

# Official communique sent internally on 17 May 2018

Following airing on SAfm yesterday [16 May 2018] of the matter regarding two former students who were excluded from Rhodes University over various charges including kidnapping, assault and insubordination, the Division was compelled to issue an official and factual statement as a means of setting the record straight.

It is not normal practice for the University to address such issues externally. It is however, the Division's responsibility to attend to issues in the public domain which are aimed at maligning the University.

"We have had to do this, since last year December, because this [matter of the exclusion of the students] has been brought to the public domain [via various external communication platforms] and misrepresented in a very bad way," Luzuko Jacobs explained on the show yesterday.

Following an interview with one of the students (Ms Yolanda Dyantyi) on SAfm's *The Talking Point* show on 15 May, Rhodes University demanded the 'right to reply'. This reply was conducted via live telephonic interview with Mr Jacobs on 16 May, by presenter Bongzi Gwala of SAfm, during the same time slot of 11:00.

The other student in question is Ms Noxolo Mfocwa.

*Below follows a summarised transcript based on Mr Jacobs' interview, regarding the issues that were brought up during the initial interview with Ms Dyantyi of the previous day:*

## **1. Ms Dyantyi claims they did not assault anyone.**

Mr Jacobs' response: Ms Mfocwa [who was announced as one of the activists excluded by the University for participating in a protest] was found guilty of punching a female constable in the face, scratching her, kicking her, pushing her finger against the constable's head and repeatedly swearing insults about the constable's mother. She had gone to the police station, ostensibly, to rescue two male students who had beaten up an unarmed security guard. She got four years exclusion, which was reduced to three on review. The male students got their original sentence of four years exclusion increased to five on review.

The University distinguishes between the necessary vigorous pursuit of a common objective to eliminate sexual and gender-based violence, and an abuse of that cause as a cover to commit acts of criminality and vigilantism.

## **2. Ms Dyantyi claims they were expelled following a protest "... after a student was raped at the University."**

Mr Jacobs' response: The kidnapping and assault of the students followed the online publication of an equivocal list of names of alleged rapists by an anonymous author(s), in which no evidence of rape against the accused had been presented. There were no rape complainants on record in respect of the students whose names appeared on the list. There were no pending cases of rape against them either.

### **3. Ms Dyantyi claims they were expelled for standing up against rape at the University.**

Mr Jacobs' response: None of the charges against the students related to protest activities. The charges included assault, kidnapping, defamation and insubordination.

### **4. Ms Dyantyi denies any involvement in “acts of criminality” and attributes this phrase to the University.**

Mr Jacobs' response: The reference to “acts of criminality” is not a Rhodes University invention. It is in the judgment delivered by the High Court which specifically referred to Ms Dyantyi's personal role in their commission. She denied her role, and escalated the matter to the Supreme Court of Appeals. Her denial found no support from the Supreme Court of Appeals. The Constitutional Court also accepted as true the fact that Ms Dyantyi was indeed party to kidnapping and assaulting students at the University. This was based on, according to the Constitutional Court judgment, “a detailed consideration of both the law... as well as the facts”, by the High Court. An independent, external Disciplinary Committee chairperson, and an independent, external advocate, arrived at a similar conclusion after weighing evidence – in terms of quality, weight and force, hearing arguments in mitigation or aggravation.

Ms Dyantyi, however, continues to disagree.

### **5. Ms Dyantyi claims she had no chance to represent herself.**

Mr Jacobs' response: Ms Dyantyi was represented throughout the hearing, over several months, by a team of four legal representatives, which included an attorney, a candidate attorney, an advocate, and an independently-briefed advocate from the Johannesburg Bar. Ms Dyantyi frequently absented herself from the hearing, on some occasions without permission from the chairperson, until the University's representatives ultimately complained about Ms Dyantyi's recurrent and unauthorised non-attendance at the hearing. She had to be requested by the chairperson to attend.

Following this, Ms Dyantyi frequently requested, and was permitted, to be absent from the hearing as she, on most occasions of her absence, stated that she was preparing her defence. She was however, at all times, represented at the hearing by at least one member of her legal team of four legal representatives.

