 working days of his appointment.

**2. INTERPRETATION OF TERMS OF REFERENCE AND INTRODUCTORY  
REMARKS**

- 2.1 The Independent Assessor (1A) noted the general nature of the Terms of Reference and interpreted them to mean that he was not required to investigate the minute details of each event, incident or allegation reported to him, nor **was** he expected to pursue grievances to determine their merits and to propose solutions.

In the Independent Assessor's opinion, the task entailed receiving and evaluating the information submitted with a view to formulating an **understanding** of the nature and causes of the continuing discontent at the University of the North (UNIN).

2.2 This view of the Terms of Reference is important. It makes it clear what this report cannot, and will not, attempt to do. Within the constraints of time, resources and mandate, the Independent Assessor cannot perform in **the manner** or style of a commission of **inquiry**. With over 100 hours of oral testimony and **several** boxes of documents, there is more than enough material on which to base an understanding of what is going wrong at **UNIN**. Inevitably, such an understanding will include **an** appreciation of the impressions, beliefs, perceptions, opinions and even prejudices of members of the UNIN community, whether or not these were justified or substantiated. There will thus be few findings in this report: the operation is simply not geared towards investigating to any kind of finality the many allegations being thrown around. On the other hand, it is hoped that the allegations and criticisms will themselves be narrated in a manner that neither assumes their veracity nor invites litigation. That somebody believes evil of you is an important indicator of the breakdown in your relationship, whether or not he can prove the evil alleged.

2.3 In that vein, it is just as well to mention at this early stage that **Conspiracy Theories abound at UNIN. Relationships between groups and individuals are characterised by deep suspicion and at times outright hostility. Skepticism about people's motives runs deep: the belief is that everybody has an agenda which he or she will try in all circumstances to advance. The idea of anybody acting from pure motives or to promote the general good is laughingly dismissed as a delusion.** It seems to matter little that some allegations might sound preposterous to the impartial ear: one can invariably tell from the passion of the accuser that the belief is strongly held.

- 2.4 An early indicator of this kind of problem was the hostility with which I was greeted by certain elements on campus, notably the South African Students' Congress (SASCO) and their allies. After I had explained my terms of reference and my role on campus, I faced a barrage of questions on my relationship with the Minister of Education, the legitimacy of my appointment and my connections with the University of Cape Town now that it was headed by Professor Ndebele. Lurking behind these questions was the insinuation that the Minister was playing political games by appointing an Independent Assessor at this point in time; that the Independent Assessor was not independent at all; indeed I was later to be told of a story doing "the rounds that I already had a "final report" in my briefcase and had been brought to UNIN simply to go through the motions by pretending to listen to submissions.
- 2.5 Whilst it was easy to dismiss these insinuations as wild and unfounded (and, in the absence of any evidence, verging on the defamatory), I found the whole episode vastly educational. Contemplation of the possibility that anyone might act from honest motives has been blunted, perhaps, by too many years of knowing no other form of interaction except intrigue and opposition. To be fair to SASCO and their allies, they did in their submission to the 1A apologise *in* writing for their **behaviour** at the meeting. A valuable lesson about the fractured nature of the relationships at UNIN had been learnt on the very first day.
- 2.6 At a meeting between the Independent Assessor, the Acting Chairperson of Council, Mr Negota, Councillor Rev. F. Bill and officials from the Ministry of Education it was decided that the **Independent** Assessor needed to set up a separate operation at UNIN so that press statements and other communications should not have to go through the University's machinery. This was to assert the 1A's independence and to avoid association too closely with either the **University** administration or staff, students, workers or **any** other structure. To this end, the Department of Education retained the services of an experienced administrative assistant, Ms Esme **Grimsdell**, from a secretarial employment agency. I am

grateful to Ms **Grimsdell** for the efficient manner in which she organised my diary of appointments and flights, and the filing and indexing of the mounds of tape and paper that we collected.

2.7 Comfortable and spacious offices were provided for us in the Administration Building. The appointment and arrival of the 1A had already been announced to the University community by circular, which also announced a public meeting at which the Assessor would be introduced.

2.8 The work of the 1A was completed and an interim report submitted to the Minister within the 30 days specified in the Act. However, owing to the richness of the input from the community at **UNIN**, the final report took a few days longer to prepare.

### 3. **PROCESS**

3.1 I began work on 31 July 2000 by visiting the **Turfloop** campus of the University of the North where I was introduced to the University community by the Acting Chairman of Council, Mr **Negota**. The meeting was sparsely attended at first, filling up overtime, especially with the influx of chanting students expressing their disapproval at the presence of the Independent Assessor. The first two days were slow days with no interviews and I spent the time familiarizing myself with the documentation. After that, business was brisk. Between 3 and 23 August I conducted 66 interviews (involving over 130 people) and received 8 written submissions, in addition to the reams of documentation supplied by the people and organisations interviewed. By the time I was through, I had conducted 72 interviews.

3.2 The interviews were conducted according to the following schedule:

### INTERVIEWS AND MEETINGS WITH INDEPENDENT ASSESSOR

NO.	DATE	TIME	NAME	VENUE
1.	27/07/2000	12:30	The Hon Justice Y. Mokgoro - Member, UNIN Council	SA Law Commission
2.	27/07/2000	14:00	Mr Phineas Mojapelo - (Mojapelo-Sithole Commission of Inquiry)	SA Law Commission Main Campus
3.	31/07/2000	10:00	Mr C.A.T. Phewa - Proctor	
4.	31/07/2000	14:00	Ms June de Jager - Vice-Chancellor's Secretary	Main Campus
5.	02/08/2000	11:30	Mrs G.K. Motshologane - Disabled Students Unit	Main Campus
6.	02/08/2000	14:00	Mr C.A.T. Phewa - Proctor	Main Campus
7.	03/08/2000	09:00	Professor P.E. Franks - Management Science	Main Campus
8.	03/08/2000	10:00	Mr N.E. Mahlanya - Examinations (Admin)	Main Campus
9.	03/08/2000	11:00	CLASS G - Dr M. Mbewa (Microbiology), Mr M.A. Ngoepe (Philosophy of Education and Team	Main Campus
10.	03/08/2000	13:00	Disabled Students Movement	Main Campus
11.	03/08/2000	14:30	Dr N.M. Mokgalong (UNASA) - Zoology & Biology	Main Campus
12.	07/08/2000	11:00	Ecclesia College	Giyani Campus
13.	07/08/2000	11:45	Mr D. D. Ramothwala - Assistant Registrar and Acting Head	Giyani Campus
14.	10/08/2000	08:30	Professor N.C.P. Golele - Acting Vice-Chancellor	Main Campus
15.	10/08/2000	11:00	Doctor P.D. Sekhukhune - Northern Sotho	Main Campus
16.	10/08/2000	12:00	Professors S.P. Mashike (Mathematics), D.W. Malaka (Social Work), D.D. D. Sheni (Optometry) and Mr J.L. Kgokong (Pharmacy)	Main Campus

NO.	DATE	TIME	NAME	VENUE
17.	10/08/2000	13:00	Adv <b>M.M</b> Mabesele - Building Administration	Main Campus
18.	10/08/2000	15:00	<b>SASCO</b> - Mr Sydney Mengudza and Team	Main Campus
19.	10/08/2000	16:00	Mr P.S. Nagel - H.O.D. English Department	Main Campus
20.	11/08/2000	08:30	Mr John <b>Wiltshire</b> - CEO, Edupark	Edupark, Petersburg
21.	11/08/2000	13:00	Miss <b>S.M.</b> Tlaka - Employment Equity Task Team	Main Campus
22.	11/08/2000	14:30	Mr <b>D.K.</b> Mohuba - Public Relations	Main Campus
23.	13/08/2000	18:00	Professor <b>O.O.</b> Dipeolu - Suspended <b>DVC</b> (Qwa-Qwa Campus)	Harrismith Inn, Harrismith
24.	14/08/2000	08:00	Prof <b>Sibara</b> - Acting Principal	Qwa-Qwa
25.	14/08/2000	09:00	<b>NEHAWU</b> Representatives	Qwa-Qwa
26.	14/08/2000	09:45	ASA Representatives	Qwa-Qwa
27.	14/08/2000	10:30	ADSA Representatives	Qwa-Qwa
28.	14/08/2000	11:15	SRA Representatives	Qwa-Qwa
29.	14/08/2000	12:00	Mrs. De Haas	Qwa-Qwa
30.	14/08/2000	12:30	Professor <b>P.A.</b> Mbatlana	Qwa-Qwa
31.	14/08/2000	14:00	Mr <b>Rachidi</b> & Concerned Black South African Academics	Qwa-Qwa
32.	14/08/2000	14:45	Mr L. Ncukana	Qwa-Qwa
33.	14/08/2000	15:15	Ms M. Maduna	Qwa-Qwa
34.	14/08/2000	15:45	Mr T. <b>Manchu</b>	Qwa-Qwa
35.	14/08/2000	16:15	Mr T.V. Lebeta	Qwa-Qwa
36.	14/08/2000	16:45	Professor A. Wamala	Qwa-Qwa
37.	14/08/2000	17:15	Or Moji	Qwa-Qwa
38.	14/08/2000	17:45	SRA, SASCO, AZASCO, SCF, AIESEC & ANCYL	Qwa-Qwa
39.	14/08/2000	18:15	Mr P.T. Makhetha	Qwa-Qwa
40.	15/08/2000	14:00	Management and Deans of the University of the North	Main Campus
41.	15/08/2000	16:00	Professor <b>S.T.</b> Kgatla - Theology	Main Campus



