

5 December 2008



VICE-CHANCELLOR'S COMMUNIQUÉ

Aspects of the Chronology of the current debate at UKZN.

I have watched with great interest the exciting debate taking place within the university community. In an attempt to shed some light on this, I have sketched aspects of the events and reached 5 conclusions listed below. There are other aspects I have not touched upon but would do so later and when it becomes necessary. I hope members of the university community would benefit from some of the hard truths/decisions I share in order to improve the quality of this very important debate. I have attempted to keep to the facts of the matter. All I ask of staff and students is to read this contribution with an open and critical eye.

- 1. The Senate and its Chair directed the document from the 'Faculty of Science & Agriculture' on academic freedom to the correct Senate appointed Committee as the Senate had already resolved this matter on 1st August 2007. The document was not suppressed*
- 2. Professor Chetty sat in Council and Senate meetings, making rules on confidentiality and these rules were however not applicable to him.*
- 3. Prof Chetty was engaged in bringing the University and the Office of the Vice-Chancellor into disrepute as way back as 2005. He was warned several times*
- 4. Professor Chetty does not merit the accolade "top professor or academic" bandied around in the media. He remains an academic with potential. To refer to a junior professor at UKZN as top or an unproductive academic as "respected or acclaimed" is being highly irresponsible and 'economical with the truth'; let us all have respect for the truth*
- 5. No one who is so publicly innocent and fighting for such noble principles of academic freedom or freedom of expression, supported by a strong legal team would resign when the opportunity beckons to 'show it all'. In fact no one so innocent needs a legal representative to defend their cause! Prof Chetty's resignation speaks volume*

1. Senate 30th May 2007

Profs Bawa and N Chetty, reported to Senate on the HEIAAF workshop they attended. Senate resolved that they put together a document for the Senate meeting of the 1st August. This was duly complied with.

2. Senate 01st August 2007.

The Bawa/Chetty Document was discussed by a quorate Senate. This quorate Senate resolved as follows: i) The Bawa/Chetty document be referred to the faculties to be engaged; ii) That we get Professor Du Toit to come to UKZN; iii) That when faculties engage here they may need an outsider to be part of that process **and engage the Senate Steering Committee to build a culture of academic freedom.** ...” ...feedback then from faculty to – I would suggest to the Academic Steering Committee”. Prof Chetty’s words.

Transcript of the Senate deliberations capturing Prof Chetty’s real words that formed the basis of the Senate’s Decision on the 1st August. **There is nowhere in Prof Chetty’s words and the subsequent decision of Senate on 1st August 2007, that refer to a feedback from the faculties to the Senate itself**

3. The terms of reference for the Academic Steering Committee is matters of Academic Freedom at UKZN ie ‘To address matters that impact, or are perceived to Impact, upon academic freedom’ Special Senate 14th March 2007, Prof Chetty was a member of the Committee;

4. On 12th September 2007, Professor Chetty sent me the following email Dear Prof Makgoba:

I would really appreciate it if you would table the Faculty of Science and Agriculture document on academic freedom for the next senate meeting. The minutes of the previous senate meeting states that: Prof Chetty mentioned that the feedback from faculties should be forwarded to the Academic Steering Committee. *My intention* has always been that the faculty submissions be tabled first at senate before being passed onto the Academic Steering Committee for further deliberations;

5. The above minute was a true recording of what Prof Chetty said.

Minutes reflect what was said and not intentions. Decisions of Senate are taken upon what was said and not upon what was intended. It is common practice that Faculty or College documents arrive at Senate through the Dean, the DVC or the College Academic Affairs Boards, they do not need a special request or permission from the chair;