When it was her turn to present her case, Ms Dyantyi's team stated that two members of the legal team would be unavailable to continue with the matter for a period of about two months. Following that, Ms Dyantyi's team indicated they would be available during the period when the University was in preparation of its annual shut-down, which was unreasonable under the circumstances.

The University proposed that the individual proceedings be truncated and carry over a longer period of time, including over weekends, but Ms Dyantyi's legal team were not in agreement with this proposal without a reasonable explanation. Under these circumstances, the matter was thus scheduled to proceed regardless. However, when it came to attending the proceedings as agreed, Ms Dyantyi and her legal team simply absconded.

On the day that the hearing proceeded, it was postponed twice, in an attempt to accommodate Ms Dyantyi and her legal team. They did not attend.

Her attorney, who had been part of the proceedings from the start, and who had excused himself and Ms Dyantyi from a previous hearing in order to prepare her evidence, was available in his office and even took a call from the University during the second postponement of the hearing. He, together with the second of the four member legal team would have had no difficulty in representing Ms Dyantyi at the hearing. They deliberately absconded.

After the decision of the Disciplinary Committee panel was delivered, instead of taking the matter up on review, Ms Dyantyi launched another High Court application against the University citing these alleged procedural irregularities and claiming that she was not afforded the opportunity to give evidence at the hearing. Ms Dyantyi lost the application with costs. The High Court heavily criticised Ms Dyantyi for simply sitting back and watching the hearing run without participating, only to cry foul once it was complete.

## **6. Ms Dyantyi claims the Vice-Chancellor instructed the Disciplinary Committee panel to expedite the matter to the detriment of her case.**

Mr Jacobs' response: Ms Dyantyi has made it her pastime to slander the Vice-Chancellor uTata uMabizela. She recently published posts which were brought to my attention where she states: "Dr Mabizela is such a cringe-worthy, vile man. I hate him so much and no one could convince me otherwise...."

She enacts this hatred of Dr Mabizela on every platform she manages to secure. The truth of the matter is that the VC is not in *any way* linked to the Disciplinary Committee processes which are assigned to independent, external professionals to run. This is so because, the final avenue, in respect of the internal processes and remedies involve him personally, so there is a conflict of interest and as such, him being involved in the disciplinary processes would be illegal. This final avenue is activated only as a final step if, or when, the VC is approached for clemency on acknowledgement of wrong doing and remorse is shown. These students opted to ignore all University processes.

## **7. Regarding length of the sentence.**

Mr Jacobs' response: This matter could have been taken up on review. The University Disciplinary Committee process provides for various options which are independent of each other to test the legitimacy and fairness of outcomes.

## **8. Ms Dyantyi claims she responded to her rape situation.**

Mr Jacobs' response: This is not true, at least not to our knowledge. There is no known case of rape against Ms Dyantyi lodged at the University.

## **9. Ms Dyantyi claims she was never found guilty of any criminality and yet the University found it necessary to discipline her.**

Mr Jacobs' response: The University's responsibility is to maintain a safe and secure teaching and learning environment for students. A criminal case is not a prerequisite for disciplining anyone who involve themselves in acts of misconduct which the Code of Conduct prohibits.

## **10. On the matter of Ms Dyantyi's connection with Ms Mfocwa.**

Mr Jacobs' response: There is no connection between the two matters. Ms Mfocwa was excluded for four years, lowered to three on review, for punching a female police constable at a police station, without provocation.

"At Rhodes, we do not take sides, yet we do take our roles as guardians of the young people and students of this university very seriously," said Mr Jacobs. "We hope this interview will show those in the public domain that we are open about such matters, and not cagey or dishonest, as Ms Dyantyi has tried to make us out to be. It is our great wish that we can finally lay to rest some of the unjustified and unfortunate backlash we continue to endure due to misrepresentation of the issues involved in this situation."

**//ENDS**

**-- ISSUED ON BEHALF OF RHODES UNIVERSITY BY COMMUNICATIONS AND  
ADVANCEMENT DIVISION--**