NO.	DATE	TIME	NAME	VENUE
42.	15/08/2000	17:00	Doctors E. Ramani & M. Joseph - English Studies	<b>Main Campus</b>
43.	16/08/2000	08:00	Mr Selokela Matlonya - Turfloop Spaza Association	Main Campus
44.	16/08/2000	11:00	<b>Professor V.L.M. Jali - Pharmaceutical Chemistry</b>	Main Campus
45.	16/08/2000	12:00	Mr J.M. Matimela - Circulation Secretary, NEHAWU	<b>Main Campus</b>
46.	16/08/2000	13:00	Mr Nong - Admin & Technical Staff	Main Campus
47.	16/08/2000	14:00	Mr V.D. Mabuza - NTESU Organisation	Main Campus
48.	16/08/2000	15:30	Professor Nettie Cloete - English	Main Campus
49.	16/08/2000	19:00	Radio Turf Interview	Main Campus
50.	17/08/2000	08:00	Mr J.K. Masha - UNIFY	Main Campus
51.	17/08/2000	09:00	Mr F. Rahimi - ITD Computer Centre	Main Campus
52.	17/08/2000	10:00	Professor <b>M.C. Okpaluba</b> - Jurisprudence	Main Campus
53.	17/08/2000	11:00	Mr B. <b>Boshielo</b> - Suspended Chairman of Council	Main Campus
54.	17/08/2000	14:00	Doctor <b>N.A. Budeli</b> - Public Relations	Main Campus
55.	18/08/2000	10:00	Doctor Minyuku and Legal Representatives	SA Law Commission, Pretoria
56.	18/08/2000	14:00	UNIN New Management Team	<b>Moshoana and Mohlaba Inc.</b> , Pretoria
57.	<b>21/08/2000</b>	08:00	Ms M.D. <b>Sonti Masipa</b> - Education	VIP Lounge, Gateway Airport, Petersburg
58.	21/08/2000	10:00	Professor N. P. Steyn - Research Administration	Main Campus
59.	<b>21/08/2000</b>	11:00	Mr D.C. Meyer - English	Main Campus
60.	<b>21/08/2000</b>	12:00	Mr <b>J.M. Moila</b> - Psychology	Main Campus
61.	<b>21 /08/2000</b>	13:00	Mr <b>P.H. Franks</b> - Human Resources	Main Campus
62.	<b>21 /08/2000</b>	14:00	Students' Representative Assembly - Mr M. <b>Mashao</b> and Team	Main Campus
63.	<b>21/08/2000</b>	17:00	<b>Students' Representative Council</b>	<b>Giyani Campus</b>

NO.	DATE	TIME	NAME	VENUE
64.	22/08/2000	09:00	NEHAWU Representatives	Giyani Campus
65.	23/08/2000	08:00	Mrs J.H. Mabale, Mr M.S.J. Mboweni and Advocate R Letseku (Tour of Campus Buildings)	Main Campus
66.	23/08/2000	10:30	Professors S.P. Mashike (Mathematics), D.W. Malaka (Social Work), D.D.D. Sheni (Optometry) and Mr J.L. Kgokong (Pharmaceutical Chemistry)	Main Campus
67.	23/08/2000	13:00	Mr K.R. Ngobana and Team - Technical Services	Main Campus
68.	23/08/2000	14:00	Broad Transformation Forum	Main Campus
69.	30/08/2000	14:00	Rev. F. Bill - UNIN Council	SA Law Commission, Pretoria
70.	01 /09/2000	11:00	Professor Sevid N Mashego - former DVC, UNIN	Rand Afrikaans University
71.	01/09/2000	18:00	Professor Njabulo Ndebele - former VC, UNIN	Hatfield
72.	17/09/2000	14:30	Mr George Negota - Acting Chairperson, UNIN Council	By telephone

WRITTEN SUBMISSIONS RECEIVED FROM:

1. Z.M. Msimanga. (English)
2. Mrs De Haas
3. T.I. Makume (Assistant Registrar)
4. UNIN Expatriate Staff
5. National Tertiary Education Staff Union
6. Student Christian Organisation
7. Professor L.G. Buberwa
8. AZASCO - UNIN/GTC

**4. THE NATURE OF THE PROBLEM**

- 4.1 There is general consensus within the UNIN community that the nature of the problem is relatively easy to identify. Although there are conflicting views, not only

about the causes but also on the extent of the problem (i.e. whether it constitutes a crisis or not) most people accept that:-

- \* staff morale is at an all-time low
- \* as a result, little real work is getting done across all sectors
- \* corruption is rife and unchecked
- \* factionalism and personal hostilities are the most common features of relationships within the institution and are grinding it down
- \* management is powerless to stop the decay

## 5. BACKGROUND

5.1 The recent crisis at the University of the North came to the boil on 3 December 1999 when the University Council suspended Dr **B.S.V.** Minyuku, the Vice-Chancellor, and Mr Benny **Boshielo**, the Chairman of the Council. Also suspended at the same time were Professor **O.O. Dipeolu**, the Deputy Vice-Chancellor in charge of the Qwa-Qwa campus, Mr **H.S.** May, the Qwa-Qwa Campus Registrar, and Mr **F.D.** Tsieane, the Assistant Director of Finance at Qwa-Qwa. The problems had been simmering for months since the departure of Professor **Njabulo Ndebele** as Vice-Chancellor in mid-1998.

5.2 As this report will attempt to show, turbulence at UNIN has a long history, dating back to apartheid days when the institution was the cradle of protest against the regime. My **interpretation** of the terms of reference for this 'investigation means that, while this history is important in understanding the current unrest at **UNIN**, it is not my brief to go back **further** than **the** events which directly precipitated the present crisis.

5.3 Accordingly, the period immediately **following** upon the departure of Professor **Ndebele** will be the starting point. **That period, during** which Professor **S.P.** Mashike was Acting Vice-Chancellor upon the **invitation** of the University Council, appears to have been one of relative stability-understandably so, because it was

an interregnum where attention was focused on the search for a new Vice-Chancellor. Professor Mashike was Acting Vice-Chancellor from 1 July 1998 to 31 March 1999.

5.4 The relevant sequence of events, as far as one can ascertain, is that the first order of business in Professor **Mashike's** incumbency **was** to set in motion the process to identify and appoint a new Vice-Chancellor for **UNIN**. Predictable squabbles arose **at** every step of the way, with disagreement and criticism over the qualifications for a **Vice-Chancellor**, the advertisement, the short-listing, the interviewing and the appointment itself. (These matters will be canvassed more fully below). Dr **Minyuku** was duly appointed and he quickly set about his task, which he saw primarily as executing the mandate given to him by Council to transform UNIN as a matter of urgency. By **all** accounts, his early energy, drive and courage in tackling issues head-on met with wide approval, though dissent remained over both the manner of his appointment and his managerial style. So central is the Minyuku appointment to an understanding of the current crisis that it must be included at the top of the list of the issues dividing the institution.

## 6. **SOURCES OF THE PROBLEM**

6.1 In order to place the situation at UNIN in perspective, it may be a useful exercise simply to list the burning issues in an effort to sketch the contours of the problem. The items on the list are in no particular order, nor do they conform to any particular classification: petty personal disagreements jostle with heavy philosophical or ideological disputations and matters of detail share equal space with abstract considerations. The aim at this point is simply to unveil the full tapestry of issues reported to the Independent Assessor that serve to divide the UNIN family. Though the list is not exhaustive, it would include the following items, some of which overlap and many of which operate in various combinations and permutations:

- (a) Total lack of leadership, policy, vision and direction
- (b) A succession of weak and ineffective management teams

- (c) Low morale and absence of motivation, *esprit de corps*, commitment or loyalty to the University
- (d) Disproportionate power in the hands of “structures”
- (e) A weak Council; an all-powerful and interventionist Executive Council (**Exco**)
- (g) A **marginalised**, ineffective, inappropriately constituted Senate
- (g) Financial mismanagement and a deepening financial crisis
- (h) Unchecked and unpunished corruption and fraud
- (i) Racism and **ethnicity**
- (j) Conflicts over **Dr Minyuku’s** appointment, style and suspension
- (k) Failure to implement reports of previous Commissions of Inquiry
- (l) Confusion and alleged lack of transparency over Edupark
- (m) Wide-ranging suspensions of officers and the question of acting appointments
- (n) Position of Giyani Teaching College and Qwa-Qwa Campus
- (o) Unbridled factionalism, personal hostility and self-interest
- (p) Academic matters (faculty reconfiguration, staff development, curriculum design, staff skills audit and promotions)
- (q) Retrenchments, especially the current voluntary retrenchment offer
- (r) Suspicion of the role of the Ministry and the Department of Education

6.2 The overlaps are clear, as is the fact that no report can really do justice to so long and varied a range of issues and perceptions. What I intend to do is to take a few clusters of issues and attempt to show the interlinkages between them and how **they operate together** to undermine the overall health of the University.