6. My response to Prof Chetty on the same date was “It is off the agenda as there is a process to follow decided by Senate. The process I am referring to was the 01st August resolution of Senate suggested by Prof Chetty, which he also refers to in his email to me; *The effect of my response was to re-direct the document to the appropriate structure, the Academic Steering Committee, as an agenda item as resolved by the Senate. This is what has taken place;*
7. An *inquorate* Senate meeting took place on the 3rd October 2007, chaired by Prof Zacharias. It attempted to change the 1st August Senate decision. This could not provide a legally enforceable decision;
8. *The first major conclusion is: The Senate and its Chair directed the document from the ‘Faculty of Science & Agriculture’ on academic freedom to the correct Senate appointed Committee as the Senate had already resolved this matter as an agenda item. The document was not suppressed*
9. Professor Chetty was a distinguished member of the Senate and was present when the resolution was taken for this standing order (of exercising due care when communicating with the media) on 2nd August 2006; The resolution arose amongst others because of breaches of confidentiality on matters of transformation by staff members to the media;
10. Senate felt the matter of “breaches of confidentiality were so important & urgent” that it instructed the Vice-Chancellor and the Registrar to issue immediately a University-wide notice on the LAN on 2nd August 2006 to “All members of the University Community;
11. The resolution of the Senate was referred to the Council and was noted at the Council meeting of 1st September 2006;
12. Professor Chetty was a member of Council and was present at this meeting of the 1st September 2006 when the Senate resolution was noted;
13. When the Minutes of the Senate meeting were placed on the University’s inner web in October, Professor Chetty was still a member of the Senate and member of the university community;
14. On December 13th 2006, the Council released another university-wide notice by the Acting Vice-Chancellor, Professor Mazibuko “instructing” all members of the University community including Council members “not to make statements to the media concerning University matters”; Prof Chetty was not only a member of the University Community but also was present as member of Council that took this decision;

15. This was Prof Chetty's comment on Fazel Khan's dismissal 05-03-2007:

"Khan was dismissed on account of the *leaking of the governance task team report to the media*, which is a council document. I consider this matter to be serious of course. However, I hope that we can pause and reflect a little on whether we are being consistent in this matter. During the recent debacle that culminated in the Magid Tribunal, a number of crucial council documents were leaked to the press on a regular basis. The final Magid report, for example, made it to the City Press well before Council got a glimpse of it. In my mind, there was not as much interest and enthusiasm in finding the source of the leaks as has been in Khan's case"; why did Chetty see the 'leaking' by Khan to 'be serious'

16. Prof Chetty was a member of Council when on the 4th May 2007 at it's sitting under item 7.8 The Functioning of Council, the Council at the suggestion of the Chair of Council approved that the Draft Code of Conduct "be respected with immediate effect". In the Draft Code of Conduct at Section 2.6 on Maintenance of Confidentiality states- "**Members of Council shall respect and maintain the confidentiality of Council meetings and any other University meetings and may not make improper use of information acquired at any such meetings. Members shall respect the security of information of the Council and the University**". Of particular relevance are Sections 1 & 2 clauses 1.4, 2.1, 2.2, 2.3, 2.5, 2.6 & 2.7 of the Draft Code of Conduct and Disciplinary Provisions for Members of the Council of the University of KwaZulu-Natal;
17. Section 26 of the Statute states "The procedure applicable of meetings of the Council is applicable mutatis mutandis to the meetings of the senate of UKZN". Senate, similar to the Council, to all Council and Senate Committees and all Selection Committees at UKZN deliberate on sensitive strategic, transformation, equity, merger-related, student's rules and exclusion and quite often on academic matters that affect the reputation of the institution eg standards or persons eg CVs and confidential reports/documents of examiners or investigations and government/funding bodies and public choices and perceptions eg "Exercising due care when communicating with the media", the MCom degree matter, the BAAF transformation document that served in Senate in 2006;
18. According to the Principles of Common Law Relating to Meetings, the University Senates are classified as "private meetings", "the minutes are always private, ...the information contained in the report and accounts is strictly confidential". This Common Law principle has become a convention and practice for treating the Council and Senate deliberations, documents and minutes confidential at UKZN and many other Universities. All staff and students are fully aware of this. Professors Chetty is an academic staff member who has participated in many university committees where "confidentiality of proceedings and deliberations" is the norm. The agenda of

the Senate sent out to members is confidential and the envelopes 'marked so' and so are the documents prepared for Senators. The confidential nature of Council and Senate deliberations and some decisions have been articulated and re-emphasised to staff and the university community through University Notices;