## 7. DR **MINYUKU’S** APPOINTMENT AND SHORT TENURE

The issues surrounding **Dr Minyuku** resolve themselves into the question of his appointment, criticism of his management style while in office, his suspension and the litigation attendant upon such suspension. I will deal with these issues in turn.

## 7.1 Or Minyuku's appointment

- 7.1.1 Dr Minyuku, who had been Registrar at UNIN between 1995 and 1996 until he left to join the Truth and Reconciliation Commission as Chief Executive Officer, applied for the vacant post of Vice-Chancellor and Principal in March 1998. He was short-listed together with Professor M. Filani, Professor P.E. Franks and Professor S.N. Mashego, and was interviewed. With the other candidates he also gave a public address. At the end of the process he was recommended to Council for appointment. Council accepted the recommendation of the interview panel and offered the post of Vice-Chancellor and Principal to Dr Minyuku in a letter dated 28 December 1998.
- 7.1.2 The process outlined above was attended by a certain level of controversy which culminated in serious allegations of impropriety and even illegality on the part of some individuals and structures. Specifically, these allegations were that Dr Minyuku did not meet the selection criteria set down by Council, especially with regard to the paucity of scholarly publications; that he was "coached" through the process; and that he lied to the University community on the question of whether or not he had a case pending against the institution.
- 7.1.3 It appears from documents in my possession that the basis for the disquiet over Dr Minyuku's qualifications is the report of the Interview Panel to Council, dated 25 November 1998, which recorded (par 4.2) the External Assessors' view that all the candidates short-listed were not suitable for appointment. Despite the careful language about "an intensive discussion" having produced "consensus" it seems quite clear from the Panel's report to Council that the External Assessors were overruled by the Panel and that Dr Minyuku was recommended over the objections of the Assessors, which were merely "noted". The reason given was that "his managerial and administrative skills and acumen were what the University needed most" at that time. Dr Harry Nengwekhulu, one of the External Assessors, withdrew from the process over this issue in a letter to Mr Benny Boshielo, the Chairman of Council, which letter was apparently never placed on the agenda of Council.

**7.1.4 Allegations of impropriety during the process itself included** the perception that an unhealthy **cosiness** between **Dr Minyuku** and his supporters on campus existed even before he was interviewed and that an infamous set of “39 questions” was prepared to help him sail through the public address phase of the process. It is also alleged that these questions were then allocated to questioners placed strategically amongst the audience, with a member of the Broad Transformation Forum having sole charge of the microphone and the discretion to recognise questions from the floor.

7.4.5 I am in possession of a copy of an untitled and **unattributed** document on which appear 39 numbered questions, mostly of the friendly-counsel-to-friendly-witness variety (Example: “It would appear from your address that you are indeed for a transformation process. Do you confirm that?”). Thirty of the questions are then devoted to eliciting from the “witness” facts that constitute an oblique attack on Professor **Njabulo Ndebele’s** dealings with a firm called Productivity Assignment. However, after reviewing 9 hours of videotape of the candidates’ public addresses and private interviews I can find no evidence of the impact of the so-called “39 questions”. The impression I obtained from the video footage was that **Dr Minyuku’s** presentation generated a great deal of excitement, and that questioners from the floor were well disposed towards the candidate. By comparison, questions to Professor Mashego tended to be more probing and hostile.

7.1.6 On the question of the court action pending against the University, **Dr Minyuku’s** position has always been that the case was withdrawn. There certainly exists some correspondence between **Dr Minyuku’s** lawyers and the University’s legal department, but this seems to relate to a change of legal representatives rather than withdrawal of the case itself. [The issue is in fact *sub judice* in that one of the questions the High Court has to determine in **Dr Minyuku’s** application against his suspension is the legitimacy of one of the grounds of suspension, namely the alleged failure to disclose that the candidate had a case pending against the

prospective employer at the time he applied and was subsequently appointed]. In his defence, Dr Minyuku asserts that there is no mystery in all of this: he made a full and **public** disclosure at his interview which is a matter of record on the videotapes of the event. Again, my review of the tapes fails to reveal any discussion of the case in question. Unless Dr **Minyuku** is referring to the question he was asked at the interview about “forgiveness” and the long discussion which followed it, I cannot find on the tapes any statement pertaining to the court case against the University.

7.1.7 Another sore point surrounding Dr **Minyuku’s** appointment was the question of his remuneration. The allegation, repeatedly reported in the press, that he had negotiated a salary package which amounted to R1,2 (sometimes the figure given is R1,4) million per annum had generated great unhappiness at **UNIN**. Interestingly, not a single person who reported this allegation to me had seen Dr Minyuku’s contract even a copy of a payslip, both of which should have been matters of public record. From **my** perusal of the documents, and the expert advice I felt compelled to seek, it appears that in July 2000 Dr Minyuku took home R35 175.05 (which translates into a package R749 291.04 including car allowance and housing subsidy). A figure of R1 223308.24 can possibly be reached for Dr Minyuku’s first year of employment if one adds once-off payments such as relocation costs, security upgrade at the house, pension buy-back and the limit on the credit card for official emergencies. It is difficult to see how inclusion of these non-recurrent amounts in the description of an “annual” package can be justified.

## 7.2 **Dr Minyuku’s management style**

7.2.1 One of the charges against Dr Minyuku set out in the finding of Council’s Task Team is that of an “autocratic management style and cronyism”. There were numerous submissions from individuals and groups on this issue and, again, the perceptions are far more revealing than the merits of the issue.



- 7.2.2** From documents and reports brought to my attention, dissatisfaction in this area revolves around Dr Minyuku's choice of a new Management Team; the way he introduced faculty reconfiguration; and the way he is alleged to have "awarded himself" a professorship. There are other rumbles about failure to deal with serious corruption when it involves friends and supporters. All of these perceptions and allegations emanate from two quite serious concerns within the UNIN community: that Dr Minyuku surrounds himself with people to whom he is beholden (and who because of their appointment, are beholden to him); and that in piloting his decisions through, he sidesteps Senate and other legitimate structures by manipulating Council.
- 7.2.3** These are serious charges and they are at the **centre** of the turmoil at **UNIN**. They undermined confidence because they went to the heart of Dr Minyuku's attempts to run the institution. While people held these perceptions, they saw the hand of conspiracy in anything that the Vice-Chancellor did. For instance, the appointment of the New Management Team was seen as nothing more than Dr Minyuku's "thank you" to people and organisations who helped him win the job. While he points to an open and inclusive appointment process, these detractors will point to certain key personnel who manipulated (within the rules) that process to his benefit.
- 7.2.4** On the question of the New Management Team two issues emerge as important: duplication of posts (with the consequent wastage occasioned by duplication of salaries), and 'quality of the personnel chosen. Proof of the allegation of duplication is sought by showing advertisements inviting applications for jobs which were being held by the existing Management Team. In some cases the job descriptions advertised were not substantially different from the posts already filled: indeed, this led to litigation in at least one case. Further complaints relate to a circular dated 7 June 1999 indicating that the posts for Dr Minyuku's Management Team were to be filled byway of Re-affirmations, Appointments and Advertisements. To many people, this was just another ploy to ensure the

appointment of Dr **Minyuku's** handpicked supporters. This led to an outcry and a demand from the Workplace Forum (NEHAWU, **CLASS G** and UNASA) for the appointments to be nullified because they were not being transparently made. This outcry was later to find its way to the Minister of Education in the form of memoranda from various structures.

7.2.5 As is the case with most issues at **UNIN** the question of the New Management Team is complex. In Dr **Minyuku's** favour is the fact that he genuinely had Council's approval and mandate to get to grips with the task of transforming the University as soon as he was appointed. This insistent clamour to be active on this task from Day One indeed pre-dated his appointment in that even as a mere candidate for the job he was already engaging with Council, at their request, on his proposals and ideas for transforming UN IN. These were **approved** by Council.

7.2.6 With that kind of mandate, Dr **Minyuku** could legitimately say to the Executive of **CLASS G**, "it remains my prerogative to appoint" (memorandum of 21 June 1999). Nevertheless, the perception persists that the **Re-Affirmation/Appointment/-Advertisement** approach was riddled with inconsistencies in terms of the application of the rules about short-listing and single-candidacy. **Fuelling** the criticisms was the widespread belief that the quality of the members of the team, which included some fairly junior personnel, did not match the responsibilities they were taking on. Needless to say, these misgivings and criticisms are hotly disputed by the members of the New Management Team themselves and other **Minyuku** supporters.

7.2.7 The problem pertaining to Dr **Minyuku's** relationship with Senate and Council had two clear manifestations during his term of office. One was the issue of the reconfiguration of the faculties into two faculties; the other was the question of the award of a professorship to Dr **Minyuku** by Council. Both have drawn widespread criticism.

**7.2.8 The criticism** stems mainly from the belief in many quarters that a “tame” Council was duped into approving both decisions, which were then taken to Senate as *faits accomplis*. It was reported to me by people who sit on Senate that on both occasions they felt powerless to refuse: on reconfiguration because debate against the two-faculty structure was stifled by “intimidator tactics” and on the professorship because it was presented as “Council approved”. In their submissions some Council members have privately conceded that, though these were sound decisions, their initiation in Council prior to tabling in Senate was “a mistake”. Senate, for their part, felt that these decisions and the way they were taken were the final straw in the campaign to emasculate Senate.

**7.2.9 Dr Minyuku’s** position on these issues is that the criticism is unjustified. Citing the broad mandate from Council mentioned earlier, **Dr Minyuku** argues that from his Thinking Document onwards his views have been subjected to the scrutiny of all the structures on campus. He points out also that consultation is not an end in itself: decisions have to be taken eventually, and a manager is paid essentially to take decisions, whether they are popular or not. And in this regard he quotes a list of achievements (including the overdue Independent Financial Audits, Performance Audits and Business Plan, Three-year Rolling Plan, Internal Audit Report and the **Mojapelo-Sithole** Commission Report) and asks whether they would have been possible without consultation, “buy-in” and committed backup.

**7.2.10** My own impression is that the impasse over management has again to be seen in the context of other fractured relationships within the institution. **Dr Minyuku** is without a doubt a strong manager who is steeped in the culture of the “doer” rather than the talker. In his June memorandum to the CLASS G Executive he concedes that he is “outcome oriented” though he sees no contradiction between his position and that of those who are “process oriented”, adding “... there can be no outcome without a well thought out process”. The problem that I see is that the outcome became so important that less than enough care was taken to forestall perceptions of exclusion or manipulation. With the atmosphere already poisoned

by dissatisfaction over some aspects of his appointment, **Dr Minyuku** would have been well advised to go out of his way to ensure scrupulous adherence to the letter and spirit of the ground rules. In a charged atmosphere, formal adherence is not enough.

7.2.11 On the questions of reconfiguration and the professorship, for instance, it would be difficult to imagine two issues more centrally situated in the domain and competence of Senate. I am convinced that, if these decisions were in **fact** taken in Council first and **then reported to Senate** as Council decisions, this was a bad tactical mistake. In the universal tradition of universities (regardless of the system they operate under) there can be no matter more within the competence of Senate than the restructuring of faculties or the admission of a colleague to the title of "professor". Council's protestations that this latter was a traditional function of Council are unconvincing; neither are arguments by Dr Minyuku (in his submission to me) that he was an employee of Council and not of Senate and as such had an obligation to submit papers to Council when requested to do so. Senate, and not Council, should have been the arena for discussion and adoption of recommendations on these pre-eminently academic issues of faculty structure and academic rank, even if, legally, ultimate approval lay with Council.

7.2.12 Some final words on the **Minyuku** incumbency need to be said. In the first place, most of the perceptions, criticisms and differences of opinion discussed above have found their way into the formal charge sheet against Dr **Minyuku**. He is suspended while he awaits a disciplinary hearing on the charges. He has initiated legal proceedings against the University in the form of a review application to have his suspension set aside. On 12 September 2000, the hearing was postponed *sine die*. The matters discussed above are therefore still *sub judice* and the discussion cannot, and does not, **purport to pre-empt** the judgement of the Court. But it remains a discussion of central relevance to the Independent Assessor's Terms of Reference, which are to understand the "source and nature" of the discontent at **UNIN**.

7.2.13 The other concluding remark must go towards the issue of conspiracy theories and fractured relations on campus. To supporters of Dr Minyuku, the issues are simple: the enemies of Dr Minyuku at UNIN are anti-transformation forces whose worlds he threatened with his audits, evaluations, insistence on standards and his vision of an institution of excellence where mediocrity would have no place. To my mind, the greatest conspiracy theory of **all** in the dynamics of UNIN is that the suspensions of 3 December 1999 were nothing less than a “palace coup” where one endangered faction forestalled its own downfall with a pre-emptive strike against the accusers. This can be gleaned from numerous submissions, circulars and memoranda (eg by NTESU, SASCO, New Management Team) in which no secret is made of the belief that Dr **Minyuku**, Professor **Dipeolu**, Mr **Boshielo** and the others were suspended because they were about to expose some members of Council, Exco and staff by calling for the immediate implementation of the Mojapelo-Sithole Report. There is a sizeable list of people “implicated” in various forms of wrongdoing in the Mojapelo-Sithole document who are then said to have conspired to engineer the suspensions. Such are the politics of UNIN that there is no shortage of plausible opinion to back up this theory, just as there is plausible opinion against.

## 8. THE PROBLEM WITH THE UNIVERSITY COUNCIL

- 8.1 It is obvious from the saga of the suspended Vice-Chancellor detailed above that Council is heavily involved in the problem. According to submissions made to me, Council and its functioning are a major cause of discontent at **UNIN**. Council is being roundly criticised for a range of failings and defects, including issues of
- \* composition
  - \* procedure at meetings
  - \* composition and power of the Executive Committee
  - \* micro-managing the University
  - \* financial mismanagement
  - \* disastrous suspensions and litigation

- 8.2 Briefly, the concerns listed above straddle two Councils: the previous Council, which was dissolved in June 1999, and the present Council, originally under the Chairmanship of Mr Benny **Boshielo** (currently suspended) and now chaired by an Acting Chairperson, Mr George Negota.
- 8.3 Criticism of the **Boshielo** Council started in June 1999 when, *in* accordance with the provisions of the Higher Education Act, the University Council was dissolved in order to make way for a new Council constituted in terms of the Act. There was dissatisfaction with Mr **Boshielo's** retention as Chairman of Council when the general understanding **was** that all Council membership would lapse: this dissatisfaction was fuelled by the lack of clarity as to Mr **Boshielo's** mandate, since his re-appointment as a representative of Convocation only came thorough in September 1999.
- 8.4 The composition of Council also comes under fire from those quarters on campus who are concerned at the inclusion of certain formations (CLASS G and NEHAWU were mentioned by name) as internal members. This is seen as one of the explanations for the introduction into Council itself of the factional squabbles that beset the rest of the campus. As to the participation of workers, some objections verge on the bitter. As one senior academic tersely put it: "a cleaner has no business on a University Council".
- 8.5 A more serious criticism of Council is that it has abdicated its plenary duty to oversee the smooth running of the University. It is alleged that Council has handed over its mandate to the Executive Committee, which at present effectively comprises Mr Negota, the Acting Chairperson, Mr Mashego, a lawyer, and the Rev Bill, although officially, Exco also includes Adv N. **Masemola**, Mr T. Boya, Mr S. **Ndlela**, Dr R.L. Howard, the VC, and the DVC at Turfloop and Qwa-Qwa, *ex officio*. At one time a student representative also sat on Exco and was only removed after complaints. Lending support to concerns that Council does not have full control of Exco is the complaint by some Councillors that they never really get a chance to apply their minds to items on the agenda. Thick volumes of

documentation are tabled only at the meeting or delivered the night before and Management insists on taking Council through “verbal summaries”. Sometimes crucial decisions are taken late in the day when many members with flights to catch have left. Feelings against **Exco**, especially in its 3-man format, run high within the institution.

- 8.6 Exco is accused of “micro-managing” the University, and on the evidence available this accusation is justified. Mr Negota has been the sole signatory of the letters setting in motion wide-ranging suspensions of staff; he has been involved in “negotiations” with Dr Minyuku and Prof **Dipeolu** over these suspensions, apparently with neither the mandate nor the knowledge of Council; he has recently signed the circular reversing the decisions of the Acting Management Team on retrenchment. Rev Bill has been appointed to run the Finance Department (in the wake of the suspension of the Executive Director). Between the activities of the Acting Chairperson of Council and **Exco**, the Management of the University has been left with virtually nothing to do. Exco’s retort to this will be to say that Professor **Golele’s** management team is weak and ineffective and “somebody has got to do the job.” That may well be true, but the intrusive style of Exco simply fans yet another conspiracy theory prevalent at **UNIN**, namely that Exco deliberately engineered the appointment of an incompetent management team in order install themselves as the ultimate power within the institution.
- 8.7 In one of the more damning allegations against Exco the trio are accused of financial impropriety by operating a system in which they approve one another’s money claims, which it is further alleged they have no business making since they are **Councillors** and not consultants. One must stress that these are mere allegations: the Independent Assessor has neither the mandate nor the means to investigate, them to any kind of finality. They are recorded here because it is relevant to know that the group currently running the University is viewed **negatively** by many sections of the University community.