19. Following the industrial action of 2006, the Senate established an ad hoc Committee to probe the causes of the industrial action. The Council established two Executive/Union Task Teams. In all 3 structures the issue of respecting confidentiality was discussed and agreed upon. Prof Chetty was a member of the Senate ad hoc Committee. This Committee deliberated at length and on several occasions on issues related to 'respecting confidentiality of submissions'. Professor Chetty **was central to these discussions and decisions**
20. *The 2nd major conclusion: Professor Chetty sat in Council and Senate meetings, making university rules on confidentiality and these rules were however not applicable to him.*
21. Professor Chetty was invited and given an opportunity by Professor Bengu to present his 'side of the story' on this matter, an offer he declined and made public in the website: change@ukzn on 20th March 2008;
22. The Minutes of the 03rd October inquorate Senate meeting were confirmed on the meeting of 14th November, but technically all the resolutions of 03rd October meeting were only ratified after factual correction at the Senate meeting of 06th August 2008 following Prof Bengu's report. However, the ratification issue only became obvious after the Senate meeting of 14th November, when the matter of Academic Freedom again resurfaced and became a matter of dispute that was 'divisive' (Prof Jacobs) and polarized the Senate. It was the failure to resolve this matter on the 14th November 2008 that led to the initiation of the process of ratification investigated by Prof Bengu.
Firstly, the Chair requested reports from the Registrar and the Chair of the Senate on the 14th November and requested transcripts of the Senate meeting. *Secondly, on 27th February 2008, a quorate Senate re-affirmed that the resolution of the senate of 01st August was the only lawful and binding decision that should guide the Academic Freedom matter.*
Thirdly, the Chair of the Senate, with improvements from Prof Uys and Zacharias proposed to the Senate on the 27th February that an investigation be conducted into the Minutes of Senate of the 1st August, 03rd October and 14th November in order to establish the truth concerning the various decisions on Academic Freedom in dispute in order to ensure proper ratification. The Senate approved this
The Bengu investigation started as a result of a Senate decision on 27th February 2008 to assist in the ratification process and its report, with findings

and recommendations were presented to the Senate on 25th May 2008. The Senate discussed the report on August 6th and only then, were the decisions finally ratified on August 06th;

23. Late in 2007, I indicated to Prof Chetty's that I would raise his conduct with the chair of Council and at the last Council in December 2007. I referred to his conduct during the final Council meeting and it was suggested that we meet discuss and iron out my concerns. Earlier in the year, 13th January 2008, I visited Prof Chetty in his office at PMB to raise my concerns with him and suggested the possibility of him undergoing a familiarization process with the Registrar on Senate and Council protocols because of his "meddlesome and disruptive conduct". The Registrar's office was equally being overburdened with his constant interferences. He initially agreed to this proposal but later changed. I also took the opportunity to discuss his academic performance and advancement from Associate to Full Professor and what it would take;
24. An email entitled "Much Appreciated" by Nithaya Chetty
"Dear Prof Makgoba:
You have given me much food for thought. I really appreciate the time that you took to travel to PMB to meet with me. This made me feel very humble indeed. I hope that we will see much more of you on the PMB campus in future!
25. On 18th May 2005 at 1345hrs, I met with Prof Chetty and Prof Zacharias in my office to raise concerns and discuss his public statements in the media that were bringing the university and my office into disrepute;
26. *Third major conclusion: Prof Chetty was engaged in bringing the University and the Office of the Vice-Chancellor into disrepute as way back as 2005. He was warned several times*
27. Prof Bengu's report indicates that Professor van den Berg communicated with the media against the advice of his line managers;
28. It has been alleged in certain media that Prof Chetty is a "top Professor and or academic". An honest and factual interrogation of this assertion reveal the contrary;
29. At UKZN, the range of Professorships is from Associate, Full, Senior, Research and Endowed Chairs. The most junior of all is the Associate Professorship category, to which Chetty belongs;
30. In South Africa, most 'top or academics of acclaim, excellence and quality professors are rated through the NRF system. Dr Chetty is not rated in any category since 2001(from his latest CV);
31. Most top professors at UKZN are highly research productive, meeting the Senate and Council-approved 1 SAPSE Unit per year. Professor Chetty has

for the past 5 years not met this criterion; should the taxpayer not be concerned about this dereliction of duty?

32. The research work of most 'respected or acclaimed' academics is often **highly cited** in the literature by peers, hence the respect and acclaim, Dr Chetty's is not

33. *Major fourth conclusion: Professor Chetty does not merit the accolade "top professor or academic" frequently bandied around in the media. He remains an academic with potential. To refer to a junior professor as 'top' or an unproductive academic as "respected or acclaimed" is being highly irresponsible and being 'economical with the truth';*

**PROFESSOR M W MAKGOBA
VICE-CHANCELLOR AND PRINCIPAL**