- 8.8 Indeed the whole question of payments to members of Council is a huge cause of discontent, both where it involves members performing so-called "legal" tasks and where they claim in other capacities, In a letter dated 3 May 2000, the Minister of Education reminded the Acting Chairperson of Council that membership of the University Council was supposed to represent voluntary public service and that **Councillors** should. not be making a living from their participation in Council business. This seems to have gone largely unheeded, as claims for huge sums of money continued to be paid.
- 8.9 A final problem (also relating to wastage of money) which is laid firmly at the door of the present Council and its Exco is the question of suspensions and the duplication of salaries that has inevitably resulted. On the basis of papers brought to my attention I counted 12 people suspended by Council and 6 whose "posts" were suspended, bringing the total to 18. In many cases, no charges were forthcoming months after such suspension. In some instances, the suspensions were suddenly revoked, again with no explanation.
- 8.10 This haphazard method of dealing with perceived problems has been a major source of unhappiness, It does not take a genius to workout (even in the absence of court cases vindicating some of the individuals involved) that many of the suspensions were unjustified, had no legal basis and were effected with scant regard for the barest minimum requirements of administrative justice. I find it an appalling indictment of the University's lawyers that this has been allowed to go on for some time, unless they have been somehow **marginalised** in these processes. The same goes for the legally trained people on Council and on Exco whose silence at these happenings is a cause for concern. Not only is this approach draining the University's finances in salaries; it is also a bottomless pit for legal fees as suspended staff win simple cases and disciplinary hearings against the University.



8.11 There does appear to be some justification for believing that internal legal advisors are frequently left out of University legal matters deliberately. The repeated retention of Advocate Kekana has also been heavily criticised, as his handling of cases continued to cost the University considerable sums of money. Under criticism are also decisions such as that of using Senior Counsel simply to apply for court adjournments. The suspicion has grown that University litigation is being stretched out unnecessarily. I have documents setting out the costs to the University of litigation far exceeding the R3,3 million budget for professional services in one particular year.

8.12 To date the University has **lost cases** against Professor **Ralebipi**, Professor Nkatini, Mr **Mavanyisi**, Professor **Dipeolu**, Mr Tsieane, Mr May and **Dr Minyuku**. The Proctor reports that the costs pertaining to these cases stand at R359776,00. Adv Kekana's fees alone amount to **R204 070** of this sum. These amounts exclude hotel accommodation, fees for Mr Mashego, Mr Negota and Adv Sithole SC, party and party costs and costs occasioned by adjournments. In a truly bizarre example of muddled thinking, Ms Kanye has now received the charges pertaining to her suspension and they are identical to those preferred against Professor **Ralebipi**, who has already had them thrown out by the Labour Court. This is an unconscionable waste of the University's money. Council should really have a grip on these totally avoidable inefficiencies and on the conduct of its business by its own Executive Committee. It is also imperative, for reasons already canvassed, to revisit the whole approach to University litigation which appears to **prefer** the use of expensive consultants to the institution's own legal departments.

## 9. **WEAK MANAGEMENT AND CORRUPTION**

9.1 There is general consensus that the management team of Professor **Golele** and Professor Machethe is ineffective and weak. There are several reasons for this. In the first place, neither of the two academics is a manager either by temperament

or by training. Secondly, Professor **Golele** in particular is viewed by detractors as a relatively junior academic without a doctorate, without the experience of heading a faculty as a **Dean** and boasting only the Headship of a Department with dwindling student numbers. These factors make it difficult for her to command the respect of her peers.

- 9.2 By far the greatest blot against Professor **Golele** is the fact that she is viewed as having been instrumental in ousting Dr **Minyuku**, a process that gained momentum after she had formed part of a delegation of academic staff to the Minister to table complaints against the Vice-Chancellor. **Dr Minyuku's** supporters want nothing to do with her. This lack of grip over wide sections of the University community has created a management gap which has been effectively exploited by Council's Exco in a vicious circle which further undermines the **Golele/Machete** team.
- 9.3 I had an opportunity to observe the Management Team at work during an unruly and discordant Senate meeting which I attended on 10 August. The meeting had been called to overturn **Dr Minyuku's** two-faculty plan and it very quickly deteriorated into a **slanging** match in which I formed the impression that Professor **Golele** does not command respect among many fellow academics. **The finger-printing** and name-calling became so bad at some stage that Professor **Golele** left the room (in a failed attempt, I heard later, to get security personnel to evict some of the more vociferous participants). In this atmosphere rational debate was impossible and decisions were taken by calling for a vote on every issue. Whilst this might approximate democracy in its utilisation of what appeared to be a solid majority holding the same viewpoint on the issues on the agenda, it did not to my mind constitute academic debate in any sense.
- 9.4 The immediate offshoot of such weakness is that the Management Team is unable to enforce **anything**. **By their** own admission, as Acting Management they see themselves as being there merely to tread water and not to upset the applecart. This startling view of the responsibilities of "acting" turned out, to my

dismay, to be an understanding shared by the majority of the **UNIN** community, incumbents and the general public alike. It was re-iterated at the Senate meeting I attended and, as far as I could tell, was met with general acceptance.

- 9.5 The link with corruption in this general managerial malaise is that **at UNIN there is at present absolutely no accountability for the behaviour of officers and absolutely no structured sanctions for wrongdoing.** The Rule of Law has totally broken down. Allegations abound of student “scams”, tendering fraud and **outsourcing** irregularities. Attempts to extract a fair rental from occupiers of University housing have been met with death threats; there are even allegations that some members of staff have their telephones “bugged” and that invoices for such surveillance have been traced to some University accounts.
- 9.6 During the interviews with members of the University community I invariably put a question to them which sought to understand how it can take 3 years for an official to respond to a simple and legitimate query that is squarely within his line function, such **as a** query from a staff member as to why his salary was reduced or why he was transferred; how it can take a Dean months to deal decisively with a junior lecturer’s report of obvious examination fraud; how services can be **outsourced** to companies in Petersburg while the University also pays a huge army of workers who spend each day “passing the time” on campus. UNIN is riddled through **with** examples of such total breakdown in systems.
- 9.7 My question elicited one response: the rot spreads because wrongful actions attract no **consequences.** ‘The clerk who ignores a legitimate query from a client for over 3 years knows that he will not be dismissed. Rather than bother with service to the clients he invests his time in consolidating his support base, whether it is a trade union, a political party or some other “structure”. The power of these lies in their ability to **“cause trouble”** if he is sacked. Seniors above him, intimidated by this threat of “trouble”, also spend their time passing the buck. And with top management viewing their task as that of doing nothing sudden, the rot is institutionalised as a way of life.

9.8 The example given above is that of a clerk in the Administration. The same malaise permeates all other sections of university life; faculties, students' structures, **support** services. The lecturer who insists on high standards of work is likely to be the **target** of demonstrations, The Dean maybe intimidated enough to avoid taking a strong moral stand on the issue. "Governance by offending as **few** people as possible" (as one respondent put it) continues unabated.

9.9 Viewed in this way, **it is possible** to support the view of those respondents who saw **UNIN's** enduring **factionalism** not necessarily as a result of differences (ethnic **etc**), but more pragmatically as an active strategy for survival. Your "structure" becomes your **way** of exacting accountability from others or enforcing sanctions against those you think are in the wrong; simultaneously, the structure protects you from those who would do the same to you.

9.10 Corruption thus flourishes under weak management. Weak management is also costly. In the absence of systems of command, accountability and discipline, the great temptation is to pass the buck on to various "investigations". Thus, instead of exercising ordinary supervision and discipline, the institution sets up at great cost Commissions of Inquiry, Task Teams and other investigations to "dig up the dirt". This is a clear case of investigations taking over terrain that should ordinarily be occupied by orthodox management systems of supervision and discipline.

## 10. ISSUES RELATING TO THE QWA-QWA CAMPUS

10.1 The situation at the Qwa-Qwa campus of the University of the North (**UNIQWA**) resembles that prevailing on the main campus at **Turfloop** in some parts; in others it is substantially different. The differences relate mainly to dissimilarities in the culture of the two campuses. I was convinced by the submissions I received that **UNIQWA** has much less of the petty problems identified at **Turfloop**. Factionalism is muted and individuals and groups do talk to each other to iron out their differences, at any rate much more than they do on the main campus.

- 10.2 The general feeling at Qwa-Qwa was one of resentment at being treated (mainly by Council) as an afterthought; a poor relation to Turfloop. Many examples were cited of policies, plans and decisions which either totally ignored the aspirations of **UNIQWA** or treated those aspirations as secondary to the concerns of the main campus. The persistent failure of the Acting Chairperson of Council to visit **Qwa-Qwa** to address their concerns in person is one oft quoted example.
- 10.3 Such resentment is exacerbated by persistent rumours that **UNIQWA** is to be hived off to the University of the Orange Free State. While people are aware that these are Departmental rather than University Council plans, it increases the feeling of "**apartness**". (To be fair, a few respondents expressed a positive view of any possible merger with UOFS as a way of easing campus tensions and re-introducing a proper academic culture).
- 10.4 The two campuses exhibit striking similarities on one issue: domination of campus affairs by the personality of a single individual (Dr Minyuku in the case of the main campus and Professor **Dipeolu** in the case of **Qwa-Qwa**). Both men evoke strong feelings in people, whether for or against. Professor **Dipeolu**, until his suspension, dominated campus life in much the same way as **Dr Minyuku** did on the main campus.
- 10.5 Like **Dr Minyuku**, Professor **Dipeolu** is criticised for a peremptory, non-inclusive and undemocratic management style, and for surrounding himself with a clique that does his bidding without question. Again, like **Minyuku** on the main campus, he came in on a ticket to transform **UNIQWA** in preparation for future **autonomy** or, at any rate, semi-autonomous status. This was during Professor **Ndebele's** Vice-Chancellorship.
- 10.6 There is general acceptance in **Qwa-Qwa** that Professor **Dipeolu** is a bold, determined man who gets things done. There is even agreement that his shake-up of **UNIQWA** in the first few months of his tenure was a **long** overdue process

and that his early efforts were viewed positively, by and large. Indeed, the statistics are impressive: Professor Dipeolu's first order of business was to institute the Mawasha Commission to investigate the high failure rate and examinations systems, a process which revealed deep problems in teaching and examining. For instance, lectures, which used to be of 30 minute duration had to be extended to 1 hour. UNIQWA was overhauled from an after-hours college to a daytime university. From a situation where 70% of the staff were white and the 30% black staff had no professor among them and only one senior lecturer, by 1998 black academics constituted 69% of the staff complement, a figure that stood at 80.59% in the year 2000.

10.7 The same drastic changes took place in the structure of Departments, which were re-configured from 29 into 15 Schools in 1998. Where there had been only 2 black Heads of Department in the old structure, in 2000 eleven out of the fifteen Schools were headed by black academics, Five Centres of Excellence were established, placing emphasis on merit and on community outreach. By 1999 the School of Postgraduate Studies boasted 353 Honours, 89 Masters and 9 PhD students - figures unheard of in 1997.

10.8 From this point on, the story of Qwa-Qwa becomes complicated and depends largely on who is narrating it. For people on Professor Dipeolu's management team and others who claim to be neutral, the Principal was a godsend, a Messiah. I have in my possession particularly touching testimonies from long-serving black members of staff who speak in awe of the genuine transformation they saw in a period of less than 3 years. "A breath of fresh air" it has been called. For these members of the Qwa-Qwa community, Professor Dipeolu's problems stem mainly from anti-transformation forces on campus whose world he shook up. In particular, the link is made between these problems and the hostility of old-order white academics.

- 10.9 Professor **Dipeolu's** detractors, on the other hand, tell a completely different story. They bitterly resent his recruitment policy, which they see as the empowerment of black expatriates at the expense of black South Africans. They dismiss the Centres of Excellence as a joke: "big talk, big plans... pathetic delivery". And of course rumblings are still heard about the Forensic Audit Report and Professor **Dipeolu's** real role in the charges laid against him in that document.
- 10.10 Fortunately, I am not required to reach a decision **as** to who is telling the truth or who has the correct perspective on these issues. The existence of the divisions is itself revealing. To my mind, the important issue is again that of legality and due process in dealing with **officers** of the University. **Dipeolu** was suspended on 3 December 1999 and only received the charges against him on 18 April 2000, all rather extravagantly drafted (27 charges were later reduced to 9 prior to the hearing; those against Mr **H.S. May** and Mr **F.D. Tsieane** were reduced from 15 to 6 and 22 to 1, respectively). On 30 May he was discharged, together with **May** and **Tsieane**, as having no case to answer. In early June he was told by the Acting Chairperson of Council that he had been "discharged, not acquitted" and must expect new charges, in a letter that was apparently not copied to Council or Exco.
- 10.11 A Council resolution calling of the re-instatement of **all** suspended persons cleared at the hearing has since been complied with in relation to **May** and **Tsieane**, but not in the case of **Dipeolu**. (Of even more concern is a story doing the rounds, to the effect that on 8 August an attempt was made to get **May** to attend a meeting with some **Exco** members in Pretoria to pick up his letter of re-instatement and, presumably to show **his** gratitude, to "**help** provide new evidence against **Dipeolu**". To his credit, **May** is reported to have refused).
- 10.12 The **Dipeolu** case is different from that of **Minyuku** in one major respect: **Minyuku** has a legal process pending against the University, and its effect is to freeze any action until the process is complete. ***Dipeolu** was **absolved by the University's own disciplinary machinery***. It is really difficult to see why he is **still** being paid to sit at home.

## 11 CONFUSION OVER THE ROLE OF THE MINISTER AND THE DEPARTMENT

11.1 From the student **toyi-toyi** that welcomed the Independent Assessor to the **UNIN** campus to the last day of interviews, people raised questions about the Minister's role in the affairs of **UNIN**. These tended to fall into the following categories:

- \* the timing of the appointment of the 1A (was it to pre-empt the outcome of Dr Minyuku's review application, due on 12 September 2000?);
- \* the perceived ease of access to the Minister for some groups but not others, both at **Qwa-Qwa** and on the main campus
- \* the muted response to calls for a redress fund to help Historically Disadvantaged Institutions (**HDIs**) bridge the gap between themselves and Historically Advantaged Institutions (**HAIs**)

11.2 In the time spent at **UNIN**, I discovered a surprisingly strong level of disquiet about the Department of Education and its handling of the crisis at **UNIN**. Most of the disquiet centred around the decision by the Department to allow access to the Minister by the group of academics that included Professor **Golele**. Critics of this development point to the fact that the hand of the delegation was considerably strengthened by the audience with the Minister and that the Department's refusal to entertain a delegation of Council and Management on the same issues lent credence to the suspicion that the allegations and version of events of the **Golele** delegation had been believed.

11.3 I also discovered, from both student and staff circles, that the question of redress funds excites high levels of emotion. The impression I formed was that since 1994 there has been a growing sense of disappointment at **UNIN** over what some perceive to be a failure of the government to acknowledge the role played by **HDIs** in the liberation struggle and their present plight. An expectation that the new dispensation would mean sympathetic attention to **HDIs** has changed to a feeling of bewilderment at what they see as an expectation that they should compete with **HAIs** on an equal footing without any visible help to achieve that footing.



11.4 Since the answers to these and other questions were not within my knowledge, I declined to attempt a response. I do recommend, though, that when the Minister implements any of the recommendations in this report, he should give consideration to addressing the entire community of the University of the North with a view to reassuring them over some of these concerns.

## 12. CONCLUSION

12.1 The problems of the University of the North are varied and complex. They range from the petty to the substantial; from the easily addressed to the virtually intractable. It would be a mistake to forget the context in which these problems are located. That context is one of apartheid, and the cynical origins of the concept of ‘bush colleges’. It is common knowledge that these institutions were not really meant to be centres of scholarly excellence or to encourage original thought or critical analysis. They were there to “hold the fort” against black aspirations and to service the so-called homelands with their own home-grown leadership of generalists with degrees.

12.2 Some of the long-serving members of the UNIN **staff** still recall the days when Senate was an all-white body and black academics had no vote on Faculty Boards. Also vividly remembered is the old-order ethos of the University as an extension of the public service where white staff expected and received promotion after a certain number of years’ service, following the practice in State Departments. The phenomenon of “professors without publications” became a **feature** of “bush colleges” and this perversion of normal academic standards was unfortunately extended when the new black leadership, pressured by political considerations to show some movement on the question of transformation, created their own cohort of mediocre black professorships.

12.3 Mediocrity, aided **and** abetted by a total lack of loyalty to the institution, produced a campus culture **of** self-interest, characterised by the phenomenon of the “9-to-12” professor, the rest of whose day was spent at other jobs and pursuits outside

campus. Soon this kind of teacher was in alliance with other staff, perhaps not so senior, who had different reasons (e.g. incompetence) for not putting in a full day's work.

12.4 In the meantime, the same culture of mediocrity and self-interest was permeating through the student body whose pre-occupation with the larger political landscape relegated learning to the sidelines. When learning did occasionally intrude into student life (as at examination time), the easier option was to disrupt the examination or **toyi-toyi** for a passing **mark**. One must also remember the interests of the workers and their trade unions, and the role of the institution as an "employment **agency**" (in the words of some interviewees) for the local community. Add to this potent mixture of diverse motives the activities of those individuals who saw all this confusion as an opportunity to make easy money, and you suddenly get a picture of the University as some kind of fallen behemoth with many parasites living off its carcass but with very few of them committed to (or even interested in) the core business of universities everywhere in the world: teaching, learning and research.

12.5 It is no wonder that successive managements have been unable to break through this morass. The forces of mediocrity are too strong. As far as I could tell, there is not yet a critical mass of dedicated and committed academics or administrators at **UNIN**. It only takes an alliance of a few "structures" to block any initiative. In this kind of situation any leader who comes in on a clean-up ticket will be resisted. That much is obvious. There are too many strong vested interests in the continuation of the *status quo*. To me there is little difference between the clerk with his hand in the till, the student leader who claims public monies for non-existent "official" trips, the lecturer who "buys peace" by awarding undeserved marks or the **Councillor** who claims exorbitant allowances for **services** to the University: it all constitutes a kind of "looting" of a struggling institution.

12.6 And yet there are people at **UNIN** who love the institution with a passion and whose commitment and dedication cannot be doubted. These are teachers, young and old, with a mission; incorruptible administrators steeped in the

traditions of service delivery; workers with a high work ethic, and students **single-mindedly** focused on self-improvement and excellence. Outside the institution, too, are many South Africans who wish the University well and long for the day when its problems will be solved. For all of these people, some way must be found to extricate the University, once and for all, from the grip of its problems. The recommendations which follow are an attempt to take the first step,

### 13. RECOMMENDATIONS: GENERAL

**Generally speaking**, the feelings of the **UNIN** community **about** the solution to their problem can be discussed under three headings. **Overwhelmingly** supported was the idea that the Minister should use his powers under the Higher Education Act 101 of 1997 (as amended by Act 55 of 1999) to appoint an Administrator to run the University. A significant group were opposed to this, insisting that the answer lay in the return of the suspended Managers, **Minyuku and Dipeolu** and their teams. A small but articulate minority favoured a third option: an internal healing dialogue led by a mutually acceptable external facilitator, a "softer" version of the Administrator with strong powers.

#### 13.1 The advantages of the first course of action are immediate and obvious:

- \* An Administrator would not be tainted by association with any of the factions at UN IN; he or she would be a neutral outsider starting off with a clean slate
- \* To strengthen the hand of the Administrator, a team could be constituted to work with him or her; the composition of the team could allow for some creativity in matching external expertise with internal talent to maintain balance and continuity
- \* The Administrator **would** represent a clean break with the past because he/she would have a clear mandate and clear deadlines to achieve the objectives set. Among the objectives would be planned restructuring of systems, faculties and programmed including properly **handled** retrenchments effected within the terms of current **labour** legislation and scientific information as found in the Mashike Report (1 999)
- \* A huge advantage in appointing an Administrator would lie in the suspension of Council. According to section 41A of the Act, the Administrator is appointed "to perform the functions relating to governance or management on behalf of the institution.. ." This has been interpreted to mean that, where an Administrator is appointed to take over governance,

Council's role falls away; where the Administrator is mandated to perform management functions, the role of the Management Team likewise falls away

Variations on the options set out above include many permutations: Administrator with a wholly external team; Administrator with a wholly internal team; lone Administrator, etc. The period of tenure also varies: 6 months, 12 months, 24 months.

13.2 In stark contrast to the option of appointing an Administrator is the view of those **UNIN** members who are convinced that the idea of an Administrator will never work. The reasons for this skepticism include the following:

- \* The problem is that of systems, not individuals. The systems should be perfected; it is short-sighted to try to solve problems **by** changing faces
- \* There is no reason why an Administrator would fare better than previous Vice-Chancellors; the general problem of fractured relationships *on* campus must **be** addressed **first**. All leaders at **UNIN** have been popular to start with and their fortunes are reversed when they actually try to achieve changes. The more the Administrator pushes, the more he or she will be resisted
- \* The solution is to **re-instate** all suspended persons. They are capable people who are being harassed for trying to bring about real change

With this option, the **plea is** for **the** return, in particular, of Professor Dipeolu, Dr Minyuku and the New Management Team, not only to enable them to compete their good work, but also to show that justice can triumph even when the victims of a **particular** injustice are personally unpopular.

13.3 A third option, positioned midway between the first **two**, is a cautious and "organic" approach. It calls for an internal solution as the only lasting remedy for the problems of **UNIN**. This approach is premised on the belief that, until UNIN begins to act like a University again, all attempts at a solution **will** be merely cosmetic.

- \* Proponents of this approach call for a University **indaba** (perhaps stretching over a fortnight of lunchtime seminars, debates and other events) during which the process of healing the community by repairing relationships can begin. This stratagem is predicated on the simple proposition that debate and intellectual **contestation** should be the bread and butter of University life; not something to be feared as a cause of enmity. As the people who argued for this approach put it: “if we think **ethnicity** is the problem, why don’t we subject it to analysis as an academic community should?”
- \* Such a dialogue should ideally be facilitated by an outsider, an Eminent Person able to bring the warring parties together as a facilitator, as opposed to an Administrator with super-powers. Supporters of the approach were kind enough to suggest that the present Independent Assessor might be well suited for this role.
- \* A compromise version of this option concedes the need for a strong Administrator with wide powers, to enforce the stability necessary for an internal soul-searching process to unfold; but then such an Administrator should have a clear mandate to begin the process as a matter of urgency upon taking office, in addition to whatever else maybe on his/her agenda
- Another version is to link the internal process, not to an Administrator, but to the return of the suspended Vice-Chancellor of **UNIN** and the Principal of **UNIQWA**. In this version the criticism against the management style of these two gentlemen would be addressed by surrounding them with “good people transparently appointed” in order to forestall any appearance of favoritism. Thus installed at the head of a non-controversial and widely accepted management team, each leader would initiate the internal dialogue

The attraction of the idea of an internal soul-searching at UNIN lies of course in the hope it holds for a lasting peace. The idea stresses participation by members of the UNIN community, regardless of who might be leading or facilitating the process. Emphasis is on an internally-developed and participatory agenda. One

can confess that until a few days ago when the situation at UNIN deteriorated sharply, this approach was being seriously considered as part of the solution. Even though overtaken somewhat by events, an internal dialogue at some stage is still the only guarantee of a lasting peace.

13.4 A fourth option was mooted, infrequently but with conviction, and the reason that it is seriously considered here is the deteriorating situation at UNIN mentioned in the previous paragraph. This option involves the temporary closure of the University. Frankly, there are some major tangible advantages to this:

- \* it would mark, practically and symbolically, a NEW START or a REBIRTH of the University of the North as nothing else could
- \* Closure would allow uninterrupted and intensive work to proceed on restructuring all sectors and developing policies and systems; such restructuring would have to address student and staff numbers; the ratio between these numbers and the numbers of workers and support staff; faculty structure and curriculum development; stating, evaluation and promotion policies, etc
- \* This would be followed by an invitation to staff and students to reapply for employment and/or admission under the new rules and policies. This would enable the institution to control the return of staff and students on the basis of criteria geared towards addressing the present problems of incompetence and/or disruptiveness
- \* immediate implementation of an option such as this would entail some arrangements covering students and examinations and other logistical details

Practical considerations dictate that the Minister, were he to adopt this option, should find some way of constituting the team of experts to be tasked with the restructuring described above. Two approaches are possible, depending on whether it is felt that the Expert Team should have some "family" ties with UNIN or not.

- \* To constitute an Expert Team that would be seen to involve UNIN, the Minister could close the University without dissolving Council. The Minister could then cause a meeting of the full Council to be held to thrash out the

modalities of the closure and to identify experts to study the problems and to formulate and implement plans for the restructuring mentioned above. When engaging with Council on this matter, the Minister would need to ensure the involvement of **the** full Council which would in turn dissolve the current Executive Committee in **favour** of some other Council structure(s) or committee(s) to facilitate this onerous task and to liaise with, and report to, Council on progress

- \* An alternative approach would be for the Minister to shut down the University, dissolve Council and send in a hand-picked team of educators, auditors and systems analysts to study the problems and provide the Minister with a blueprint to guide the rebirth of **UNIN**. In this case the Expert Team would be the Minister's team and might or might not include people from **UNIN**. It is difficult to predict whether such a circumstance would enhance or hamper the work of the team

As indicated earlier, this radical option has moved up the agenda because of the situation at UNIN which has worsened daily since the departure of the Independent Assessor. Below I give a summary of recent developments

### 13.5 **Recent developments at UNIN**

13.5.1 **While I was still on the UNIN campus at Turfloop a Circular on Voluntary Retrenchment**, dated 15 August 2000 and signed by Professor **Golele** was issued. It offered voluntary retrenchment to "all permanent members of staff" and set a deadline of 15 September 2000 for acceptance of the offers. In addition, staff over the age of 55 were offered the option of retiring as well as accepting the retrenchment package. The circular also included a form, to be returned to the Human Resources Department, **on** which acceptance of the offer could be made.

13.5.2 A second circular signed by Professor **Golele** on 22 August 2000 attempted to clarify the link between retrenchment and restructuring, explaining the whole process as a positive step in the "regeneration" of the institution. The circular contained a document explaining the benefits possible and how to calculate the total package.



13.5.3 The two circulars elicited an immediate response of skepticism and suspicion from many quarters. Chief among these suspicions was the belief that the retrenchment process as set in motion by Professor Golele on 15 August 2000 was self-serving in respect of many members of top management. Its timing, fast-tracking and the rumour that the first acceptances of the package came from top management served to fan the suspicions of many. A late written submission to me referred to Professor Golele's actions in the words: "The **captain enters the lifeboat before the ship's passengers!**" (Emphasis in original). It is pointed out that even her academic position is in jeopardy in a Department that registered only 3 students in 2000. The Executive Director: Human Resources together with the Executive Director: Finance also come in for criticism as beneficiaries of the offer when they already have "an uncertain future at the Institution", in the submissions urging the Independent Assessor to advise the Minister to halt the retrenchments. In a memorandum of 23 August 2000, the University Proctor warned Professor Golele of the Labour Law implications of her circulars.

13.5.4 On 4 September 2000, after an extraordinary meeting of Exco in Pretoria, the Acting Chairperson of Council, Mr Negota, sent out a circular rescinding the offer of 15 August and the follow-up circular of 22 August 2000, stating that the offer:-

- \* erroneously failed to comply with Council resolutions on the matter
- \* violated principles in the Personnel Policy and Procedures document
- \* did not consider inputs from "structures"

13.5.5 On 13 September 2000. I received a notification from Mr P.H. Franks (Executive Director: Human Resources) that he and two other members of staff had applied to the Labour Court for an order compelling the University to deliver their retrenchment benefits according to the contractual arrangement constituted by their acceptance (or attempted acceptance in the case of Second Applicant) of the offer of 15 August 2000. At that time, the acceptances stood at 141 members of staff. The application is due to be heard on 29 September 2000. The firm of Botha & Horak is already representing about 30 employees of the University in the same matter.

13.5.6 On 14 September 2000 Exco resolved to terminate the appointment of Professor Golele as Acting Vice-Chancellor, citing the reasons that she “has a conflict of interest” in the retrenchment process, and that she has failed to implement Council resolutions on the issue. Professor Machethe was made Acting Vice-Chancellor, with Professor Sibara as Acting Deputy Vice-Chancellor. I was informed telephonically by Mr Negota that the decision was ratified by a full Council meeting of 21 September 2000.

### 13.6 Conclusion

13.6.1 It is evident from the foregoing that the situation at UNIN is deteriorating rapidly by the day. By yesterday (24 September) the number of staff members who had accepted the offer of retrenchment within the 15 September deadline stood at approximately 250, most of them senior and of high value to the University. With the very real prospect of this substantial number of legal actions against the University looming, the *Institution is headed by an Acting Vice-Chancellor (formerly an Acting Deputy Vice-Chancellor) who replaces a dismissed Acting Vice-Chancellor, who herself took over from a suspended Vice-Chancellor who had been in the post only for months. This new Acting Vice-Chancellor is helped by an Acting Deputy Vice-Chancellor who has been moved from the Qwa-Qwa campus where he was the replacement for a suspended Deputy Vice-Chancellor and Principal.*

13.6.2 One can almost hear the jokes about “musical chairs” at UNIN, but to friends of the Institution it is no laughing matter. The institution has been reduced to the level of a bad comedy, and in the interests of all South Africans who wish UNIN well, this farce must now be brought to a stop.

## 14. SPECIFIC RECOMMENDATIONS

**The Minister is asked to consider the following** specific recommendations for dealing with the crisis at the University of the North:

- 14.1 The University should be temporarily shut down and the Minister should immediately set in motion one or more **of the processes discussed** in par 13.4 above.
- 14.2 If the Minister does not consider the recommendation in par 14.1 a viable option, he should immediately appoint an Administrator for the University of the North in terms of section 41A of the Higher Education Act (as inserted by Clause 6 of the Higher Education Amendment Act, 55 of 1999). The Administrator should be appointed for a period of six months with a view to an automatic extension for another six-month period in terms of subsection (2), to ensure an unbroken tenure of 12 months to enable the Administrator to achieve the goals set. The Administrator should be appointed to perform both the functions relating to governance and those relating to management. The Minister should ensure that the Administrator has a strong mandate to solve the problems of UNIN and is supported by a strong team composed of people with experience in higher education, whether from within or without **UNIN**.
- 14.3 A wholly different scenario would be one that merges the notion of closure with the concept of an Administrator. Here the Minister would appoint an Administrator as set out in par 14.2 above. But in this case the Administrator would have the specific mandate to oversee the temporary closure of the University in accordance with the recommendation in par 14.1 within the 6 months specified in the Act. It would then be the task of the Administrator and his **or** her team to set in motion the **processes** discussed in **paragraph** 13.4

14.4 **In any event**, the University governors should seek immediate **legal** advice to undo the retrenchment debacle, especially in terms of clarifying the legal status of Professor **Golele's** offer and exploring the possibility of forestalling the pending **legal actions**.

## 15. MISCELLANEOUS RECOMMENDATIONS

15.1 The independent **Assessor** was inundated with suggestions, opinions, allegations and requests. Many were on very specific matters of detail: departmental squabbles, a two-year old quarrel with the Dean, an allegation of vote rigging in an election 3 years ago, a suspicion that a colleague is **an** informer or is on the payroll of a Third Force. There was information on all the structures, departments and units - from BTF to Edupark, from Campus Security to NTESU. Some people simply wished to introduce themselves and the work they do; others were keen to show why their sections/departments/units should not be shutdown. There is very little real possibility that this report will satisfy all these aspirations, and many people will be disappointed. I take solace in the fact that many of the issues raised, especially those that require investigation, have been expertly dealt with and reported upon in the excellent **Mojapelo-Sithole** Report.

15.2 What follows, in the interests of completeness, is a compendium of suggestions, proposals and recommendations relating to more or less specific issues **that emerged during the Assessment. They are in no particular order and it is expected that many can only be implemented when a certain measure of stability returns to the affairs of UNIN.**

15.2.1 **The recommendations of the** Mojapelo-Sithole Commission of Inquiry should be implemented at the first opportunity that avails itself. A decision on the recommendations contained in other outstanding investigations should be taken by whoever is performing the functions of governing the institution at the time.

15.2.2 The governing authority of the institution (whether Council or Administrator or some other authority) should move swiftly, at the first available opportunity, to defuse the situation of hostility and confrontation that currently prevails between structures, factions and formations at **UNIN**. This they should do by-

- \* developing and fearlessly implementing **such codes of conduct, conditions** of service, policy guidelines and disciplinary measures as will conduce to a return to the core business of the University: teaching, learning and research, and activities to support these endeavors
- \* **utilising** such codes, conditions, guidelines and measures to eradicate the use of disruption as a tool for voicing grievances or enforcing demands, outside of actions protected by the Constitution and the **labour** (and any other) laws of South Africa
- \* causing an internal dialogue to take place at UNIN to address differences between groupings with a view to educating the University community to value tolerance, accommodation of different or opposing viewpoints and the peaceful settlement of grievances and disputes. Structures should in any case internalise the legal requirement that they act at all times within the laws of the land and the terms of their constitutions or founding documents. They should also be encouraged to observe the principle of representation which requires that the views reaching the table are those of the ordinary membership and not necessarily an aspect only of the agenda of the leadership. The internal dialogue should also strive to address the fear of change among members of the UNIN community
- \* ensuring that the Broad Transformation Forum/Institutional Forum is constituted properly as a forum (i.e. "a meeting or assembly for the open discussion of subjects of public interest"). It should be fully representative of registered structures in the University and its decisions should reflect the breadth of discussion implied in the concept of a forum. If it chooses to operate through an Executive organ, it should be clear that such organ performs functions such as facilitating meetings and keeping records but is not a substitute for the functioning of the Forum in the broad sense set out above

- \* **revisiting the question of links between structures *on campus* and the national organisations to which they belong, with a view to separating to some degree national agendas from concerns that are purely academic and affect students only as ,students**

15.2.3 Whenever the time comes for Council to be reconstituted, the exercise should take into account the mistakes of the past, especially the need for **Councillors** to allocate time to University matters so that they can play their full plenary role in scrutinizing papers, taking informed decisions and supervising the activities of the Executive Committee. The governing authority should empower **Councillors** by arranging formal training for them on the duties and responsibilities of governance. The Executive Committee, for its part, should acknowledge that it is bylaw accountable to Council, and that the job of managing the University should be left to Management. To this end, proper procedures should be adhered to, including the observance of a rule insisting on written reports and on affording **Councillors** adequate time (10-14 days) to peruse documents.

15.2.4 The governing authority should set up a committee to review all cases of suspension of staff that have not been resolved. Where resolution has occurred in the form of acquittal or discharge by a disciplinary tribunal of the University, the suspended officers should be reinstated. Where resolution comes in the form of an order of a court of law, the University should abide by the order or, using its own **legal** services, challenge the order according to law.

15.2.5 The governing authority should cause Management to put in place and apply policies and systems which enable the opinions of ordinary members of the University community to reach top management, Council and the Department of Education. The Department, for its part, should be encouraged to make it easier for views other than those of the top echelons to reach the Department. On such issues as the NQF, OBE and **Modularisation**, for instance, I formed the impression that there was more enthusiasm and willingness to learn and implement amongst the junior ranks than was evident at senior faculty levels.

15.2.6 Salaries of top management should, ideally, be reduced, declared, and dealt with by the University's Finance Office rather than an outside agency. In support of the **Mojapelo-Sithole Report**, it is reiterated here that the **favouring** of administrators over academics in salary structure is undesirable and should be redressed as a matter of urgency.

**Professor R.T.Nhlapo**  
**Independent Assessor**  
**Pretoria, September 2000**

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